

Minutes*

**Senate Committee on Faculty Affairs
Tuesday, March 8, 2011
2:30 – 4:15
238A Morrill Hall**

- Present: George Sheets (chair), Ben Bornsztein, Marilyn Bruin, Arlene Carney, Carol Carrier, Dann Chapman, Vladimir Cherkassky, Kathryn Hanna, Frank Kulacki, Theodor Litman, Karen Miksch, Geoffrey Sirc, Roderick Squires
- Absent: Barbara Elliott, Richard Cline, Randy Croce, Valerie Khominich, Chris Orlic, Jason Shaw, Pamela Stenhjem [but not counted as absent because the telephone connection did not work], James Wojtaszek
- Guests: Professor Murray Clayton (University of Wisconsin, Madison); Lynn Zentner (Office of Compliance); Nan Wilhelmson (Human Resources)

[In these minutes: (1) discussion with the gender equity consultant; (2) clinical-care conflict-of-interest policy; (3) without-salary appointment guidelines]

1. Discussion with the Gender Equity Consultant

Professor Sheets convened the meeting at 2:30 and welcomed Vice President Carrier and Professor Clayton to discuss the gender-equity salary study.

Vice President Carrier introduced Professor Clayton, a department chair (Plant Biology, with a joint appointment in Statistics) at the University of Wisconsin, Madison, retained by the University to review the gender-equity salary study the Committee discussed earlier. The Provost wants a thorough look at the models used in such studies.

Professor Clayton began by recalling that he was a graduate student at Minnesota, so has spent time here. He has been involved with gender-equity salary studies in a number of ways at Wisconsin, and there are a lot of similarities between the two institutions in terms of structure and goals. He said he has spoken with a number of people about what the University wants and has looked at the analyses that have been conducted; he said he will digest what he has learned and make a recommendation, and it may include further analysis.

What he said to the Provost, and what most everyone appears to agree about, is that the goal is to come up with analyses that are robust and clear. It is rare to have 100% buy-in; the goal is to develop analyses that the group can endorse.

Professor Squires asked what the University is trying to achieve. To answer this question, Professor Clayton said: Is there evidence of a gap in salaries between male and female faculty members?

* 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 Sheets said the Committee had looked at the variables used in the study; did the study include all relevant variables or are there others that should be looked at? There have been a number of studies, Professor Clayton said, and while he has looked at them, he has not seen a list of all the variables available. When this Committee first heard a summary of the results, there was dismay at the apparent evidence of inequity, and Committee members talked about some variables that were not included (e.g., female faculty members may be less likely to move than males), Professor Sheets said. Can he get at that in his analysis? They do have the records, Dr. Carrier commented. And some potential departures are deemed more of a loss or more likely than others, Professor Sheets added. Professor Clayton surmised that the problem probably has the same degree of variance at Minnesota as at Wisconsin: In some units, the faculty member must have an outside letter with an offer; in other parts of campus, the units may act pre-emptively. If they act pre-emptively, HOW do they do so? In some cases, when a faculty member receives an offer, the department may offer a handshake and best wishes.

Another question asked earlier, Professor Sheets said, was this: When the Rajender consent decree settlement was reached, there were salary adjustments for women faculty. Were salaries brought to parity at that point? Or was there a problem that was never adequately addressed? Professor Clayton said he did not know and that he did not know what analyses were done at the time. This is important information to have, Professor Sheets said, because it answers a question about whether the University is sliding backward or if the data suggest the continuation of a pattern because there was insufficient remedy at the time of the consent decree.

Dr. Carrier asked what happened at Wisconsin and what system they have in place. They did a study in the early 1990s and concluded there was a gender gap in salaries, Professor Clayton said. He was not part of that study but did participate in the group that decided what to do about the gap. They made a number of recommendations that were largely accepted and are now part of the culture. Department chairs, on an annual basis, look at the salary structure of the department to determine if there has been any salary slippage. They use a statistical approach and flag salaries that are lower than what one would expect and then look at three comparable faculty members—rather like the process for appraising houses, where the appraisers do the calibration. The department chairs do the calibration. If a salary seems low, the chair goes to the dean and indicates there is a gap and explains the justification for a salary increase.

