T E N N E S S E E B O A R D O F R E G E N T S

Faculty Subcouncil Meeting

Friday, January 29, 2016, 9:00a.m.

Alfred Lutz

February 8, 2015

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**1. Three-Year Rolling Contracts**: Currently, they are only used at four campuses: Dyersburg State (2), Nashville State (38), ETSU (130, mostly clinical faculty), and TTU (15). The major issue is that a number of community-college presidents have gone on record as seeing these contracts as a way to phase out tenure at their institutions. (No such sentiments have emerged from the ranks of the university presidents, but that could happen.) My point is that this job classification will remain a bone of contention for the foreseeable future, and it is certainly something we need to watch very carefully.

**2.**  **Book Bundling** (“Books and Supplies as Part of Tuition and Fees”): VC-AA Tristan Denley indicated that there is considerable interest in this as a way of containing/reducing costs for students.

**3. Accessibility Initiative**: (accommodation >>>> accessibility): Only about 40% of the syllabi across the system are accessible at this point.

TBR will make available soon a document that will help faculty members make minor adjustments that could make a major difference in terms of accessibility.

TBR encourages faculty to put pressure on publishers to make textbooks we choose accessible.

**4. Adjunct Pay**: A discussion of this issue is, perhaps, pointless, given that the restructuring of TBR would allow institutions to set their own pay levels for adjunct pay.

Still, it might be worth pointing out that there has been a “significant amount of conversation in the recent past,” as Dr. Denley put it. There is obviously an awareness at the system level that adjunct pay rates, which have not changed since 1998, have to change.

**5. RODP >>>ROCC>>>> TNeCampus** Ads for TNeCampus will be rolled out beginning February 1.

Really a response to WGU. If our system’s more than 500 fully on-line programs had been more visible in the past, WGU might not have been supported to the tune of $5,000,000.

TNeCampus works primarily as a search engine for all programs in the system, both online and face-to-face.

**6.** Bills about **“guns on campus”** are before the legislature. TBR is doing everything it can to ensure that they don’t pass.

**7.** A whole range of bills (about a dozen) involving **tuition** are also before the legislature. Most of them would limit tuition increases in some way (freeze it at 2015 levels for several years; tie it to inflation, etc.).

TBR is trying to educate legislators to understand that costs of higher education have actually not gone up in the way the public conversation tends to suggest. What has changed fundamentally in recent years is who pays the costs. In other words, the reason for the tuition increase is the disinvestment by the state, not frivolous spending by the universities. (We’re actually at a 30-year low for the cost of degrees in the system. If you divide overall spending by degrees awarded, 30 years ago, a TBR bachelor’s degree cost $80,000, today it costs $ 60,000.)

**8. THEC** meeting: **Budget recommendation** (4.7% increase over last year). Funding picture looks relatively good. Dr. Denley said that he has heard nothing indicating that that recommendation will not be approved. Chancellor believes that the legislature will vote to fully fund this recommendation. The Chancellor even mentioned the word “raises.”

**9. Facilities Management Outsourcing**: TBR wanted to avail itself of the option to opt out, but was told that that would be premature since the plan had not yet been developed. The Chancellor believes both that we operate extremely efficiently and that it is extremely unlikely that an outside provider would be able to offer the same services for less.

**10. House Bill 2578 (FOCUS Act)**

Chancellor Morgan, who spoke to us on his last day as chancellor, said that the reason for his retirement is the FOCUS Act. (You’ve all read his letter to the governor explaining his decision.)

The idea of independent boards is, of course, not a new idea. (The U of Memphis is the primary mover here, though, according to Mr. Morgan, the most intense pressure comes from the business community in Memphis.) Their view is that they are being held back by the system. Over the years, governors (Sundquist, Bredesen, Haslam) have committed to giving Memphis its own board. Haslam is the first one to decide to honor that commitment, and, apparently, believes that the best/only way to accomplish this is HB 2578.

The Chancellor talked primarily about a number of fiscal and administrative issues (School Bond Authority >>>financial commitments system-wide >>> as a consequence, TBR will still have control over institutional budgets), but he also pointed out, to my surprise I must say, that one outcome of HB 2578 could be a deterioration in shared governance, an erosion of tenure, and a decline in academic freedom.

He concluded his presentation by expressing his hope that the legislature will not pass the FOCUS bill.

**So, you may ask, what is the Faculty Sub-Council’s response to the FOCUS Act? (It seems that we have about 60 days to respond to the bill.)**

I received a copy of the bill on January 21, and I immediately began drafting a response focusing primarily on issues involving faculty rights and obligations. In this document, I essentially focus on issues all faculty members agree on (the importance of shared governance, academic freedom, tenure, faculty control over the curriculum, etc.)

This document was the basis of our sub-council discussion of the FOCUS Act. The discussion ended in two motions I introduced:

The **first motion**, which carried unanimously, asks Dr. Denley, who serves on one of the two transition task forces, to champion the (first seven) concerns my document expresses on that task force. Dr. Denley, who shares my concerns, promised to do so.

