

Faculty Council Meeting
Meeting Minutes
Monday, October 19, 2020
4:00-5:30PM – ZOOM Meeting

4:00-4:10PM	Welcome and Chair Announcements	Jennifer McBride
4:10-4:30PM	Nomination and Elections Committee Report	Jennifer McBride
4:30-4:50PM	Result of Faculty Council Steering Committee Election	Jennifer McBride
4:50-5:00PM	Approval of September Faculty Council Minutes	Jennifer McBride
5:00-5:30PM	New Business	
4:50-5:45PM	Adjourn	

Members Present

Corinne Bazella
Robert Bonomo
Matthias Buck
Bryan Carroll
Cathy Carlin
Gary Clark
Darin Croft
Piet de Boer
Philipp Dines
Todd Emch
Judith French
Robert Geertman
Thomas Gerken
Monica Gerrek
Peter Harte
Anna Maria Hibbs

Amy Hise
Jeffrey Hopcian
Alex Huang
Darrell Hulisz
Beata Jastrzebska
David Katz
Varun Kshetry
Suet Kam Lam
Maria Cecilia Lansang
Lia Logio
Peter MacFarlane
Danny Manor
Jennifer McBride
Maureen McEney
Sam Mesiano
George Ochenjele

Matthew Pleshinger
Arne Rietsch
Elie Anthony Saade
Ashleigh Schaffer
Hemalatha Sentilkumar
Sarah Tehranisa
Danie Tisch
Carlos Trombetta
Allison Vidimos
Satish Viswanath
Susan Wang
Nicole Ward
Jo Ann Wise
James Wilson
Jamie Wood

Members Absent

Melissa Bonner	Ankur Kalra	Anand Ramamurthi
Jae-Sung Cho	Laura Kreiner	Abhishek Ray
Scott Cowen	Vinod Labhassetwar	Linda Dala Shiber
Brian D'Anza	Alan Levine	Daniel Sweeney
Katherine DiSano	Ameya Nayate	Patricia Taylor
William Dupps	Clifford Packer	Heather Vallier
Stanton L. Gerson	Nimitt Patel	

Others Present

Mark Chance	Joyce Helton	Cyndi Kubu
Pam Davis	Bud Isaacson	Oliver Schirokauer
Nicole Deming		

Chair Announcements

Jennifer McBride, Chair of Faculty Council, called the meeting to order at 4:00PM.

Nomination and Election Committee's Report

Dr. McBride proceeded to read the following excerpts from the School of Medicine Faculty Bylaws, which pertained to today's agenda items: Committees of the Faculty Council (3.6b – Nominations & Elections Committee), Purposes & Functions of the Faculty Council (3.1b), and the Committees of the Faculty Council (3.6a – Steering Committee). As Dr. McBride was reading this text Maureen McEnery objected stating that this was occurring as a preamble to the meeting and was entirely irregular and biased. The objection was noted, and Dr. McBride stated that in the interest of time, the meeting would move forward. The Chair informed Dr. McEnery that she could present her views after the resolutions from the NEC.

Dr. McEnery then stated that she had sent an email last week and had received no information regarding the proceedings that were to take place and what the order of business was, and anyone looking at the agenda would be surprised that this is even taking place. Dr. McBride replied that the October 16 email to which Dr. McEnery is referring is in the Faculty Council folder on BOX to which all Faculty Council members have access and can review.

Dr. McBride proceeded to share the resolutions by reading the letter from the NEC to Dr. Gary Clark dated June 4, 2020 (attached). At the conclusion, she invited Dr. McEnery to address Faculty Council.

Dr. McEnery stated that she was shocked that this was occurring. She stated that she would include information that she has been given approval to release by the General Counsel's Office. She thanked everyone, noted that she has been allotted ten minutes to speak her submitted objections to Dr. McBride regarding very serious allegations, and that she was appreciative of the opportunity to do so.

Jo Ann Wise suggested that since the documents were posted so recently that the Faculty Council be given the opportunity to review them before any actions are taken.

Dr. McEnery stated that the motion to accept the NEC resolutions in the chat box, was irregular before she even had a chance to respond. She shared her annotations to the June 2 document. She categorically denies the allegations and objects to the framing of the actions. She stated that the June 2 meeting of the NEC resulted in misunderstandings to her detriment. There were numerous errors, inappropriate authority, process and evidence. She categorically denies the allegations.

