



UNIVERSITY OF MINNESOTA

University Senate Consultative Committee  
N307 Elliott Hall  
75 East River Road  
Minneapolis, Minnesota 55455  
Telephone: (612)626-1850

FACULTY CONSULTATIVE COMMITTEE

January 15, 1987  
10:30 - 12:00  
300 Morrill Hall

AGENDA

Est. time

FOR INFORMATION

- 10:30 1. Report of the Chair.

FOR DISCUSSION/ACTION

- 10:35 2. Minutes of December 4 meeting. Attachment: correction to page 2.
3. Consent Decree: Vice President Stephen Dunham's proposed changes, submitted to the Committee on Equal Employment Opportunity for Women, and the EEOWC response. Attachment: Decmeber 4 correspondence from EEOWC Chairwoman Clarice Olien to Vice President Dunham and November 11 EEOWC minutes. Professor Olien will join us for this item.
- 11:00 4. Special mortgage arrangements for faculty: proposal for an extension of the eligibility pool: for FCC discussion and steering. Attachment: draft letter from Vice President David Lilly.
- 11:15 5. Nominations for
- (1) Special Nominating Committee for the Assembly Committee on Committees;
  - (2) Subcommittee to evaluate the Academic Professional classification as per the Krislov resolution;
  - (3) Phillips Subcommittee on P&A representation in the Senate system;
  - (4) Faculty members for the Student Services Fees Committee.
- 11:40 6. Proposal to transfer some of FCC's appointment and nominating responsibilities to the Committee on Committees. Attachment: list of those responsibilities currently.





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MINUTES

Approved 2/5/87

FACULTY CONSULTATIVE COMMITTEE

January 15, 1987  
300 Morrill Hall  
10:35 - 12:40

Members present: Ellen Berscheid (Chair), Mark Brenner, Charles Campbell, Shirley Clark, Richard Goldstein, Joseph Latterell, Cleon Melsa, Paul Murphy, Ronald Phillips, W. Phillips Shively.

Guests: Stephen Dunham (Vice President and General Counsel), Geoffrey Maruyama (Chair, Faculty Affairs Committee), Mike Peltier (Minnesota Daily), Roger Paschke (Director, Investments), Maureen Smith (University Relations).

1. Proposed clarifications to the Consent Decree.

Professor Berscheid explained to FCC that in fact the proposed changes would not be enacted in the near future, and that she had excused Professor Clarice Olien (Chair of the Senate Committee on Equal Employment Opportunity for Women -- EEOWC) from attending because there appeared no need for substantive discussion. FCC members had received in advance the EEOWC's response to Vice President Dunham on each of the changes he had proposed and the minutes of the EEOWC meeting describing committee discussion of each issue.

Vice President Dunham explained to the FCC that his office had compiled its proposals for consent decree clarifications and amendments. However, the plaintiff's lawyer must agree to any change and the lawyer thinks these changes should not be made. Mr. Dunham also asked the EEOWC to explore the issues; its response on most points was negative. Therefore, since many points are clarifications of what the administration thinks the decree already allows, and the substantive changes cannot be made anyway without the plaintiffs' lawyer's approval, Mr. Dunham's office will now try only to reach agreement over some of the clarifications.

Professor Campbell indicated he would be troubled by any position which would prevent the University from having as a top priority hiring the best possible faculty. Mr. Dunham answered that in general there is no conflict between the equal employment opportunity system, including the consent decree, and hiring the best possible faculty. The conflicts, he said, are largely on technical aspects of implementation. Professor Berscheid commented that institutions that practice sex discrimination in hiring get poorer faculty than those that operate under strict equal opportunity rules.

Professor Campbell asked the status of one of the proposed clarifications: the freedom to extend a search without delay when the initial candidate pool is not satisfactory. Mr. Dunham said that is an instance where the administration thinks the consent decree in fact permits an extension where there is good reason.

Professor Shively, affirming the need to insure good and fair searches, said some implementation rules pose a problem in that they may impede good searches. Professor Clark countered that the EEOWC has the weight of experience behind its objections. She thought it likely that committee has in mind specific instances in which procedures which would be permitted by the clarifications would have had or did have an adverse impact on fairness.

Professor Clark called for a full discussion of the issues when the clarifications seen as necessary are again determined.

2. Nominations to the Provost's Advisory Task Force on Academic Planning.

FCC at this point voted to close the meeting to discuss this and several other personnel items.

Professor Berscheid reported that Acting Associate Vice President Ed Foster has largely accepted the FCC's list submitted on January 8. Moreover, the provost agrees with FCC that civil service and academic professional staff representation is not appropriate on this task force. There is no decision yet on the exact degree of student participation. Documents provided by the provost's office indicate that the students would not be sitting on the subcommittees, but it appeared that they would have a vote on the full task force. Professor Berscheid has pointed out to the administration that the faculty who do not sit on the subcommittees will not have a vote, and that there should be equal treatment of faculty and students.

FCC discussed very briefly elements of the charge letter.

The provost's internal planning group. FCC appreciates the provost's placing certain Senate committee chairs on his internal planning group.

FCC will recommend that the Planning Committee chair, as well as the Finance chair, be a regular member, and that the SCC-FCC chair be an ex officio member with the associate SCC-FCC chair as her alternate.

3. Tentative February luncheon meeting with Regents.

The FCC does not have an agenda item for this meeting and will inquire whether the Regents have anything they would like to discuss with FCC in February. If they do not, the next meeting will be in June.

4. Membership for Special Committee to evaluate some effects of the Academic Professional class (called for by Krislov resolution to Faculty Senate at time revised Tenure Code was approved.)

FCC agreed upon membership including one member each from Academic Freedom and Responsibility Appeals, Judicial, Tenure, and EEOWC, two from the Academic Staff Advisory Council and one from the Office of Academic Affairs.

The meeting was reopened at this point.

5. Minutes of the December 4 meeting were approved.

6. Report of the Chair.

A. Professor Richard Purple has accepted the FCC's and the President's invitation to become the faculty's legislative liaison. Details are being worked out with the president.