The **second motion**, which also carried unanimously, asks the transition task forces to recommend that all TBR policies affecting faculty members (academic freedom, tenure, financial exigency, etc.) be transferred to the new system/non-system.

**The following is a copy of my response (January 22) to HB 2578, slightly revised (January 30) in response to the sub-council discussion.**

*Much of the problematic language I'm concerned about in HB 2578 is taken verbatim from TCA, Title 49 (Education). That, of course, doesn't mean that it's innocuous, as it can be used to rewrite the tenure and academic freedom policies. It wasn't used for that purpose in the past--our current tenure policies are pretty good--but that doesn't mean it won't be used for that purpose in the future. (The complete disregard for faculty representation in the FOCUS Act is perhaps a first indication of that intention.) In other words, since we are rewriting part of Title 49, why not rewrite some of the most offensive aspects of it?*

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Preliminary Response to House Bill 2578

Alfred Lutz

**Major faculty concerns:**

1. House Bill 2578 does not include a representative faculty body like the TBR Faculty Sub-Council. As far as I can see, the only representation for faculty members at the six four-year institutions will be the presence of one faculty member on the institutional governing board. I don’t think this is acceptable. It undermines the faculty’s ability to speak as a unified group. Given that the bill includes numerous references to the importance of the collaboration between two- and four-year schools, perhaps the TBR Faculty Sub-Council could be retained in its current form. At any rate, a state-wide representative faculty body is needed.

2. Page 13, which deals with the composition of the individual governing boards, indicates that one board member will be “an active faculty member [what is an “active” faculty member?] of the institution selected by the board.” Should members of the board be involved in the day-to-day operations of an institution to the point where they *could* make an informed choice in this matter? Probably not. That means that board members are likely to defer to the institution’s president in this matter. That, too, is unacceptable. I propose that the faculty elect the faculty representative. Principles of shared governance require, it seems to me, that the faculty be represented by a person they accept as their representative.

3. Page 14 tells us that the faculty member on the board “shall serve a term of one (1) year.” Perhaps a longer term would be preferable. One year, as we’ve seen with the TBR Faculty Regent, is not enough. That position has never accomplished anything meaningful for the faculty, as far as I can tell.

4. Page 15 tells us that prior to the first meeting of the board, “[a]ll members of a state university board shall participate in orientation and informational policy seminars” conducted by THEC. Perhaps this orientation should include a faculty presenter, who could talk about shared governance, academic freedom, the importance of tenure, etc.

5. Page 17 informs us that the boards have “the power” to “[p]rescribe curricula and requirements for diplomas and degrees.” This could be read as suggesting that the boards will take over the faculty’s role of (largely) determining curricula. Faculty members, not board members, are the subject experts. This passage goes along with the following one on page 31: “Determination of specific courses or course content, however, shall continue to be the exclusive function of the governing boards of the various institutions.” Is that meant to suggest that the boards could determine the content of specific courses? This appears to me to be a SACSCOC violation. (Principles of Accreditation), Comprehensive Standard 3.4.10 reads: "The institution places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty."

6. Page 17 also indicates that the governing boards will “confirm the appointment of administrative personnel, teachers, and other employees of each state institution….” *Teachers* makes no sense here. The word is not used in higher education to designate any members of the faculty.

7. Page 21 has this to say about tenure policies: “The board of regents and each state university board shall promulgate a tenure policy or policies for faculty at their respective institutions, which policy or policies shall ensure academic freedom and provide sufficient professional security to attract the best faculty available for the institutions.” This language is taken from TCA 49-8-301, which governs TBR tenure policies. However, this language merely provides a framework for the work of the board. In other words, governing boards could develop tenure policies from scratch, policies that could undermine tenure. (Another outcome could be that the six “independent” universities could have radically different tenure policies.)

Governing boards, made up (mostly) of people with little or no knowledge of faculty work would be responsible for developing tenure policies. Even if there is currently no interest to attack tenure, the language of the bill makes clear that the new boards are under no obligation to adopt current T & P policies. I think we should push for retaining current T & P policies.

8. Page 22, which deals with “termination of faculty with tenure for adequate cause,” does not, as far as I can see, mention an appeals process. (It refers to the possibility of a “review,” but that’s not specific enough.) It also points out that the “verbatim record of the hearing” will be made available to the faculty member “for a reasonable fee.” I think it should be provided to the faculty member free of charge.

9. Financial exigency policy?

**Other concerns:**

1. Page two tells us that THEC “shall approve or deny a state university board’s request to assume” certain functions (data systems, procurement, etc.). No criteria are listed for why THEC might deny a particular institution’s request. This looks rather arbitrary.

2. Page 3 refers to institutions’ obligation to “submit annually institutional mission statements.” *Annual* mission statements?

3. Page 15 informs us that “[m]eetings of the state university boards shall be made available for viewing by the public over the Internet by streaming video.” TBR Board meetings are open to the public, as far as I know. Why not these meetings?

