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What I Learned in the Faculty Senate

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Abstract

Shared governance is not well understood as an aspect of academic freedom. In this essay, I describe my experience in Penn State's University Faculty Senate, a 200-member body comprised of faculty across all twenty-four Penn State campuses, on and off the tenure track. Detailing some of the major (and a few of the minor) negotiations and initiatives the senate has undertaken in recent years, I argue that shared governance is not merely a matter of faculty and central administration but, rather, a matter of faculty involvement in every aspect of university management, from human resources and risk management to facilities usage and legal affairs.

I sometimes say that if you understand why academic freedom is indispensable to the life of the university, you probably own more than one NPR tote bag. In that demographic, people tend to understand why you need academic freedom in research and teaching, and some people even understand why, in the United States, it covers extramural speech as well. But if you understand the relationship between *shared governance* and academic freedom, then you're a very strange beast. You're almost certainly a professor.

More specifically, you're in a subset of the professoriate—the group of professors who care about their institution's practices and policies strongly enough to want to try to influence them. I want to start by remarking how rare and strange that is, and to suggest that it is rare and strange for two reasons. First, getting deeply involved in shared governance is the kind of thing most people do only when something has gone very

wrong, or when a specific policy affects them adversely. It's a lot of work, and it falls under the heading of service, which means that it is the least valued work a faculty member can do, well below our ordinary priorities: research, publication, and teaching.

I am no exception to this rule. I did a great deal of service work in my department and in my profession, but not until 2011, when Penn State eliminated the Program in Science, Technology, and Society (STS), did I think of devoting my time to the faculty senate. That program closure violated a number of AAUP principles, which is why, when I wrote the bulk of the AAUP report *The Role of the Faculty in Conditions of Financial Exigency*, I mentioned it specifically.¹ (Penn State did not close STS for budgetary reasons, and the entity that recommended its closure was an ad hoc administrator-heavy body known as the Core Council.) It didn't help that I experienced great frustration in trying to create an active AAUP chapter on campus (more than once!), so that the faculty senate was really the only game in town—and, at the time, a distressingly pointless game. The senate played no role in the Core Council's decisions, and it did not make a peep when those decisions were announced.

The other reason, of course, is that shared governance is not a feature of most workplaces. Most workplaces have employers and employees; and most people, including some people who serve as trustees for universities, do not understand that faculty are not, strictly speaking, employees. That is the premise on which the AAUP was founded, and yet it took the AAUP almost eighty years—until 1994—to issue a statement titled *On the Relationship of Faculty Governance to Academic Freedom*. Indeed, if you go back to 1915, as Larry Gerber shows in his book *The Rise and Decline of Faculty Governance*, you'll find that shared governance was pretty rare at American universities, and stayed pretty rare until after World War II.² The 1940 *Statement of Principles* does not mention it at all. As the 1994 statement points out,

Although the Association established Committee A in 1915, its initial year, to attend to issues of academic freedom and tenure, and created Committee T the following year to address issues of institutional “government,” the AAUP has not spoken explicitly to the links between its principles in these two basic areas. Thus, the 1940 *Statement of Principles* describes faculty members as “officers of an educational institution,” but it is silent about the governance role they should carry out in light of their being officers of the institution. The 1966 *Statement* describes the role in institutional government that faculty should be accorded, but it does not speak to the bearing of that role on the rights and freedoms of individual faculty members.³

In this essay I will describe my service in the Penn State faculty senate over the past seven years, during the last two of which I have served as an officer—first as chair-elect, then as chair. (As immediate past chair, I am still an officer as I write this in late 2019.) I'll start with the story of how Penn State's faculty senate grew

a spine and found a purpose. In the summer of 2013, our Human Resources Department rolled out a wellness program called “Take Care of Your Health.” It was so awful, and so punitive, that it made national news and put us in the pages of the *New York Times*.⁴ (Our previous appearance there had been for the child sex abuse scandal involving assistant football coach Jerry Sandusky.) Penn State is self-insured, and from what we in the senate could gather, someone (perhaps in Risk Management, about which I will say more below) had crunched some numbers and come to the conclusion that collectively, our faculty and staff needed to lose weight and stop smoking in order to offset the steady rise in health care costs in the United States. This program would have required all employees, faculty, and staff to upload their biomedical information to WebMD or face a penalty of \$100 a month. Smokers would be charged a surtax of \$75 a month, which produced the astonishing information that not a single member of the faculty or staff at any of our twenty-four campuses was a smoker. And the questionnaire asked a few minimally obtrusive questions, such as “Do you plan to get pregnant this year?” and “Have there been any events in your family life that have caused you distress?”

