



UNIVERSITY OF MINNESOTA
TWIN CITIES

All University
Senate Consultative Committee
220 Biological Sciences Center
1445 Gortner Avenue
St. Paul, Minnesota 55108
Telephone (612)373-3226

FACULTY CONSULTATIVE COMMITTEE AND
CONVERSATION WITH THE PRESIDENT

May 20, 1982

Chairman Douglas Pratt convened a meeting of the Faculty Consultative Committee in 300 Morrill Hall at 10:30 a.m. on Thursday, May 20. Other members present: Bob Brasted, Marcia Eaton, Virginia Fredricks, John Howe, Marv Mattson, Rick Purple, Donald Spring, Pat Swan. Guest: Maureen Smith.

1. Election of chairperson for the SCC and FCC for 1982-83.

The nominating committee (Eaton, Brasted, Purple) nominated Patricia Swan for the chairship. She was elected by acclamation.

2. Professional/administrative class representation in the Senate.

Members had copies of Eleanor Fenton's letter to Business and Rules chair David Giese. While the current number of members in the affected class is known, the FCC asks whether those numbers will grow through replacement of retiring people with faculty titles by new employees with P/A titles. Don Spring re-emphasized that a Senate provision for membership and voting rights for certain classes of P/A employees should have a sunset clause.

3. FCC agenda for June 10 lunch meeting with the Regents.

Doug Pratt proposed, and the FCC agreed, to invite the outgoing and incoming chairpersons of the Tenure Committee, Stephen Gasiorowicz and Robert Morris, to attend the June 10 meeting.

President Magrath has told Doug Pratt he does not object to the FCC discussing financial exigency preparedness with the Regents, but that individual regents have indicated they do not wish to consider a financial emergency document apart from the tenure code as a whole.

The FCC expects that it simply will not be possible to address the entire tenure code at one time, particularly recalling the large number of meetings of the Faculty Senate before the 1973 code proposal was approved. It seems unlikely that a revision of the 1973 document can be ready for the Senate before next spring.

In responding to the draft document of the FCC's subcommittee, several faculty members have asserted that there is nothing wrong with the 1973 document. However, it is known that the regents and the administration will not approve that in its present form.

President Magrath, Vice President Keller, General Counsel Dunham and Carol Pazandak joined the meeting at 11:00.

A Financial Emergency Document and the Tenure Code.

President Magrath reiterated that the regents are likely to want to place the financial exigency question in the context of the entire tenure code. He called the 1973 document unduly cumbersome and technical for the 1980's.

Vice President Keller asked why the tenure code proposal of 1973 has not been brought forward by now. Marcia Eaton explained that first, it seemed not worthwhile for the Tenure Committee to tackle the document until the collective bargaining election was completed, and second, the Tenure Committee lacked experience with the document and discovered the revision task was much larger than they had anticipated.

V. P. Keller stated that what happens under financial emergency is well-defined in the existing (1945) tenure code, but not in the 1973 proposal. He said any new code should include a section on probationary faculty and procedures for reductions in circumstances short of a financial emergency. Marcia Eaton indicated agreement.

Pat Swan pointed out that while procedural aspects of dealing with financial emergency would have to be compatible with a new tenure code, faculty want protection in the interim. Approved procedural aspects can be incorporated into the new tenure code.

Mr. Dunham proposed having an interim financial emergency document which gets thorough consideration and is ready for adoption but will only be adopted should the need arise. Don Spring cautioned that people tend not to think about a matter until it is on the agenda for action. Moreover, if the regents' attitude toward such a document were unknown, two weeks might be insufficient for adoption.

John Howe agreed there is a need to attend to the question of compromising tenure in conditions short of financial emergency, but said that could be postponed until consideration of the tenure code as a whole. He argued for the need for a section in any interim document on the rights of probationary faculty in a financial emergency.

