Present: Anderson (Miranda), Barbour, Berven, Brandt, Brewick, Brown, Cannon (Boise), Caplan, Chung, Crowley (w/o vote), Donohoe, Fisher, Folwell, Godfrey (Coeur d'Alene), Ostrom (Idaho Falls), Hrdlicka, Johnson, Markuson, Morrison, Nyavor (for Adekanmbi w/o vote), Nicotra, Payant, Sixtos, Stevenson (for Wiencek w/o vote) Vella, Wilson, Wright. Absent: Adekanmbi, Anderson (Mike), Boschetti, Pregitzer, Wiencek (w/o vote). Guests: 4

The Chair called meeting #19 to order at 3:30. A motion (Berven/Folwell) to approve the minutes from February 21st passed unanimously.

Chair’s Report: Chair Brandt reminded Senators that elections for next year’s Senate are coming up. Elections need to be held by April 15th. It is the responsibility of current Senators to confer with your college to set up these elections. The faculty secretary’s office will be sending out further information later this week.

Provost’s Report: Vice Provost Jeanne Stevenson provided the Provost Report. She reminded Senators that comments on program prioritization are due by March 8th. The planning committee will review the comments, before final recommendations are made. Chair Brandt added that both she and Senator Nicotra are on the review committee and they would be happy to answer questions regarding the prioritization process.

Vice Provost Stevenson reported that the cascading plans from colleges are due to the Provost Office by tomorrow (March 1st). She also commented on the accreditation process. When the Northwest Commission on Colleges and Universities conducted their comprehensive visit in 2015, they made four recommendations. The University responded to one of those recommendations last year. We are now submitting a report addressing the remaining three. We should expect a site visit from a small team in the next couple of months.

Committee Reports: Chair Brandt asked permission to alter the order of the agenda since one of the presenters on the leave policy could not arrive until somewhat later. A motion (Berven/Folwell) to amend the order of presentation passed unanimously.

FS-17-046: FSH 1640. Faculty and Staff Policy Group. Chair Brandt introduced the proposal to create a new Faculty/Staff Policy Group. The stated purpose of this committee is to provide for better communication between Staff Affairs and Faculty Affairs Committee (FAC) on mutually related policies that affect each. This group should also provide a forum to work out last second compromises before a policy proceeds to the Senate. Chair Brandt noted that many employment policies that affect staff goes to FAC. This happens even if the policy’s primary effect is not on faculty. The leave policy discussed extensively the last two years is a good example. One of the purposes of this new committee is to free FAC up to focus on core faculty issues. This new committee will focus on hybrid policies that affect both faculty and staff. The proposal has been reviewed by FAC, Staff Affairs, and Committee on Committees.

A Senator wondered about the difficulty of creating another committee requiring faculty participation. It was noted that recruiting faculty can be a problem. This committee only requires three. The proposal passed without objection.
Statement on Immigration. Chair Brandt introduced Professor Kate Evans from the College of Law. Professor Evans has been working with a small group to develop a resolution regarding University policies regarding immigration and expressing support for faculty, staff and students who may be affected by recent developments. Chair Brandt noted that the first proposal focused primarily on students and this more recent draft seeks to include and address concerns about staff and faculty. She stated that the resolution is being brought to the Senate for its approval.

Professor Evans noted that while the original Executive Order establishing a travel ban has been stayed by the 9th Circuit, there is an expectation of a new executive order. There has also been some significant memos issued by the Department of Homeland Security that have heightened anxiety. These recent statements anticipate:

- Broader use of detention and apprehension throughout the U.S.
- Special provisions along the border to detain asylum seekers.
- Orders to enforce all immigration laws—reducing discretion.

Professor Evans stated that the revised document before the Senate was an attempt to build upon the statement issued by President Staben, as well as reaffirm existing policies and principles at the University. The document tries to clarify what information the University is obligated to disclose, and what type of information is protected by laws like FERPA. The statement also seeks to help students understand how they can control their own information. Professor Evans reviewed the main elements of the resolution which emphasizes that:

- Confidential records will not be released to federal immigration officials without a valid judicial warrant or court order authorized by the student or required by law.
- Confidential employment records for faculty or staff will not be released without a subpoena, or court order.
- The University will not voluntarily grant access to non-public property owned and controlled by the University.
- Campus security will not undertake joint efforts with local, state, or federal law enforcement agencies to investigate for violations of immigration law.

Questions asked by Senators included:

- **Is there a definition of the University of Idaho (UI) community?** Chair Brandt acknowledged that there wasn’t, but she would reword it to include students, faculty and staff.
- **Has this resolution been vetted by General Counsel?** Chair Brandt stated that General Counsel has seen the resolution. She felt it was safe to say that General Counsel would prefer that the language be narrowed. However, he has suggested revisions which have been considered. Professor Evans stated that the suggested practices came from looking at the best practices at other universities. Beyond that, there is value in providing such information in a consolidated place.
- **Has there been an evaluation of this in terms of whether there might be some push back from the state legislature?** Chair Brandt stressed that this would not be the official statement of the University, but would be a statement from the Faculty Senate as a recommendation to the university community. Professor Evans stated that the state legislature had considered some legislation, nothing had been passed. If the legislature does pass a new policy, then we would have to consider its implications for the University. Chair Brandt stressed that the policy affirms that we will follow federal and state law. It affirms our existing policies and suggests that we shouldn’t volunteer to do anything that isn’t required.
- **Are DACA students protected?** The most recent guidelines from Homeland Security does exclude the DACA students from the enforcement provisions. The International Programs Office does have
information on who these students are, but this information is not readily available. Professor Evans did suggest that students who have DACA status might provide that information, although how protective that will be is open to question. Generally, she advises her clients not to provide information regarding their name and place of birth.

