

Minutes*

**Faculty Consultative Committee
Thursday, February 24, 2011
12:00 – 2:15
Campus Club, Coffman Union**

Present: Kate VandenBosch (chair), Melissa Anderson, Peter Bitterman, Elizabeth Boyle, Thomas Brothen, Colin Campbell, Nancy Carpenter, Carol Chomsky, Chris Cramer, Shawn Curley, Nancy Ehlke, Janet Fitzakerley, Marti Hope Gonzales, Michael Hancher, Caroline Hayes, Jeff Kahn, Jan McCulloch, George Sheets

Absent: Russell Luepker, Michael Oakes

Guests: Provost E. Thomas Sullivan; President Robert Bruininks

Other: Assistant Vice President Sharon Reich Paulsen (Provost's Office), Jill Christenson (President's Office)

[In these minutes: (1) questions from the General Counsel about research and human subjects; discussion with the Provost: (2) e-education; (3) compacts; (4) questions about the film "Troubled Waters"; (5) report from the legislative liaisons; (6) discussion with President Bruininks]

1. Questions from the General Counsel

Professor VandenBosch convened the meeting at 12:00 and began by noting a set of questions that had been forwarded to the Committee, at its request, from General Counsel Mark Rotenberg concerning the case of the young man who committed suicide while a participant in a clinical trial at the University. The recent actions related to the case (letters from Board of Regents Chair Clyde Allen, from General Counsel Rotenberg, and from Vice President and Dean of the Medical School Aaron Friedman) were precipitated by a request to the Board of Regents from the Minnesota Student Association and a group of faculty members in the Center for Bioethics in the Academic Health Center. Mr. Rotenberg forwarded questions he suggested the faculty might wish to take up.

Professor Anderson said that the Senate Research Committee would discuss three of the questions and has begun to make arrangements to do so:

- To what extent is U medical/health research dependent upon corporate funding? Is this typical of major research universities in the US/worldwide? How much of such research involves human subjects?
- What risks and challenges are posed by increasing reliance on corporate funding of this type of research?
- What policies and procedures are in place at the U to address these risks and challenges? Are there policies and procedures at other major institutions, or under consideration elsewhere, that we should adopt here?

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

Professor Anderson noted that the letter from Regent Allen to the members of the faculty in the Center for Bioethics invited discussion of issues. It included this language: "We do not intend to suggest that the broader concerns you raise related to protection of subjects involved in clinical research are unimportant. We encourage the University community to engage in further discussion about these wider issues." She said that the Senate Research Committee would not take up the case itself, but it would use the materials related to the case as background information. She also said that the Senate Research Committee would not be the right venue to discuss the first two questions, but that it would take up the last three.

Professor Kahn reported that he and Professor Oakes will join the discussion at the Senate Research Committee and he agreed with Professor Anderson's analysis. There is a role for University discussion of providing adequate protection for mentally-ill research subjects. This is a national issue, he said, and the University could be leaders in addressing the questions, and the discussions here could advance the ethics of research.

There were two conflict-of-interest issues, Professor Cramer observed, institutional and individual (the latter because of corporate funding of research). The conflicts could be more carefully delineated.

Professor VandenBosch asked Professor Campbell about the views of the faculty in the Academic Health Center. Professor Kahn noted that in August 2009 the Minnesota legislature passed a bill that prohibits anyone on a stay of civil commitment from giving consent to participate in a clinical trial unless allowed by the court. Professor Campbell asked what the University's position is on that change.

Professor Kahn said that his interpretation is that there was a gap in the law that has been addressed by legislation. Had the current law been in place at the time of the study the subject would not have been allowed to enter into the trial, and the law was passed largely in reaction to this case.

This is an opportunity to think about what the perfect structure for conducting industry-sponsored research would be, Professor Bitterman said, recognizing that there are different cultures around the University. This is extremely challenging. There are also different compensation models across colleges; in the Medical School, they survive on what they earn, in comparison to salaried faculty members in other colleges. The University has far from the ideal structure, faculty have no guidance, the issues are not addressed in the new conflict-of-interest policy, so they are left to their own devices. This is an opportunity to identify advances and move forward fast to help faculty. In some cases, faculty work can be slowed by regulations; in other cases, there are no regulations where they are needed. What is needed are practical, useful standards that meet the expectations of the public; having them would move the University a long way forward.