As Chair of the NEC, Dr. McEnery stated she was to see to the distribution of ballots and publishing of the vote totals. Her duty, as she saw it, was to make sure that the votes were accounted for and attributed properly. She recused herself from handling ballots and tallying votes; validating the election was not her job. Dr. McEnery stated that numerous errors in the handling of the ballots heightened her concern. She expected a tally, looked cursively, and when she saw what were multiple irregularities reported it to Dr. Clark. She was concerned about the integrity of the process and potential ethics violation, but did not intend anything of the nature that is being implied. There was no evidence that she saw more than three votes, nor no evidence that votes were altered. She inquired of a parliamentarian as to how could it be irregular for the Chair of the NEC to have access to the spreadsheet when it is in the duty of the NEC to count the votes.

She continued to say that she is being accused of a breach of confidentiality and an ethics violation which could potentially be career ending. She was given no warning of allegations and could not submit documents nor evidence. She serves in a professional world guided by codes and ethics. She had zero intent of looking into voting – she had no motive. Dr. McEnery stated that Dr. Clark did not follow proper procedure.

Point 2 – May 29 email – In June she chose to participate in a grievance process and submitted her response. The process that is taking place is highly influenced by people named in the grievance. She would like to remind those who received the President’s decision, that the President cautioned Faculty Council that they were not permitted to discipline Dr. McEnery in any form and Faculty Council should provide the opportunity for her to present her objections. October 16 email -- There was no due process afforded to her and not afforded to her now.

Point 3. She is being sanctioned and the resolutions being presented should be rejected on inappropriate authority. This power resides only with the president of the university. The June 2 meeting of the NEC charge allowed them to investigate and resolve irregularities and disputes in elections. It should have gone to the Bylaws Committee, which had become common practice. By determining eligibility of the faculty members, the NEC has exceeded its powers. They have approval of candidates prior to the election; they do not have power to remove them as candidates afterwards. Functionally, it was a disciplinary hearing without due process. Dr. Clark, Dean Deming, and Interim Dean Stiefel acted without authorization, conducted a trial without due process, without following the standards in the faculty handbook where there are procedures designed for the discipline of a faculty member. The validity of the hearing was poisoned from the start without the opportunity to identify good faith and lack of intent. The resolution should be rejected on irregularities and evidence presented to the NEC.

She stated that those who were responsible for creating the June 2 email have a responsibility to her and to Faculty Council to be accurate; they did not meet that responsibility. The NEC, acting in good faith, read this document, which is a series of lies in its representation and made an assumption based on incomplete information.

Dr. McBride stated that the Faculty Council election results in which the FCSC results were embargoed, was first discussed at the June 1 Steering Committee meeting by Dr. Clark, weeks before any information from the Faculty Senate was directed to him and other people involved in her grievance. Dr. McEnery claimed that the first she learned there was even a complaint against her was at 2:00PM prior to a 3:15PM meeting. The statement that she requested further clarification is absolutely false. Dr. McBride explained that this is not a disciplinary hearing and not punitive, to which Dr. McEnery disagreed, and when acknowledging that her time was up asked if her colleagues could provide her with more time.

A motion was made to accept the NEC resolutions as described in the letter to Dr. Clark and presented to Faculty Council. The motion was seconded and then opened for discussion.

Dr. Clark stated that Dr. McEnery suggests that the process was inappropriate; however, we followed the SOM bylaws. With regard to the timeline, when Dr. McEnery received the tally of ballots from Dr. Greenfield, Nicole Deming indicated to her, by email, that as a candidate it is not appropriate for her to see how the representatives voted, and to please delete. Dr. McEnery replied that her attention was on the chair-elect vote and that she forgot she was a candidate. She emailed Dr. Clark asking if he concurred with Dr. Greenfield's voting tally. He stated that he did and Dr. McEnery acknowledged. A half hour after being told to delete the tally, Dr. McEnery called Dr. Clark twice and asked him to review the spreadsheet on voting of the two candidates for chair-elect as she felt that it was not accurate. In reviewing the spreadsheet, Dr. McEnery saw the Faculty Council members and their votes. She had the opportunity to look at the results of the vote for individual faculty members, including who voted for her in the election. She had previously recused herself, which is why she had designated Dr. Greenfield to validate the votes. Dr. McEnery had the spreadsheet for 30 minutes and, in Dr. Clark's view, that represented a breach of confidentiality. That was the basis of my concerns about a breach of confidentiality, having access to the tally of votes by individual Faculty Council representatives.

