Minutes[*]

Faculty Consultative Committee
Thursday, September 26, 2002
1:15 – 3:00
238A Morrill Hall

Present: Dan Feeney (chair), Gary Balas, Susan Brorson, Tom Clayton, Arthur Erdman, Marti
               Hope Gonzales, Mary Jo Kane, Candace Kruttschnitt, Marvin Marshak, Judith Martin,
               Jeff Ratliff-Crain, Charles Speaks

Absent: Muriel Bebeau, Les Drewes, John Fossum, Marc Jenkins, Mary McEvoy, Martin
               Sampson

Guests: Interim Vice President and Chief of Staff Kathryn Brown; Professor Laura Koch (Faculty
               Academic Oversight Committee for Intercollegiate Athletics)

Other: none

[In these minutes: (1) report of the chair (football stadium, support service accountability, IRB,
legislative coordinating group); (2) rules and bylaw changes (removal of committee chairs and members);
(3) stadium task force; (4) required use of the web; (5) ombudsman; (6) research secrecy; (7) process for
changing athletic policies]

1.   Report of the Chair

        Professor Feeney convened the meeting at 1:20 and began by posing a question about the
statement on the stadium. FCC members supported it unanimously (after Professor Marshak joined the
meeting and voted "aye"); the students split on it (some voting "nay" because it did not reflect the nature
of the discussion at the Student Senate Consultative Committee). Professor Feeney said it was his sense
that it would not be fair to the students to describe the statement as coming from the SENATE
Consultative Committee when the students appeared to be of divided opinion. The Committee agreed it
should be a statement from the FACULTY Consultative Committee and would be sent to all
Senate/Assembly committee chairs, the Executive Committee, the Regents, the Twin Cities deans, and the
Alumni Association.

        On the subject of support service accountability, Vice President Carrier has drafted a charge to a
task force, Professor Feeney reported; they will talk with Interim President Bruininks about it and then
circulate it to the Committee. Once approved, people will be identified to serve on it. Vice President
Carrier will serve as chair. Why not co-chairs, Professor Martin asked? Professor Feeney said that was a
good idea and he would bring it up.

        On the subject of the Institutional Review Board (IRB), he and Professor Balas had a very
productive meeting with Interim Vice President Hamilton, Richard Bianco (who has institutional

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oversight responsibility for both animal and human subjects in research), and Thomas Schumacher (Director of Compliance). They WANT to conduct a survey of PIs about the IRB and want to include IACUC as well (Institutional Animal Care and Use Committee). They understand there are problems. The survey will be reworked and sent from FCC and the Office of the Vice President for Research to all PIs who have had proposals before either the IRB or IACUC in the last five years (or as many years as they can up to five years, databases permitting), whether or not the proposal was funded. The hope is that the survey can be out before the end of the semester. Relatedly, there will be a federal review of the use of animal and human subjects at the University (it is the first institution subject to a new review process) and Messrs. Hamilton and Bianco believe that the conduct of the survey will be seen as a positive step by the University.

Another issue came up in connection with the IRB discussion, Professor Feeney reported: the reward structure for faculty who serve on committees (such as the IRB). This provoked several Committee members simultaneously to exclaim "what reward structure?" Professor Feeney agreed; faculty ask why they should serve when they only get "beat up" in their departments. But such service should be rewarded as performance of collegiate citizenship; he said he would put this on the agenda for the discussion with the deans.

Professor Feeney reported that he has asked a few faculty to serve as a legislative liaison group. The Minnesota Faculty Association, a PAC, has decided to dissolve and has proposed that its funds be put at the disposition of this Committee and the Faculty Legislative Liaison, Professor McEvoy. He said he is looking into the permissibility of such a transfer of funds and will report back.