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The following is an email I sent to David Plazas (‌"Opinion Engagement Editor" at "The Tennessean") on January 31, in response to his editorial ("Haslam Earns 'A' in Education") of that day. The second half of that email repeats the points included above, but the first part places those points in the larger framework of the fundamental principles governing our work.

Dear Mr. Plazas,

 I hope this finds you well. I'm writing to you today in response to this morning's editorial "Haslam Earns 'A' in Education." You acknowledge that Gov. Haslam has "faced opposition ...in his desire to restructure the higher education system." You also point out that critics are concerned about the impact of HB 2578 on "academic freedom." I'm not sure, though, that critics fully understand the massive damage HB 2578 could do to higher education in TN. I don't know whether the bill was designed to enable an attack on the faculty at both two- and four-year institutions, but its language certainly allows for that to happen.

The process of restructuring TBR, like all of Haslam's educational reforms in the past five years, is taking place without any input from the faculty. The people who are doing the work in the classroom, the people who forget more about teaching every semester than Gov. Haslam and his merry band of educational revolutionaries will ever know (this is a statement of fact, not an angry hyperbole), have no input in the process. It is true that there now is one faculty member on one of the two task forces, but that person was added as an afterthought. Some of the language in HB 2578 indicates that the authors know very little about higher education. The language concerning curriculum and tenure, to name just two issues, raises accreditation issues. (For more on that, see the list of my major concerns with HB 2578 at the end of this email.) Another example is the bill's reference to  the power of the governing boards to “confirm the appointment of administrative personnel, teachers, and other employees of each state institution….” *Teachers*makes no sense here. The word is not used in higher education to designate any members of the faculty, and it captures only one aspect of a faculty member's duties.

The Drive to 55 will be successful only if it is student-centered, if the focus is on student success. It's not enough, though, to talk about student success all the time. What is more important is to think about the kind of framework most likely to lead to student success. At the center of higher education is the encounter between the professor and the student. Indeed, the great medievalist Ernst Kantorowicz (1895-1963), once remarked that the encounter between student and professor *is*the university. Everything else, he argued, is "support." Shared governance, academic freedom, and tenure are the triad designed to make the students' educational journey as intellectually engaging, exciting, and rewarding as possible. If faculty members have to be afraid that they will be fired for making controversial statements, not only will they be likely to censor themselves, they will inevitable have to censor their students. Academic freedom (*Lehrfreiheit*for the professor, *Lernfreiheit*for the student) is the concept meant to create an environment that fosters intellectual curiosity, risk-taking, and independence. Tenure is meant to protect academic freedom. In other words, it is not, as many members of the public appear to think, a kind of faculty privilege. Instead, it is the recognition that academic freedom is meaningful only if professors cannot simply be fired for making controversial statements. Anybody who favors a student-centered education--and I mean education, not training--should support both academic freedom and tenure. Shared governance, the third element of the triad, one can think of as a collective form of academic freedom. It means that the experts in both subject matter (the academic fields being taught) and pedagogy (how best to teach them) should have a substantial voice in the governance of academic institutions. Appropriate patterns of deference should determine the distribution of power between faculty and administration. For example, as the content experts in their academic fields, the faculty should be largely in control of the curriculum.

The reason I developed this at some length is that the language of  HB 2578 shows no recognition of any of this and, as far as I can see, gives the individual governing boards of the six universities the tools to dismantle them, to turn them into nothing but widget factories.

The following is a list of some of the major concerns HB 2578 poses:

1.      House Bill 2578 does not include a representative faculty body like the TBR Faculty Sub-Council. As far as I can see, the only representation for faculty members at the six four-year institutions will be the faculty representative on the governing board. I don’t think this is acceptable. It undermines the faculty’s ability to speak as a unified group at the state level. Given that the bill includes numerous references to the importance of the collaboration between two- and four-year schools, perhaps the TBR Faculty Sub-Council could be retained in its current form. At any rate, the equivalent of a system-wide representative faculty body is needed.

2.      Page 13, which deals with the composition of the individual governing boards, indicates that one board member will be “an active faculty member [what is an “active” faculty member?] of the institution selected by the board.” Should members of the board be involved in the day-to-day operations of an institution to the point where they *could*make an informed choice in this matter? Probably not. That means that board members are likely to defer to the institution’s president in this matter. That, too, is unacceptable. I propose that the faculty elect the faculty representative. Principles of shared governance require, it seems to me, that the faculty be represented by a person they accept as their representative.

3.      Page 14 tells us that the faculty member on the board “shall serve a term of one (1) year.” Perhaps a longer term would be preferable. One year, as we’ve seen with the TBR Faculty Regent, is not enough. That position has never accomplished anything meaningful for the faculty.

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7.      Page 22, which deals with “termination of faculty with tenure for adequate cause,” does not, as far as I can see, mention an appeals process. (It refers to the possibility of a “review,” but that’s not specific enough.)

Thank you for reading this lengthy email.

Best wishes,

Alfred Lutz

Professor, MTSU

(I include my institutional affiliation for identification purposes only. I do not speak for MTSU or any entity affiliated with it.)