

## MINUTES

Executive Committee

**Tuesday, October 17, 2023**

**3:00pm – Microsoft Teams**

**Present:** **Melinda Smith**, Chair; **Joseph DiVerdi**, Vice Chair; **Andrew Norton**, BOG Representative; **Sue Doe**, Immediate Past Chair; **Jessica Watkinson** (substituting for Amy Barkley), interim Executive Assistant; **Jennifer Martin**, Agricultural Sciences; **Rob Mitchell**, Business; **Sybil Sharvelle**, Engineering; **Sharon Anderson**, Health and Human Sciences; **Antonio Pedros-Gascon**, Liberal Arts; **Christine Pawliuk**, Libraries; **William Sanford**, Natural Resources; **Michael Antolin**, Natural Sciences; **Zaid Abdo** (substituting for Katriana Popichak), Veterinary Medicine and Biomedical Sciences

**Guests:** **Brad Goetz**, Chair University Curriculum Committee; **Janice Neger**, Interim Provost/Executive Vice President; **Susan James**, Vice Provost for Faculty Affairs; **Richard Eykholt**, University Grievance Officer; **Eric Ray**, Vice President for Human Resources

**Absent:** Katriana Popichak, Veterinary Medicine & Biomedical Sciences (excused); Amy Barkley, Executive Assistant (excused)

Chair Melinda Smith called the meeting to order at 3:04pm.

### **October 17, 2023 EXECUTIVE COMMITTEE AGENDA ITEMS:**

#### **I. Minutes to be Approved**

##### **A. Executive Committee Minutes – October 10, 2023**

Chair Smith: Asked if there were any corrections or changes to be made to the Executive Committee minutes from October 10<sup>th</sup>.

Rob Mitchell: Sent a correction over email.

Antonio Pedros-Gascon: Requested a change over email.

Sharon Anderson: Name should be bolded in the attendance list.

Chair Smith: Requested changes will be made to the minutes.

Hearing no other changes or questions, minutes approved as submitted.

#### **II. Items Pending/Discussion Items**

##### **A. *Announcements***

1. The Next Executive Committee Meeting will be held on October 24, 2023 – Microsoft Teams – 3:00 p.m.
2. The Next Faculty Council meeting will be held on November 7, 2023 – Microsoft Teams – 4:00 p.m.

Chair Smith: Called to attention the October 18<sup>th</sup> budget forum on the incremental budget, encouraged members to attend. Will be in LSC 386 or Zoom and will hopefully be recorded as well.

Chair Smith: Noted the budget model open forum on October 25<sup>th</sup>, in the LSC from 11:30am-12:30pm.

Mitchell: That time is correct, the room for the October 25<sup>th</sup> forum is LSC 376-378. The website has all of the updated information.

Andrew Norton: Asked if the October 18<sup>th</sup> forum is about the incremental budget or budget model.

Chair Smith: Confirmed the October 18<sup>th</sup> forum is on the incremental budget.

Mitchell: Asked Brendan Hanlon if he could provide a whole picture. Think he is going to try to give a sense of the big picture and will see how the timing works.

Chair Smith: Asked if that was addressed in the first budget forum.

Mitchell: It was noted that they provided a lot of the pieces for it in that first budget forum. After this one we will see what kind of additional questions emerge. If there are some specific questions that will be helpful. There are a lot of budget conversations going on. We tried to differentiate the incremental budget, current budget, and budget model conversations at the bottom of the emails. The emails include a link to the website where future conversations will be. The other piece that some may talk about is the new Questica software, that's the new budget software as well. We do have that website live on the operations, everything there will be around the budget model redesign and will have the most up to date information.

### ***B. Provost/Executive Vice President Report – Interim Provost Janice Nerger***

Interim Provost Jan Nerger: Noted that the October 18<sup>th</sup> forum in LSC 386 is a larger room than the last budget hearing. Noted that if it is run the same way as the last budget hearing, questions online were not addressed or permitted. Suggested attending in person if anyone wants to ask a question.

Provost Nerger: There has been some progress on AUCC 1C, in terms of a guidance committee membership that has been suggested to me. There are eleven members that have been suggested, representing from all the Colleges, Faculty Council committees, etc. The idea was to have good

representation from across curricular committees and so forth. Shared the suggested members in the chat: Tom Siller, Chair (VPUA, WSCOE, Provost's Office) (ADM), Stephanie Foster (Assessment of Student Learning) (ADM), Diane Margolf (College Curriculum Committee, UCC, CLA), Andrew Norton (Faculty Council, FIIIE fellow, CAS), Patrice Palmer (College Diversity Rep, AUCC 1C course developer & instructor, COB) (ADM), Jen Aberle (Associate Dean, CHHS) (ADM), Marty Gelfand (UCC rep from College of Natural Sciences), Lumina Albert, Chair, Faculty Counsel Committee on Teaching and Learning, Maricela DeMirjyn, Associate Professor, Ethnic Studies, Jonathan Carlyon, Chair of Languages, Literatures and Cultures (ADM), and Thomas Conway, College of Liberal Arts representative on Committee of Non-Tenure.

