

Minutes*

**Faculty Consultative Committee
October 6, 1988**

- Present: Mark Brenner (chair), Warren Ibele, Lynnette Mullins, J. Bruce Overmier, Ronald Phillips, M. Kathleen Price, Burton Shapiro, Michael Steffes, James VanAlstine
- Guests: Carole Bland, Ann Burkhart, Amos Deinard, Neil Gault, Gayle Grika (Footnote), Patricia Mullen, Susan Severeid (Daily), Maureen Smith (Brief), a graduate student.

1. Report of the Judicial Committee

Professor Brenner welcomed Professors Bland and Deinard to the Committee to report on behalf of the Judicial Committee. Professor Deinard began by explaining that during the last two years the Judicial Committee had been evaluating the judicial process at the University and it had concluded that some changes might be necessary. Professor Bland explained that the Committee had done a survey of all past complainants and panel and committee members (going back to 1951). The survey had included six basic questions about the process (satisfaction with it, effectiveness, parts of the process which might be changed); the response rate had been 64% but included more individuals who had been successful in the use of the process and more who were still on the campus. There had been an indication of animosity and anger from some of the respondents and the non-respondents. As a result of this work, the Judicial Committee was bringing a set of recommendations to FCC for disposition or action.

The recommendations were broken into five groups; briefly, they are as follows. Comments made at the meeting are in brackets following each item.

- A. FCC directs future activities
1. Explore use of alternative dispute resolution procedures, i.e., mediation. [These have been used; they can reduce the damage, tension, and stress that can arise from hearings; recommendation is to do a study of alternative dispute resolution and consider whether or not it might be recommended; it would likely be most useful in salary and workplace disputes: President Sauer and Provost Clark concur that it should be explored.]
 2. Have training sessions for Judicial Committee members, a handbook, and a reference book of past decisions. [This would include a videotape.]
 3. Develop a booklet for all faculty and administrators setting forth the grievance structure. [FCC concluded this might be better included in a new general handbook for faculty; central administration is to be queried about when such a handbook can be produced.]

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

- B. FCC considers alternatives for future activities
 - 1. Formalize agreement with the President that any modification of Judicial Committee recommendations will be discussed with it before a decision is made.
 - 2. Establish a system to insure adherence to the President's order. [Both this and the preceding recommendation are important; if not implemented, the situation causes people to ask "why bother?" with the whole process.]
 - 3. Establish a system to monitor academic environment of complainants and of those who appeared on behalf of complainants. [FCC agreed that this should be part of the review of a department chair and a program assessment.]

- C. FCC directs central administration to act
 - 1. Have a pre-filing officer to advise potential complainant about likely validity of claim and how to pursue it. [This person would also explain the whole process and its implications, including the possible stress; the position would be retained until a proposed Grievance Officer is appointed under the new grievance procedures being drafted.]
 - 2. Have 2+ faculty assistance officers to serve as advocates for complainants and respondents. [These are for instances where the complainant does not wish to use attorneys; training would be provided; Committee members expressed concern that faculty would not come forward to play these roles without some reward, such as a reduction in teaching load.]
 - 3. Identify way to have tenure denial cases completed earlier and provide for Judicial Committee hearings and the Committee to function 12 months a year. [Provost Clark is inquiring whether or not the letters of notification can be sent out earlier than May 15; at present, hearings are pushed to the following fall because of the summer break.]

- D. Senate action alone
 - 1. Formalize arrangement for Judicial Committee to inform administration of units with recurring or systemic problems. [The Judicial Committee has twice recently added addenda to its findings.]

- E. FCC instructs other Senate committees
 - 1. Decrease time required to hear cases by establishing time limits on each step. [In order to speed the process up; the Judicial Committee will do but asks for a director from FCC.]

One additional recommendation is that training for administrators (department heads and above); FCC is asked to direct the central administration to initiate such training. If training took place, many of

the problems that come to the Judicial Committee could be avoided.

The Committee agreed to consider the recommendations and to take action on them at its next meeting.

2. Policy on Spousal Hiring

Professor Brenner asked that Professor Ann Burkhart (Law School and a member of the Executive Committee of the Faculty Advisory Committee for Women; hereinafter FACW) be permitted to begin discussion of this item because she had a class to teach in 25 minutes. Professor Burkhart reported that when they had circulated a petition among women faculty seeking an extension of the Rajender consent decree, 341 had said that spousal exemptions were defeating the purpose of the decree. They are permissible under the decree, but of the 11 granted, 8 were for males. This means the rules are being bent in order to hire males in departments that are often male-dominated and women in departments that are often female-dominated. Another concern is that by inserting these female spouses into departments--creating positions--money for new positions and for promotion are not available for the women already on the staff.