B. Commitment to Focus special committee reports. The reports of the Implementation Committee on Undergraduate Education and the Special Committee on Minority Programs in Support of Commitment to Focus (Taborn Committee) are expected around the end of January. SCC will discuss the Minority Programs interim report with Professor Taborn on February 5; it will be the subject of a Senate forum on February 19; SCC will discuss it again on March 5 and, if needed, on April 2. Final report should be on the Senate agenda for consideration on April 16.

C. Temporary appointments for administrative and faculty positions. EEO officer Pat Mullen is assembling data and will talk with FCC at a later meeting.

7. Faculty mortgage plan: proposal to extend to probationary faculty. Guests: Roger Paschke, Acting Director of Investments, and Geoffrey Maruyama, Chair of the Senate Committee on Faculty Affairs.

Mr. Paschke reported the number of staff currently eligible: 2556 tenured faculty and 46 academic professionals on continuous appointments.

Proposed extension would add the University's 614 tenure-track faculty and the 76 academic professionals on probationary appointments.

FCC members praised the proposal as an excellent recruiting tool and a welcome administrative initiative. In response to a comment about the increased risk represented in the new group, Mr. Paschke said it is so slight his office thinks no rate change is needed.

Other possible extensions of the plan. Professor Brenner hoped there could be consideration of equity loan offerings to faculty for their children's college education. Mr. Paschke said the investments office has looked at that question and knows the new tax code makes it especially significant. However, the \$20 million in the current special fund is not enough to permit offering other options. Professor Berscheid remarked that SCFA would have to study any extension of that kind.

FCC will ask two other committees to consider the proposal at their next meetings: Finance Committee on January 15, and Faculty Affairs Committee on January 23. There was unanimous agreement that if the other two committees also have no objection, Vice President Lilly should be free to announce the extension immediately.

The meeting was again closed for further personnel issues.

7. Senate search committee guidelines and whether they unfairly constrain central administration in selecting new central officers will be on the next agenda with the president.

8. Nominations.

A. Special Nominating Committee to identify a double slate for the Twin Cities Committee on Committees. The FCC proposed five members and five alternates from several colleges to be the nominators. The Campus Assembly must approve the nominating committee on February 19.

B. Student Services Fees Committee. Professor Clark, FCC's nominations subcommittee chair, submitted several names, which FCC approved to be approached to serve on the Fees Committee.

C. Proposal to transfer some of FCC/SCC's nominating responsibilities to the Committee on Committees. Professor Berscheid requested the nominations subcommittee to bring FCC a proposal on which nominating assignments to shift.

D. The Phillips Subcommittee on academic staff representation in the Senate and Assembly system. FCC agreed that the subcommittee membership should include people from Faculty Affairs, EEOWC, Committee on Committees, Academic Staff Advisory Committee, Business and Rules, the student body, and the research associates. FCC agreed upon a list of individuals to ask. Professor Phillips requests that another faculty member co-chair the committee with him.

FCC cited representation for part-time faculty as a related issue.

9. Other business: Proposal for a new policy on sabbatical leaves.

The Finance Committee minutes of December 4 report SFC's conversation on sabbaticals with Vice President Benjamin. Professor Berscheid and Professor Shively agreed that when Academic Affairs has synthesized a plan the Faculty Development and the FCC, as well as Finance and SCFA, should address it.

The meeting adjourned at 12:40 p.m.

Meredith Poppele  
Executive Assistant



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75 East River Road  
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Telephone: (612)626-1850

December 11, 1986

Clarice Olien  
Chair, Senate Committee on Equal Employment Opportunity for Women  
Department of Rural Sociology  
56 Classroom Office Building  
St. Paul Campus

Dear Clarice:

Thank you for sending me so promptly the text of EEOWC's response to Steve Dunham's proposals for modifying the consent decree; I have read them with interest. We've tentatively scheduled FCC discussion of this question for our next regularly scheduled meeting, January 15, sometime between 10:15 and 12:00, in 300 Morrill Hall. We'll assign a more exact time later on. If you would like to attend, please let us know. Also, please inform us if there are any other developments we should be aware of before our discussion. I'm extending the same invitation to Steve.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ellen Berscheid'.

Ellen Berscheid  
Chair, Faculty Consultative  
Committee

EB:mp

c: Shirley Clark



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December 11, 1986


Stephen Dunham  
Vice President and General Counsel  
321a Morrill Hall

Subject: Consent decree change  
proposals and the EEOWC response

Dear Steve:

FCC has tentatively scheduled discussion of this question for its meeting of January 15 in 300 Morrill Hall. It will be on the agenda sometime between 10:15 and 12:00; we'll assign a more exact time later on. If you would like to attend, please let us know. Also, please inform us if there are any other developments we should be aware of before our discussion. I'm extending the same invitation to Clarice Olien.

Sincerely,

  
Ellen Berscheid  
Chair, Faculty Consultative  
Committee

EB:mp

c: Shirley Clark





UNIVERSITY OF MINNESOTA  
TWIN CITIES

Department of Rural Sociology  
Classroom-Office Building  
1994 Buford Avenue  
St. Paul, Minnesota 55108

December 4, 1986

Stephen Dunham  
Vice President and General Counsel  
213 Morrill Hall  
Minneapolis Campus

Dear Steve:

The Equal Employment Opportunity for Women Committee thanks you for attending our meetings to discuss your proposed changes in the Rajender Consent Decree. After further deliberation, the committee made specific recommendations on each of the proposed changes. There was unanimous agreement among the voting members of EEOWC on each of the recommendations stated below.

ADDITIONS TO EXHIBIT B, SEARCH PROCEDURES

12. Proposed Change: For purposes of this Exhibit B, an applicant is defined as any individual who is nominated or who submits an application before the deadline for applications and nominations, if any. If no deadline is established, an applicant is defined as any individual who submits an application or is nominated before the position is filled.

EEOWC Recommendation: EEOWC does not accept the principle of the proposed change and recommends that this paragraph not be added to Exhibit B.