Provost Nerger: The idea is that we would be using the CIM process for courses that are recommended or considered for inclusion in AUCC 1C. It would go through the standard curricular process like any other course and would end up at the University Curriculum Committee for final approval. At some point in the process, it would come to this guidance committee, or sub-groups of the committee, who would give guidance to the faculty or group of faculty who are presenting the course in terms of whether they have met the different criteria for being included in the AUCC 1C category. They would review and give feedback to the group, and it would not slow things down. It is also the way this is handled for International Programs. The sheet that the committee fills out would be attached to the proposal when it reaches the University Curriculum Committee. Was given the list of suggested members by Interim Vice Provost for Undergraduate Affairs Tom Siller, and think the list looks good. Tom Siller will then reach out to the suggested members.

Nerger: Asked Tom Siller to chair the committee as a representative of the Provost's Office, and Stephanie Foster to represent the assessment of student learning. We want a member of the University Curriculum Committee on this committee. The idea is to make it easier once these courses reach the University Curriculum Committee that the courses have been reviewed by a meaningful group of people. Don't think that this group will have to meet on a regular basis, or that all members have to look at every course. Not sure what the workload will be like, we may have to compensate people, so we are looking out for that. Similar to when proposals come through the Institutional Review Board, the whole committee doesn't have to look at it because it is an expedited review.

Nerger: Marion Underwood, who starts as Provost in January, will be much more engaged in this process. Starting a list of suggestions for her. In terms of AUCC 1C courses, think it would be good if we had some sort of course development funds available for faculty. Asked Tom Siller to talk to various units that already do course development funds like TILT, SoGES, etc. It is more symbolic than pay related. Think a couple thousand dollars, something that we could maintain for the extent of the AUCC 1C offerings. It doesn't matter what college faculty are from or if they are CCAF or full professors. If a faculty member wants to work on putting a syllabus together and present a course, then we would give them a couple thousand dollars. Again, we haven't made that decision, but it would be more of a symbolic gesture that we think this is important and would like to offer some compensation. That is what I'll recommend to Underwood. She might have a different idea in mind and don't want to speak for her. Will be

meeting with her next week, and AUCC 1C is one of the items on our list. Will be meeting regularly between now and January.

Provost Nerger: Asked if anybody had concerns or suggestions about the list of suggested members.

Pedros-Gascon: Thanked Interim Provost Nerger for including Jonathan Carlyon, Chair of Languages, Literatures and Cultures. Indicated the need to have people representing this department in this kind of endeavor.

Norton: Think it is a good list, and Jonathan Carlyon was on the other previous guidance committee as well.

Provost Nerger: All these people have been engaged in this process at some point over the last several years, so it is not new to anybody on this list. They all have service responsibilities related to it. Think it is a good group of people. Don't know how much work it will be, but don't anticipate it being that much work. They would not be giving yes or no decisions as to whether a course belongs in AUCC 1C. That will be left to the University Curriculum Committee and all of the processes before that.

Zaid Abdo: Wonder if Naomi Nishi from CVMBS might be a good candidate as well because this is her focus.

Provost Nerger: Can make that recommendation if we want to add a twelfth person.

Vice Provost Sue James: Asked if there was anybody from CVMBS on the committee.

Abdo: Not seeing anyone from CVMBS, think that Naomi would be a good person to have because that is her focus in the college.

Provost Nerger: Agreed, think she would be great.

Provost Nerger: Last item, there was the presentation at the Board of Governors meeting. Heard that it was well received but thought to be too long. The new part of the academic and student affairs presentation was the addition of student affairs. Did not see that, so don't know how that was received.

Norton: Did not think the presentation was too long, that it was what the Board asked for.

Provost Nerger: The Board of Governors meeting is where the incremental budget was presented for the first time. Reminder that the presentation on October 18<sup>th</sup> will be the very first version and may look negative. Then they will start working on it to try to get it much closer to a balanced budget. What will be presented at the October 18<sup>th</sup> budget forum is what the Board of Governors has seen.

Pedros-Gascon: Acknowledge and thanked Interim Provost Nerger for meeting to discuss the 2/2 teaching load and would like to thank EVP Miranda for meeting with the chair, Jonathan Carlyon. Would also like to know if there is any follow-up regarding the 2/2 teaching load or any plan for the immediate future.

Nerger: Will talk to Marion Underwood about this next week, want to make sure that it is on her list. Will catch her up to where we are.

### *C. Old Business*

### *D. Action Items*

#### 1. UCC Minutes – October 6, 2023 (pp. 20-23)

Chair Smith: Asked Brad Goetz if there was anything in the University Curriculum Committee minutes to bring to Executive Committee's attention.

Brad Goetz: Noted an item that is different from previous reviews, and that is the new degree proposal. It is in our minutes so that we can keep track of the UCC approval, but it will come forward to you and then if you pass that forward to Faculty Council, it will come forward to you as a special action item from UCC. It is on page 22 highlighted in red.

Andrew Norton: Moved that the University Curriculum Committee minutes from October 6<sup>th</sup> be added to the consent agenda on the Faculty Council agenda for November 7<sup>th</sup>.

Chair Smith: Requested a vote.

Motion approved. Will be placed on the Faculty Council agenda for November 7<sup>th</sup>.