2.   Rules and Bylaw Changes

The Committee reviewed proposed changes in the Rules and the Bylaws. The Rules change would permit the chair of the Academic Health Center Faculty Consultative Committee to send a representative to this Committee. Unless the Rules explicitly authorize sending a designee, ex officio representatives identified in the Rules must personally attend the meetings of groups upon which they serve ex officio (which the AHC FCC chair does on this Committee). Sometimes, however, the schedule of the AHC FCC chair does not permit attendance at these meetings, and as a result the communication link between the two committees lapses. The Rules change was endorsed unanimously and will be presented to the Senate Consultative Committee for placement on the Senate docket.

The Bylaws change provides for removal of committee chairs and committee members. This Committee would have the authority (by a two-thirds vote) to remove faculty, P&A, civil service, or alumni committee chairs or committee members (of any committee in the Senate or Assembly), and the Student Senate Consultative Committee would have the authority to remove student committee chairs and committee members. In either case, an individual would be removed "only on the grounds that they have failed to perform the duties required of a committee chair [in the instance of a committee chair, or, for any committee member, because] they have obstructed the business of the Senate and its committees, they have violated the Board of Regents Code of Conduct or the University's Policy on Academic Misconduct (or, in the case of students, because they have violated the Student Conduct Code), or their continued service would cast doubt on the integrity and credibility of the work of the committee." Anyone removed as committee chair would also automatically removed from membership on the committee.

In the case of non-student, non-faculty employees or alumni members, the Faculty Consultative Committee will consult with the appropriate representative group (i.e., Civil Service Committee, Council of Academic and Professional Administrators, Alumni Association) before taking action. The proposal also provides that "any committee member or chair who is to be the subject of a vote on removal may submit a statement to the Faculty/Student Senate Consultative Committee, as appropriate, before a vote is taken. There is no appeal from the decision of the Faculty/Student Senate Consultative Committee. Nothing in this section bars anyone from making use of the University's normal grievance processes for employees or students."

The bylaw also provides that this Committee and the Student Senate Consultative Committee shall each have the authority, by a two-thirds majority vote, to remove its chair or one of its members. .

Finally, the bylaw change makes clear that none of its provisions may be used "to infringe on the academic freedom of committee chairs and committee members. Neither committee chairs nor committee members may be removed from their position because they express unpopular views."

The draft COMMENT appended to the proposal (which would come from the Senate Consultative Committee) read as follows:

There is at present no mechanism for removing committee chairs or committee members. (Nor is there any present difficulty that causes this motion to be made at this time.) There are or may be a few rare occasions when, to protect the effective functioning of the governance system, it may be necessary to remove a committee chair or committee member. The Faculty Consultative Committee asked the Faculty Committee on Committees for a recommendation; the Committee on Committees (both the faculty/academic professional and student members) forwarded to the Senate Consultative Committee these proposed amendments to the bylaws.

We note that the Committee on Committees recommended that the body with authority to remove (1) non-student committee members and chairs be the Faculty Consultative Committee/Faculty Assembly Steering Committee (the latter, the Twin Cities members of the Faculty Consultative Committee, for Twin Cities Assembly Committees) and (2) student committee members and chairs be the Student Senate Consultative Committee/Twin Cities members of the Student Senate Consultative Committee (again, the latter for Twin Cities Assembly committees). The Committee on Committees reasoned that while it has the nominating authority, the Consultative/Steering Committees are the executive and steering bodies responsible for the conduct of Senate and Assembly business, they are the groups that receive reports and actions from other committees, and it is those committees that are in the best position to know if there are difficulties with committee chairs or committee members. The Committee on Committees, in contrast, would have no way of knowing if difficulties had arisen. Its role is to select willing and reasonably representative individuals for Senate and Assembly committees, not to review or evaluate performance.