- **What powers do students have over their information?** Students do possess the ability to control what directory information can be made public. One of the purposes of this resolution is to inform students of this ability. Place of birth is not considered directory information.

- **How is this information going to be disseminated? To what extent is the University leadership in support of this?** Chair Brandt stated that this was a resolution of the Senate. She felt that the President was aware that language of this nature was being discussed.

- **Are similar efforts being pursued at other Idaho universities, and to what extent do the risks of pursuing this outweigh the benefits?** Chair Brandt suggested that determining what other universities in the state are doing, is a good idea. Professor Evans clarified that this proposal represents current practices, but not all of it is clearly recognized in policy. Part of the value of the resolution is to urge future conduct that goes somewhat beyond current policy.

Given the number of suggested revisions and concerns the Chair decided that the resolution would be redrafted, before it is brought back to the Senate. Chair Brandt urged Senators to email her with any other comments.

**Faculty Affairs & Senate Leadership. FS-17-045: FSH 3710—Leave Policy.** Chair Brandt invited General Counsel Kent Nelson to help discuss some proposed changes to the leave policy. Chair Brandt explained that Senate Leadership, with the aid of FAC, suggested a few minor alterations to the Leave Policy. After sending these to General Counsel and HR, they have suggested some other changes. The changes requested by General Counsel were sent to Senators this afternoon. To accept the proposed changes from General Counsel there will need to be a motion to substitute their version. Senate Leadership supports this substitution.

Mr. Nelson explained that after reviewing the proposed changes, they are suggesting different wording for E-4 and M-2. These proposed changes involve either family medical leave, or parenting leave. The proposed changes are designed to provide a more flexible version of the rule adopted by the Senate last year. Last year the Senate wanted to allow employees to reserve 80 hours of annual leave and comp time and still be able to go on unpaid leave. This substitute version maintains that 80-hour rule, but allows the 80 hours to come from annual leave, sick leave or comp time, when sick leave is allowed for the event. A Senator pointed out that it was very difficult for the Senate to consider these changes, when they were only received a couple of hours ago. Such last second changes complicate the policy process.

A Senator noted that these issues were confusing. Both the Chair and the Faculty Secretary agreed that it was a complicated set of issues, although they both felt that the proposed changes from General Counsel provided greater flexibility to the employee. The Chair further pointed out that to accept the proposed changes from General Counsel, there would have to be a motion to substitute the new version of E-4 and M-2. No motion to that effect was made.

A Senator hopefully asked for an explanation of the differences between family medical leave and parenting leave. Kent Nelson noted that the FMLA is a federal act that the University is required to follow. Parenting Leave is a subset of family medical leave. The Senate in recent years has sought to expand some of the benefits provided for parenting leave. For instance, the UI does allow both
parents (if they are UI employees) to take 12 weeks of parenting leave, FMLA does not specify an employer must do so.

A Senator asked if Staff Affairs had reviewed these changes? The Chair noted that Staff Leadership reviewed some of the changes and had received the proposed changes to E-4 and M-2 today.

Another Senator asked about the language in M-5a6. “Parenting is defined as the period of bonding that occurs within the first twelve (12) months of the birth, adoption or foster placement of the child in the family and ends twelve (12) months after.” After some discussion of whether this confusing language was taken from the FMLA, it was suggested that the proper interpretation of this was that parenting leave must be taken within the first 12 months of the birth or adoption.

A Senator asked about the proposed changes to donating annual leave to the shared leave pool in L-3. Chair Brandt explained that these changes were proposed, because administratively it is difficult to track donated leave that isn’t used by the person to which it is donated. Thus, L-3d now states that “donors should be aware that any shared leave not used by the intended recipient will be returned to the Shared Leave Pool, not returned to the donor.” Those who want to donate to a colleague, but don’t wish the leave to go into the shared leave pool should donate leave in measured increments. There should be communication between the donor and HR.

Although not part of the proposed changes, a Senator asked about the provision in G-2 stating that an employee “must request annual leave or personal leave without pay” for “appearing as an expert witness when the employee is compensated”. He expressed the view that this was contradictory to other provisions allowing employees to take time for consulting. Kent Nelson acknowledged that this was an interesting question and he would look into the possible contradiction with the consulting policy.

Reflecting a general view that the Senate had not been given sufficient time to review some of these changes a motion (Johnson/Brown) to postpone this discussion to the next meeting passed unanimously.

**Adjournment:** A motion (Folwell/Brewick) to adjourn was unanimously agreed to at 4:52.

Respectfully submitted,

Don Crowley, Faculty Secretary & Secretary to the Faculty Senate