Here’s the good news: the faculty senate killed that program. We killed it dead. It took a year, but we worked with administration to form a task force to study wellness programs, and we concluded that wellness programs that are all stick and no carrot do not work. But we didn’t get there without a struggle. The senate convened a special session and passed a resolution asking for a twelve-member task force: four members would be appointed by the then-president, Rodney Erickson; four would be appointed jointly by the president and the senate chair; and four would be elected by the full senate. When the senate next met, six weeks later, the senate chair announced to us that the task force would consist of six members appointed by the president, six members appointed by him, and zero members elected by the senate. In response, I wrote a sternly worded letter to the president, the senate chair, and the provost asking why the senate would not be trusted to elect one-third of a task force, as if, left to our own devices, we would elect a slate of rascallions. (I really did use that word. It was a pleasure to type them.) And at the next senate meeting, I questioned the president from the floor, saying we like to tell people we have a world-class faculty at Penn State. It helps that it’s true. But then it’s puzzling why administrators would not turn to this world-class faculty, some of whom have expertise in precisely this subject. But for some reason administrators sometimes forget that when they think about shared governance. Instead, they tend to talk about the difficulties of herding cats. Or they tell themselves that faculty senates are about as powerful and effective as your local elementary school’s model United Nations. In our case, President Erickson replied to me with a non sequitur, saying that if administration is going to trust faculty, faculty need to trust administration as well—as if we hadn’t drafted a

proposal that allowed the administration to appoint one-third of the task force on its own and another third in conjunction with the senate chair.

And it's astonishing how ubiquitous that attitude is. Take, for example, this passage from Herb Childress's 2019 book *The Adjunct Underclass*. It is especially notable because all too often, the people who are skeptical about shared governance are in administration, and you hear things about how conferring with faculty is like being an air traffic controller trying to manage a couple thousand private planes. Or you hear about cats. Here by contrast is someone who worked for years as an adjunct:

Scholars have made their entire careers out of finding problems within what is perceived to be settled knowledge. They carve out that one tiny bubble at the edge of what we know, and they focus all of their ample energies and intelligence on precisely defining, or redefining, or complicating that small issue.

Gather a hundred of these people together, and give them a policy to review. You think that's going to go well?⁵

A hundred people! Actually, our faculty senate is two hundred people. But yes, when some of those people have expertise in a subject that is relevant to the policy, that *is* going to go well. Problems arise, however, whenever faculty members and administrators believe, as does Childress, that "faculty governance takes the very best attributes of scholars and employs them in the very worst ways. It's no wonder that administrators, under different time pressures, try to bypass that in order to get some work done."⁶

In the course of our wellness crisis at Penn State, one of our newly arrived leaders said something crucial. It was Nick Jones, our provost, who is now the second-longest-serving provost in the Big Ten. But back in the fall of 2013, he was a new arrival, and in response to the wellness debate he came to the senate and pledged that he was committed to the restoration of shared governance at Penn State. "The restoration of shared governance at Penn State." I like that phrase. I like it so much I've quoted it almost every week since. And I do it happily, because Provost Jones has made good on that promise. The faculty senate wasn't always taken seriously at Penn State. Now it is. Or I wouldn't have devoted so much time and energy to it.

So in 2013–14 we killed the wellness program, and our provost announced his commitment to shared governance (though as I'll acknowledge below, our defeat of the wellness program didn't give us any lasting influence over health care policy and health insurance at Penn State). Then what? When I became senate chair in 2018, I reminded my fellow senators that the University of Virginia's faculty senate grew a spine and found its purpose in the summer of 2012, when the UVA Board of Visitors went rogue and attempted a coup against university president Theresa Sullivan. That was a heroic moment, with stakes arguably larger than our wellness program. But unfortunately, it wasn't a sustained heroic moment. Virginia's senate was mentioned in a July 2017 article in the *Chronicle of Higher Education* for precisely that reason: once dormant, it had become

dormant again once the crisis passed.⁷ Why have we at Penn State managed to sustain our momentum over the past five or six years?

Well, it hasn't been easy. But one thing I've learned over the course of those years is that it's really not productive to think of shared governance as a matter of faculty and central administration. It's not even *adequate* to think of it that way, even when the relations between faculty and central administration are pretty good, as they are at Penn State. In two years of chairing the Faculty Affairs Committee, one of the largest and most powerful committees in the senate, and then another two years as a senate officer, I've learned that shared governance isn't just about the senate and central administration. It's also about the senate and Human Resources; the senate and the Office of Research and Compliance; the senate and Information Technology; the senate and the Ethics Office; the senate and the Athletics Department; the senate and the Office of Risk Management; and the senate and the Office of General Counsel. And you might ask, okay, if my argument about shared governance rests partly on faculty expertise, what in the world does a literature professor bring to the table in any of those meetings?