Examples of the circumstances that might lead to removal include a faculty member of the Senate Research Committee being found to have committed research fraud, a student member of the Senate Committee on Finance and Planning being found to have defrauded the University, a faculty member of the Senate Committee on Faculty Affairs who has been convicted of a felony related to retirement funds, or a committee member disrupting meetings and thereby preventing

the committee from conducting its business. One hopes that these individuals would resign from a committee when asked quietly to do so by the committee chair or the chair of the appropriate Consultative/Steering Committee, and such a request would be made before formal action for removal. In the event that the individual refused to resign, however, the Consultative Committee believes there should be a mechanism to remove individuals from a chair position or a committee if a failure to do so would damage the governance system.

The Committee recalls that a number of faculty were dismayed to learn, during the recent debate about tenure, that there is no mechanism by which to remove members of the Board of Regents. The Committee believes it appropriate to have such a mechanism in place for its own governing body, although expects it would be used only rarely.

The proposed bylaw change provides that there is no appeal from the decision by the faculty or student consultative/steering committees. It was the judgment of the Committee on Committees, with which we concur, that removal from a committee position should not entail full-blown quasi-judicial proceedings with hearings and witnesses and so on because these positions are not an entitlement and removal has no effect on continued appointment or attendance (in the case of students) at the University.

The Committee unanimously endorsed the statement for presentation to the Senate Consultative Committee for placement on the Senate docket.

3.   Stadium Task Force

Professor Erdman next reported briefly on several recent meetings related to the stadium proposal. One, related to non-athletic use of stadium space, was cancelled due to the yet-preliminary nature of the plans. In the meantime, however, the deans met and discussed the stadium and it appears the faculty and deans are aligned in their views. The deans also concluded that six-year college capital plans are such that there would no space usable for these academic purposes in a new stadium They are concerned that if it is said that there would be usable academic space, the idea could backfire: the legislature might believe it is providing a lot of new academic space in the stadium and then deny other capital requests.

At another meeting yesterday of the full stadium task force, it was reported that there would be about 50,000 assignable square feet for non-athletic purposes (unavailable on football game days), of which 28,000 would be for the use of the Marching Band. There would be a great deal more space under the stadium that would not be closed in; it would not make sense to build in that space because the cost of construction per square foot would exceed that for a new building. Mr. Pfutzenreuter said he has given up on the idea of any full-time academic space in a new stadium. Professor Erdman said that his view is that while the economics of construction of that space may not be feasible now, if space becomes more scarce in the future it might make sense to at least determine the cost of rough-ins that would allow for future expansion.

Professor Erdman said he also saw the first image of a stadium on the site (this is very early and the proposal could change); it sits in the middle of the plot identified for a stadium. There is little parking identified in the remainder of the space; the front of the facility faces Stadium Village. The plan also showed a number of new academic buildings, totalling up to 1.2 million square feet; some of these would

be beneficial to have in front of a stadium to buffer its visual impact. Such buildings would very likely come in the future, not with any stadium. Professor Erdman said that he has told people working on the stadium proposal that the more academic space there is at the outset in the acreage, the more palatable the plans will be to the faculty, deans, and students.

Professor Speaks said he understood that a different proposal about parking was presented to the deans than what he had heard previously. The $60 million ramp will be used primarily by "high rollers" and those who have club/luxury suites; the rest would be expected to park elsewhere and take a bus to the game. Professor Erdman said there are only smaller (new) parking facilities in the plan (some outside of the site, towards Dinkytown) and that tailgating at the State Fair grounds would be promoted for Vikings games.

The Committee spoke briefly about what kind of statement, if any, the Senate Committee on Finance and Planning should make. With respect to the faculty position generally, Professor Marshak maintained, the faculty need to be positive and not just say "no." They need to ensure the effort addresses the possibility of a University-only stadium and it meets UNIVERSITY needs. Professor Feeney agreed and said the faculty must keep their eye on all the issues, not just a Memorandum of Understanding. The State Fair, he added, is very concerned about parking on the Fairgrounds; the cost of cleaning up could be quite high.

