



# FAC'S SHEET



Newsletter of the University of Scranton Faculty Affairs Council  
May 2009

**Circle This Date!**

## May 12<sup>th</sup> FAC Meeting Scheduled for DeNaples

The eighth FAC meeting for 2008-2009 is scheduled for Tuesday, May 12 in the DeNaples Ballroom.

Lunch will be served beginning at 11:15 a.m. with the business meeting starting at 11:30 a.m.

The Executive Committee urges all members to attend. Check in the right hand column for the agenda.

### *FAC Meetings for 2009-2010*

The FAC Executive Committee has scheduled monthly membership meetings for the next academic year. All regular meetings will take place in the DeNaples Ballroom. Meetings begin at 11:30 a.m. Additional meetings may be called to address special issues or concerns.

September 8, 2009	February 9, 2010
October 15, 2009 ( <b>Thursday</b> )	March 9, 2010
November 10, 2009	April 13, 2010
December 8, 2009	May 11, 2010

## FAC'S SHEET

is published periodically by the Faculty Affairs Council at the University of Scranton. The editor is Betsey Moylan. Comments and suggestions from the membership are welcomed. Members may also check FAC's Web site at [www.scranton.edu/fac](http://www.scranton.edu/fac) for further information on the Faculty Affairs Council, an affiliate of the American Association of University Professors (AAUP). Copies of the Faculty Contract and Handbook are found on the site. Members may also link to the national AAUP home page.

## AGENDA

For May 12<sup>th</sup> Meeting

1. Chair's Report (Michael Friedman)
  - a. Misericordia Resolution
  - b. 2008-9 Gender Equity Report
  - c. Parking
  - d. Nondiscrimination Complaint Procedures
  - e. Update on Negotiations
2. Contract Administrator's Report (Kevin Nordberg)
3. Treasurer's Report (Dan West)
4. Grievance Officer's Report (Ned Warner)
5. New Business (Michael Friedman)

### What Happens When A Contract Expires?

by Michael Friedman, FAC Chair

As a result of our discussion at the last FAC meeting, it seems clear that the membership might profit from a brief reminder about some of the legal issues surrounding the expiration of a labor contract. The FAC Executive Committee and the Table Team remain absolutely committed to doing everything possible to negotiate an acceptable contract before the end of the spring semester. However, many of the issues on the table are both new and complex, and therefore the possibility has arisen that a tentative agreement with the administration may not be ready by the end of this term. This situation, in itself, is no cause for alarm.

In the event that FAC and the administration are not able to come to an agreement by August 31 2009, the membership would still have the option of working during the fall semester without a contract. In such a case, all aspects of the current collective bargaining agreement would continue in force, with four important exceptions.

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## **MINUTES**

### *from April 14th FAC Meeting*

Michael Friedman called the meeting to order at 11:40 a.m. Having just been informed about the passing of Joseph Cannon, longtime Education faculty member and former Treasurer of FAC, the Chair asked for a moment of silence to honor Joe's memory.

**Chair's Report:** Friedman called attention to next year's meeting dates printed in the April FAC's Sheet. He noted that the October meeting will take place on Thursday, Oct. 15, since the second Tuesday of the month occurs during fall break.

**Rosenberg Award** - Friedman presented a certificate to Cathy Lovecchio for the Sheldon I. Rosenberg Union Leadership Development Grant, named for FAC's attorney, who served FAC for over 30 years, until his passing in 2005. Friedman and the entire membership offered their congratulations to Cathy and wished her well at the AAUP Summer Institute, which will be held at Macalaster College in St. Paul Minnesota this July.

**Update on Negotiations** – Friedman reported that according to our negotiating team, all of our side's issues are now on the table, and they are being discussed seriously. The Administration has begun to offer some specifics about what they are interested in seeing in the new contract. So far the two teams have settled on the language of one minor and non-controversial alteration to the document. In all other areas, some distance still separates the two teams. The Administration has made no significant movement to address the reasonable requests of the faculty, particularly with regard to financial matters. One piece of encouraging news is that the administration's team has agreed to extend the length of the weekly bargaining sessions so that more business can be accomplished at each meeting. Friedman expressed hope that, as the semester draws to a close, the administration will see the value of coming to a tentative agreement with us before the beginning of the summer, when we plan to suspend negotiations.