Just this: I'm a good reader. And thanks to my service with the AAUP, especially my three terms as a member of Committee A on Academic Freedom and Tenure, I'm reasonably literate in some of the things you would want to know to be an informed participant in policy discussions. For example, the relevant case law. Things like *Garvetti v. Ceballos*, the 2006 Supreme Court decision that held that public employees do not enjoy First Amendment protection for statements they make in the course of their official duties. As Justice David Souter's dissent noted, this has disturbing implications for faculty members at public universities. At some point in the past thirteen years, Penn State's legal people went into AC64, our academic freedom policy, and patched the hole that *Garvetti* opened: "Faculty members are free to speak and write on governance issues of their respective departments, colleges, units, libraries, and of the University as a whole, and are free to speak and write on all matters related to their professional duties without institutional discipline or restraint."⁸

The AAUP has, of course, conducted an extensive campaign to promote awareness of *Garvetti*, and it has published a notable policy document on the decision's implications, but I'm struck by how many universities have left that door open.⁹ For instance, the University of Illinois, my old haunt, has nothing in Article X, Section 2, of its statutes that addresses this. Likewise, the University of Nebraska's faculty policies do not cover shared governance in this way—though I was assured, when I visited Nebraska, that they are working on it.

In the next few pages, then, I offer a few more recent examples of how things have gone at Penn State with regard to major policy negotiations. The first example is not so happy, but the second and third are all

puppies and dolphins. The first one is not entirely happy because it involves the Office of Risk Management, and we on the senate have not gotten a great deal of aloha over there. (Indeed, a separate essay could be written about the metastasizing influence of risk management over academic life in the United States. For now, I'll remark simply that in the spring of 2019 we closed campuses for inclement weather often enough to shorten some courses by two weeks—and that this was a new development, driven entirely by Risk Management without sufficient consideration of what it would mean for the academic mission of the university. The inclement weather sometimes turned out to be a dusting of snow. By contrast, the university's decision in the spring of 2020, taken over spring break, to move all instruction online in order to try to prevent the spread of COVID-19 seems to me entirely reasonable and just.) The policy at issue involved Penn State faculty teaching courses abroad, and the question of whether they could be accompanied by their families. In 2016–17, to our surprise, a policy appeared, stating that families would “only rarely” be permitted to accompany Penn State faculty teaching courses abroad. Where did it come from? It was announced by the Office of Global Programs, but that made no sense; why would the Office of Global Programs be trying to discourage people from offering courses abroad? By that year I had been appointed chair of the Faculty Affairs Committee, and many members of my committee were livid—especially faculty in the business school, who offer a wide array of such courses for full semesters. So, encouraged by my committee members, I drafted a letter that contained a series of incontrovertible arguments: one, this policy would have a chilling effect on faculty who wanted to propose courses abroad; two, in so doing, it would run directly counter to President Eric Barron's initiatives to make Penn State a more global university; three, it was obviously unenforceable, in cases where faculty members just happened to discover that their partners would also be living in Florence for those four months; and four, in demanding that faculty focus all of their attention on their students (for this was the rationale for the policy), it expanded risk rather than mitigating it, leaving faculty in the position of serving in loco parentis 24/7, even when their students might be hundreds of miles away on a weekend trip.

Normally when I pack four incontrovertible arguments into one letter, I expect to carry the day. But at first, we ran into what seemed to be a stone wall. The Office of Global Programs didn't issue the policy. The Office of Risk Management did. And Global Programs was going along, for reasons we could not fathom. We had a meeting with the leadership of the Office of Risk Management; we told them we know there is risk, and we know it needs to be managed, but this is not the way to do it. They replied by assuring us that faculty would have many safety resources available to them while teaching abroad, which didn't exactly answer our complaint. But eventually, over two arduous years of negotiation, we got this: “Spouses/domestic partners . . . and children of faculty and staff engaged in such a program may be permitted to accompany such travel with

prior authorization as part of the program application process, to be granted by the Vice Provost for Global Programs, after consultation with the Risk Management Office and the program's College Dean or Campus Chancellor."¹⁰

What we wanted was a bit stronger—namely, that the default position would be that families are permitted to travel unless there is a compelling reason why they should not. Global Programs and Risk Management thought we were asking for automatic approvals without an application process, which was not the case, but in the fall of 2018, rather than press that point, I decided the senate should declare victory and fold the tent. We are now welcoming a new vice provost for global programs, and in the course of that search, in which I was included in the campus visits as senate chair, I made a point of letting candidates know that this is an issue and that faculty involved with global programs are going to care about it. (One candidate was appalled that faculty would need to seek permission for such a thing. I liked that candidate.) As to whether we have successfully made the larger meta-argument that the Office of Risk Management should consult with faculty before rolling out new policies that affect faculty, I am not yet ready to declare victory. That is very much a work in progress.