4.   (Required) Use of the Web

Professor Martin spoke next about the fact that over the last two years or so, faculty are told more and more and more to go to the web for institutional transactions. This is irritating because it is turning faculty and staff into bureaucrats. The very fact that this item appeared on the agenda of this meeting generated responses from two members of central administration, she reported. It is said that the web-based transactions are saving money; where is the money going? While faculty are now doing what others used to do? One example is the conversion to electronic pay stubs; that supposedly saves the University $175,000 per year. What happened to that money?

Professor Marshak suggested that faculty member be given an account and that every time a claim is made that some administrative change saves money, the savings be distributed to the faculty accounts, which can be used for scholarly purposes.

Virtually all transactions with the University are now on the web, Professor Martin agreed, but said "this is a stupid way to use my time." Nor are the web sites user-friendly, she said. This is not a trivial issue. Other Committee members chimed in to agree with Professor Martin's sentiments. Professor Speaks commented that it took him three tries to get into one new site; he said the University should do more pre-testing of web sites before it puts them into use.

Professor Marshak said the Committee can either try to stop the expanding use of the web (which he said would be unlikely) or it can insist that the savings captured by use of web sites be directed to faculty development.

At the same time it advocates use of the web to save money, Professor Speaks said, the administration will sometimes argue the other way. He recently pointed out that if a student registers for fewer than 13 credits, there is no automatic message warning about the 13-credit rule, the savings for a

student taking more than 13 credits, or the delay in graduating. He was told that it would be cheaper to send messages individually to students rather than change the registration software.

Professor Feeney said he would have more confidence in these changes if there were a user survey (e.g., for the switch to electronic pay stubs). Are the judgments based on anecdotes? Or they are based on administrative convenience, Professor Martin said. At the least, Professor Marshak said, the administration should quit sending out messages telling people there is a great new benefit for them because they can use the web for some transaction. They need to stop saying this is such a great change and admit that the reason is to save money. Professor Speaks said he does not mind using the web if it is quick and user friendly but he objects to having to waste time trying to figure out how to use a site.

Conversion of these transactions to the web also assumes that all have computers and a network connection, Professor Balas said. That, in turn, is driving information technology costs "through the roof." And for those who connect from a remote site there can be additional problems as well as increased costs, Professor Ratliff-Crain said. Departments also bear increased costs because of all the connections, Professor Gonzales added, so that everyone in the department can do their work.

Professor Feeney suggested that this be an item for the accountability task force.

5.   Ombudsman

Professor Feeney asked the Committee what disposition it wished to make of the question of an ombudsman. The question rises and falls every few years; it came up a couple of times when he was chair of SCFA. Should the Committee consider requesting an ombudsman? Change the grievance process so there can be an informal proceeding before a dispute becomes a grievance?

Professor Clayton said he has thought for 20 years that it would be helpful to have a faculty ombudsman, which the students have had for a long time. A lot of people may have complaints but do not want to file a grievance or use the Judicial Committee. It would be helpful to have someone independent who can treat and negotiate and who is closer to the faculty than the administration (if the administration pays for the position, the administration owns it, unless the person in the position has ironclad tenure and is beyond the reach of the administration). Perhaps the $175,000 saved from converting to electronic pay stubs could fund an ombudsman office, he suggested.

Several faculty were identified in earlier years to provide informal dispute resolution, Professor Feeney recalled. The associate dean for faculty affairs handles disputes in IT, Professor Marshak reported; Professor Gonzales said, however, that not everyone would be willing to use a higher-level administrator within their own college.

It was suggested that the Grievance Advisory Committee be asked to review the earlier reports and make a recommendation to this Committee about whether or not there should be a faculty ombudsman. Professor Feeney observed that there appears to be no informal, non-administrative dispute resolution mechanism available at the University; everything is a grievance, a Judicial Committee matter, or a lawsuit. Or people just give up.

