

American University of Beirut
Final Minutes of the University Senate
Meeting of Wednesday, May 8, 2019

Present: M. Abiad, H. Abou Araj, A. Abu-Alfa, E. Al-Chaer, I. Baalbaki, T. Bazi, J. Chaaban, A. Chalak, L. Daouk, H. Diab, N. Dumit, S. El Fakhani, H. El Rassy, N. El-Cheikh, W. El-Hajj, M. Farah, C. Fugate, N. Ghanem, M. Harajli, C. Harb, A. Harutyunyan, E. Hitti, H. Huijer, S. Isber, M. Jurdi , K. Kabalan, S. Kanj-Sharara, F. Khuri, N. Melhem, R. Mohtar, H. Muller, T. Nizameddin, I. Nuwayhid, G. Saad , S. Sadek, N. Saliba, E. Shammass, R. Sharara, A. Shihadeh, Y. Sidani (replacing S. Harvey), F. Talih, G. Zaatari (replacing M. Sayegh)

Absent: S. Harvey* (replaced by Y. Sidani), M. Sayegh* (replaced by G. Zaatari)

(* = regrets notified before meeting)

The meeting was called to order at 4:00 p.m.

1) Brief update on the AUBMC Incinerator

Mr. Farouk Merhebi, Director of the Environmental Health, Safety, and Risk Management Department (EHSRM), started by giving an overview of the waste segregation at AUBMC and the corresponding waste treatment mechanisms. The Cytotoxic & Pathological waste are stored onsite then treated using the AUBMC incinerator. The taskforce that was formed to tackle the incinerator issue met on April 29, 2019 and agreed on the following:

- Stop burning cytotoxic waste for a period of 6 weeks and store cytotoxic waste immediately in the existing storage container.
- Work on having a contingency plan to have available an additional 40 feet storage container (cooled) for an additional 6 weeks.
- Improve immediately the existing air emission control system by investing in new bag filters, carbon filters, wet scrubber and cyclones. This will improve the efficiency of air emissions to a great extent, yet the national standards would not be met. This step will need 4 to 8 weeks to be completed.
- Once the new air emission control system is operational, cytotoxic waste burning in the existing incinerator can be resumed until the new one is brought onsite and made operational.
- Proceed immediately by awarding the contract to the selected supplier (INCINCO) and work in parallel on finalizing the Environmental Impact Assessment with ELARD within 6 weeks and with the supplier to speed up the manufacturing (once the Ministry of Environment grants approval on the EIA), shipping, installation, testing and commissioning of the new incinerator. This step might take between 8 to 12 months to be completed.

Work on the above items started already. The taskforce will be following up on the implementation details and timeline.

2) Update on Letter of Appointment with Tenure

The president indicated that the provost, SSC, SCFA, three Deans, and three tenured faculty members have so far reviewed this letter. The resultant letter was then discussed with the US attorneys, who in turn incorporated some updates on the letter. These updates will be presented/discussed in this meeting without putting the letter for a vote. The provost presented the major updates as follows:

- 1- Items IV.4 and IV.5, which mainly state that the University will provide 3 years' advance notice to tenured faculty members before a material reduction in the level of benefits becomes

effective. However, such notice does not apply in the cases when the modification is made to comply with applicable laws and regulations, when the University makes a decision to substitute one benefit plan for a substantially similar benefit plan, or in financial exigency.

- 2- Item VI.3, which mainly states that the Laws of Lebanon constitute the law governing the tenure appointment, and that any disputes arising out of or relating to the tenure appointment and service shall be subject to the exclusive jurisdiction of the courts of Beirut, Lebanon.

The provost further justified this item by indicating that: AUB has used a Lebanese choice of law and included a corresponding clause in its faculty contract at least since the 1990's. He added that AUB has included a provision choosing the Lebanese law as the law governing its relationship with faculty members and Lebanon as the forum for resolving any disputes between AUB and a faculty member. Hence, this provision helps ensure that all faculty members regardless of their citizenship be subject to the same set of rules, especially that US civil rights laws do not always apply to conduct that occurred outside the US and even when they do apply they do not give non-US citizens the right to bring a claim to US courts.