Professor VandenBosch said that another of Mr. Rotenberg's questions, "What is the faculty's collective role in addressing factually incorrect attacks on particular U faculty research activities?" involves questions of academic freedom so will be referred to the Committee on Academic Freedom and Tenure.

2. Discussion with Provost Sullivan: E-Education

Professor VandenBosch welcomed Provost Sullivan to the meeting to discuss three items: e-education, the compact process, and questions related to the film "Troubled Waters."

Provost Sullivan began with e-education, which he said has involved year-long, iterative conversations. They started out with little information in his office about the full scope of activities in e-education across the system, so did not know the full scope of the activities; they brought in a peer-review

team and received a report from it; they retained one of the team members as a consultant to look at the University in greater depth, and received a report from him; he took both reports to the deans; and he appointed a subcommittee of the deans to consider the work of the consultants and to develop a set of framing principles and assumptions, which are very solid. He has received the final report from the deans last week and will now set up a standing committee of 10-12 members, most of whom will be faculty members who are well-informed and experienced with e-education and with marketing and public relations, to advise on the next steps in rolling out e-education in a thoughtful and coherent way.

The process of going from a concept to a design team to marketing a product, whether completely online or a hybrid course, must be seamless and expert-centered, Provost Sullivan said. The strengths of decentralization here in e-education must be continued (for example, Pharmacy, Nursing, and Public Health are out ahead of the rest of the University in terms of expertise and great products). Expertise is not consistent across the University, however, so there is much sharing that needs to take place. The standing committee of faculty members can be helpful in that regard; he would like to have the faculty members who are best at delivering e-education and who have thought about it to be nominated. He would like to appoint the committee in early March and invited Committee members today to nominate people to serve.

The University has great strengths in e-education, the Provost reflected, but the activities are in silos. They need to be encouraged and supported and the lessons they have learned need to be shared more broadly across the institution. There needs to be a central source of expertise for faculty who want to do e-education. At present the University has 1400 "pure" online courses that enroll over 23,000 students (most of whom are at the University), so there is an enormous foundation already here. The Provost said that he hopes that they can, the budget pressures notwithstanding, provide at least some seed money to encourage and support web-based education where appropriate.

Professor Sheets asked if the courses are mostly from the Twin Cities campus. They are not, Provost Sullivan said; the Crookston campus is a leader in e-education and has raised about \$800,000 through e-education (which is a significant addition to that campus's budget). Are most of those taking the courses non-matriculated students, Professor Sheets next asked? Most are on campus and enrolled at the University, Provost Sullivan said, who are supplementing their programs, although there are some students from elsewhere who are taking the courses. What the University is doing now is excellent but there are enormous opportunities to expand and share the knowledge base.

Professor Campbell recalled that the former governor of Minnesota thought the institutions could save a lot of money by delivering courses electronically. He said he is concerned that an e-education initiative is a way to charge students the same tuition but give them something that is of slightly lower quality. Or does the Provost believe the University can do better than that?

The answer is clear, Provost Sullivan said: This is not an effort to raise money. It can generate additional income in the longer term, but it is an expensive undertaking in the beginning. If one is in e-education for the profit, one is not going to make much money. Governor Pawlenty was wrong in his understanding of the complexity of the process from concept to delivery. About two years ago the University and MnSCU were called to testify before the legislature on e-education. There were two epiphanies: One, they learned that MnSCU charges HIGHER tuition for online courses while the University charges the same; and two, the legislators had no idea that online courses cost more than in-class courses and that online education will not save money for students. Five students from the University also showed up at the hearing (the administration had nothing to do with their appearance) and told the legislators that online education is no panacea. They said that they came to the University because they

wanted to work with the faculty, and that online education is only a supplement. The legislature has made no further inquiries about e-education.

It would not be inferior teaching or learning, Provost Sullivan said. In some disciplines, the research suggests e-education can be additive. It is important for the University to have a balanced portfolio in teaching and learning and to keep the efforts decentralized. This is not being taken as an opportunity to centralize the efforts, but it will be an effort to share experience and provide expertise. Nor will this initiative interfere in any way with the faculty prerogative to teach courses the way they believe the courses should be taught. This is as it should be, he noted.