**Gender Equity** – At the latest FAC/FPC Chairs meeting, Hal Baillie announced that the 2008-09 Gender Equity study, which is being carried out by KSOM's Rose Sebastianelli, is complete, but he has yet to receive a hard copy. The Provost reported that there is still a salary discrepancy, within the limits allowed by

the law, but that this discrepancy is narrower than it has been in previous years. He promised Friedman that he would have a hard copy of the report by the May FAC/FPC Chairs meeting. Terry Sweeney noted that a recent *Times Leader* article reported that the U of S has the only female faculty members in NEPA whose salaries are lower than their male counterparts.

**Handbook Committee** – The Committee passed language on the Academic Freedom and Faculty Nondiscrimination Policy which will be discussed later in the meeting. They are still working on language to address Family and Medical Leave, which is proving complicated and will probably not come to the membership until the next academic year.

**Academic Freedom** – Friedman asked the membership to refer to an email sent to them before the Easter break. The document included the current language of 5.3, the revision voted on by the faculty a few months ago, and the current revision, which has already been passed by the FPC, with the approval of Fr Pilarz. The new revision includes the references to the 1940 and 1970 statements that were a part of the original revision, but it does not attempt to locate where teaching takes place (this was a sticking point for the President and the FPC). The phrase "at all sites where learning occurs" has been removed, as was another phrase offered by the faculty with essentially the same meaning. In place of this geographical reference, FAC and FPC have agreed to an MOU that defines our mutually shared understanding of the meaning of the word "teaching" in section 5.3 only. The MOU makes clear that teaching is not limited to the four walls of the classroom (as the current language might be construed to indicate), and it offers several examples of non-traditional sites where teaching presently occurs, including, but not limited to, "classroom instruction, distance-learning courses, student conferences, academic presentations to colleagues or students, clinical instruction, supervision of internships, service learning experiences, and civic engagement activities." Under the new revision, it will be clear that faculty are protected by academic freedom *when discussing their subject* while they are engaged in those activities (location does not matter). All other existing limitations on academic freedom, such as the prohibition against introducing controversial material that is not related to the subject matter at hand, remain in force.

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## Contract

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Article 26 of the current contract prohibits FAC from threatening or engaging in a strike or work stoppage, and the administration is similarly prohibited from threatening or engaging in a lockout, during the life of the contract. After August 31, however, these restrictions would no longer exist. Furthermore, Articles 30 (Faculty Advancement Plan [FAP]) and 31 (Teaching Workload) both have expiration dates of August 31, 2009, so unless they are renewed by mutual agreement before that date, they would expire. Otherwise, salary and benefits would continue unchanged as long as the faculty elect to work without a contract. In any subsequent agreement, FAC would insist that salary increases be made retroactive to the beginning of the fall semester.

If the current contract expires without an extension, it is **not** possible for the administration simply to impose a new contract on the faculty. In order for management to impose a new labor contract, both sides must have bargained to an impasse, which means that both sides have become entrenched in their respective positions and no hope for an end to the deadlock exists. Again, please be aware that your officers and Table Team have no intention of allowing an impasse to occur, and therefore no contract can be imposed upon the faculty against its collective will. The Executive Committee is dedicated to negotiating a contract that the rest of the faculty can endorse, and even if the process of coming to such an agreement takes a good deal of time, we remain convinced that we will eventually succeed. We also remain confident that an agreement reached before the end of the spring semester is not out of the question.

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### Advisory Role of the Board on Rank and Tenure in promotion and Tenure Decisions

by Kevin Nordberg  
FAC Contract Administrator

While it is true that the month of May comes a few months after the intense rank and tenure activity of January where candidates meet with the Board on Rank and Tenure and the Board formulates its recommendations to the President, there is a reason for revisiting a rank and tenure *Handbook* issue at this time. The *Handbook* clearly states that faculty input to the rank and tenure process at all levels – but especially from faculty serving on the Board on Rank and Tenure -

constitutes only a *recommendation* on promotion or tenure. Stated differently, *it is not the Board on Rank and Tenure* that grants or denies either promotion or tenure. The sole discretion to grant or deny tenure or promotion rests with the President of the University. It has come to the attention of the FAC officers that some or all of the notification letters that went out to rank and tenure candidates were phrased in such a way that they might be construed as attributing more authority to the Board's vote than a mere recommendation. The officers of FAC and the administration are in agreement on the clear meaning of the wording of the *Faculty Handbook* (some passages quoted below). The President's Office has issued a letter to the officers of FAC affirming that understanding.