Professor Burkhart distributed to the Committee proposed amendments to the "Proposed Guidelines for Spousal Exemptions" which had been sent out with the agenda. One change that FACW proposed is that the faculty of the academic unit making the spousal hire must agree that the individual has a written record of credentials comparable to those of present faculty or developed in an open search; in other words, it must be a bona fide hire. (It was suggested that using the credentials of the faculty in the unit, when the unit itself was mediocre and needed improvement, would only lead to continued mediocrity; Professor Burkhart concurred and said that language could be appropriately revised.)

The major point of disagreement with the original draft was that FACW proposes that the spousal hiring waivers only be granted to hire the spouses of women who were being sought. Another alternative would be to scrap the guidelines altogether; since the motivating factor is to attract "stars" to the faculty, why limit the help to faculty spouses? Why not, instead, provide assistance to the spouse, irrespective of field or line of employment, rather than limiting it to faculty spouses who also happen to be faculty members? And the assistance should, in their view, not be limited to legally-recognized marriages; the waiver proposal does not recognize gays and lesbians or those who are not married.

Patricia Mullen, Director of Equal Opportunity, joined the discussion after Professor Burkhart left. She said that the Consent Decree does not permit spousal exemptions; in each instance, the University has gone to the court and obtained approval for the waiver. Most of the women involved were retention cases, rather than new hires; further, none of the exemptions granted helped the department in question meet any hiring goals. She added that these requests will probably increase; right now, by agreement with the class, all such requests will be denied until there is a policy in place. Ms. Mullen urged the Committee to take its time on the question and try to develop a thoughtful policy, although the freeze on exemptions makes it necessary to act with some expedience.

One Committee member pointed out that these are not usually routine searches but rather involve very distinguished faculty. There are often sudden opportunities that will be missed if the University cannot act quickly. It has not been the case that faculty members are being foisted on unwilling departments. Asked if there was a new line item granted for the spouse, the Committee member said it

was sometimes a mortgage on a future line but not usually a new one. Provost Clark cautioned that while there is some discretionary use of one-year visiting professorships, Academic Affairs does not have the money to grant a new line to a unit; in most cases the units themselves provide the funding. These visiting appointments will buy time, she added, but they do not respond to the demand.

It was argued also that if eight women were hired as a result of their husbands being hired by the University, that is eight women who wouldn't have otherwise been hired. Such appointments make sense if they are not in female-dominated departments. To only grant exemptions for outstanding women means that outstanding men will be lost, and such a policy would not be fundamentally fair. If the goal is to try to rectify policies to fundamental fairness, this is not the way to accomplish it.

The smaller campuses which are not in a metropolitan area, it was observed, have even a more difficult time; new faculty positions are extremely rare and there is no position appropriate in the community for a professional person.

It was suggested that central administration should ensure that these waivers are granted only in special cases or where there is an outstanding opportunity; they should not be used in routine searches--in part because the University could, in the extreme case, double the size of its faculty in 10-20 years without intending to do so. Another proposal was that central administration look into the possibility of more active employment search assistance, both in the local higher education community as well as in the private sector. Provost Clark reported that her counterpart in the State University System had told her that several campuses within the orbit of the Twin Cities would be hiring a significant number of new faculty and would be please to have referrals from the University. She pointed out, however, that no money has been identified which could be used for an outplacement service.

The Committee concluded that a policy should be developed, one that would retain maximum flexibility for the University. While these requests have only been a very small portion of the total faculty hires in the past three years, it is likely they will loom larger in the future, especially when the PUF chairs are filled, because the requests for waivers typically occur at the senior levels. Professor Brenner asked that Professor Price chair and Professors Overmier and VanAlstine serve on a subcommittee to draft recommendations. Ms. Mullen reminded the Committee that such a policy would not be binding on the court but that it could serve as an administrative guideline as well as prepare for the post-Rajender period. The subcommittee was requested to consult with other groups, including EOWC, SCFA, and FACW, and to submit its report as soon as possible.

3. Discussion of the Class Settlement

Professor Brenner closed the meeting for the discussion but did ask that Provost Clark remain in order that she would be aware of the sentiment of the Committee on the matter.

The Committee adjourned at 12:15.

-- Gary Engstrand