Will there also be help on a smaller scale, Professor Chomsky asked, to assist faculty in learning how to use technology more effectively in their teaching? There will be, the Provost said. The peer-review report recommended the University unify the assistance offered by various offices.

Provost Sullivan said he would provide the Committee with the recommendations from the deans.

Professor Bitterman asked if innovations in education would be considered scholarship in most units. Would delivery and evaluation mechanisms? Is it tenurable scholarship? If the answer is "yes," that has certain implications; if it is "no," there are different implications. Provost Sullivan said that a number of the new 7.12 statements recognize the scholarship of pedagogy as a factor that can be considered in evaluating candidates for tenure. If the University is going to pursue e-education as seriously as the Provost suggests, Professor Bitterman commented, then there is need for identification of what the range of scholarship will be and where one might publish (e.g., online). Provost Sullivan said he believed that is discipline- or department-driven, and faculty members need work with their colleagues on what scholarship will be recognized. This is an important point, the Provost said. There must be conversations within the faculty, so that they know when they hire someone with an interest in the scholarship of pedagogy and e-education and that publications may be nontraditional or online, they all understand what will be expected so that the probationary faculty member is not in trouble later for the work he or she did.

3. Discussion with Provost Sullivan: Compacts

Professor VandenBosch turned to the compact process and asked the Provost what is different about this year.

Provost Sullivan recalled that he had earlier shared compact documents with the Committee; this year the process is slightly different. The compact meetings are three-hour conversations, the first two of which are about the college's strengths, weaknesses, goals, and aspirations. The last hour is about the budget, fund-raising, capital plans, etc. This year they focused on the recommendations of the college blue-ribbon committee, the dean's recommendations based on the blue-ribbon committee work, and how the two led to the college's budget plans. The blue-ribbon committees were asked to focus on four questions: size and scope (budget, student numbers, programs, etc.), revenue enhancement, cost efficiencies, and investments. Provost Sullivan said he has been impressed with the thoroughness of the college responses.

Then the questions get to how to manage for the next one-two years. All of the colleges have been asked to model 5% cuts for now; they get into the details of those cuts in these discussions, Provost Sullivan said. Each also has been asked to provide three-year strategic and budget plans.

Professor Sheets reported that one question that arose at the Committee on Faculty Affairs was whether greater use of terminal agreements might help in implementing the recommendations of the blue-ribbon committees. Has the Provost talked with the deans about that possibility? They have discussed it centrally, Provost Sullivan said, and with the deans, although it has not come up in the compact discussions as of yet. These agreements tend to be personnel issues. Professor Sheets said he understood but that if they were made less personnel matters and more a matter of policy, perhaps they could be useful. Provost Sullivan noted that these agreements typically include paying salary and fringe benefits for a year after someone leaves, so there are financial issues for the college: How can the dean support the expense (they need bridge funding for a year), and if the University wants to encourage terminal agreements, there has to be a plan that can apply across colleges so that it is not the case that one faculty member can obtain a terminal agreement but another cannot. Strategic-initiative funds could help, Professor Sheets suggested; the question of equity of access could be addressed by a decision that some fields need more "thinning" than others, and it is up to the deans and departments to make those choices. Provost Sullivan agreed that many of the terminal agreements are individualized, but they do not want to make them so bilateral that they become inequitable or accessible to only a few.

Professor Boyle raised the issue of revenue-generating master's programs: They are innovative but there are concerns about them. One concern is that the University could duplicate what MnSCU is offering. The Committee just read an article, "The Dangerous Lure of the Research-University Model" in The Chronicle of Higher Education, which noted the pressure on MnSCU campuses to look more like the University; there could be the same pressure on the University, as it searches for revenue, to look more like MnSCU. It is unfortunate that both systems are being pushed in directions that are not good for either of them in the long run.

There has been a lot of discussion about master's programs, Provost Sullivan said. In his view, those decisions are best left up to the colleges because they better know their markets. But he would not want to see such programs siphon effort and money from the core functions of a department. That could be a twice-losing proposition: Offering a weak master's program and talent pulled from the core functions.