Goetz: After your conversation about the climate change studies subject code, we had some discussion at the UCC meeting on Friday and want to see if there is a way to pull that from the consent agenda, if you all think that is appropriate.

Chair Smith: Interim Provost Nerger and Vice Provost James were not here last week. Asked Goetz if he could provide context.

Goetz: There is a new subject code that the UCC considered, CLMT, which is climate change studies. It looks like it is coming from the folks that are also involved with SoGES. It is intra-university, so it is housed in the Provost's Office. UCC approved it on the basis of the subject code, but some questions came up at Executive Committee about who gets credit, who can teach in the subject code, and a number of things. Want to clarify what the process is for approval, and who is the gatekeeper for a very broad topic. The reason we want to consider pulling that from the consent agenda is that there is not room to negotiate, it will either be a subject code or not. We can't change the rationale or change words in a paragraph, and don't think we want to make the Faculty Council meeting be the end of that without those concerns being answered.

Goetz: The UCC does not consider any of the financial arrangements around anything, so the subject code from a curricular perspective should just represent a subject code. It will indicate climate change studies in the catalogue for that subject code and any courses that coordinate with it, but we don't have any of those yet. Wanted to keep that option open until we can talk with Tom Siller and the curriculum folks about trying to either get him at the meeting to answer the questions or getting some resolution prior to putting it on that agenda.

Norton: Think the appropriate procedure is a motion to reconsider the approval of those UCC minutes from last time or the decision to put them on the agenda. Move to reconsider those and to remove the course code into a separate item.

Abdo: Seconded.

Norton: Think Goetz's rationale for why that is useful for faculty to talk that through is compelling and makes sense.

Michael Antolin: Think it would be helpful if we had some clarity about where course codes come from, and who has the right to propose them. Thought this was a Faculty Council approved process but it sort of came to us fully formed from somewhere else. Understanding how this process is supposed to work ahead of time would be helpful. Think to have a complete discussion we need to know that too.

Chair Smith: Wonder if this went to the Committee on Strategic and Financial Planning and if we send course codes to them as part of the decision.

Goetz: Don't think so, ordinarily. Don't think that budget is connected to subject codes. However, teaching responsibility in a department can relate to where they are teaching and any conversations they have with other units. Think it is a legitimate question from both perspectives. Who can teach in CLMT if it becomes available, and then are they the gatekeepers for any climate change courses or can it be taught under their home subject code. We wanted to get those questions answered and we can also provide a revised set of minutes pulling that one out.

Vice Provost James: Asked if the GRAD subject code is the only across the university code we have right now.

Goetz: GES is also the same because they are a school, and it is managed through the Provost's Office. This comes through the same lines as the GES, but that happened 12-15 years ago.

Provost Nerger: Asked about the IU subject code.

Goetz: Yes, there is IU in addition to that.

Vice Provost James: There are budget implications, so understanding that part for the deeper discussion would be wise, whether it is current budget and differential tuition or if it is coming new budget.

Provost Nerger: Think it is critical with the undergraduate programs. We haven't had trouble with interdisciplinary graduate programs, like SAMD and GDPE, and they are the gatekeepers. If we are going to start having interdisciplinary, cross college undergraduate programs that are housed somewhere like the Provost's Office we need to get this right.

Chair Smith: Expressed surprise that the step was taken to come up with a course code before we have a degree. Would hope they go in tandem.

Provost Nerger: Noted that there may never be a degree, they could end up with a certificate for example.

Chair Smith: Asked Norton to repeat the motion.

Norton: Move to reconsider our action last week to send the UCC minutes that contained the CLMT course code to Faculty Council for approval and remove the CLMT item and make that a separate agenda item. Not sure if we are ready to do that right now, may make sense to wait until the December meeting.

Provost Nerger: Noted that we don't want to hold things up but want to get it right. Wonder if we could find a way for them to progress and get the code and be able to start offering courses because it could be held up for a long time.

William Sanford: If it takes time, would rather see more information about what we've been talking about such as who it is housed with and who controls it. Would rather get that right and wait than just go ahead and see what happens.

Mitchell: Wonders if there is a middle ground, where we could approve it because every course and program would still have to be approved. Then we could see what starts coming through, because there is a limit right now of theoretical conversations of what could happen. Once we see programs coming in, then we know which actors we are talking to or who needs to be part of the conversation and what their perspectives are on it. Approving it given that we want to engage the external stakeholders in a way that is compelling and holding it up makes it harder to do that. Would like to see us leading in this space and being able to do more in it. Agree that we should have a conversation about it and think we should put it on a Faculty Council agenda and start talking about it. Having conversations about the questions we want to have answered and framing what we are wondering about is helpful but may preclude the opportunity to innovate.

Joseph DiVerdi: Think that speed in the absence of thoughtfulness is not quality. Think we need to understand what the process is. There are many questions that have been brought up. Afraid that rushing ahead to create these codes and not knowing what is behind them is the wrong direction to take. In favor of getting them done expediently but addressing the questions that arise. Should have answers to these important questions.

Provost Nerger: For interdisciplinary degree programs, it has been seven years of trying to find answers to these questions. Think that when you have answered enough questions to move forward, one option would be to put it in the Provost's Office for an undergraduate degree or

undergraduate course prefix and have an MOU that says this is a temporary arrangement until we know how this will be structured in the future. We can still offer some things like certificate programs.