EEOWC Rationale: The sentiment of the committee is that the definition of an applicant should be restricted to those who actually apply for a position or, at the very least, if nominated, have indicated a willingness to be considered for the position. A principle of affirmative action is that it apply to all positions at the University. By making exceptions women and minorities could be kept out of certain positions. This could set a precedent for continuing what we have been trying to correct. For example, it would be easy to control a search by nominating people whose credentials look good, but who would not really be in the pool, thereby creating a false search with the possibility of only one real candidate. Affirmative action should require that a deadline be established for all positions to avoid the possibility of candidate pool changes at the last moment. Since the definition of an applicant is an integral part of

the presidential appointment lawsuit, litigation of which is still pending, it would be inappropriate at this time to in any way alter the wording of this aspect of the Consent Decree. Once the litigation is completed, we believe a specific definition might be considered.

13. Proposed Change: If a deadline for applications has been established, the deadline may be extended, before or after it has passed, with such new advertising and for such periods of time as the Equal Opportunity Officer may determine.

EEOWC Recommendation: EEOWC does not accept the proposed change.

EEOWC Rationale: As the proposed change is stated, deadlines could be extended for any reason. This allows too much latitude and the intent of the Consent Decree could be easily thwarted. The Decree already requires extension of the recruiting period when there are too few women applicants.

- 14a-c. Proposed Change: In addition to the exceptions allowed by paragraph 7, the University Equal Opportunity Office may waive the search requirements in whole or in part in the following circumstances:

- a. Proposed Change: To offer a position to one person (such as a spouse or partner) as part of an effort either to retain another current employee or to recruit a person to whom an offer has been made in accordance with these search procedures;

EEOWC Recommendation: EEOWC recommends that this provision not be added at this time, but that it be reconsidered at some future time, after a thorough study of different views, possible impacts, and other options such as establishing an employment counseling service for spouses or partners.

EEOWC Rationale: We do not have enough information on impacts and other options to make an informed judgement. Because of the many issues involved, we think it premature to include this proposed change. Whether this

addition would bring more women into faculty or staff positions, as argued in support of the change, is open to question. We also question the fairness of denying potential applicants access to positions because the positions are given to spouses or partners in an effort to recruit or retain certain other individuals. The potential for general candidate pool alterations is considerable. We sense a split in the faculty regarding this issue and more information is needed on the different perspectives. Various problems surrounding previous appointments of this sort were noted.

- b. Proposed Change: To offer a temporary position to an individual whose salary will be paid from his or her own funding, such as individuals who receive training and research awards from federal agencies which pay for their salaries;

EEOWC Recommendation: EEOWC recommends this provision not be added at this time, but be reconsidered at some future time.

EEOWC Rationale: We support the intent of this change. However, the current wording is too broad and we would like to see more precise definitions specifying the nature and duration of such appointments.

- c. Proposed Change: In extraordinary circumstances to offer a position to an individual when the University's Equal Opportunity Officer has concluded that the purposes of equal opportunity and affirmative action would not be served by formal adherence to search requirements and an exemption would not create an adverse precedent.

EEOWC Recommendation: EEOWC recommends that this paragraph not be added to Exhibit B.

EEOWC Rationale: The committee is concerned about the danger of "catch-all" provisions, that equal opportunity and affirmative action could be subverted rather than enhanced.

15. Proposed Changes (EEOWC's suggested changes are included, with dashes for deletion and underlining for additions.): Notwithstanding any other provision of this Decree to the contrary, an academic unit, after conducting a nationwide search for a full-time regular position, may convert the position to a temporary appointment if the candidate selected is a foreign ~~faculty-member~~ national who does not

Stephen Dunham  
December 4, 1986  
Page 4

have a permanent resident visa. If the faculty-member foreign national later obtains a permanent resident visa, the academic unit may change the faculty-member's individual's temporary appointment to a full-time regular position without conducting an additional search.

EEOWC Recommendation: EEOWC recommends that the proposal be added to Exhibit B with the suggested changes.

EEOWC Rationale: The committee was convinced that the proposed change should be made to avoid what currently could be considered discrimination against foreign nationals applying for university positions.

#### OTHER CHANGES

2. Proposed Change: The reference to the New York Times in paragraph 4 of Exhibit B is deleted.


EEOWC Recommendation: EEOWC endorses the proposed change.

EEOWC Rationale: Since it appears the costly ads have produced few applicants and periodicals and other publications with national circulations are included in paragraph 4 of Exhibit B, in addition to the provisions for written notice, we support the proposed change.

3. Proposed change in ordering transcripts: As agreed, discussion will be delayed until you and Eric Olson have met with the Special Masters.

We hope you will give serious consideration to modifying your proposal on the basis of our recommendations. We also ask that any modifications be reviewed with EEOWC and that EEOWC have an opportunity to comment before any final decisions are made within the internal review process.

Sincerely,

  
Clarice Olien  
Chair, EEOWC

CO/mai

University  
of  
Minnesota  
memo

Clc FCC 11/70

Date November 13, 1986 NOV 17 1986  
To Ellen Berschied, Chair FCC  
From Clarice Olien, Chair EEOWC *Chris Olien*  
Subject EEOWC recommendations on proposed changes in Rajender  
Consent Decree.

Thank you for asking the Faculty Consultative Committee to hold their comments on the proposed changes in the Rajender Consent Decree until after you receive EEOWC's comments and recommendations. We were unable to complete our work on the proposed changes on November 11, but have rescheduled our next meeting to an earlier date and expect to have a copy of our recommendations to you no later than December 8.

Enclosures: EEOWC Minutes - October 21 and October 28



APPROVED NOVEMBER 11, 1986

MINUTES

University Senate Committee on Equal Employment  
Opportunity for Women

Tuesday, October 21, 1986  
402 Campus Club  
2:30 to 4:00 p.m.

Present: Miriam Cohn, Patricia Faunce, Eleanor Hoffman, Patricia Mullen, Clarice Olien (Chair), Betty Robinett, Muriel Ryden, and Marva Iglesias assisting the Chair.

Guest: Sue Stingley (Special Master)

After introductions were made, the chair reviewed the duties and responsibilities of the committee. Betty Robinett commented that it was not clear whether the review of policies related to the Academic Professional and Administrative classification are included in EEOWC's charge. There was general agreement that consideration of such policies is appropriate.