Vice President Brown agreed that there is a gap in the process: Tenure disputes go to the Judicial Committee and all other non-tenure disputes to the grievance process, and the first two steps of the latter

are informal, but there is no mechanism for resolving, for example, faculty-to-faculty disputes. In the latter case, the matters are handled on an ad hoc basis. One good reason to have an ombudsman office is to counsel people on whether they have grounds for a dispute and if so, how they should proceed, Professor Speaks said. With respect to faculty disputes, there may be a colleague whom both trust and would rely on but there is no way at present to legitimize that person's role. There needs to be one.

Professor Erdman said he, too, would support a more formal ombudsman office as well as the need for someone to mediate disputes. Sometimes people want to just blow off steam; someone with mediation skills can help.

Professor Marshak wondered about the advisability of creating central office versus trying to resolve disputes locally and said that the latter was a better option. Perhaps there needs to be a policy to legitimate the function within colleges and require that it be provided. He said he believed people would be more likely to use local mechanisms than a central office. He said he did not like the idea of establishing yet another central office. Professor Gonzales said that local resolution could be an OPTION but that it is not always best and it should not be the only choice. Professor Speaks added that if one brings an issue to the University's EEO office, they make it clear that once a dispute has been identified, they have an obligation to follow up, but also that they only play an investigative role, not a mediation function.

It was agreed that the Committee would ask the Grievance Advisory Committee to make a recommendation.

6.   Research Secrecy

Professor Feeney turned now to Professor Balas to report on the reaction of the Senate Research Committee to the recommendations from the ad hoc committee on research secrecy, chaired by Professor Kruttschnitt. Professor Balas said that the Senate Research Committee took up the report last week, accepted the recommendations, and will proceed to appoint a standing subcommittee to develop expertise on requests for exceptions to the Regents' policy on research secrecy and to make recommendations on whether to grant exceptions that may be sought.

Professor Speaks suggested this Committee accept that recommendation, with commendation to Professor Kruttschnitt and the ad hoc committee.

Professor Feeney agreed but raised a question about the appointment process for the recommended standing subcommittee: Should an appointed committee (the Senate Research Committee) make appointments to a standing subcommittee or should the appointments be made by the Committee on Committees (which makes the appointments to all other standing Senate and Assembly subcommittees)?

Professor Kane recommended that this subcommittee be appointed the same way all others are. Professor Balas said that was not his understanding of how the process would work; he thought the subcommittee would consist of a subset of members of the Senate Research Committee. Professor Martin said the subcommittee could draw on Research Committee members but that it could also include former members and that a subcommittee member would not have to leave because his or her term on the parent committee ended. Professor Ratliff-Crain, a member of the ad hoc committee, said that the ad hoc committee did not deal with the mechanism for appointment but that it was concerned about the

continuity of membership of the subcommittee.   Professor Kruttschnitt said the ad hoc committee felt that some members should come from the Research Committee; they did not know whether the subcommittee would exist for a long time. It might not. The reason for a STANDING subcommittee, however, is that it could develop the needed expertise, Professor Ratliff-Crain said. This would be acceptable if the Committee on Committees makes a recommendation to the Research Committee, Professor Balas said.

Professor Feeney pointed out that the Tenure Subcommittee and the Retirement Subcommittee are expected to digest issues and then make a recommendation to the parent committee. The Retirement Subcommittee has several members who are not on the Committee on Faculty Affairs but who provide a lot of continuity. It may be that some of the new subcommittee members would not be members of the Research Committee. He said he was uncomfortable with the idea that the Research Committee would make the appointments, although it could certainly make recommendations to the Committee on Committees.

It was agreed that Professor Balas would bring this issue to the Senate Research Committee.