In terms of her insistence that this is a disciplinary action, since there was a reference to the grievance procedure, Dr. Clark stated that Dr. Snyder says specifically that the NEC resolutions do not reference any disciplinary action. In addition, the President stated that Faculty Council could not place anything in Dr. McEnery's Faculty Affairs employee file. Dr. Clark stated that the removal from committees does not constitute a disciplinary action but a recommendation of a jury of her peers with regard to service on a committee.

David Katz commented that there are detailed documents presented as evidence which he was seeing for the first time. He did not feel there was an appropriate amount of time to review the documents. Do we move that this resolution be tabled until there has been adequate time to review these documents? The motion was seconded.

Dr. McBride informed the members that to maintain fairness the next person asked to speak should be someone that is in favor of the original motion. Darin Croft stated that Dr. Katz was moving to table, it was second, and should go to vote. Dr. Katz reiterated that he is not for or against; he is only asking for time to review all the documents.

Dr. McBride replied that the NEC came forward with this resolution. There are several ways of going forward. Faculty Council can decide to accept the motion on the floor, modify it, or make

a different motion. However, if we do not continue to discuss this as it sits in front of us now, it will stop the business of Faculty Council.

Jo Ann Wise asked Mark Chance, as parliamentarian, to weigh in on the subsidiary motion. Dr. Chance stated that the motion to table has been seconded. The discussion is now stopped and everyone must vote on whether or not to table the discussion of these resolutions put forward by the NEC to the November Faculty Council meeting. When Dr. Katz was asked if he had a date in mind to add to his resolution, it was agreed that it should be brought up at the November Faculty Council meeting. Dr. Chance asked that a new postponement motion be made.

A motion was made and seconded to postpone further discussion of the resolution put forward by the NEC until the November Faculty Council Meeting so that the members have time to review the documents.

Dr. McBride stated that now that the motion is amended, the floor is open for discussion. Danny Manor questioned when these documents were made accessible to us in BOX -- the NEC resolutions were made available on Monday (October 12) and other documents one on Saturday (October 17) and one on Sunday (October 18). The original NEC letters were posted last week on Monday, October 12. He noted that we have had a week to review them and should proceed without delay. If all members did not, then that is their issue.

Dr. McEnery stated that delay of her uploads was due to approval by Don Feke and Peter Poulos. Upon approval, she was able to annotate the June 2 letter and submit her comments.

Dr. McBride stated that the letters were available to the respondents in June, assuming another process had not taken place, the NEC resolutions would have been addressed at the June Faculty Council meeting.

Dr. Kubu stated that to her understanding the Chair of the NEC recused herself but then saw details of the votes and the tallies. The behavior that precipitated this is a tremendous issue with respect to confidentiality which is a core issue here.

Dr. Merrick stated that the impression he has received is that once the votes came in to Dean Deming, there should have been no connection of names with their vote and apparently there was and that would have allowed for maintenance of names and votes and near as he understands it. He felt neither Dr. Greenfield nor Dr. McEnery are at fault.

Dr. McBride stated that the motion to postpone the discussion of the NEC resolution until the November Faculty Council meeting is still on the floor. There being no further discussion, she called for a vote. 28 were in favor, 13 were opposed, and 1 abstained. The motion passes in favor of postponing discussion of the NEC resolutions until the November meeting.

Results of Faculty Council Steering Committee Election

Dr. McBride stated that since there had been some discussion about naming the new members of FCSC, she could entertain a motion.

A motion was then made and seconded to name the new members of the Faculty Council Steering Committee and the floor was open to discussion.

Nicole Ward commented on the fact that Dr. McEnery was a member and she knew enough to recuse herself and then email Dr. Greenfield. As someone who was asking specifically to know who she voted for, breaking her confidentiality and the anonymity of any member of Faculty Council who voted in last spring's election, the opportunity to see if she voted or not is a breach of ethics. Whether the Faculty Council Steering Committee or the NEC, she should not hold a position, and she didn't feel it was appropriate to allow her to hold a position on the Faculty Council Steering Committee if she was elected to it, unless this group votes.

Dr. Merrick stated that in the absence of any action on the NEC resolutions, the full results from the election should be presented and modified in November if necessary. Dr. Wise agreed and stated that the NEC election could have been announced in June.

There being no further discussion a vote was taken. 29 were in favor, 10 were opposed, and 1 abstained. The motion passes.

The elected members of the Faculty Council Steering Committee are Matthias Buck, Darin Croft, Maureen McEnery, Susan Wang, and Jo Ann Wise.