The second story involves our policy AD92, "Political Campaign Activities," and it came from the Office of General Counsel. The timing was unfortunate: it was announced a few weeks before the election of 2016, and came as a surprise to many faculty, some of whom suspected (baselessly, as it turned out) that it was a response to the rise of Donald Trump. The policy states, "It is the University's policy that it, and its employees and representatives, when acting in their official capacities for the University, may not, directly or indirectly, participate in, or intervene in, any political campaign on behalf of, or in opposition to, any candidate for elective public office."¹¹ First of all, we wanted to know, what constitutes *indirect* participation or intervention in a campaign? We were told that this language was taken verbatim from the federal statute, and that even if we struck the word "indirectly," the policy would still be interpreted in line with the statute. Fine, we said, but we still want to know what it means.

In 2008, the University of Illinois announced a policy forbidding, among other things, political bumper stickers on the cars in faculty parking lots. Apparently, the Illinois administration was listening to the wrong people, commonly known as "wingnuts," who were able to convince them to enact this ban, presumably on the grounds that professors are all flaming liberals or Marxists whose bumper stickers have magical powers to intimidate or indoctrinate students. The policy lasted all of fifteen minutes after being reported on in *Inside Higher Ed*, whereupon it was immediately ridiculed out of existence.¹² We didn't think that AD92 was anything like the Illinois policy, but we still had questions. Would policy AD92 prevent faculty from canvassing door-to-door for a candidate? Would it prevent us from discussing the election in a political

science classroom? Would it prevent a unit from showing a film on climate change? (Regarding the final question, I am sorry to report that one senate officer at the time believed that it would. I responded that a film on climate change is no more controversial or partisan than a film on evolution.)

Most of the policy was boilerplate and would pertain to any nonprofit institution. Don't use university resources—letterhead, email, computers—if you are working for a campaign or for an elected official. If you are involved in a campaign, make it as clear as possible that you are acting as a private citizen and not as a representative of the university. Basic, right? But senate leadership asked for a meeting with the general counsel and his staff so that we could talk through the gray areas. At first they were puzzled and wondered what part of compliance with federal law we didn't like. But we convinced them that the gray areas are indeed gray. My predecessor as senate chair, Matthew Woessner, is a small-government Republican who has written a number of articles debunking the claim that the liberal professoriate discriminates against conservative students; in this meeting, he asked our attorneys whether, in his capacity as a political scientist, he would have crossed any lines by telling his students that Trump's performance in the debates demonstrated that he is temperamentally unfit to be president. They thought that was a good question. So we asked another one. Though you may be thinking you're acting as a private citizen outside the classroom, what if a campaign or an elected official solicits your advice because of your scholarly expertise? Part of your authority as an expert, after all, would derive from the fact that you are a professor at Penn State.

And then there is some ambiguity about what it means to use university resources. The policy forbids the use of university facilities for any political event, and the term *political event* “includes any event that has the purpose or primary effect of promoting the election of a particular political candidate.” We argued that it's one thing if an event has the express purpose of promoting somebody's election; Penn State had recently rebuffed a local politician who wanted to use university facilities for precisely that purpose. But who determines if the event has the “primary effect” of doing so? That clause, I insisted, opens the door to all kinds of mischief, whereby someone could complain about events devoted to the subject of climate change. So we got rid of the “primary effect” language. Perhaps more important, we invited the Office of General Counsel to make a presentation to the senate about the policy and issue some guidelines as to what is and is not covered by the policy. Consultation with the faculty senate thus produced a better policy, one tailored more specifically to the realities of our workplace. Even better, at the end of our initial meeting, the vice president for administration told us he had a number of policies under review and asked if the senate leadership would like to see them all. That was an easy one. *Yes, please*, we replied. Even the one about signage on campus. We probably won't suggest revisions to that one, but keep us informed.

The third major policy consultation involved policy AC80, “Outside Business Activities and Private Consulting.” Our contact for this was the director of the Conflict of Interest Program in the Office for Research Protections, housed in the Office of the Vice President for Research. As was the case with the Office of General Counsel, this policy was presented to us simply as a matter of compliance with federal law, and our job in the senate was to supply that sense of “compliance” with some necessary nuance. If you’re in the humanities, as I am, you might think that this policy doesn’t pertain to you. At first, I thought it was directed only at those STEM faculty who are always off patenting things and creating new startup companies or consulting with major corporations. Actually, AC80 pertains also to anyone who might be offered a short-term visiting scholar gig at another university, as has happened to me twice—for six weeks at Cornell University in the summer of 2013, and for four weeks at Cornell College in Iowa in the summer of 2011. (For some reason I am really popular at places founded by Ezra Cornell.) AC80 does not prohibit such activities; it merely requires me to report them to my department head. In some cases, activities in private consulting require written approval; and in some cases, cases involving conflicts of interest with one’s responsibilities as a Penn State faculty member, they are prohibited.