Anderson: Think we need some clarification about how things like this can and will go. Having more answers than what currently seems to be the case is important.

Chair Smith: Requested vote on the motion stated by Norton.

Motion approved.

Chair Smith: Asked Goetz if we need to reconsider the minutes without that portion or if we can move forward with the amended minutes.

Goetz: Think you can move forward since that was the only item of discussion, will get an amended set of minutes.

### *E. Reports*

#### 1. Faculty Council Chair Report – Melinda Smith

Chair Smith: Continuing to work on the strategic communication plan with Pam Jackson, and hopefully can bring a draft proposal to the committee next week for feedback.

Chair Smith: Meeting tomorrow with Jason Johnson from OGC, Richard Eykholt, Jannine Mohr, and Jennifer Martin to discuss Section J and hopefully get some resolution on that and move forward to approve before the end of the year.

Chair Smith: Will be serving on the executive sponsor committee for the budget remodel. Looking forward to bringing back information about that to the Executive Committee and Faculty Council.

Chair Smith: Noted that we are scheduling a meeting for the Interdisciplinary Undergraduate Degree Task Force. Shared the list of committee members in the chat and asked if there were any additional nominations for this task force.

Chair Smith: Met with Andrew Norton, Joseph DiVerdi, President Parsons, and Interim Provost Nenger today. Discussed the athletics budget and in particular the deficit that the athletics budget is currently carrying, and the concern around that. President Parsons will speak to this and provide some context for that deficit. We are also going to reach out to Joe Parker to ask him to speak to that as well. We wanted to convey to President Parsons the concern expressed by the Faculty Council Executive Committee and the need for information and context around that deficit.

Norton: President Parsons also pointed out that Joe Parker presented at the last budget forum, and it was recorded. It might make a lot of sense if we alert Faculty Council members of that

ahead of time and have them watch it rather than have it repeated. Think we might have more focused questions that way.

DiVerdi: Agreed, think we should include a link to that recording when that message is sent out.

Chair Smith: Asked if there were any questions.

Antolin: Downloaded and read the report that we are talking about and suggest that everyone read it. It is fairly general for the state. For instance, one of the numbers that comes out of that report is how many athletes are being supported at state institutions and how much money that it is, and it turns out to be \$26,000 per student overall, which is not far out of line for what scholarships pay in general. Have been following this topic for a long time and there are only about 25 universities that ever have their sports paid for by the income that comes in from them, from television, etc. Understand wanting the upper administration to reflect on that and talk to us about it but it is not a new thing or new crisis. Want to make sure that is understood. Not defending what they are saying, just that there is a longer context of university athletics and that this exists across the state and historically.

Pedros-Gascon: Think that one of the most important issues with this situation is that when asking the administration about these figures we have been told we are wrong but later on it happens that those are the real numbers. That's really the big issue here. The reality is, also, that the amount of money that is going both directly and indirectly to athletics could merit some discussion. Think that no one is asking for a total disinvestment in sports at this institution. For example, that we are paying the same coach double the salary that that person was being paid somewhere else needs some explanation. Wonders why that person is paid double the salary just for coming to Fort Collins. Understands this is an expensive place, but that is not happening with the rest of us. We are not being paid double because we are living in an expensive city, so that's part of the big reason underneath, is the gaslighting of Faculty Council every time we have tried to address this issue.

## 2. Board of Governors Report – Andrew Norton

Norton: Reiterated that the incremental budget will be presented at the October 18<sup>th</sup> budget forum. The numbers are in the red right now, but looking back at our first incremental last year we were also in the red then.

Norton: The Governors first budget request is due November 1<sup>st</sup>, so we'll see how that comes out. Think right now we are budgeted based on a 3% raise from the state and we'll see if that happens.

Norton: We are trying to make a Board book of the agenda package for the Board which usually runs about 600 pages as well as minutes from the board meetings and subcommittee meetings easy to access publicly. It is all public information but working on trying to make that more accessible.

### 3. Budget Model Report – Jennifer Martin, Rob Mitchell

Mitchell: The email from EVP Miranda and Brendan Hanlon came out last week, and before that an email from Hanlon, trying to situate which budget conversation we're talking about. Most of the information is there and we do have the website up and live. Noted the SOURCE story as well. On the website there is a feedback form where people can submit their feedback, questions, or things they would like to be considered. This information will then feed forward to the committees that will be charged. The executive committee has been decided but not yet charged, and that committee will decide on and charge the steering committee and the technical committee. With both the steering committee and the technical committee, deans, budget officers, and folks with shared governance roles have been notified that they will be serving in different capacities, and we have gotten some good feedback from them. Scheduling is a challenge, so that is what we're waiting on with respect to the executive committee. October 26<sup>th</sup> is when that meeting will happen.

Mitchell: Please do come to the session, there will be food snacks, etc. and encourage your colleagues to come and participate in this because what they say will be helpful for the steering committee and the technical committee to consider as they begin working on their processes. Remember that questions can also be sent to [budget\\_model@colostate.edu](mailto:budget_model@colostate.edu).