Future meetings: The second week of the month appeared to be best for future meetings, at least for fall and winter quarters. The next meeting was set for Tuesday, October 28, 1986, at 2:15 in the Campus Club. Meetings were also scheduled for November 11, December 9, January 13, February 10 and March 10 from 2:15 to 4:00 p.m.

Minutes. The May 15, 1986, Minutes were approved as distributed.

Review of Governance System - Information The chair asked members of the committee to keep track of the time they spend on EEOWC activities. An external review team will be appointed by the Faculty Consultative Committee. The reviewers' charge will include identifying two concerns: a) the quantity of faculty time our system takes and b) whether the faculty have a clear voice in University governance. Questions regarding the reasons for the review were raised. Betty Robinett indicated there had been complaints from faculty on the amount of time spent on committee activities.

Goals and Implementation Methods. The committee agreed to establish subcommittees to facilitate meeting the goals of EOWC, including preparing reports and drafting letters for EOWC and reporting to other committees where appropriate.

Items carried over from last year:

1. Policy on Flexible Academic Employment. As a result of the Senate Faculty Affairs Committee's request for clarification of parts of EOWC's Recommended Policy on Flexible Full or Part Time Academic Employment, Pat Mullen and Miriam Cohn provided a revision to EOWC last spring. It was agreed at that time that the policy should go back to SCFA. Eleanor Hoffman indicated the policy addressed only part of the problems of part-time faculty and wants EOWC to also address some of the other part-time employment issues. It was noted that P/A part-time issues were not included in EOWC's recommended policy.

Regarding prorated benefits, Betty Robinett thought the administration probably would not support granting benefits such as social security to all part-time faculty in the 50% - 99% category because of the cost and because the whole benefits package for all faculty would be open to change. The chair distributed copies of the SCFA 1979 annual report (Senate Minutes, March 29, 1979) which indicated the Board of Regents had turned down the recommendation from the senate for extension of social security coverage for persons employed 50% - 99% time. According to the report "... the Board of Regents was not persuaded that there was sufficiently strong sentiment on the part of affected faculty in favor of social security coverage." SCFA had planned to investigate the matter further. The question of what had been done since then on this issue was raised.

Miriam Cohn suggested that a subcommittee be formed which would include some individuals who were involved in drafting the original proposal and the revision (Pat Mullen, Charlotte Striebel, Sara Evans, and from Morris, Kathy Benson or Barbara McGinnis). Pat Mullen agreed to make the contacts.

2. Rajender P&A Petition. Issues surrounding the petition will be discussed at the November 11 meeting. EOWC will forward the correspondence between Acting Vice President Murthy and EOWC to Vice President Benjamin and ask for a response to the questions the committee raised in the May 19 letter to Murthy.

3. Other Rajender Petitions. As part of the settlement of the Internal Tribunal Petition, the Academic Staff Assistance Officer position was created. Charlotte Striebel, who was named to that position, will be invited to the December meeting to discuss her responsibilities in that role.

Sue Stingley offered to come to the November meeting to discuss all petitions. She will also report on the status of the database for salary comparisons.

4. Hire Activity, Retention and Promotion. Pat Mullen will discuss hire activity and Progress to Goals during the February meeting of EOWC.

Eleanor Hoffman reported on the status of the project she is working on at UMD to obtain information on why faculty women have left the University. She said the project was going forward and even though summer was not a good time to contact people, they had a very good response from the people who were contacted on the survey. People were willing to participate.

Pat Mullen reported on a similar study being initiated on the Twin Cities campus. Pat and Betty Robinett have gathered data on the number of women faculty members who have left in the past five to seven years. Plans are proceeding to conduct a survey using an interview instrument similar to the one used in the Duluth study. Contracting with Minnesota Center for Survey Research for the interviewing is a possibility.

5. Child Care Task Force Recommendations. The role of EOWC in reviewing the recommendations and responses will be discussed at a future meeting.
6. Election. The nomination process for 1987 vacancies in the elected positions on EOWC will begin no later than February, 1987. Pat Mullen and Sue Stingley will assist the chair in the process.

Changes in the Rajender Consent Decree. The chair distributed copies of a letter and a draft of proposed changes in the Rajender Consent Decree from Vice President and General Counsel Stephen Dunham. According to the letter, Stephen Dunham had agreed to draft some proposed changes as a result of discussions with the class counsel (Sprenger, Olson & Shutes) about problems in administering the Decree. A special EOWC meeting was set (October 28) to discuss the proposed changes. To assist the committee in making informed decisions on whether or not to support specific parts of the proposal, Stephen Dunham and Eric



Olson (Sprenger, Olson & Shutes) will be invited to discuss reasons for the changes, to point out any problem areas, and to interact with the committee.

Respectfully submitted,

Clarice Olien, Chair, EEOWC

APPROVED NOVEMBER 11, 1986

MINUTES

University Senate Committee on Equal Employment  
Opportunity for Women

Tuesday, October 28, 1986  
405 Campus Club  
2:15 to 3:45 p.m.

Present : Miriam Cohn, Patricia Faunce, Patricia Mullen, Clarice Olien (Chair), Betty Robinett, Muriel Ryden, Janet Spector, Gloria Williams, and Betty Brenner assisting the Chair

Guests: Stephen Dunham, Vice President and General Counsel for the University and Eric Olson of Sprenger, Olson & Shutes, Class Counsel

A special meeting of EEOWC was held on October 28 to discuss proposed changes in the Rajender Consent Decree. The chair reviewed portions of a letter from Vice President and General Counsel Stephen Dunham, which states that Mr. Dunham had agreed to draft some proposed changes as a result of discussions with the class counsel (Sprenger, Olson & Shutes) about problems in administering the Decree. Stephen Dunham and Eric Olson of Sprenger, Olson & Shutes, attended the meeting to discuss with the committee the reasons for the changes and any problems the changes would cause.