Vice President Keller emphasized that a key question is how well people can manage the University without declaring financial emergency. If only a condition of financial emergency will permit certain kinds of termination, the University might be inclined to declare an emergency instead of seeking to avoid it. A case for an actual tenure decision based upon program change will soon be examined here. Following the recent program prioritizing, there was a decision not to offer tenure to a faculty member in a unit which is identified for elimination. That decision will be challenged.

Marcia Eaton asked if central administration would specify its objections to parts of the draft financial emergency document. The President called the section on termination too cumbersome and having too many provisions for appeals. Vice President Keller also cited the appeals provisions, and questioned the possibly 18-month process needed to dismiss a non-tenured faculty member.

Marv Mattson recommended distinguishing between an interim document and a complete tenure code by identifying the first primarily with the economic aspects of tenure and the second with the academic aspects.

John Howe said that the subcommittee had wanted a measure which would cope with financial emergency while preserving faculty rights, and had found the 1973 proposed code too cumbersome. He asked if central administration would agree to discussions about financial emergency and the establishment of interim procedures.

Pat Swan pointed out that if a provision for terminating faculty for purposes of reorganization is introduced into the revised tenure code, that will prolong those discussions. Don Spring cautioned that if the Senate receives a tenure document which includes a section on financial emergency, discussion will not get off that subject despite the importance of other aspects, such as affirmative action. The ideal of being able to address the document as a whole, neatly, will never be achieved, he said.

The President asked whether it is conceivable to retain the existing (1945) tenure code and to add codicils relating to financial emergency and the possibility of programmatic terminations short of financial emergency.

Rick Purple defined two philosophical approaches to protection which the 1945 and 1973 documents exemplify: some people trust to good will and intellectual integrity in the University community and prefer general policy statements, with the merits of each case then to be considered individually; others like certainty in everything and want a very specific document (though every eventuality cannot be predicted and allowed for). Purple looks for a positive policy of personnel management for tenured faculty, comparable to the Koffler memorandum.

John Howe observed that our objectives are not entirely consistent: to save money, to protect faculty rights, and to avoid litigation.

Rick Purple described the appeal provided for in the draft financial emergency document as not substantive, but rather procedural, and achievable in 90 days. The President observed that it is hard to avoid substance when examining procedures: people do use procedural arguments to support substantive points. Don Spring said the subcommittee hoped to minimize that tendency by providing qualified individuals, not panels, to hear appeals.

John Howe asked the President how the FCC could most usefully discuss the issues with the regents on June 10. The President favors sending the draft document to the regents in advance, together with descriptions of faculty points of view, and asks the FCC to attend to the regents remarks. If the Senate endorses a document in the fall and sends it to central administration, central administration may or may not forward it to the regents.

President Magrath repeated his suggestion of augmenting the 1945 code rather than reworking the 1973 proposal. The details of the 1973 document, which many readers consider unsuited to the 1980's, show the improbability of being able to predict future conditions.

Doug Pratt suggested that discussion among all concerned might be able to proceed if everyone recognized that what is being developed is an interim document which would either lapse, or be incorporated into a tenure code. He asked Attorney Dunham about the ultimate legal costs under different kinds of policies. Mr. Dunham said preventive law is important for the University and it would be better to have procedures for dealing with financial emergency than not to have them. He offered to work with the committee this summer to improve the set of interim procedures.

President Magrath said if alternatives and answers to some of the questions can be framed during the summer, the Senate could act on a document on November 18 or at a special earlier meeting.

There was general agreement that the FCC subcommittee would continue to work, joined by Steve Dunham, Bob Morris, and perhaps other members of the Tenure Committee.

The President asked Vice President Keller to spell out his views on the draft document for the subcommittee.

The meeting adjourned at 12:30 p.m.