#### *F. Discussion Items*

##### 1. Discussion about 9-month versus 12-month expectations – Sue James, Eric Ray, Richard Eykholt

Vice Provost James: Gave background on this discussion item. At the last Faculty Council meeting in October, we were discussing the disciplinary action section of the Faculty Manual. In that section there have always been some time constraints on replying by parties. There were some changes made to that, though it's not like the time to reply was added when it hadn't been there before. It caught everybody's attention and brought up the question of what if this happens during the summer when you are a 9-month faculty member. That you don't work during the summer so you can't be asked to reply within five days. Richard Eykholt noted at that meeting that even with a 9-month employee, you can still have some expectations placed on you to pay attention to what is happening at work during the summer months. So, clarity is what we are looking for so we can bring that to the next Faculty Council meeting.

Mitchell: Noted there is an addition that within five working days of this notification, the tenured faculty member and the person's filing must submit to the UGO any additional materials they wish the hearing committee to consider. Think it is the "must submit" within that time frame that was being brought up. That's a new piece so it's not just the notification time, but that there is a responsibility on the part of the faculty member within five days, potentially during the summer. So, the time had been there but it's the time plus a specific action that is a "must" action.

Vice Provost James: Eykholt had also noted that from a practical point of view that many grievance hearings happened during the summer because that is when he can get people to actually do them.

Jennifer Martin: Think it is important to clarify from a CoRSAF perspective that there are no additional expectations being placed relative to providing timelines that give more latitude and flexibility to the faculty member, but there's not an additional expectation that is now being placed on them during the summer.

Vice Provost James: Asked Eric Ray if 9-month employees have to be responsive to their employer during the summer.

Eric Ray: One thing we may talk about is, what happens when one of these things comes up and we're unable to contact the individual because, for example, they're on a research vessel in the middle of the Pacific Ocean. Think there is a notification of when that might apply. Asked Eykholt if there is some way that we have handled those types of situations in the past or is this all new language that we're trying to help navigate.

Richard Eykholt: Mitchell is correct that there was something in there about submitting materials that was always there, it just wasn't there as explicitly. The way this has worked is, if you want to discipline somebody you have to notify them, and the Manual says you have to notify them at their CSU email account. They're assumed to have received it ten working days after it was sent so that gives a two week period. If I send something and get back an email saying, for example, the person is in Guatemala for a month, I can extend deadlines and often do that. When it comes to scheduling hearings, I work around everybody's travel schedule. The UGO has the authority to extend deadlines. It is assumed in the Manual that faculty members are monitoring their email and are responding to that.

Eykholt: The specific five day deadlines we were talking about come long after that. At that point the person has been notified, they've been in email contact, and they know things are coming. So, it is not out of the blue that they have five days to respond, and they may not be monitoring email. We work with people and try to make things as reasonable as possible, but it's not reasonable to say you're free during the summer. For example, if someone was sexually harassing their graduate student and we have a disciplinary hearing, the person can't say they have to wait three months because they're not employed during the summer. Also, if this is discipline for performance, many departments say the entire departmental faculty have to be present for the hearing. You cannot schedule a hearing around the teaching schedules of every faculty member in a department unless it is going to be in the summer or over a break. So, these hearings often do take place over the summer, but usually people know they are coming well in advance of that. That's the best answer about how we handle things, but nothing is exactly black and white.

Anderson: Noted that Eykholt stated that it is assumed that 9-month employees are monitoring their email over the summer. Have heard faculty say that they are not paid for those three months. In fact, sometimes they put some kind of automatic message on their email that they are not available during the summer because they're employed for the academic year. Pointed out

that this is something that might need to be more visible and that assuming is not what people are going off of because that could cause a lot of problems.

Eykholt: Noted that what was stated in Faculty Council is what HR and the Office of General Counsel have been telling me for decades, since I was chair of Faculty Council. That is that 9-month employees are employed during the summer. They may not have teaching assignments, but they are employed and have expectations to be part of the university, that is why they get benefits in the summer. For example, you can't take another job during the summer. The Manual explicitly forbids that. They are employed during the summer by the university, and there are expectations that they don't vanish. Now, they are allowed a lot of latitude to pursue scholarship or research. Think that is why Eric Ray is here, to elaborate on that. I am just repeating what I have been told over the last 20 years by HR and OGC.

Ray: Think what Eykholt has shared has been a long standing statement, that we are continuing to be employed. One thing to think about is that when you are employed and continue to be employed, there are certain things that have to happen. For example, a new employee has to fill out an I-9 form. We don't do that with every 9-month faculty member every academic year, so that's an indicator of continued employment. Another indicator of continued employment is receiving benefits and allowing access to systems and facilities over the summer. These are things that, from an HR perspective, show that there is a continuation of employment. The prohibition of additional work outside of the university also shows that there is continued employment. Hasn't seen anything that employment starts mid-August, ends mid-May, and begins again mid-August. So, from an employment perspective, we are employed throughout.