The internal review process for the proposed changes was reviewed by Steve Dunham. He emphasized that the changes have not been approved by any committee or anyone in administration at this time. After EEOWC has had a chance to review the changes, his proposed changes and EEOWC comments and recommendations will go to the Faculty Consultative Committee and/or The Senate Committee on Faculty Affairs. FCC will then make recommendations to the administration. After approval by the administration, an agreement must be reached with Eric Olson, on behalf of the Class, followed by court review and approval. In response to a question raised by Gloria Williams, Steve Dunham said the committee would be informed of other committees' comments and/or recommendations. He hoped the process would be completed during winter quarter. Copies of a letter to Steve Dunham from Eric Olson regarding the proposed changes were distributed to committee members. Committee discussion with Steve Dunham and Eric Olson followed presentation of the rationale for each proposed change by Steve Dunham. The Minutes are organized to reflect both the rationale and discussion for each item in the order of the written proposal.

1.12

Proposed addition to Exhibit B, Search Procedures, of the Consent Decree: For purposes of this Exhibit B, an applicant is defined as any individual who is nominated or who submits an application before the deadline for applications and nominations, if any. If no deadline is established, an applicant is defined as any individual who submits an application or is nominated before the position is filled.

Rationale (Steve Dunham): The change is designed to deal with the issue of what to do in the few searches, such as chairs and certain other positions, in which it is typical and useful to rely on the nomination process. The lawsuit over the presidential appointment which is still pending was mentioned. Two issues which are buried in the rationale for the change are: 1. Counting the pool (who is counted as under consideration) and 2. Can we hire somebody who has to be convinced to take the job or does the person have to file a formal application. This is considered a clarification of the Decree, not a change.

Discussion: Eric Olson said it seemed reasonable to him that people should know of a position and indicate their consent to be considered applicants. He does not think applicants and nominees are equivalent, but that including nominees in the pool is artificially inflating the pool. If it's correct that this is an exceptional matter relating to a few types of searches, then he thinks an effort should be made to define it as an exceptional type of search rather than handling it as a generic matter affecting all units and all faculty searches. Miriam Cohn was concerned about rewriting the language when the presidential appointment lawsuit is still in litigation. Another concern she expressed was that we're asking very precise searches of the majority of the faculty and staff, but are asked to make exceptions for special kinds of searches. This could snowball to the point where, if there is a dean or chair that we especially want, different standards could be applied for them than for others. Pat Faunce pointed out that a principle of affirmative action is that it apply to all positions at the University, including the chairs and the president. By making exceptions, women and minorities could be kept out of high level administrative positions. It could set a precedent for continuing what we have been trying to correct. Pat Mullen thought the reference to chairs meant endowed chairs, not department chairs. Janet Spector indicated it would be easy to control a search by nominating people whose credentials

look good, but who would not really be in the pool, thereby creating a false search with the possibility of only one real candidate.

- 1.13 Proposed addition to Exhibit B: If a deadline for applications has been established, the deadline may be extended, before or after it has passed, with such new advertising and for such periods of time as the Equal Opportunity Officer may determine.

Rational (Steve Dunham): The purpose of this change is to provide some flexibility, so a new round of full, extensive advertising, which is very expensive, would be unnecessary. Reasons for extending the deadline might include: no applicants, too few total applicants, and too few women and minority applicants.

Discussion: It was noted that the Decree allows extension of deadlines under certain circumstances. Pat Mullen noted two of the most common problems: 1. that the advertising didn't go forward as planned and ads appeared in periodicals and other publications just prior to or after the deadline and 2. that the pool was inadequate. However, she cautioned that searches might be reopened so a particular person could apply. Pat Faunce said a change in the Consent Decree should not be needed based on someone acting irresponsibly by not getting the ads in on time or doing a poor job of finding applicants. We need effective affirmative action procedures at the University and these changes together with those suggested in 1.12 above would undercut the Decree. Eric Olson suggested the possibility of identifying specific reasons for extending the search as opposed to a wide open extension. The committee would like more information from Steve Dunham on this item.

- 1.14a-c Proposed additions to Exhibit B:

In addition to the exceptions allowed by paragraph 7, the University Equal Opportunity Office may waive the search requirement in whole or in part in the following circumstances: (Parts a-c are listed below.)

Rationale (Steve Dunham): Provisions 14a-c would allow some flexibility on what would otherwise be a prohibition on hiring set by the Consent Decree.

- 1.14a To offer a position to one person (such as a spouse or partner) as part of an effort either to retain another current employee or to recruit a person to whom an offer has been made in accordance with these search procedures;

Rationale (Steve Dunham): Procedures have been set up for getting exceptions to the consent Decree which have been approved by the class counsel and the court. However, they are expensive and cumbersome and it seems affirmative action and equal opportunity would be enhanced by this addition.

Discussion: Miriam Cohn noted that in the past some members of EEOWC had requested some provision for the hiring of spouses, but that there are arguments on both sides. Pat Mullen indicated the arguments include part-time and pregnancy issues and that there seems to be a split between a family orientation and a straight equal opportunity feminist position. Pat Faunce thought that Steve Dunham's argument that it brings more women to the University is fallacious because most of the faculty members who would want jobs for their spouses would be women. Eric Olson commented that historically the frequency of spouse hiring had been low. However, he noted the retention phrase and wondered how many current faculty members would want their spouses hired.

- 1.14b To offer a temporary position to an individual whose salary will be paid from his or her own funding, such as individuals who receive training and research awards from federal agencies which pay for their salaries;

Rationale (Steve Dunham): This provision is linked to particular positions in which the funding is unique to the individual. Currently the person cannot be hired without a search. A search would be artificial since the only person who can get the job is the person with the funding.

Discussion: Miriam Cohn questioned how a well-established person would react to an offer of a temporary position. Betty Robinett said it applies mainly to people who get federal research awards. An example is the Young Investigator Award, where an individual applies for an award, gets it, and the money goes with the person to some institution. Miriam Cohn cited an example of a person who brought their own funding to the university and is now tenured, indicating the position could be long-term and the salary structure of a unit could also be affected. Eric Olson asked if these persons would be located primarily in a few units. Pat Mullen said it would not be too difficult to identify the fields and places where this occurs. Miriam Cohn said the main issue is giving up the mechanism of the search, which is of major importance for protecting women's employment rights.

- 1.14c In extraordinary circumstances to offer a position to an individual when the University's Equal Opportunity Officer has concluded that the purposes of equal opportunity and affirmative action would not be served by formal adherence to search requirements and an exemption would not create an adverse precedent.

