

Minutes*

**Faculty Consultative Committee
January 5, 1989**

Present: Mark Brenner (chair), Warren Ibele, Lynnette Mullins, J. Bruce Overmier, Ronald Phillips, Burton Shapiro, W. Phillips Shively, Michael Steffes, James VanAlstine

Guests: Acting Provost and Acting Vice President Shirley M. Clark, Professor Amos Deinard (chair, Judicial Committee), Gayle Grika (Footnote), Professor Fred Morrison, Maureen Smith (Brief)

1. Response to Governor's Recommendation

Professor Brenner reviewed with Committee members the text of his next column for Footnote, in which he expressed his views about the Governor's budget recommendation for the University. The Committee discussed the role being played by Vice President Heydinger's office in lobbying and the continued bad press the University is receiving; there was concern about the apparently belated development of a positive public relations effort. It was agreed that these issues would be discussed with Vice President Heydinger during the Senate Consultative Committee meeting later in the day.

2. Provost Search Committee

Professor Brenner reported that President Hasselmo has asked that FCC name one additional faculty member; the Committee members agreed upon an individual who would be asked to serve.

3. Revision of Grievance Procedures

Professor Brenner welcomed Professors Deinard and Morrison to the meeting. Both of them expressed appreciation to Professor Charlotte Striebel for her work with them in developing the draft proposal. Professor Morrison began the discussion with a brief history of the attempts to revise the grievance procedures and then asked the Committee two questions: What points need to be addressed further and what is the timetable on how the proposal should be dealt with.

The basic theory of the proposed revision is to create a central University grievance process to replace many of the ad hoc and standing procedures now in place. The proposal is intended to retain the best elements of the University-wide and the collegiate procedures: The panels include individuals who are not in the unit (to help avoid bias or the appearance of bias) and individuals who are in the collegiate unit (who are familiar with the special interests or concerns of the unit). There would be a central filing system but the hearings would be held at the college level with the chair of the hearing panel coming from a different collegiate unit. There would also be established a central appeal body which would also hear complaints against central officers.

The central University Grievance Officer is intended to be someone "with a whip" who can move

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things along, nag grievance committee chairs, set timetables, and whose exercise of responsibility would help to avoid having complaints fester for years (which has occurred on occasion under current procedures).

One Committee member commented that his experience with outside committee members had not been positive; they tend not to do very much and can be a drag on the process. Professor Morrison pointed out that there are trade-offs between trying to reduce or eliminate prejudice or the appearance of prejudice and the possibility that an "outsider" will be less energetic or thorough. There is virtually always an allegation, in grievance proceedings, that the college procedures are unfair. There is, he said, an additional constraint which might operate, informally, with an outsider: The prospect of washing dirty linen in public might help lead to adjustments and settlements rather than face the full grievance process. It was agreed that the proposal should include a proviso that "outsider" service on grievance committees is to be recognized as service to the University and is a responsibility of a faculty member.

Asked whether or not faculty members are obligated to testify in grievance proceedings, Professor Morrison said the history of such testimony is unfortunate. There have been a number of times, in Judicial Committee proceedings, when people have been called but did not testify. He opined that when one comes into the organization (the University), participates in it, and is then asked questions about something that happened, it is gross misconduct to walk away and not explain what one knows. He also pointed out that school districts, sewer districts, and labor arbitrators, for example (including those on the campus) can issue subpoenas and compel testimony. The University cannot; this proposal contains a more gentle statement that it is responsibility of a faculty member who has knowledge about misconduct to make that knowledge known in the appropriate proceedings. One possibility for sanctioning those who refuse to provide information, he added, would be to publicize the names of those faculty who refuse to testify.

A concern was expressed about whether or not the immediate commencement of the 30-day clock would work against informal mediation and problem-solving; Professors Deinard and Morrison pointed out that experience with the Judicial Committee had led them to be certain that a time limit would have pushed many grievances along far faster than they went. Without the deadlines, there can be footdragging and stalling; many disputes, they noted, are settled on the courthouse steps. Moreover, they pointed out, once the 30-day clock has lapsed, the University Grievance Officer can taken into account any active attempts at resolution that may be in progress.