When the policy was revised in 2015–16, the Office of Research Protections understood the new policy as a liberalization of the old policy—permitting a greater variety of activities and streamlining the process for prior written approval. But when it came to faculty senate, we read it over and concluded that there were areas that needed further clarification; we worried that some language in the policy might be read as giving Penn State jurisdiction over every waking hour of a professor’s life and some of our REM sleep as well. That was an overreaction, but we were doing our due diligence—and, most important to my mind, we objected that there was no appeals process built into the policy. If you thought your activities were x , but your department head determined that they were y , where do you go to resolve the disagreement? Do you go to the next highest administrative level, as the provost suggested? That seemed to us to be suboptimal, since it would entail putting one administrator in the position of potentially contradicting or undermining another administrator. That doesn’t happen very often in higher education. We suggested instead a horizontal appeal system, whereby disputes would be resolved by the Senate Committee on Faculty Rights and Responsibilities, which includes representatives from both faculty and administration. Working together with the Office of Research Protections, we hammered out these differences with care and thoughtfulness, and the result, we think, is a much better policy—and one that has the appeals process we wanted.

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The 1994 AAUP statement on faculty governance states that academic freedom includes the freedom of faculty to express views “on matters having to do with their institution and its policies,” and that, with regard

to institutional matters, “grounds for thinking an institutional policy desirable or undesirable must be heard and assessed if the community is to have confidence that its policies are appropriate.”¹³ That’s really quite broad. It even covers signage. And in recent years, signage has in fact become an issue: in 2017–18, Penn State went smoke- and tobacco-free, at the insistence of our student government and with senate support. The “soft rollout” that followed may have been the softest rollout in the history of rollouts, because it is almost impossible to find any signage on my campus at University Park that informs people that we are smoke-free, and one result is that you can find dozens of cigarette butts on the steps of the main library, where a sign designating a smoking area has never been removed. (Many of our Commonwealth Campuses are doing much better in this regard, but the University Park campus is especially problematic, not least because of its massive size: some staff members seeking a cigarette break, for instance, might find themselves with a half-hour walk to get off campus.)

Speaking of lighting up: Penn State has a policy forbidding open flames on campus. So does the University of Virginia. But former president Teresa Sullivan, whatever her other virtues (and they were many), failed to enforce that policy when the Nazis arrived on campus in 2017 carrying their tiki torches. One wonders, Where are the fire hoses when you really need them? When President Barron and Provost Jones informed the Faculty Advisory Committee to the President, a few weeks after the Nazi assault on Charlottesville, that they had denied Richard Spencer a speaking platform at Penn State, I did two things. First, I insisted that this proposed event be framed not in terms of free speech, but, in the context of recent events, as an implicit incitement to violence. Second, I consulted our policy on open flames. I remarked that none of us in the room, faculty or administrators, had gotten our doctorates in the hope that someday we would be conversant with our institution’s policy on open flames, but that’s where we are as a nation.

There were many such arcane matters to attend to, since the senate chair serves on so many committees, including the Greek Life Advisory Committee (an important assignment, as Penn State tries to overhaul its review of fraternities and sororities in the wake of the hazing death of Timothy Piazza in 2017) and the Facilities Naming Committee (where I made a proposal to name a building after one of our distinguished African American alumni). But I’ll just mention one—the issue of late fees for overdue tuition. Mary Beth Williams, the chair of our senate’s Admissions, Records, Scheduling, and Student Aid Committee, feels very passionately about this issue; she passed some of that passion on to me, and I promised her I would take it to Provost Jones. Penn State has established an impressive array of scholarships designed to increase access and affordability for low-income students, and I was impressed enough by them to create one myself, together with my wife: the Lyon-Bérubé Scholarship in the Liberal Arts. (Penn State matches our gift 2-to-1. That’s one reason it’s impressive.) But at the same time, we have a late fee policy that charges students 1.5 percent

interest per month on any overdue balance. I complained to Provost Jones that an 18 percent annual interest rate is something we ordinarily associate with skeezy credit cards and payday loans. He responded that Penn State had benchmarked this one, and it is very much the industry standard. “So much the worse for the industry,” I replied. “Even if we dropped to one percent, that would still be a chunk of change, and plenty of incentive for people to pay their bills on time. Because you know it has to be hitting our most financially precarious students hardest.” By the time I stepped down as chair in April 2019, I thought I had gotten nowhere with that one. But surely I wasn’t the only one pressing the issue, and lo! at the first senate plenary meeting of the fall 2019 semester, Provost Jones announced that late fees would be capped after three months. They would still carry interest of 1.5 percent a month, but they would no longer accrue in perpetuity. So I’m going to call that one a partial win for shared governance as well.