Rationale (Steve Dunham): This provision is included to provide a catch-all which might include such things as joint appointments with other local colleges or universities.

Discussion: The committee members agreed that clarification was needed regarding other situations that might be considered extraordinary.

- 1.15 Proposed addition to Exhibit B: Notwithstanding any other provision of this Decree to the contrary, an academic unit, after conducting a nationwide search for a full-time regular position, may convert the position to a temporary appointment if the candidate selected is a foreign faculty member who does not have a permanent resident visa. If the faculty member later obtains a permanent resident visa, the academic unit may change the faculty member's temporary appointment to a full-time regular position without conducting an additional search.

Rationale: (Steve Dunham): This is a result of a serious problem that is increasing because of the position of the Immigration Service. A foreign national can't apply for a permanent visa holding a tenure-track position, but can apply holding a position classified as temporary.

Discussion: Some changes in wording were discussed. Steve Dunham indicated he would try to redraft those portions to provide stronger protection for the person who is reclassified and to include P & A staff.

2. Proposed change: The reference to the New York Times in paragraph 4 of Exhibit B is deleted.

Rationale: (Steve Dunham): Advertising in the New York Times is very expensive and not cost efficient. There are not enough names generated to justify the expense and there are other and better ways to advertise.

Discussion: Pat Mullen noted the New York Times had recently rescinded some discount rate possibilities. The approximate range in cost for an ad in the Times is between \$320 and \$2,500, depending on the length of the ad and how long it runs. She thinks the ads have not

resulted in many applicants. It was suggested that more data is needed on the number of applications that have been generated and the number who learned of positions through the Times. Some information could be obtained from departments that have kept records.

3. Proposed change: The last paragraph in Section II.D.7 and the next to the last paragraph in III.G. are deleted and shall be replaced by the following language:  
"(insert same first two sentences). Either party may order a transcript at its cost or request the Special Master to make a transcript. Whether or not the Special Master orders a transcript or files it with the Court pursuant to Rule 53, Fed. R. Civ. P., is discretionary with the Special Master."

Rationale (Steve Dunham): This is a technical change designed to allow the Special Masters to decide whether to make a transcript in a particular case.

Discussion: Since this is a technical change relating to court rules, Steve Dunham suggested delaying discussion until he and Eric Olson have discussed it with the Special Masters. He agreed to inform EEOWC of the outcome of the discussion.

Discussion with Steve Dunham about the proposed changes will continue at the November 11 EEOWC meeting.

Respectfully submitted,

Clarice Olien, Chair, EEOWC

OCT 17 1986



UNIVERSITY OF MINNESOTA  
TWIN CITIES

Office of the University Attorney  
330 Morrill Hall  
100 Church Street S.E.  
Minneapolis, Minnesota 55455  
(612) 373-3446

NEW PHONE: 624-4100

October 16, 1986

Professor Clarice Olien  
Chair, EEOWC  
c/o Rural Sociology  
56 Classroom-Office Building  
ST. PAUL CAMPUS

Dear Professor Olien:

Over the past year, the University has had occasional discussions with attorneys for the plaintiff class concerning possible clarification of and changes in the Rajender Consent Decree. This past summer I agreed with class counsel -- Sprenger, Olsen & Shutes -- that I would prepare specific language which could be used as the basis of discussion. I have drafted some proposed language which deals with specific problems we have had in administering the Decree.

Any changes in the Consent Decree must be reviewed by appropriate internal committees and administrators and ultimately be approved by the parties and the Court. I am sending you the enclosed draft with the request that your Committee schedule some time to discuss the proposed changes. I would be happy to attend your meeting. Discussion with your Committee in the next few weeks should be timely.

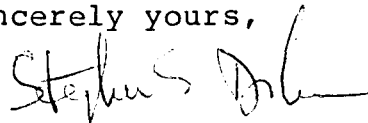
I want to make clear that this draft has not been approved by central administration or the Regents. Such approval can only come after the review by the appropriate committees. Also, discussion with class counsel may well



Professor Clarice Olien  
October 16, 1986  
Page Two

change the specific proposals. I hope, however, that the enclosed draft will serve as a basis for initial review and discussions.

Sincerely yours,



Stephen S. Dunham  
Vice President and  
General Counsel

SSD/mam

Enc.

cc: President Kenneth H. Keller  
Vice Presidents  
Associate Vice President Betty Robinett  
Associate Vice President Cherie Perlmutter  
Director Patricia A. Mullen  
✓ Professor Ellen Berscheid, Chair, Faculty  
Consultative Committee

1) Add the following paragraphs to Exhibit B of the Consent Decree:

12. For purposes of this Exhibit B, an applicant is defined as any individual who is nominated or who submits an application before the deadline for applications and nominations, if any. If no deadline is established, an applicant is defined as any individual who submits an application or is nominated before the position is filled.
13. If a deadline for applications has been established, the deadline may be extended, before or after it has passed, with such new advertising and for such periods of time as the Equal Opportunity Officer may determine.
14. In addition to the exceptions allowed by paragraph 7, the University Equal Opportunity Office may waive the search requirements in whole or in part in the following circumstances: a) to offer a position to one person (such as a spouse or partner) as part of an effort either to retain another current employee or to recruit a person to whom an offer has been made in accordance with these search procedures; b) to offer a temporary position to an individual whose salary will be paid from his or her own funding, such as individuals who receive training and research awards from federal agencies which pay for their salaries; c) in extraordinary circumstan-

ces to offer a position to an individual when the University's Equal Opportunity Officer has concluded that the purposes of equal opportunity and affirmative action would not be served by formal adherence to search requirements and an exemption would not create an adverse precedent.

15. Notwithstanding any other provision of this Decree to the contrary, an academic unit, after conducting a nationwide search for a full-time regular position, may convert the position to a temporary appointment if the candidate selected is a foreign faculty member who does not have a permanent resident visa. If the faculty member later obtains a permanent resident visa, the academic unit may change the faculty member's temporary appointment to a full-time regular position without conducting an additional search.
- 2) The reference to the New York Times in paragraph 4 of Exhibit B is deleted.
- 3) The last paragraph in Section II.D.7 and the next to the last paragraph in III.G. are deleted and shall be replaced by the following language: "[insert same first two sentences]. Either party may order a transcript at its cost or request the Special Master to make a transcript. Whether or not the Special Master orders a transcript or files it with the Court pursuant to Rule 53, Fed. R. Civ. P., is discretionary with the Special Master."