Pedros-Gascon: Has been preparing for promotion to full this year. Shared contract that states, "I'm pleased to offer you a full time regular nine month appointment at an academic rank of assistant professor at the starting nine month salary of \$51,000, plus benefits and start date of August 16, 2008. Your academic assignment will be in the department of Foreign Languages and Literatures. Academic year, nine month appointments begin August 16th and run through May 15th of each year." Asked for explanation as to how it is that I'm supposed to be on some sort of 12-month appointment when I'm being told that I'm in a 9-month appointment. Literally and explicitly, my contract runs out on May 16th of each academic year. Expressed not being amused, just like most of the people I believe in that room, when we are being told that it may say that in a contract, but indeed we are hoping you will be there. Asked what the logic is for having a 12-month appointment. Asked if everybody should be on a 12-month appointment rather than 9-months. Noted that this is not just in this contract, it the contract that is used.

Vice Provost James: That is in the current offer letter templates, so this has been in our offer letters for a very long time and still is.

DiVerdi: Noted that this isn't the first time that offer letters have involved language that has been either confusing or inconsistent, so the fact that it's in the offer letter doesn't answer the question. Asked Ray to reiterate whether 9-month faculty are prohibited from taking other paid employment in the summertime. Also noted that from the legal and HR perspective, faculty are expected to do certain things in the summer, to do or be aware of something. Think that it would be good to learn exactly what those expectations are from the HR perspective.

Ray: Regarding summer employment, would default to Eykholt. Typically refer to Eykholt about the Faculty Manual. Think one of the things we have to realize is that there is a difference in employment and the appointments, and they can be different time frames. We may have multiple or concurrent appointments. So, the appointment in and of itself is different than what someone's employment period may be, they don't always have to be the same. So, when we hire someone and they do all the things to be onboarded into the organization, they become employees. When we have those breaks in the summer, we're not asking people to redo those things. In an environment where employment ends, they would have to redo those processes, such as going through re-enrollment in benefits each year. You may have people that have had multiple appointments through a period of time that don't sunset at the same time. They may overlap but for all that time you're employed. Don't want to confuse the issue, but there is a difference between those two things.

DiVerdi: Don't think that is confusing, think that is clarifying. We as university employees must follow employment law, whatever the jurisdiction is, and we look to you for some clarity on that. We're all employed for 12 months whether we have a 9-month appointment or not, and there are expectations of us over the summer which need to be developed and explained at some point in detail.

Vice Provost James: Think that's the key, what the expectations are of an employee even if their appointment is not active.

DiVerdi: Think it is both. Based on the attributes here, access to facilities and systems, and so forth, can see that there is a legal justification for that.

Vice Provost James: Noted that people can work during the summer at other places or even during the school year in other places. Disagree with what Eykholt said. 9-month employees can take employment during the summer at other places, or even when they're on sabbatical, but they're still a CSU employee so they have to make sure it doesn't conflict in commitment or interest with their CSU job.

Norton: Particularly around CCAF faculty. Several CCAF faculty have been very vocal about taking summer employment to make ends meet, and they have essentially been testifying before the Board of Governors, perhaps, stating that that is what they're doing. So that doesn't generally seem to be well understood if that is the case. Would hope it's not the case, particularly for CCAF. Don't think that would make ends meet very easily.

DiVerdi: Another point about CCAF is that until recently, there was a recurring reapplication for employment performed for every fall semester for certain CCAF, who were called NTTF back then. That was a real problem that we worked to cease having that happen.

Norton: Aware that CCAF are a very diverse group of employees, but thinking particularly about those that are employed strictly for teaching.

Pedros-Gascon: Echoed the question about where these expectations are listed. Want to make it clear and am not sure I can see the things that you are trying to explain. On the contrary, when seeing my contract and what you are saying, feel like this institution is trying to renegotiate my contract without me in that negotiation. Signed for 9 months and am basically being told now, without any kind of raise, we are expecting you for 12 months. Am pretty sure that to many other people, especially to people like me who are underpaid, being told that you have to also be around for us any time we want during the summer, that's not going to fly. Believe that this is a very serious thing and am very hesitant to believe the idea that I received that document but am being told that that document is not as binding and that we have a different kind of bylaws or understanding of the situation.

Vice Provost James: Your contract does reference the Manual, for these reasons.

Pedros-Gascon: Asked that letters be sent that are reflective of these things. The contract does not really reflect the reality of the work. If we are using this as a template, then that is a little wrong because we are saying some stuff in the letter, but eventually you have to go to the fine print.

Vice Provost James: It's true and that's why the fine print is in the letter. Again, this has been in the Manual for a long time. We're not talking about working, we're talking about being responsive as an employee. So, you can't be assigned to teach a class without compensation in the middle of the summer, that's a completely different thing.

Eykholt: Clarified that it is not a contract, it is an appointment letter and there is a legal distinction between those two. You have an appointment letter telling you what your appointment period is. The state constitution talks about appointment of tenured faculty and what it takes to dismiss tenured faculty. It's far more complicated than just an employment contract.

Eykholt: Commented that the Manual doesn't technically say that you cannot have employment outside the university, it says that any employment outside the university has to be approved by the university. For example, faculty with research grants pay themselves in the summer out of research grants, and the university approves that. If you did want to take a job outside the university, you can ask the university's permission, but they can say no. That's in the Manual and has to do partly with conflict of interest and partly with the fact that, if you really did nothing for the university over the summer it is very unlikely you would have gotten tenure. You need that summer to get your scholarship and research in, so there is that expectation.