Approval of September Faculty Council Minutes

Dr. McBride went on to the approval of the September Faculty Council meeting minutes. Jo Ann Wise had suggested changes for Page 2 – Line 19-20 (see attached). After some discussion, a motion was made and seconded to not accept the changes for Page 2 – Line 19-20. There being no further discussion, a vote was taken. 19 were in favor, 10 were opposed, and 9 abstained. The motion to not accept passes. A further suggestion was made to edit Page 3 – Line 20-23 (attached). A motion was made and seconded to not accept the edits as highlighted. There being no further discussion, a vote was taken. 22 were in favor, 8 were opposed and 7 abstained. The motion has passed to not accept the edits.

Peter Harte suggested corrections to Page 3 – Lines 9-21 (attached). Dr. Clark, with reference to the revised wording suggested by Dr. Harte, invited Nicole Deming to comment on the communication received from the Faculty Senate which compelled us to not proceed forward.

Dr. McBride clarified that our meeting minutes are supposed to reflect the discussion, not whether we like what was or was not said. We can neither add nor delete what was not part of the discussion, to which Dr. Harte replied that the title of the person named is important. A motion was made and seconded to reject all of Dr. Harte's editions and deletions.

Jo Ann Wise amended the motion to identify titles of the Chair of Faculty Senate and University Counsel, Peter Poulos. A motion was then made to reject the edits with the exception of leaving in these titles. The motions was seconded. There was no further discussion and a vote was taken. 28 were in favor, 3 were opposed, and 8 abstained. The motion has passed.

A motion was made and seconded to approve the minutes with the title changes. There being no further discussion a vote was taken. 28 were in favor, 3 were opposed and 6 abstained. The motion passes, the minutes have been approved.

New Business

Dr. Ward moved for an update from Dr. Cynthia Kubu on the ad hoc professionalism committee, at the November meeting. Dr. Kubu agreed. The motion was seconded.

Dr. Croft stated that he would like to move with the following text:

1. Faculty Council supports the October 1st interpretation of the Bylaws Committee that it is a violation of the SOM Bylaws for the Faculty Council Steering Committee to conduct business with only three members.
2. Faculty Council disagrees with the interpretation of the Faculty Council Chair that the Faculty Council Steering Committee can set the agenda for a FC meeting without quorum and without taking a vote.
3. Faculty Council recommends that, in the future, the Faculty Council chair should solicit input from relevant committee(s) before making decisions that are not clearly within the scope of the duties of the office of FC chair. Furthermore, in cases where the judgment of the Faculty Council chair differs from that of the relevant committee(s), it recommends that the issue be brought before the members of Faculty Council for discussion and a vote.

Dr. Croft stated that he would be happy to send this language on, as well as the October 1 email response from the faculty council chair.

Dr. McBride stated that they did the best they could, hoped they were not implying that they acted improperly, and that there is a full steering committee now. Dr. Croft stated that he is talking about going forward. Jo Ann Wise seconded the motion.

Dr. Manor posed a question to Dr. Croft, asking that if the amendments and bylaws are in process and not done until done, who should be setting the agenda, no one? Dr. Croft said that it is stated in the bylaws that the Faculty Council Steering Committee should set the agenda for the Faculty Council meeting. The FCSC is a standing committee of Faculty Council and is constituted of eight individuals. A quorum by Robert's Rules is more than 50%, which through higher mathematics would be at least four of the members; three is not a quorum. It puts us in a position with no clear resolution in the bylaws. What I find, when in a difficult situation, I like to get the input of my peers. We have a mechanism in FC of people whose job it is, is to deal with the Bylaws and that's the Bylaws Committee. Dr. Clark and others have many times asked for the advice of the Bylaws Committee which did not happen in this case. Our opinion, since this is an unusual circumstance, the most reasonable thing to do would be to have the previously elected members of the FCSC should serve until new members can be seated. We thought this was a very reasonable solution. The response was that the FCSC was not discussing any controversial opinions that would require a vote. The proper procedure for any committee to function is to take a vote. That's how committees work, they have a quorum, and they have a vote. This is about democracy, that's how it works. You believe that FCSC can function with three members. If you are not taking a vote to set the agenda, you are not doing it according to the bylaws. We just want to make it clear how things should work if the questions arise.

Dr. McBride stated that we want to remember to maintain a level of professionalism when speaking with each other, with no facetious underlying comments. While she understands the Bylaws suggestion, we do have a fully functioning FCSC now and we will end the meeting there.

A motion was made and seconded to adjourn the meeting. There being no further discussion, a vote was taken. All were in favor and no one was opposed. The motion passes.

Dr. McBride adjourned the meeting at 5:35PM.

Respectfully submitted,

Joyce Helton

Note: Materials were made available online to committee members prior to the meeting.