Committee members spent some time clarifying which grievances would be filed under this system and which would fall under the Tenure Code; Professor Morrison pointed out that any grievance which could lead to termination or dismissal would fall under the Tenure Code, not this procedure. He added that for an area such as sexual harassment, the move to a more regularized procedure would help to insure that not only is justice done, justice would be seen to be done. This entire revision is intended in part to establish not only that the procedures are fair but that they are obviously fair.

It was agreed that the provision dealing with days lapsing--after mailing, for individuals who might be on leave, etc.--needed more attention.

Committee members asked if it would be possible to assemble in one place a guide to grievance procedures so that anyone in the University community could figure out where and how to file a

complaint, depending on their status and the nature of the complaint. Professor Morrison said there is now an 80-page book which contains such an explanation; this proposal is an attempt to collapse much of what it contains into a single process. They had, he said, talked with the P/A group, who would be covered by it; civil service staff would continue to use their own grievance procedures. Professor Deinard pointed out that this proposal would also eliminate departmental level grievance procedures as part of the formal system; it does not, however, prohibit or preclude informal processes at the departmental level. Provost Clark added that as a result of her experience chairing a group which had worked on this problem, she was of the strong view that at the departmental level people should not have to worry about lack of knowledge of the law or procedures; they should just try to solve the problems. It was noted, however, that departments should not be blind-sided by the sudden creation of a college-level committee to address a grievance of which it had no knowledge.

The Committee decided the proposal should be presented to the Senate for information in February and for action in April. In the meantime it would be sent to SCFA, EEOWC, the Academic Freedom and Responsibility Appeals Committee, the Student Senate Consultative Committee, and the deans.

4. Discussion of the "Partnership Exemptions" Policy

Professor Brenner reported that he had attended a recent Dean's Breakfast and had presented the "Partnership Exemptions" policy which had been considered by the Committee. While there were a number of changes the deans wished to see made, they endorsed the idea that it be applicable to junior faculty positions as well; this would make it consistent with a "target of opportunity" hiring effort. The biggest problem is the question of who pays for the partner's line; Academic Affairs cannot do so.

One view was that if everyone believes this is an important practice, perhaps funds should be set aside for loans and mortgages for it. It was argued that if the funds are there, they will be used; a better measure of the intensity of the interest is the extent to which the deans, the departments, and Academic Affairs are willing to become involved in negotiations. Provost Clark noted that the deans can always argue with Academic Affairs that a position is so important that money should be advanced; the pressing of inappropriate claims might arise but she doubted that it would be a significant problem. Further, she commented, unless the University intends to get into partnership hiring in a big way, the circumstances will be unusual enough that special funds should not

Of greater concern, said Provost Clark, is the evolution of the draft policy; as it is now, she reported, Pat Mullen does not believe it will be accepted by the Special Masters. Defining "partnership" is a major issue. There is apparently some confusion about what was intended by the Committee; it was agreed that Professors Overmier, Price, and VanAlstine would meet with Pat Mullen to attempt to clarify the draft.

5. Governance and Organization

Committee members discussed the role that FCC is playing in consulting on the development of the organizational structure of the Hasselmo administration and the appointment of the search committees for vice presidential vacancies. There was a consensus that there must be broad consultation, not just with FCC, although Provost Clark commented that even though there may be criticism, the Consultative Committee is the premier governance committee and speaks for the governance system. There is, she

said, a need to balance governance against the uncommon circumstances which exist; FCC and others must give the best advice while continuing to move with the flow.

There was also discussion of the role of the Agriculture and Health Science Vice Presidents; it was agreed that the Committee proposed no basic change in their responsibilities but did wish to see a change of emphasis so that the line and staff roles are brought into line with original intentions. For the administration of certain units, such as the hospital, the Extension Service, the Experiment Stations, UMC and UMW, reporting through the Provost would not be workable. Provost Clark observed that there are some issues for every vice president which must be brought to the president; further, given the traditions of the institution, there will be no "sealing off" lines.

6. Senate Planning Committee

Committee members decided to reconstitute the Planning Committee as an ad hoc committee and agreed upon the names of three additional faculty members who would be asked to serve on the committee.

The Committee adjourned at 12:10.

-- Gary Engstrand

University of Minnesota