Eykholt: The final thing that I've experienced over the years with legal and HR, is that we do have some CCAF on contracts. We have some CCAF on continuing appointments and some are adjuncts which are appointed for a limited period of time. Many of those people do accept outside employment over the summer to make ends meet, and nobody has stepped in to put a stop to that. Would hope that we don't, but technically they should be getting permission from the university. That didn't used to be the case because you used to apply for renewal every year. You had an appointment for a year and then you had to reapply for your job, so you were not employed over the summer and people didn't always have benefits over the summer, which is why we fixed it. We did have a faculty member back in the NTTF days, who applied for

unemployment over the summer, arguing they were not employed, and the courts ruled they were employed and were not eligible for unemployment benefits. So, there has been a court ruling on this that you are employed during the summer. Again, not a legal expert, just telling you things that I have been informed of over the years.

Vice Provost James: Think we need to decide where we need clarity, in offer letters, the HR manual, and the Faculty Manual and maybe with a glossary of terms, so that people understand what is expected or not expected and when they're an employee or not an employee because it's clearly a matter of great confusion.

Ray: Think having it be clear what those expectations are is important. In some ways, this conversation came about because of the language in E.15 and think it's important for us to bring into the space, the frequency with which that occurs. Typically, those things don't occur just out of the blue. Think there may not be an ultimate bright line decision on some of those things and reasonableness comes into play. We cannot just ignore communications, and similar to Eykholt's example earlier, there would be more than just an email that went out. Think using some reasonableness to handle each of those situations in the moment will also be important.

Eykholt: We used to address this by saying that if you were going to be disciplined you had to have a letter sent to you by certified mail, with an acknowledgement of receipt. The reason we changed that to email many years ago, was because we had a faculty member who left CSU, took a job in China, and never resigned. You can't fire a faculty member without going through E.15 and you can't send certified mail to China, and he basically continued to draw a paycheck for a long time because we couldn't fire him. So that was why we made CSU email the official contact mechanism.

DiVerdi: Asked if sending an email message to that CSU email and not waiting to receive a response would be sufficient to trigger the process.

Eykholt: Yes, the Manual says that the message is assumed to be received 10 working days after it was sent to your official CSU email address. The argument was, if you are still employed by CSU you ought to be checking your email on a regular basis. Again, not to say we can't rewrite any of this and make modifications, that's why we have a Manual, and am not arguing that we have to stick with the status quo. Think deadlines and timelines can be negotiated. It hasn't been a problem, largely because we haven't had an E.15 hearing in 30 years. These things always get resolved through discussions, but one of these days we're going to have one.

Abdo: Asked if this is something for legal counsel to look at.

Pedros-Gascon: Would suggest any counsel but the internal legal counsel, would try to hire external lawyers if anything to try to clarify. It would be much faster and probably a better outcome.

Eykholt: Noted that the Chair of Faculty Council can hire a lawyer for advice and that has happened in the past. You can go outside of CSU and get legal advice if you want to. I cannot as

UGO without getting permission from the Office of General Counsel. But Faculty Council has a budget and can pay for legal advice. It's not binding to the university, it's just advice.

Chair Smith: Noted that Sue Doe asked in the chat about GTAs. In our department we employed GTAs on a semester or summer basis. Don't think they are tied to a contract per se but might be wrong.

Abdo: Asked if GTAs get benefits during the summertime as well.

Vice Provost James: Yes, they do. Think one of the key things to remember is that this is both ways. Hear the concerns about being asked to respond to something during the summer as a 9-month employee, but it also means you can hold your employer accountable during the summer as well.

Eykholt: Expressed an understanding that a student's insurance is through their student status, not their employment status. In Physics we only pay out GTAs for nine months unless they're doing GTA work in the summer, but their insurance is not connected with their GTA status.

Chair Smith: That's my understanding, too.

Pedros-Gascon: Clarified in regard to GTAs, that international student GTAs are not allowed to work anywhere but the university. So, if the institution does not hire them, they cannot work elsewhere. So that's why, for example, at other institutions there is a preference for PhD students who are international students over local because of the capacity that they have to work during the summer. That is a very important distinction.

Pedros-Gascon: Just like we have the expectations that during the weekend you are not supposed to email or expect responses from people, believe that summer could be considered a similar situation. It's part of that etiquette that only for extremely urgent situations should you be contacted during the summer.

Chair Smith: It sounds like we are getting clarity, but there may be ways that we could improve the way this is communicated in letters and in the Manual, particularly around employment versus appointment. The offer letter piece would be the Provost's Office, but from our perspective is there a way that we could add some clarity to the Manual.

Vice Provost James: Think adding some language to make it clearer would help.

Eykholt: There is certainly no reason we can't add clarity to the Manual. Think we have to be careful not to create a one size fits all list of expectations but do think some clarity could be added. Would be willing to work with people on that.

Eykholt: Added that it would be nice to get the section E.15 thing fixed. Think we can all agree that it is something exceptional and rare, and we can't just let people misbehave for three months because it's summer.

Ray: Appreciative of the opportunity to be here. If there is anything else on this, questions come up, or ways that we could help clarify, please feel free to reach out. If there is anything else that would help provide clarity, am happy to work with Eykholt on anything that we can make clearer from our side.