- 3- The letter will only be signed by AUB. The faculty member can then sign a form in HR that (s)he received the letter and agrees on its terms.

A senator noted that some benefits highly affect the faculty's life and should be protected such as HIP, schooling, and housing, and the 3 years notice period is not enough. Other senators noted that AUB has been recently approving a lot of policies and procedures to comply with US laws, so it is odd to see that US laws has no jurisdiction over the tenure contracts. The provost answered that regarding benefits, nothing has changed since in the current contract benefits are bound to the contract period, after which the benefits (if changed) will take effect in the case of contract renewal. Regarding the jurisdiction, Dr. E. Al-Chaer noted that in the absence of a law in Lebanon that controls a certain behavior, the court would resort to this contract and existing AUB policies, and if this contract is at odds with Lebanese law, the Lebanese law controls. Regarding access to US courts, access is not granted on civil rights issues to non-US citizens and that will create two-class faculty members within AUB. So in the interest of fairness, we should have one jurisdiction that does not jeopardize any rights, noting that whenever the Lebanese law is lacking on certain issues (for example, civil right or tenure), AUB policies surely covers these issues and must abide by them and the Lebanese law will hold AUB responsible in the case of any violation to its own policies.

A senator noted that tenure should not put a faculty member in a condition worse than a non-tenured faculty member, and thus the notice period should be at least 7 years, not 3. A senator requested to increase the notice period from 3 to 4 years, and asked about the meaning of the words "*material reduction*" in item IV.5. The provost answered that "*material reduction*" means substantial. Many senators requested removing the words "*material reduction*" or making it very clear. A senator indicated that any change should apply to the most vulnerable and consequently the notice period should be at least 6 years; otherwise, the change would surely hurt some faculty members. The senator added that AUB is under the jurisdiction of US law and suggested the following modifications: (1) in order to tone down the legal language, modify the language in the letter when it comes to changing benefits to include the relevant University Policies of Changing Benefits including senate approvals, (2) propose a 6 years notice period instead of 3, and (3) revise the paragraph on jurisdiction to also include US applicable jurisdiction.

Regarding the notice period, the president noted that the right answer is one year, similar to standards and benchmarks. The argument that will eventually sit well with the BoT is to grandfather everyone

until the last non-tenured contract in 2025, after which the notice period will be one year. In the meantime and until then, the notice period can be three years and we can collectively come up with better long term policies. The president added that we are trying to get the best job security for everyone but we have to be realistic.

A senator suggested to remove from item VI.3 the second sentence which states: *“You also understand and agree that all the rights and obligations arising out of your appointment, and any disputes arising out of or relating to your appointment and service shall be subject to the exclusive jurisdiction of the courts of Beirut, Lebanon.”* Other senators suggested to completely remove item VI.3 (the item related to jurisdiction).

No conclusive decision was reached regarding the points mentioned above. The letter will be put for a vote during the upcoming senate meeting.

3) Election of a Senate representative to deliver a statement at the May 2019 BoT meeting

The senate elected Dr. Najat Saliba to deliver the statement to the BoT in the May 2019 meeting.

4) Election of two members to serve on TPAC

The president listed the TPAC members selected by the faculties: Hermann Genz from FAS, Khaled Yunis from FM, Mohammad Mansour from MSFEA, Abla Sibai from FHS, Salma Talhouk from FAFS, and Salim Chahine from OSB.

As for the Faculty of Nursing and since there is only one tenured faculty member who is already serving on UPTC, the president noted that one representative will be picked from FM or FHS, to represent the Faculty of Nursing on TPAC.

Drs. Charles Harb and Rabih Sultan were elected to serve on TPAC. Dr. Joseph Ghafari who tied with Dr. Rabih Sultan was chosen to serve on TPAC representing the Faculty of Nursing.

The meeting was adjourned at 6:00 pm.

(Minutes recorded by W. El-Hajj, Secretary of the Senate)