But then there are areas in which we are dealing with such debilitating information asymmetries that meaningful shared governance is precarious at best. I refer to intercollegiate athletics and faculty benefits, including health care. Athletics is a subject unto itself; my only initiative, last year, was to charge the Intercollegiate Athletics Committee to report to the senate on the protections and procedures the university affords student-athletes who come forward with reports of psychologically abusive coaches. With regard to benefits, we may have defeated “Take Care of Your Health,” but we had no real input into the university’s decision to sign a three-year contract with Aetna, the industry leader in capricious claim denials. We did, however, put the Office of Compensation and Benefits on notice that Aetna is especially substandard when it comes to reimbursing mental health professionals for their services, so much so that in some areas of the state it is impossible to find a mental health professional who will agree to deal with Aetna.

Last but certainly not least, over the past four years, our faculty senate created, from scratch, a system for the review and promotion of our fixed-term, non-tenure-track faculty. Now, for the first time, fixed-term faculty can elect review committees—consisting entirely of fixed-term faculty—and they can be promoted through three ranks, parallel to the ranks of the tenure-line faculty. As of 2017–18, we have begun, with the support of central administration, to create a culture of expectation that those promotions will be accompanied by multiyear rather than single-year contracts. Just over 50 percent of the faculty at Penn State are fixed-term faculty, and many of them have worked there for ten, fifteen, or twenty years. Short of converting them to a tenure track—which, we were informed, would not be an option, in part because it would violate policy AC13, which stipulates that all tenure-line positions be nationally advertised—this is, we think, the best way to recognize their contributions and improve their working conditions. (It helps that fixed-term faculty are eligible to serve in the senate in any capacity, including that of chair, which happened in

2016–17 and will happen again in 2020–21; when I was chair, I made sure that half of all the chairs and vice chairs of our fifteen standing committees were fixed-term faculty members.)

In the fall of 2018, Provost Jones reported to the senate on the first round of promotions, and the numbers were so staggering that I thought *Inside Higher Ed* should probably know about them. They agreed that this was newsworthy. As *Inside Higher Ed*'s Colleen Flaherty wrote,

Central administrators told the Faculty Senate last week that in one year, 184 of such non-tenure-track faculty members have been promoted: forty to assistant teaching or research professor, 94 to associate teaching or research professor and 50 to full teaching or research professor.

Of those professors, 150 now hold multiyear contracts, with 115 securing contracts of three years or more. Thirty-five professors hold two-year contracts and the rest hold one-year contracts. These new contracts come with raises.¹⁴

In 2018–19, we promoted 204 more fixed-term faculty members. And over the summer of 2019, three of our non-tenure-track faculty—Laura Cruz, William Goffe, and Joshua Wede—put together a successful application for the Delphi Award. The Delphi Award, created by Adrianna Kezar's Pullias Center for Higher Education at the University of Southern California, cosponsored by the Teagle Foundation, and awarded in partnership with the Association of American Colleges and Universities, was created in 2018 to reward institutions that develop innovative strategies for supporting faculty off the tenure track. The most gratifying thing about the award is that the application came from three of my colleagues off the tenure track. I and other senate leaders worked with them on the application, supplying details about how our promotion and review system was created and why, but the application was all their idea, and the university (and the senate!) owes them many thanks.

The discussion concerning multiyear contracts, however, had a few tense moments. The administration opposed the senate's initial proposal in 2017–18—for three-year contracts upon promotion to the second tier, and five-year contracts upon promotion to the third—on the grounds that “temporary funds” could not be used for contracts of greater than three years, and fixed-term faculty are paid from temporary funds. They responded with language that we found deeply disappointing, to the effect that promoted faculty “may be considered” for multiyear contracts. We thought that this would make multiyear contracts a matter of goodwill and happy chance rather than an institutional norm; they argued that chancellors and deans would need that degree of flexibility. With regard to flexibility, I asked how bad a campus's financial situation would have to be for it to consider terminating fixed-term faculty with, say, twenty years of service, faculty who had gone through two rounds of promotions. Why would you need one-year contracts for such people? You would be maintaining that extreme degree of “flexibility,” I suggested, only if you were considering

terminating all fixed-term faculty on a campus. It would be the equivalent of having a campus be obliterated by a meteor. So we worried that chancellors and deans would seek to maximize their “flexibility,” as is so often the practice in American higher education, and we have been pleasantly surprised not only by the number of faculty promoted but by the widespread provision of multiyear contracts, particularly by the three-year contracts.