Professor Bornshtein said that inequities can occur in promotion and tenure and in other areas. In this case, they look only at salaries, Professor Clayton said. Once a gap has been identified, they ask "why?" For Wisconsin, the problem seems to be in starting salaries; if salaries are unequal at the start, all other things being equal, the gap will never be closed. Their position is that it is not the applicant's responsibility to negotiate for salary—it is up to the department chair to compare a position with others and to then set the starting salary (done in collaboration with the dean). They try to pay attention to other conditions as well (labs, equipment, etc.).

They have just set up a new process at Wisconsin, Professor Clayton related. At present, someone receives a salary increase on promotion from assistant to associate professor (which typically takes six years) and when promoted from associate professor to professor (which typically takes about five years). After that, there is nothing special. What they have now established is a process that calls for the review of a faculty member every five years after promotion to professor; they look at peers and ask if the salary is keeping track. The campus has set aside money for addressing inequities (by over-cutting budgets in the last round of cuts) because they believe it is better to try to retain people they have, even if some hires do not then occur. This gets to retention: They use the system as a way to calibrate salaries

with the market; if someone receives an outside offer, Wisconsin responds, and that salary then becomes a marker for others. When they did their study in the 1990s, they found a wide range of opinions about retention, including "don't respond" (which most did not feel palatable). But what are they to do with retention and how it can affect others? The analysis every five years after promotion is one what to evaluate retention and not let things get out of hand.

Professor Bornshtein asked what Professor Clayton meant by "part of the culture." The Provost sends a memo every year reminding department chairs to check for gender equity in salaries, Professor Clayton said, and provides ways to do the analysis. If there are inequities, the campus only funds up to a certain level (e.g., 5%), will match the college from 5% to 7.5%, and anything more than a 7.5% increase is up to the college to fund.

Those are all recurring dollars, Dr. Carney observed. The Chancellor starts with a certain pot of money that gets used up, so they need to figure out a way to keep replenishing the fund. If they were in a steady state (which they are not), Professor Clayton said, they would receive a budget, plan expenditures, and make an amount available for this purpose. With budgets declining, providing the funds is more of a challenge, and they may over-cut again so the funds can be provided again.

If the University were to shift to a more entrepreneurial paradigm, salary increases could be based on "soft funds," i.e., research income, Professor Kulacki said. A question for the administration is, say, if 300 out of 3000 faculty members (just to pick a number appropriate to the Twin Cities campus) were supported by research funds, or "soft funds," that would that be a way to manage salaries overall and provide incentives for faculty research. The percentage of faculty on soft funds would necessarily vary by discipline and college, and the hard policy decision is the extent to which soft funds are used to supplement recurring funds for tenure track positions. The danger is the award of permanent tenure to individuals who are largely supported on soft funds.

Professor Clayton said that is how they expected things to go 20 years ago. The funding models have changed, and they are exploring that model. The issue is that the best source of external funds is from NIH, but relying on them would cause a shift in the research they do. As a land-grant institution, they are expected to do on-the-ground research, something NIH does not support. Moreover, NIH is thinking about pulling back on funding for salaries. People use the money to buy out of teaching, so there is a specific incentive to provide external funds in order to buy out of teaching to do research.

Professor Kulacki speculated that the model he suggested would tend to mitigate salary inequities, and faculty members would not leave the University over salary issues. Salaries are controlled by the institutions, Professor Clayton responded; faculty members cannot write their own salaries on grants. Professor Kulacki said that over time there would be a positive incremental effect.

Professor Sheets thanked Professor Clayton for joining the Committee.