There is a mixed message here, Professor Campbell commented. Budgets are being cut, but students want these programs because they want to get a Masters degree. Some faculty believe these programs could do good things while some are not so sure because they worry about making money while looking the other way on quality.

Provost Sullivan said that while he would not want to see colleges miss markets, the programs should not reduce quality or reputation of the degree-granting unit. He related a conversation with students who were taking a two-year certificate program elsewhere to prepare them to attend medical school; the program has a great track record of getting students into medical school—and charges \$70,000 per year in tuition! He said he was stunned to learn that students are paying \$140,000 for a certificate to get them into medical school. But it sure is a great revenue generator for these institutions.

Professor VandenBosch said that she and Professor Cramer would prepare notes on the compacts they attend and bring back questions and issues for a future discussion with the Provost.

4. Discussion with Provost Sullivan: Questions about the Film "Troubled Waters"

Professor VandenBosch next turned to questions before this Committee concerning the events surrounding the film "Troubled Waters." She noted that they would not deal with issues of academic

freedom at this time, which are being taken up by the Committee on Academic Freedom and Tenure (AF&T). (Provost Sullivan commented that his discussions with AF&T have been excellent and the outcome will be answers to the questions posed by this Committee as well as a white paper.) The questions at hand for this discussion are these, and focus on communication:

1. What role (if any) does University Relations usually play in dissemination of communications from academic units, distinct from communications by individual faculty? What role (if any) does University Relations usually play in the dissemination of information arising from arrangements between academic units and outside entities, such as the group that made the film? What role should University Relations play in those instances?
2. Control of information that implicates the University's brand or image is distinct from control of information arising as part of teaching, research and outreach. In the current case, this line appears to have been blurred. Is the difference understood by those who control University communications? How is the difference articulated in University policy and in procedural documents?
3. What changes in policy or process, if any, would be appropriate to ensure that decisions made by University Relations are made with full understanding of the implications of academic freedom?

Provost Sullivan said that many questions have been discussed with AF&T and the minutes of those discussions provide a good background for answering these questions. What he told AF&T was that the University had a practice, and continues to have a practice (with greater understanding), that if any question about an issue arises that has academic-freedom implications, it should be brought to the attention of the Provost (and, in some cases, to the General Counsel). They thought the practice was embedded in the administration; since the events surrounding "Troubled Waters," it has been emphasized. AF&T has suggested considering a one-sentence addition to the Regents' policy on Academic Freedom and Responsibility memorializing the practice of referring questions to the Provost's office any time academic freedom is implicated. That, he said, appears to answer the first question.

He has also said that he believes it important that all employees know about academic freedom and that there should be a session on the topic in all employee-orientation sessions. There will be different levels of understanding needed, but everyone should understand that academic freedom is a deeply-held principle and that if they see a question, they know to whom to refer it. They are having conversations with Human Resources about the orientation sessions; he and Vice Provost Carney will talk with faculty about the subject, and the deans recently have had a very robust discussion of academic freedom. The University will take opportunities to introduce everyone to the subject and why it is valued.

Professor Curley asked what Provost Sullivan thought about the second question, with respect to the brand and Regents' seal. The incident did raise the question of the copyright of the Board of Regents, Provost Sullivan agreed; in his view, that copyright is held by the Board of Regents is not determinative of whether or not academic freedom is protected. The President and his officers have a fiduciary responsibility to protect the University's copyright, brand, and trademarks, but academic freedom must also be protected, so these principles must be weighed and balanced, but the fact that there is a copyright or trademark does not determine the degree of academic freedom in its overall application.

Professor Anderson said she could understand the desire to add a statement to the Academic Freedom and Responsibility policy, but wondered about the unintended consequences of doing so. Anyone

could then raise the issue of academic freedom about anything, and the question would have to go to the Provost. Does he want all those questions? Provost Sullivan said he would prefer clarity to ambiguity. He told AF&T that he receives questions about academic freedom every week, and he would rather there be a clear and known channel to deal with them. In 98% of the cases, the answer is crystal clear and he need not consult with anyone else to know that academic freedom is to be protected. Perhaps 1-2% of the cases are murky and complicated, and in those cases he has to sort out the facts; if, after investigating the facts, the situation remains murky, the balance, he believes, should tip in favor of academic freedom.