Meredith Poppele,
SCC secretary



UNIVERSITY OF MINNESOTA

Continuing Education and Extension

MAY 5 1982

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77 Pleasant Street S.E.
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May 5, 1982

David L. Giese, Chairman
Committee on Business and Rules
106 Nicholson Hall

Dear Dave:

I was relieved to hear you say, at the SCC meeting on April 29, that an amendment to bring academic professional (AP) staff members into Senate representation would not be brought to the Senate this year. Much as I want representation, the fluid state of the AP constituency is too confusing to allow a convincing presentation to the Senate of any amendment.

The amendment you brought to the SCC puzzled me on several counts:

1. Why would you not include AP members whose appointments parallel faculty members on probationary (N) track holding full-time appointments? If you intended to do so, you would have to be explicit, by stating: "Academic staff professional personnel holding continuous and probationary full-time appointment shall be eligible to vote..."

2. The number of senators has, since 1954, been determined by the number of eligible faculty members voting. CEE at one time had three senators. We are now down to one, only because we have been prevented from appointing people to faculty rank since 1974; these are people who would have had faculty appointments if such had been allowed. CEE's number of senators would have remained at a constant and appropriate level. It would hardly be fair to continue the injustice of under-representation by placing a lid on the number at this point. Nor would it fit the normal election procedures of the Senate.

If your proposal is followed, the time will come when there will be no faculty members in CEE and, thus, no senators, unless AP members count as much as faculty members, starting right now.

3. Would it not be easier to amend the Constitution by simply adding the term "academic professional staff" wherever "faculty" appears in the text in the context of membership and committee service?

David L. Giese
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For example:

Art. III, Sect. 1, "(c) The elected faculty, academic professional staff, and student representatives The Faculty Senate shall comprise the elected faculty and academic professional staff representatives; ..."


Art. III, Sect 4, "a. ...regular members of each faculty who are professors, ...instructors, or academic professional staff members on full-time appointments ... jointly elect from their rank (professors, ...academic professional staff members) one University Senate member ..."

And near the end of that paragraph: "...shall be eligible to vote, providing they hold regular appointment as defined in the Regulations Concerning Faculty Tenure or hold full-time probationary or continuous appointment as academic professional staff members."

Several sections would have to have the terminology inserted, but that is a technical detail.

4. If your intent was not to accord AP members the equal treatment promised by Vice President Keller in the discussion before the Regents of the academic staff category, then I am concerned. If this is the case, I ask that I be allowed to appear before the Committee on Business and Rules to state the case for CEE, not only for the AP personnel in our ranks but for CEE itself and the profound effect disenfranchisement could mean to CEE and to the University.

Sincerely yours,



Eleanor S. Fenton
Associate Dean for
Continuing Education

ESF/sm

cc: Harold A. Miller, Dean
✓Douglas C. Pratt, Chairman, Senate Consultative Committee

bcc: Exec. Committee
Vera Schletzer
Joe Kroll
Judy Gaston

) with copies of Giese amendment

- Proposed Amendment

Academic staff professional personnel holding continuous appointment shall be eligible to vote in the units where they hold their appointments and shall be eligible for election as representatives from ~~the~~ units. Such academic staff professional personnel shall not change the number of faculty representatives that the units may elect to the Senate. Academic staff professional personnel eligible to vote in their units shall also be eligible for appointment to committees of the Senate as "faculty" members.

those

- Results of poll of units concerning professional personnel fitting the criterion of continuous appointment

<u>Unit</u>	<u>Academic Staff Professional Personnel</u>	<u>Eligible Voters</u>	<u>Faculty Senators</u>
Continuing Education & Extension	39*	24	1
Agricultural Extension	11	51	3
Libraries	14	86	4
General College	2	57	3
Law	1	36	2
Biological Sciences	2	91	5
Public Affairs	<u>1</u>	<u>16</u>	<u>1</u>
Total	70	361	19

*Classification has not yet been approved, per Harold Miller, Dean, CEE; may have others who will be shifted to this category.

Total number of University faculty senators, including Consultative Committee = 145.