Provost Nerger: Agreed with Pedros-Gascon's point. Think that people do think of it as a contract, and we refer to it as a contract, that you are hired for nine months. Think that putting things in the Faculty Manual after signing that appointment letter is on shaky grounds, because we change the Manual every year. Think we should make the appointment letter very clear on this particular issue, that you may be called upon during the summer, especially for urgent issues, or involving grievances or E.15 issues.

DiVerdi: Agreed with Interim Provost Nerger. Also, that we have access to university facilities all summer, that's something we need clarity and communication on.

Provost Nerger: Know that people believe that they are not responsible to the university during the summer. Think they are wrong in that, but we need some kind of clarity in that letter. For example, as Dean, I had two faculty members of different years refuse to come to commencement because it happened to fall outside May 15<sup>th</sup>. Clearly people believe they are hired for that nine month span. Agree with the E.15 issue, that we cannot just wait until the fall to let some of these things continue on.

Chair Smith: Understood that the reason you get a 9-month appointment is so that you have the ability to take summer salary. You can increase your salary through grants, but otherwise you'd be on a 12-month appointment. Questions are always asked, if you're paid off of grants in the summer why you are working for the university, like serving on committees.

Provost Nerger: That's different, being asked to serve on a committee when you're not being paid is very different than having to respond to a grievance.

## 2. University Grievance Officer Survey – Christine Pawliuk

Christine Pawliuk: Began discussion about the UGO survey and shared the survey from last year in the chat. Think the plan this year is to distribute the survey after the February Faculty Council meeting, because we are asking Eykholt to submit a report that faculty can look at before filling out the survey. Asked if there are any questions that should be changed or added from last year's survey.

Vice Provost James: Know we made changes last year compared to the first year that really heled to clarify things for people responding. Know that Eykholt thinks that part of why business is up at the UGO, is that the survey now goes to everybody, so people are more aware of the UGO.

Pedros-Gascon: Asked if the dates are going to be changed to show the right year.

Pawliuk: Yes, those will be changed, this is what was sent out last year and haven't made those edits yet.

Martin: Wondering given the questions that came up about the Ombuds if we should ask in the survey if faculty are also familiar with the Ombuds Office. Know that last year we added questions about if people know what the UGO does so am wondering if it might be an avenue to increase exposure to the Ombuds Office.

Chair Smith: Suggested stating it to ask what other avenues of advice you have pursued.

Pawliuk: There is a note before the survey starts that these questions refer to the UGO only and it lists a few other things that they could reach out to. We could probably just rework that into a question.

Martin: Thinking from the standpoint of having gone to or sent others to the UGO and being redirected to the Ombuds. Wondering if we can see how many people are using that service or going to the UGO and being redirected. Wondering if we could help reduce some of the workload by informing folks of what the UGO office is used for and what the Ombuds Office should be used for.

Norton: Think one of the results of doing this survey has been an increase in the number of folks contacting the UGO, so it's had a very positive educational benefit. Could have a question that asks which employee offices someone has contacted such as the Ombuds, Vice Provost for Faculty Affairs, Human Resources, the UGO, etc. Then we do the branch of UGO.

Chair Smith: Think it is important to have that as question one.

Pawliuk: Asked if the new question should be question one.

Chair Smith: Correct. Like Norton's suggestion for the question.

Norton: Think we should have that as question one, then somewhere it splits between whether you've talked to the UGO or not.

Pawliuk: Clarified that would then be question three.

Norton: Maybe then, just a new question one, about who you have contacted about employment related issues at CSU.

Pedros-Gascon: Asked if there would be a follow-up question for people who say yes, about how satisfied they are with the interaction with that given office.

Norton: Would say no, because that is a huge mission creep for us if we start evaluating all of the services at the university.

Pedros-Gascon: Asked if we can ask something along those lines with different wording.

Norton: Suggested a space for comments.

Pedros-Gascon: Think that will be hard for people to address with open statements.

Vice Provost James: Suggested having information on how those offices that don't report to Faculty Council are reviewed, so people know where they can give input for those offices.

Chair Smith: Suggested having an information sheet as well.

Antolin: Think we should stick to this being the UGO survey. Wanting to know whether people are aware of other places to go is perhaps a legitimate question, but this has focus and it seems to have worked pretty well for giving us information and disseminating information about the UGO.

Chair Smith: Think it would be interesting to know when people are thinking about this, if those that contacted the Ombuds also contacted the UGO, so we may see correlations between services people are using.

Chair Smith: We went through this quite a bit last year, and seemed like it was pretty tight.

Antolin: Asked what the response rate was on this survey.

Vice Provost James: Think it went up compared to the year before.

Chair Smith: I went up by about 10-15%.

Antolin: Feel we're getting good responses campus wide, and if it's going up it's good.

Chair Smith: Asked if Pawliuk can add that initial question, then we can look at it one more time.

Pawliuk: Yes, can put together some wording. May need to reach out for information about the other offices and where people can provide feedback on those.

Executive Committee adjourned at 4:58pm.

Melinda Smith, Chair  
Joseph DiVerdi, Vice Chair  
Andrew Norton, BOG Representative  
Amy Barkley, Executive Assistant