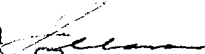


UNIVERSITY OF MINNESOTA

University Senate Consultative Committee  
N307 Elliott Hall  
75 East River Road  
Minneapolis, Minnesota 55455  
Telephone: (612)626-1850

January 20, 1987

To: ✓ H. E. Mason, Chair; Professor, Philosophy  
(Chair, Academic Freedom & Respons. Appeals; member, Tenure Comm.)  
Ron Akehurst; Professor, French & Italian  
(Judicial Committee)  
Marilyn McClaskey; Academic Professional Librarian, St. Paul Libraries  
(Academic Staff Advisory Committee)  
Larry Miller; Professor, Chemistry  
(Tenure Committee)  
Clarice Olien; Professor and Extension Specialist, Rural Sociology  
and Minnesota Extension Service. (Chair, Equal Employment Opportunity  
for Women)  
Betty Robinett, ex officio; Associate Vice President for Academic  
Affairs. (Ex officio member of Academic Staff Advisory Committee)  
Barbara Warren; Academic Professional Extension Educator, Minnesota  
Extension Service. (Academic Staff Advisory Committee)

From: Ellen Berscheid   
Chair, Faculty Consultative Committee

We are asking you to constitute a small special committee of the Faculty Senate to determine whether or not problems have developed with the professional/academic classification that are serious enough to warrant further investigation. Professor Mason has agreed to chair this committee.

The establishment of such a special Senate committee was mandated by the Faculty Senate. Specifically, in June of 1984, at the time it was approving the new tenure code, the Faculty Senate adopted the following resolution, introduced by Professor Sam Krislov:

"We direct... the establishment in 1986 of a special Senate committee to evaluate the professional/academic classification with special attention to the following issues:

- a. Any actual consequences for academic freedom for any segment of the professional/academic classification.

- b. Effects on caliber of those hired under the professional/academic classification (including but not limited to librarians and those in cooperative extension) as well as those in faculty status in regular departments as a consequence of the new classification schemes.
- c. Fairness and appropriateness of standards of evaluation developed for those covered by the professional/academic classification and new tenure code for such individuals.
- d. Appropriateness of coverage under the professional/academic classification of various groups and of faculty groupings as well."

The concern of faculty senators was primarily to determine whether any staff were subjected to pressure to change to the academic professional classification, or had been disadvantaged by the change, or had their academic freedom infringed upon. You might wish to ask Professor Krislov to meet with you to further elaborate the intent of the resolution he introduced.

Relevant data should be available within a few weeks concerning employees' degrees earned and length of service at the University. We will see that you receive that information promptly. The Faculty Consultative Committee believes it would be desirable for you to have information about all academic professional ranks (e.g., you might wish to conduct a survey of the class).

We ask that you report to the FCC in early April. The FCC will report to the May 14 meeting of the Faculty Senate.

Thank you for undertaking this study on behalf of the academic community.

:mp

c: Stephen Dunham  
Vice President and General Counsel  
Gregory Fox  
Chair, Academic Professional and Administrative Staff Advisory Comm.  
Marilee Ward  
Clerk of the Senate  
Sam Krislov  
Professor, Political Science

Attachments:

Rajender P/A Committee Report, November, 1985

April 20, 1984 letter to Faculty Senate from the Senators and Alternates of the University Libraries

JAN 21 1987



UNIVERSITY OF MINNESOTA  
TWIN CITIES

Department of Political Science  
1414 Social Sciences  
267 19th Avenue South  
Minneapolis, Minnesota 55455  
(612) 373-2651

January 20, 1987

To: Ellen Berscheid, Chair, Senate Consultative Committee

From: Phil Shively, for the Senate Finance Committee

*WPS*

This is simply to report that our committee at its meeting of January 15, 1987, approved Vice President Lily's proposal to extend university financing of home mortgages to untenured faculty and probably academic professional staff. In our discussion of the proposal we emphasized its financial aspects; in particular, we did not address the possibility of equity buy-outs.

cc: Roger Paschke  
Geoffrey Maruyama



UNIVERSITY OF MINNESOTA

University Senate Consultative Committee  
N307 Elliott Hall  
75 East River Road  
Minneapolis, Minnesota 55455  
Telephone: (612)626-1850

January 20, 1987

Professor Geoffrey Maruyama  
Chair, Senate Committee on Faculty Affairs  
Department of Educational Psychology  
250 Burton Hall

Subject: Proposed extension of  
faculty mortgage program

Dear Geoff:

This letter confirms the action of the Faculty Consultative Committee at its January 15 meeting which you attended. As you know, FCC at that meeting considered Vice President Lilly's proposed extension of the mortgage plan to tenure-track faculty and probationary academic professional staff.

FCC strongly supports the proposal and has reported its approval to Roger Paschke, Director of Investments, who also attended our meeting.

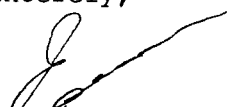
However, the FCC requests that the other two committees most knowledgeable about this matter, Faculty Affairs and Finance, consider the proposal and especially examine it for undesirable implications we may have missed.

Mr. Paschke understands that if these two committees have no objections, Vice President Lilly can proceed to send the attached letter to the University's tenure-track faculty and probationary academic professional staff.

I believe you said that you can submit the question to SCFA at its January 23 meeting. (Finance considered and approved the proposal at its January 15 meeting directly after FCC's meeting.) If SCFA approves this extension, please inform Mr. Paschke at once. If SCFA has reservations, such as preferring to recommend a different kind of extension of the use of the \$20 million fund, please let me know, as well as Mr. Paschke, immediately.

Thanks for placing the question on SCFA's upcoming agenda.