Professor Sheets then inquired of Professor Kulacki if he meant that the 300 faculty members would be regular (i.e., tenured) faculty. They would, Professor Kulacki said, and with that business model, the faculty could be expanded on the come with research dollars. The question is how far to go. What if there is a shortfall in funding, Professor Sheets asked? The units should have a reserve of indirect-cost funds to bridge shortfalls, Professor Kulacki said, that would have to be paid back. They heard today that if the University over-cuts, without regard for programs, they will have a very comfortable faculty at Wisconsin.

That is why she noted that they would be recurring dollars, Vice Provost Carney commented. The money must be renewed every year, and the amount goes up every year. They run the risk, if they keep cutting the number of incoming faculty, of having a significant impact on the makeup of the faculty.

Professor Hanna recalled that some faculty members in CLA who have been around a long time are still resentful that CLA gave up funds to the Medical School in the 1970s because of tenured faculty who lost soft funding and had to have institutional money provided. One still hears about that. It is a tricky path to go down without hard funds and tuition revenue to back up salaries. That was a problem because they did not keep a reserve to buffer against a downturn, Professor Kulacki said; one would have to watch carefully because the situation would be dynamic. This has little or no relevance for fields that have no external research funding, Professor Sheets observed.

Dr. Carney said that when they first talked about a gender-equity study, they were drawn to the Wisconsin model and were struck by what a positive practice it seemed to be. Individual chairs look at salaries in departments every year rather than letting things go for ten years. She said liked the local approach of also looking at the effect of new hires. The question is how to remedy inequity, if it exists, and how to maintain equity. It is easy to lose track of starting salaries, she said, but there are other factors as well. Professor Clayton will help add perspective.

Professor Hanna said that apart from salaries, she is concerned about the declining number of women faculty in some departments. Once the University has Professor Clayton's report, what will come out of it?

Dr. Carney said that, first, there will be an answer to the question about whether there is a disparity between salaries of males and females. Second, one solution might be that all women faculty members receive an increase—but is that a fair solution? Across-the-board increases do not take into account higher-paid women; the need is to deal with problems within units. And how is productivity to be dealt with? It is said that women do more service, or perform more scutwork; is that true? Some faculty members are identified as stars, and given light service work, while others are seen at the workhorses of the department. Does that affect research? Another problem may be that the work that women faculty perform is not valued as highly, Professor Hanna said.

2. Clinical Care Conflict of Interest Policy

Professor Sheets next welcomed Ms. Zentner to the meeting to discuss the proposed new policy governing conflicts of interest (COI) for those involved in clinical care of animals or humans. [Ms. Zentner reviewed the process that led to this draft and then identified the changes that have been made since the original version that became Appendix A. That presentation and the highlights were covered in the minutes of the Senate Research Committee on March 7, 2011, and will not be repeated here.]

One the policy has been amended and adopted, will there also be amendments to the University-wide policy, Professor Sheets asked? There will not, Ms. Zentner said; the Appendix will be eliminated and everything will be contained within this policy. So this is essentially a merger of the University-wide policy and the Appendix, with amendments? That is correct, Ms. Zentner said.

A year from now, how will new faculty members know that this policy covers them, Professor Sheets asked? They will inform them at New Faculty Orientation, Dr. Carney said; they will talk about

this and other policies, and can provide them a list with departments that are covered by it. They can also send reminders to all chairs to prompt them to provide the policy to new faculty and staff members whom it covers. She has informed the deans where their programs are not included, Ms. Zentner said, and the programs pretty well know if they're covered by the policy.