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May 13, 1982

President C. Peter Magrath
202 Morrill Hall

Dear Peter:

On Thursday, May 20, the Faculty Consultative Committee will meet with you for our last scheduled conversation of this academic year, at 11:00 in 300 Morrill Hall. We hope most of that meeting time can be devoted to our draft document on procedures for the declaration and implementation of financial emergency.

We appreciate your prompt response to our request for comment upon the draft. The SCC has also received preliminary opinions from several committee chairpersons and other individuals, and our subcommittee on financial exigency had a very useful discussion with Attorneys Dunham and Sindelir on May 5.

As you may be aware, the Faculty Consultative Committee has decided to present the draft to the Senate on May 20 as a working document, and not to request action. There will be, we believe, a number of presentations to the Senate from interested groups. We will value the opportunity earlier on that date to discuss difficulties you may have identified in the implementation sections of the draft.

Sincerely,

Douglas C. Pratt, Chair,
Faculty Consultative Committee

DCP:mbp

APR 29 1982



UNIVERSITY OF MINNESOTA

Office of the President
202 Morrill Hall
100 Church Street S.E.
Minneapolis, Minnesota 55455

April 29, 1982

Professor Douglas Pratt, Chairman
Senate Consultative Committee
220 Biological Sciences Center
St. Paul Campus

Dear Doug:

Thank you for your April 26 letter on the Tenure Code question and the fiscal exigency matter. Because there is time pressure, let me come directly to the point.

First, the work you and FCC are doing on the financial exigency question is very constructive and helpful. I have shared your Committee's "Interim Procedures for Financial Emergency" draft with the University Vice Presidents and with one or two other appropriate persons, and the Vice Presidents and I discussed the draft briefly at a gathering Wednesday morning.

I have no problem whatsoever with the draft's discussion of how to declare a financial emergency, and I am referring here specifically to the material that appears in the section of the draft from Roman Numeral I through Roman Numeral III. There is also no objection to Roman Numeral IV from Subsection A on page three up to point four on page four, addressing the question of termination of tenured faculty.

It does appear to me that the following sections dealing with the processes and appeals to be used in terminations under fiscal exigency are probably too cumbersome and complicated. At the very least, I feel that it needs some extended discussion, which I hope that Ken Keller, Lyle French, and I could do with you and FCC at our next scheduled meeting.

I would like to suggest this course of action for your consideration: That the faculty and University Senate be asked to endorse the steps outlined as to how a financial emergency would be declared precisely as outlined in your draft document up to point four (terminations) on page four. If the Senate does this, I would support this wholeheartedly and we could report it for review and whatever action the Regents wished at their June meeting. It should be noted that just by taking this step alone, the Administration would be obliged, as we would in any event, to consult closely with the University Senate before declaring financial emergency -- the precedent step that would have to be taken before one got into the question of actual terminations and the appeals process to be followed. But we would have something clearly in place that would be usable.

Professor Douglas Pratt
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I would then propose that we review carefully with FCC and the appropriate Senate committees, and eventually the Senate itself, the actual termination procedures and appeals processes to be followed during the summer months, with the idea that that part of the question would be resolved in the early fall. Obviously, we ought not to forget the issue of a possible financial emergency, but there are no indications that we will be facing this situation during the next few months, and, we all hope, perhaps never.

In short, I would propose that you consider having the Senate approve a motion on the subject as to how a financial emergency would be declared with some discussion of the basic policy to be followed if tenured faculty are to be terminated. It could be indicated to the Senate that review and discussion is taking place with regard to the precise processes and appeals that would come into place were a financial emergency declared and terminations necessary -- and that these procedural issues, which are important and complicated, will be presented for Senate consideration in the fall. Once there has been University Senate action, I will be happy to see that the Senate's position and recommendations are placed before the Regents for their consideration. If you have any questions, please do not hesitate to call me or Ken Keller.

Cordially,



C. Peter Magrath
President

CPM:kb

cc: Faculty Consultative Committee
University Vice Presidents
Dr. Carol H. Pazandak, Assistant to the President