Along the way, we asked President Barron and Provost Jones about this distinction between permanent and temporary funds. They did a deep dive and learned that the distinction is unique to Penn State, having originated in the late 1950s when the university budget could be typed on one page and certain funding initiatives were flagged as one-time initiatives. In other words, there is no reason to maintain that distinction today; it does not correspond to “state funding” and “other funding,” because our state funding makes up only 5 percent of our budget. So when, as a result of all these deliberations, Provost Jones announced to the senate in the fall of 2019 that after 2020 the university would no longer operate under this model, the senate erupted in applause, and rightly so. We are hoping this opens the doors to the kind of contracts we originally proposed, even if we have to wait until the COVID-19 pandemic subsides. For now, in the midst of the pandemic, we are nervously watching for threats to our fixed-term faculty. In May 2020, deans and chancellors notified their faculty that new fixed-term contracts would include the following language:

This appointment can . . . be terminated on twelve-weeks notice in the event of serious budget or enrollment challenges, all of which shall be determined by the University at its sole discretion. The University shall also have the right to institute pay reduction(s) and furloughs during the term of this appointment, which can be implemented without notice and shall be determined by the University at its sole discretion.

Reportedly, this language was inserted in order to reassure unit heads that they could issue contracts for 2020–21; but for obvious reasons, it led to widespread anxiety and anger among faculty on and off the tenure track. We were assured that no cuts or furloughs are being contemplated (and that remains true as I revise this essay in August 2020), but this language was read by many faculty as saying, in effect, *but there will be cuts and furloughs later*. Like everyone else in American higher education, we are dealing with the most volatile uncertainties we have ever seen in academic labor.

Having said all that, I have to conclude by admitting that in most matters other than the curriculum, over which the faculty retain primary responsibility, the role of the senate is advisory. We can be blown off at any time and for any reason, and for two years, with regard to that family travel policy, we were. We also know that a new administration can come in someday with a very different attitude toward shared governance and relationships with the faculty senate. But we’ve worked hard to establish the fact that our advice is, by and large, good advice; and we’ve worked just as hard to shed the reputation that clouds all too many faculty

senates, that of being not only ineffectual but inept, unable to get even the simplest things done in time spans shorter than that of the sunspot cycle. (This is still a problem we have with curriculum revision, and guess what? I formed a committee to fix that.) The result is that we had strong faculty representation on the committee I charged in the summer of 2018, the special committee to review and revise our policy on consensual relationships; and after eight months of negotiations with the office of the vice provost for faculty affairs, I managed to secure senate ownership of an even more politically dicey special committee that is charged with writing a policy to address faculty misconduct that does not rise to the level of termination (for fixed-term faculty) or termination and revocation of tenure (for tenured faculty). The reason the politics are dicey should be obvious: this policy should apply to bullies and harassers and people engaging in egregiously unprofessional behavior. It should not apply to dissenters and whistleblowers, even (or especially!) “uncivil” ones. But as everyone knows, one person’s brave and lonely truth-teller is another person’s obstreperous crank. The trick is how to protect sundry obstreperous cranks while curbing toxic, destructive bullies and harassers.¹⁵

I presented this problem to my fellow senators, in remarks on the senate floor, by directing them to our policy on sexual and gender harassment and assault, and noting that that policy specifies, with lots of bullet points, things that can be done to faculty and staff who are in violation of it—ranging from a letter in one’s file to mandatory training to suspension without pay to termination. In other words, those punitive measures are already there; but we don’t have a policy that governs how they might be taken, or how they might be contested. I also advised the committee, when I finally managed to seat it, that our policy on research misconduct contains a clause that permits punitive reparative action against people filing complaints in bad faith, and that they might consider a similar clause with regard to faculty misconduct in general, in order to protect faculty from baseless or malicious allegations. Consensual relationships and faculty misconduct are areas of campus life that sometimes overlap, particularly when relationships that seem consensual at the time they occur involve power imbalances that lead one party to construe the relationship as nonconsensual in retrospect. (I explicitly asked the consensual relationships committee to consider this.) The critical thing about those committees is that the reports they issue will not be advisory; the policies they write will be the policies we live by at Penn State. For crafting policies like that, faculty absolutely have to have a strong and clear voice.

The AAUP statement *On the Relationship of Faculty Governance to Academic Freedom* (1994) contains a cautionary note:

A good governance system is no guarantee that academic freedom will flourish. A governance system is merely a structure that allocates authority, and authority needs to be exercised if even the most appropriate allocation of it is to have its intended effects. Faculty members must be willing to participate

in the decisionmaking processes over which a sound governance system gives them authority. As the Association's *Statement on Professional Ethics* says, faculty members must "accept their share of faculty responsibilities for the governance of their institution." If they do not, authority will drift away from them, since someone must exercise it, and if members of the faculty do not, others will.¹⁶