Professor Bornshtein asked what the difference is between a direct conflict of interest and a conflict of commitment. COIs are governed by the COI policy, Ms. Zentner said, and a conflict of commitment is governed by the consulting policy and superintended by the Provost's office. The consulting policy allows up to 48 days per year in consulting; a conflict of commitment might be teaching at a competitor institution on those days. Her office is not involved in conflict-of-commitment decisions. The question that arises with a conflict of commitment is whether it interferes with the job one is hired to do at the University. Her office is only involved with conflict of commitment in that it sends out the reminder that one must file a Report of Outside Consulting (ROC) if an individual plans to engage in an outside activity for more than a day per month during the period of the individual's appointment. For example, for a 9-month employee, a ROC must be completed and approved in advance for faculty and staff who plan to engage in 10 days or more of outside consulting or other outside activities. For 12-month employees, the threshold for completing a ROC is 13 days. The COI policies and the consulting policy intersect when, for example, an individual has a consulting relationship and that relationship may give rise to a conflict of interest with respect to the individual's University's responsibilities and expertise. That relationship may also create issues under the consulting policy if the consulting activity competes with a University course or service or if the individual intends to consult for a number of days that exceeds the maximum under the consulting policy.

Professor Bornshtein asked about \$100,000 limit before approval is required. That amount is in the University-wide policy, Ms. Zentner said, because there was concern about whether there was enough accountability in the system with respect to outside consulting activities. A decision was made to require a conflict of commitment review for those earning \$100,000 or more from outside activities. That is a substantial amount of money and may reflect that too much time is being given to an outside activity. These decisions are made locally, within colleges, departments, and units.

Professor Kulacki asked if there is a board or committee or judicial process convened if someone is found to be out of compliance with the policy. Ms. Zentner said that the number of those out of compliance is very small. If someone is found to be out of compliance, they would bring the matter back to the committee that approved the COI management plan, and it determines if there is non-compliance and, if so, the committee recommends some form of consequence, depending on the circumstances. The committees work with the college hierarchy in resolving the issues. She agreed, in response to a comment from Professor Kulacki, that this process should be written down.

Is there an appeal process, Professor Hanna asked? They do not believe it is needed because there is a lot of process involved in making the determination. The individual whose potential conflict is under review has an opportunity to meet with the COI committee that reviews the circumstances, determines if a conflict of interest exists, and, if so, determines the management mechanisms that need to be reflected in the conflict management plan. The individual has an opportunity to review and comment on the plan before it is finalized. Consultation often takes place with department chairs and associate deans in determining the appropriate conflict management approach. Before a final plan is put in place, the individual has agreed to it and that agreement is reflected in the plan. They have not had a situation where they could not reach agreement during Ms. Zentner's time at the University. They are also open to questions about the plan as they arise. They believe that eliminates the need for an additional process.

Professor Bornshtein said there could be a logistical problem with the requirement that if one has \$5000 in stock in a company and is prescribing drugs the company produces, one must disclose the relationship to every patient. A doctor could be prescribing 10 medications to 10 patients per day. This does not require the physician to address each patient individually, but requires that the notice be in each individual's health record? Is this implementable? No one has balked so far, Ms. Zentner said, and she hopes it is. They will provide language a physician can use. One's stock ownership could change daily, depending on one's broker, Professor Bornshtein commented. Ms. Zentner agreed it could be difficult to keep abreast of stock ownership, but if one blinds oneself to the broker's decision, there is no disclosure obligation. If one does keep abreast of ownership, then disclosures are required when there is a potential conflict. If one checks twice per year, in order to file a REPA, but does not otherwise track equity ownership, one makes disclosures on the basis of those twice-yearly filings. If a \$15,000 ownership drops to \$2000, one is no longer required to report that financial interest on a REPA because the \$2,000 value is below the level of a "significant financial interest," unless the individual is engaged in clinical health care, in which case all financial interests that relate to an individual's University responsibilities and expertise must be reported. The easiest way to avoid problems is to keep blind of broker decisions—or instruct one's broker not to invest in companies doing business in one's area of specialty, or invest in mutual funds.

Professor Sheets said that the Senate Consultative Committee has asked for a recommendation from this Committee regarding the policy. Professor Bornshtein said he believed this is a good draft. Professor Hanna commented that the document is intimidating at first glance and that it appears to be written for the lawyers, and while one can see the need for it, she asked if there could be a shortened, lay-person version.