#### Representative passages from the *Faculty Handbook*: (emphasis added) 20.0 Rank and Tenure Policy

*The President of the University, the chief administrative officer, promotes in rank and awards tenure to full-time faculty. The President makes these decisions in accordance with the academic criteria and procedures detailed in the following policy. In the manner described below, the full-time faculty, including chairs, offer their advice as a service and as scholars. This advice and service should not be construed as being managerial in nature.* Although it is contemplated that the University's faculty members will participate in the evaluation of their peers as set forth herein, it nevertheless is the right of each individual faculty member to decline to participate in the evaluation process, and such action will be considered neither a violation of contract nor a dereliction of duties as a faculty member.

#### 21.5 Conferral of Tenure

*Tenure is conferred by action of the President of the University after receiving recommendations from the Board on Rank and Tenure, the candidate's department, the deans, and the Provost/VPAA.*

#### 23.11 Board's Action

*A recommendation to confer tenure or the advancement in rank requires a vote of the Board on Rank and Tenure of 7 positive votes of 11. The department recommendation and the Board vote will be forwarded to the President.*

#### 24.0 Decisions Concerning Rank or Tenure

*The President's decision concerning rank or tenure will be communicated to the applicant by the President or the President's designate.*

**MINUTES from April 14<sup>th</sup> Meeting**  
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**Misericordia Resolution** – Since this item was introduced near the end of the March meeting by Len Gougeon, we lacked a quorum and therefore did not vote on the issue. In the meantime, in consultation with Stephen Whittaker, FAC’s Parliamentarian, Friedman decided that it would be most fair to the membership, before a vote is taken, to agendaize the item under Old Business so that anyone who was not present at the end of last month’s meeting would be able to speak to the resolution. The resolution was printed in the April FAC’s sheet. Friedman asked Gougeon if he would like to re-state or explain his reasoning behind the resolution. He declined, stating that he would offer an explanation before the question was called.

**Nondiscrimination Policy** – Friedman explained that a concern arose at a Town Meeting last spring and in subsequent meetings of the Negotiations Steering Committee concerning the University’s lack of a non-discrimination policy for faculty. The Steering Committee was in favor of pursuing such language, but thought that the issue belonged instead in the Handbook Committee, where it was received without objection by the administration. He noted a few observations about the language upon which the Handbook Committee eventually settled:

1. The categories listed are the same as those currently printed in the University Catalogue with regard to students.

2. The final sentence, which suggests that faculty members who believe they have been discriminated against should first report their complaint to the Director of Equity and Diversity, does not rule out the eventual use of the grievance process to adjudicate the complaint. Both faculty and administrative representatives agreed that the process should begin with existing University channels for handling such matters, but if faculty members are not satisfied by the results of such procedures, they can still file a grievance. The clock for filing a complaint under the grievance procedure will not start until faculty members are notified that their Equity and Diversity complaint has been found to lack merit. They will then get two weeks to file a grievance.

**Contract Administrator’s Report:** Kevin Nordberg announced that the Administration and Deltak are taking concrete steps to preserve Appendices VIII and X in the Faculty Handbook.

**Grievance Officer’s Report:** Ned Warner stated that there are no active grievances or inquiries.

**Treasurer’s Report:** Dan West reported on various FAC accounts and filings with the IRS and the Department of Labor, all of which are up-to-date.

**Old Business:** Friedman announced that he would like to send the results of the FAC votes on all three previously discussed issues to the April Board of Trustees’ Meeting. He therefore asked that the members remain in the hall in order to vote, since there was presently a quorum. Before calling the questions, Friedman asked the membership to observe Roberts Rules, limiting discussion on each item to 30 minutes, with 2 minutes allocated to each speaker. The first vote concerned the new handbook language on Academic Freedom. One faculty member questioned the cumbersome use of several words, but did not propose a change. There being no additional questions, the measure was approved with one “no” vote. The second vote regarding the Misericordia Resolution was brought before the membership. An explanation of the incident which inspired the resolution was given by Gougeon, but no other questions ensued. This resolution passed with two “no” votes. Finally, the *Handbook* language on non-discrimination was proposed. Several faculty members questioned the timeline of procedures and members of the Handbook Committee satisfactorily explained the rationale. Clarification as to this phrase in the hiring process was also made. The question was called and the measure passed with two “no” votes. Friedman thanked faculty for remaining for the votes and said that he would report the results to the Provost in time for the April Board of Trustees’ meeting.

**Luncheon Menu**  
*for May 12th Meeting*

- **Mixed Green Salad with Two Dressings**
- **Pork Chops with Sauerkraut**
- **Garlic Mashed Potatoes**  
**Eggplant Bombardo**
- **Snow Peas with Red Peppers**
- **Rolls and Butter**
- **Assorted Spunkmeyer Cookies**
- **Coffee, Tea, Soda, and Water**

**Serving will begin at 11:15 a.m.**