Over the past thirty years, at many institutions that authority has drifted away because that ship has already sailed, and faculty no longer have meaningful authority to exercise. They retain primary responsibility for curricular matters, but budgetary decisions, including decisions regarding benefits, are usually made elsewhere, through an array of managerial technologies that also encompass human resources, risk management, and information technology. Indeed, just as I began my term as senate chair, Penn State received the report our board of trustees had commissioned from the Huron Consulting Group. The board had engaged Huron to find ways to cut costs and trim "waste," and the good news was that there really wasn't much to cut; the bad news, of course, was that boards and administrations now turn to private consulting firms routinely, and the considerable cost of hiring them seems not to be among the costs that need to be cut. (Higher education is just one of Huron's "industries," alongside aerospace, automotive, energy and utilities, financial services, government, healthcare, life sciences, logistics, manufacturing, metals and mining, retail and consumer products, and technology, media, and telecommunications.) Nevertheless, shared governance is worth saving, and it's worth fighting for. That fight need not take place by way of a faculty senate, of course; faculty senates at some institutions really have fallen into states of desuetude from which they will never recover, and at institutions with collective bargaining agreements, it might make more sense to work through the union than through the senate.

Be that as it may, the academic workplace should be defined by shared governance. People from the corporate world are often flummoxed by academic life; and even when they understand the importance of academic freedom, they have a hard time seeing how shared governance should be understood in relation to academic freedom. So I believe it is incumbent on civic-minded, public-spirited faculty members to make the case to every relevant office on campus, starting from the top (and I used precisely these words in my end-of-year address to our board of trustees, some members of which do indeed come from the corporate world): we are full partners in this enterprise. You don't always have to take our advice. But you always should solicit it, *always*, as a matter of course. That's one way for all of us to recognize—and realize—what a university is.

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Notes

1. American Association of University Professors, “The Role of the Faculty in Conditions of Financial Exigency,” in *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 299–300, 308.
2. Larry Gerber, *The Rise and Decline of Faculty Governance: Professionalization and the Modern American University* (Baltimore: Johns Hopkins University Press, 2014).
3. American Association of University Professors, “On the Relationship of Faculty Governance to Academic Freedom,” in *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 123.
4. Natasha Singer, “On Campus, a Faculty Uprising over Personal Data,” *New York Times*, September 14, 2013, www.nytimes.com/2013/09/15/business/on-campus-a-faculty-uprising-over-personal-data.html.
5. Herb Childress, *The Adjunct Underclass: How America’s Colleges Betrayed Their Faculty, Their Students, and Their Mission* (Chicago: University of Chicago Press), 108.
6. *Ibid.*
7. J. Clara Chan, “A Common Plea of Professors: Why Can’t My Faculty Senate Pull More Weight?,” *Chronicle of Higher Education*, July 6, 2017, www.chronicle.com/article/A-Common-Plea-of-Professors-/240552.
8. Penn State Policy AC64, “Academic Freedom,” policy.psu.edu/policies/ac64.
9. American Association of University Professors, “Protecting an Independent Faculty Voice: Academic Freedom after *Garvetti v. Ceballos*,” in *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 126–29.
10. Penn State Policy TR01, “International Travel Requirements,” policy.psu.edu/policies/tr01.
11. Penn State Policy AD92, “Political Campaign Activities,” policy.psu.edu/policies/ad92.
12. Scott Jaschik, “Beware the Button Police,” *Inside Higher Ed*, September 24, 2008, www.insidehighered.com/news/2008/09/24/beware-button-police.
13. American Association of University Professors, “On the Relationship of Faculty Governance to Academic Freedom,” 124.
14. Colleen Flaherty, “Promotion, While Off the Tenure Track,” *Inside Higher Ed*, October 1, 2018, www.insidehighered.com/news/2018/10/01/scores-full-time-non-tenure-track-instructors-were-promoted-last-year-under.
15. Here I have to register my disagreement with John K. Wilson, “The Danger of Campus Bans on Bullying,” *Journal of Academic Freedom* 10, <https://www.aaup.org/JAF10/danger-campus-bans-bullying>. While I share Wilson’s concern about the potential for administrators to use antibullying regulations as a way of silencing critics, I believe his sense of “bullying” is seriously underdeveloped. “As the term has been most commonly used,” Wilson writes in his opening paragraph, “bullying is about one child saying mean things to another child. The world of children is regulated because children are more vulnerable to harm and lack the same rights as adults have. Taking what is, at its core, a concept for protecting children and making an enforced policy for adults at universities is a severe threat to free expression.” Construing bullying as mean child’s play badly underestimates the damage sustained by faculty and staff who are systemically victimized by a verbally and psychologically abusive faculty member. Likewise, when Wilson suggests that it is better “to help create a culture of respect on campus,” he badly misgauges how bullies work precisely to traduce and erode that ideal.
16. American Association of University Professors, “On the Relationship of Faculty Governance to Academic Freedom,” 125.