The Committee agreed it would like some language in the policy indicating what happens when someone is found not to be in compliance. Professor Cherkassky said that from a practical point of view, it would also be helpful to have a distinction between major and minor violations. From the standpoint of the University, there is a big difference between minor and gross violations.

Professor Sheets suggested the Committee approve the draft, subject to the addition of language about the procedure to be followed when someone is found to be non-compliant with the policy. The Committee voted unanimously in favor of the policy, subject to the caveat outlined by Professor Sheets.

3. Without-Salary (WOS) Appointment Guidelines

Professor Sheets welcomed Ms. Wilhelmson to the meeting to report on revisions to the WOS guidelines (for use when appointing persons from outside the University) that she has and has not made in light of the comments made at an earlier meeting of the Committee.

Ms. Wilhelmson said there were three main points raised in the last discussion:

For persons whose primary relationship with the University is a WOS appointment:

- use the adjunct prefix with all faculty WOS titles;
- use the adjunct prefix with all P&A WOS titles; and
- create a unique prefix, not adjunct, to be used with all faculty and P&A WOS titles.

One idea was that departments could use the research or teaching prefix with or without the adjunct prefix. She agreed with the Committee that departments should not be able to use the teaching or research prefix without the adjunct prefix for WOS appointments.

Ms. Wilhelmson said that the term "adjunct" is traditionally one used only with professorial titles, and for the small number of P&A WOS appointments, they did not believe there was a compelling reason to adopt an adjunct prefix for them. One question raised was about the situation where there are two side-by-side P&A staff, one with a salary and one without; this would not be a common situation and has not surfaced in the past as an issue. If one looks at the reason for WOS appointments, they are often given because someone is visiting the University and paid by their home institution. They would prefer to keep the term "adjunct" linked to professorial titles, and there does not seem to be much gain by expanding it to P&A staff.

As for the development of a unique prefix, they cannot do that for a couple of reasons. First, Ms. Wilhelmson said, they would like the AHC and the rest of the University to remain aligned, and the AHC wants to use the adjunct title—and they are the major user of these titles. To create a unique title would also add another layer of job codes and titles, requiring more administrative work. Finally, they simply could not come up with a unique prefix that they thought would work.

Professor Sheets recalled that he had suggested "unsalaried," but that had not met with much approval. One could use a fancier term, non-stipendiary professors or teaching specialists. Then there would be a single term that applies to all WOS appointments and that could simplify the entire scheme; it would bring all WOS appointments into one category. Is WOS a stigma, Professor Squires asked? It probably would be if one had to use it in one's title, Professor Hanna suggested. She said that, realistically, it would be a tough sell to get anyone to use any term other than adjunct.

So if one sees the title adjunct, Dr. Carney said, one would not know if the person is paid or not unless one went into the database. Is it important on a day-to-day basis to know whether someone is paid or not? What is important is that the person carrying the title has access to the services of the University, Professor Kulacki said, and that the University certifies the person is affiliated with it. Ms. Wilhelmson agreed and said that requiring use of adjunct prefix gets to the question about using the professorial title without modification, which was the major concern. What happens if someone on a WOS appointment calls himself or herself a Professor of English, Professor Sheets asked? If they see it, they tell the person they can't use that title, Dr. Carney said.

Where do the guidelines go, Professor Kulacki asked? They will go on the Human Resources website and they can make changes as they receive feedback, Ms. Wilhelmson said. They will communicate the guidelines to all Human Resources staff in the colleges with the expectation that this information is passed on to others in the college who should be made aware of them. Professor Kulacki suggested testing the guidelines for six months to a year and see what they learn.

Professor Sheets thanked Ms. Wilhelmson for her report back to the Committee and adjourned the meeting at 4:30.

-- Gary Engstrand