Sincerely,

  
Ellen Berscheid  
Chair, Faculty Consultative Committee

EB:mp

Attachment

c: Shirley Clark



UNIVERSITY OF MINNESOTA

University Senate Consultative Committee  
N307 Elliott Hall  
75 East River Road  
Minneapolis, Minnesota 55455  
Telephone: (612)626-1850

January 20, 1987

Professor W. Phillips Shively  
Chair, Senate Finance Committee

Subject: Proposed extension of  
faculty mortgage program

Dear Phil:

As you know from your participation in the January 15 meeting of the Faculty Consultative Committee, FCC on that occasion considered and strongly approved the proposal from Vice President Lilly and Roger Paschke to extend the mortgage plan to tenure-track faculty and probationary academic professional staff. FCC also requested that the two committees most knowledgeable and concerned about this matter, Finance and Faculty Affairs, consider the proposal and especially examine it for undesirable implications we may have missed.

This letter is simply a written confirmation of the FCC's request that the Senate Finance Committee consider the proposal and make a recommendation to Mr. Paschke as soon as possible. I know that in fact the Finance Committee met later on Thursday afternoon and gave its support to the proposal. Our thanks to you and the other SFC members for attending to this on such short notice.

Sincerely,

Ellen Berscheid  
Chair, Faculty Consultative Committee

EB:mp

c: Shirley Clark  
Associate Chair, FCC

Attachment



1/6/87

SENATE CONSULTATIVE COMMITTEE NOMINATING AND APPOINTING RESPONSIBILITIES

1. For the Senate

A. Business and Rules Committee. The 4 faculty/academic professional, and the 2 student members shall be appointed by the Senate Consultative Committee with the approval of the Senate. (Bylaws.)

B. Senate Finance Committee. At least 2 members at large from the faculty or academic professionals, and at least 2 student members at large are appointed by the Senate Consultative Committee with the approval of the Senate. (Bylaws.)

C. All-University Honors Committee. No more than 6 faculty/academic professionals and 2 students are to be nominated by the Senate Consultative Committee and approved by the president. (Rules.)

D. Planning Committee. At least 6 faculty/academic professionals and 2 students are to be appointed by the Senate Consultative Committee with the approval of the Senate. (Bylaws.)

E. Vice Chair of the Senate. The officer is elected by the Senate each spring from Senate membership, for a one-year term. The vice chair serves as a member of the Senate Consultative Committee. (Rules.) The Faculty Consultative Committee has for a long time taken it upon itself to nominate a faculty colleague, report that choice to the SCC as a whole and seek the students' concurrence, and bring the nomination to the Senate meeting.

2. For the Assembly

A. A special Committee on Committees nominating committee. "A special faculty /academic professional nominating committee, appointed by the Faculty Steering Committee and approved by the faculty/academic professional representatives of the Assembly, shall nominate twice as many faculty/academic professional candidates for the committee as are to be elected each year." Faculty/AP members of Assembly elect from these at a spring quarter Assembly meeting. (Bylaws.)

B. Intercollegiate Athletics. The 8 faculty/academic professional members and the 5 student members are appointed by the Assembly Steering Committee with the approval of the Assembly. (Bylaws.)

C. Vice Chair of the Assembly. See l.E. Almost without exception, the vice chair of the Senate and of the Assembly have been the same person.

3. For bodies outside the Senate and Assembly\*

A. President's Student Behavior Review Panel. TCCA in fall of 1978 approved establishment of this kind of body. Regents in winter of 1979 approved the same appeals procedure. President Magrath wrote the SCC chair in August of 1979 indicating that panel members were to be appointed by the Assembly and asking that the Steering Committee make the actual nominations. In practice, the president makes the actual request for the members to serve. The Steering Committee nominates 4 faculty for rotating 3-year appointments and 4 students for 1-year appointments.

B. Recreational Sports Board of Governors. 2 faculty for 2-year terms, preferably staggered, appointed by the FCC. (RECBOG bylaws.)

C. Student Legal Services Board of Directors. 2 Twin Cities faculty members serve on a board of 19. Regents created the Board at the request of the Twin Cities Student Assembly. Board sets policy for the Legal Services, which reports primarily to the Office of Student Affairs.

D. Student Services Fees Committee. 3 faculty members are appointed by FCC. Traditionally, but unrealistically, the faculty terms have been for three years. Existence of the Fees Committee and of its including both faculty and student members is mandated by the Regents. Fees Committee reports to MSA which in turn reports to the Office of Student Affairs.

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\* Discussions about the SCC's having these appointing responsibilities, and about the need for accountability on the part of bodies to which SCC makes appointments, are reported in SCC minutes of 11/18/82, 1/6/83, 2/17/83, and 4/17/83. The Campus Assembly in the spring of 1983 approved a motion making it a responsibility of the Assembly Committee on Student Affairs to require of all registered student organizations an annual report. There has probably been no follow-up to see if ACSA has managed to comply and, if so, what its success has been.



UNIVERSITY OF MINNESOTA

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FACULTY CONSULTATIVE COMMITTEE

January 15, 1987  
10:30 - 12:00  
300 Morrill Hall

AGENDA

Est. time

FOR INFORMATION

- 10:30 1. Report of the Chair.

FOR DISCUSSION/ACTION

- 10:35 2. Minutes of December 4 meeting. Attachment: correction to page 2.
3. Consent Decree: Vice President Stephen Dunham's proposed changes, submitted to the Committee on Equal Employment Opportunity for Women, and the EEOWC response. Attachment: December 4 correspondence from EEOWC Chairwoman Clarice Olien to Vice President Dunham and November 11 EEOWC minutes. Professor Olien will join us for this item.
- 11:00 4. Special mortgage arrangements for faculty: proposal for an extension of the eligibility pool: for FCC discussion and steering. Attachment: draft letter from Vice President David Lilly.
- 11:15 5. Nominations for
- (1) Special Nominating Committee for the Assembly Committee on Committees;
  - (2) Subcommittee to evaluate the Academic Professional classification as per the Krislov resolution;
  - (3) Phillips Subcommittee on P&A representation in the Senate system;
  - (4) Faculty members for the Student Services Fees Committee.
- 11:40 6. Proposal to transfer some of FCC's appointment and nominating responsibilities to the Committee on Committees. Attachment: list of those responsibilities currently.