Professor Kane asked whether, if she could obtain a grant but one that carried publication restrictions, she would go to the subcommittee. Professor Feeney told her she would not; she would work with Sponsored Projects Administration, which would only bring a request for an exception as a last resort. Professor Kane said she did not want to see the subcommittee appointed by the Senate Research Committee because it might be seen as "stacking the deck" in favor of granting exceptions. She noted also that all actions by the subcommittee, the Research Committee, and the Senate are only ADVISORY to the President, who is the only one who can make a decision.

In addition to advising on cases, and even if had none next year, Professor Ratliff-Crain said, the ad hoc committee envisioned the subcommittee as developing consistency in the procedures to evaluate requests. Professor Martin said that was important; the problem last year was that there was no consistency and the process disintegrated because the discussions were based more on ideology than on the merits of each case. She said she had no strong opinion about whether the Committee on Committees appointed the subcommittee.

Professor Feeney said he also would not support exceptions sought because money had already been spent. PIs should not be permitted to spend money for a grant until the grant has been approved; if they do so, they are spending "funny money." He said he imagined there would be a hybrid group on the subcommittee, representing the social, physical, biological sciences and so on, and that the subcommittee could deal with issues of ideology. The other options are less attractive: Some might believe the Research Committee would be "soft" on requests because it is composed of members interested in research; this Committee has no experience in dealing with the issues.

Professor Kruttschnitt followed up on Professor Ratliff-Crain's point: In addition, the subcommittee would be expected to sensitize the research community about publication restrictions as a growing concern and about the impact restricted research could have on graduate students, especially foreign nationals.

There is no argument about the vision, Professor Feeney concluded, only the process. Professor Martin moved that the Committee endorse the recommendations of the ad hoc committee subject to a

recommendation from the Research Committee. The motion was approved unanimously followed by a round of applause for the work of the ad hoc committee.

7.   Changes to Athletic Policies

Professor Feeney next welcomed Professor Koch, chair of the Faculty Academic Oversight Committee for Intercollegiate Athletics to discuss the process of approving changes in policies dealing with the Twin Cities intercollegiate athletic programs.

Up until perhaps 10 years ago, all changes in athletic policies had to be brought to the Twin Cities Campus Assembly. Then the process was changed, with approval of the Assembly, so that such changes were brought to the Assembly Steering Committee for approval and reported to the Assembly for information only. With the change in the bylaws about three years ago, the proviso that policy changes were brought to the Steering Committee was dropped, so now all policy changes must once again be brought to the full Assembly. In the near future there will be a substantial number of policy changes to be approved, Professor Koch reported.

How substantive are the changes, Professor Kruttschnitt asked? In many cases, there is no change in substance, Professor Koch said; they reflect changes in the committee structure or the merger of the two athletic departments. In some cases there are small changes in substance. There are no MAJOR changes in the policies coming from her committee, she said, but she could not speak for proposals that may come from the Advisory Committee on Athletics, chaired by Professor Borgida.

What is the recommendation of the athletic committees, Professor Kane inquired? They have not discussed the issue, Professor Koch said. She has a strong opinion, however; the policies should go to the Steering Committee, not the Assembly. When policies had to come to the Assembly, there were times when there were not enough people present at the meeting to approve changes and often the discussions were about the value of athletics to the University rather than about the specific policy needing attention. She suggested that the Assembly Steering Committee should make up its own mind about whether the policies have changed substantially and if, in the opinion of the Steering Committee, those changes merit a larger reviewer process. She said it was her view that a decision about approving policies and changes should not be one a committee chair (either FAOCIA or ACA) makes. The chair may have an opinion, but the final decision should and must rest with a different body.

Professor Martin moved that this Committee recommend to the Assembly Steering Committee that a bylaw change be prepared which would put responsibility for approving athletic policy changes at the level of the Steering Committee rather than the full Assembly. The motion was approved unanimously. Professor Feeney said this would be on the agenda of the next Assembly Steering Committee meeting; he asked that Professors Borgida and Koch attend, if possible.

Professor Feeney adjourned the meeting at 2:55.

-- Gary Engstrand

University of Minnesota