Professor VandenBosch noted that there was also a question about institutional conflict-of-interest. AF&T discussed it with General Counsel Mark Rotenberg, who said he did not find a breach of the institutional COI policy. She asked if there were any trailing issues from the questions; none were raised by Committee members, so she said she would consider the matter closed for now and would look forward to the white paper from AF&T.

5. Report from the Legislative Liaisons

Professor VandenBosch turned next to Professor Boyle for a report from the faculty legislative liaisons.

Professor Boyle reported on the budget proposals, the faculty panel that testified before the legislature, and the candidates for the Board of Regents. She noted issues that were raised by legislators, the need for Committee members to meet with their legislators, and the need for members of the University community to contact friends and colleagues who have connections with legislators.

6. Discussion with President Bruininks

Professor VandenBosch welcomed the President to the meeting.

President Bruininks picked up on the thread of the discussion with Professor Boyle and said that the University has done as much as any organization to reduce costs. He said that one must be careful when saying that the University is administratively top-heavy. For a number of years they have reduced costs in the major cost centers: People, health care (the University has done a much better job than the private sector, which has mostly just cut benefits; the University has preserved benefits and reduced costs), buildings (the cost of utilities has been driven down and, subject to Regents' approval, some buildings totaling about 1 million square feet will be decommissioned in the next several years), increased reliance on state HEAPR dollars to reduce University debt, and so on. Every million dollars in cost reduction saves 14% in tuition and 15 jobs at the University. The University has reduced technology costs by about \$25 million. It has saved \$6.5 million in the purchasing initiative (the longer-term goal is to save \$25 million; the cost savings are marbled throughout the institution and the savings occur at all levels). The University has instituted another Retirement Incentives Option program that will help downsize the workforce strategically without significant layoffs.

As for administrators, the President said he and the central officers believe it is important the University is well-managed and they continue to monitor costs and outcomes. He said that "senior administrators," which includes deans and above, make up .4% of the University's workforce, and their numbers will decline at a time when all other indicators of activity for the institution are up by about 50% over the past ten years. Where the trouble in perception arises is with the P&A employee category; when the University reports data to the federal government, there is an executive/managerial category that is

flawed for universities. Despite a growth in revenues, even the number of employees in this category has not gone up appreciably in ten years. He reported that he has asked for a more functional classification system for employees that better describes what people do. If the numbers require attention, then the University can deal with them. But there needs to be a number of categories that better describe jobs than the amorphous "executive/managerial" that is now used. The net result of the changes at the senior-officer level will be that the University will have six vice presidents running a \$3.5-billion enterprise (with the reduction in the past two fiscal years).

The President said that he and his administrative colleagues will continue to drive down costs. If one compares the University with any large corporations in the private sector, any of the Fortune 500 companies, the University has a small administration. The corporate executives who visit the University find its administration to be thin.

The President said that the report on the economic impact of the University on the state will be released next Monday. It will note that every dollar invested in the University returns \$13-14 to the state, that the University is the fifth-largest employer in the state, and that if the concern is about jobs, the state should continue to invest in the University. The University probably generates more jobs than any other organization receiving state funds. The University has the second-highest growth rate (42%) in the nation among public universities in external funding. The report will demonstrate the aggregate impact of the University, both direct and indirect. The next phase of the study will examine data on a regional basis and with more detail.

Professor McCulloch related a story about the work of graduate students in her department and the response of potential donors when they learn about it: "Why don't people know about this stuff?" Those graduate students could be a loud voice for the University because they have powerful stories. That leads to pressure for the University, but from outside the institution. Graduate and undergraduate students from across the state can be helpful, the President agreed.

Professor Hancher recalled that he raised with the consultant from Tripp-Umbach the question of much tax money goes to the state because of the University, and what would the state lose if the University were not here. At some point, the University might make the case to the state that "you benefit from the money we bring to the table." What does the University contribute in tax revenues to the state? The President said he has asked for the number, along with a number of other indicators. He noted that the University would rank in the low 30s in terms of size of annual revenues from non-state sources when compared with the top corporations in the state—23 of which, he pointed out, are Fortune 500-size companies.

Professor VandenBosch thanked the President and Provost for joining the meeting and adjourned it at 2:15.

-- Gary Engstrand

University of Minnesota