

Minutes*

**Faculty Consultative Committee
Thursday, March 25, 2004
12:00 – 2:30
510 Morrill Hall**

- Present: Judith Martin (chair), Gary Balas, Jean Bauer, Susan Brorson, Charles Campbell, Tom Clayton, Gary Davis, Arthur Erdman, Dan Feeney, Emily Hoover, Marvin Marshak, Fred Morrison, Jeff Ratliff-Crain, Martin Sampson, John Sullivan, Carol Wells
- Absent: John Fossum, Marc Jenkins
- Guests: Interim Vice President David Hamilton, Assistant Vice President Richard Bianco (Institutional Compliance Officer); Senior Vice President for Academic Affairs and Provost Christine Maziar
- Other: Kathryn Stuckert (Office of the Chief of Staff); John Ramsay (American Council on Education Fellow)

[In these minutes: (1) items from the Educational Policy committee (ACT writing test, barriers to graduation, teaching loads); (2) institutional conflict of interest policy; (3) FCC election protocol; (4) number of faculty required in a unit for Senate representation; (5) reorganization of the Senate; (6) Mt. Graham telescope project; (7) the calendar (Twin Cities campus winter break length, start of spring semester); (8) governance policy; (9) class scheduling problem; (10) searches (IT dean, Vice President for Research, Dean of the Graduate School)]

1. Items from the Educational Policy Committee

Professor Martin convened the meeting at 12:10 and turned to Professor Hoover to report on matters from the Senate Committee on Educational Policy (SCEP).

Professor Hoover reported first that SCEP passed a resolution in favor of requiring the ACT writing test as part of admissions materials for the Twin Cities campus. The SAT will incorporate the writing test but the ACT will offer it separately. The question is whether this should be brought to the Assembly or if it is an administrative matter.

Professor Martin suggested that the topic should not be brought to the Assembly but that Professor Hoover should write to the President indicating SCEP's view.

There are two items on SCEP's list of issues that were referred from this Committee, Professor Hoover next reported. One is a question about whether there are barriers to graduation (e.g., transferring from General College to a four-year college, getting admitted to the Carlson School, etc.). SCEP has not done anything with this matter; Professor Hoover said she would be reluctant to suggest that SCEP tell colleges how they should or should not accept students. Is this about barriers to graduation or access to

* 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 represents the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

choice, Professor Martin inquired? It about the former, Professor Hoover said; students cannot be guaranteed they will get what they want.

Every major is required to have a four-year graduation plan, Professor Martin noted; are the required courses not available in some cases? Professor Sampson commented that some four-year graduation plans are very cumbersome and it is possible that in some departments courses are not offered frequently enough. No data have been provided, however, on how quickly students are moving through their majors. SCEP and the Provost need to do some conceptual work on this issue. One question is how prescriptive the University should be with programs, Professor Hoover said.

The other issue is increased faculty workload because of increased teaching responsibilities, Professor Hoover said. This is an issue left over from the change to semesters, Professor Martin explained, and has two elements. One, is four courses per year the right number? There are expectations that faculty teach the largest classes possible; teaching two or three large classes in a year means that one is spending most of one's time teaching. Professor Sampson said that under quarters, faculty were generally required to teach 5 courses per year which meant ten weeks of teaching only one course; now they are expected to teach two courses per semester, so there is no longer a quarter with extra time for research.

Professor Hoover suggested that this issue should be directed to the Senate Committee on Faculty Affairs. The Committee concurred.

2. Institutional Conflict of Interest Policy

Professor Martin welcomed Interim Vice President Hamilton and Assistant Vice President Bianco to lead a discussion of the developing institutional conflict of interest policy. Dr. Hamilton began by saying that when he took the position of interim vice president 21 months ago, one of the first items he put on his plate was extension of the individual conflict of interest policy to an institutional conflict of interest. He appointed a small group that includes Professor Feeney, chaired by Mr. Bianco, that has worked hard on development of a policy. The Board of Regents views this as an extremely important topic and asked for reports on the matter twice. The institutional conflict of interest policy applies to Board members, and they realize it. He has provided a full explanation to the Board of what institutional conflict of interest is, examples of such conflict, and has received a considerable amount of feedback.

The policy does not apply to faculty in general. The existing (individual) conflict of interest policy applies to everyone at the University; the institutional conflict of interest policy applies to senior management. One question that he would like the advice of the Committee on is how down "senior management" should extend. Should it include department chairs/heads? It does include the president, vice presidents, deans, and the Regents.

Mr. Bianco distributed copies of the outline of a presentation he made earlier to the Board of Regents about the policy and began with definitions.

-- An individual conflict of interest occurs when individuals compromise their professional judgment in teaching, research, and service "because of an external relationship that affects their financial interests" (e.g., "a faculty member holds equity in a company that sponsors research in his [or her] lab and withholds negative results").

-- An institutional conflict of interest occurs when the institution, "either through the collective activities of the faculty and staff or through the actions of an individual, compromises its mission because of an external relationship that may bring financial gain" (e.g., "a senior officer directs the IRB to facilitate approval of a clinical trial sponsored by a company in which the University has equity and royalty interests").

Professor Balas inquired why the policy does not extend to non-financial gains (e.g., furthering one's career); those kinds of conflicts could more important. Why not just put a period after the word "relationship"? Dr. Hamilton said they recognize there could be problems in that area but financial conflict is a simpler place to start; they do not expect to go to the Regents with a final draft until next fall. And no matter what else may be involved, there almost always seems to be a financial element to these kinds of conflicts.

Mr. Bianco next reviewed the categories of external relationships that are potentially a source of conflicts. They include:

- investments (the University's assets are already managed by an outside firm and there are good controls in place)
- purchasing (there is already comprehensive oversight, state law controls it, and there is a bid process in place)
- gifts (this requires a lot of attention because there are potential conflicts in disclosure and management of gifts; "conduct of or reporting on a research project may be compromised by the promise or expectation of a gift; more baldly, someone may promise a large donation if the recipient hires one of the donor's relatives)

There are also special considerations that must be taken into account, Mr. Bianco told the Committee.

- "Senior officers who make decisions on behalf of the institution (a senior officer with a significant financial interest in a company may make decisions on behalf of the University that benefit the financial interests of the company."

Are there any requirements for reporting financial holdings, Professor Martin asked? The senior officers are required to report their financial holdings to the President's office. He said he has extended that requirement to all individuals in his office who have supervisory authority. All vice presidents are required to report; they decide who else in their units must report, Mr. Bianco added. What if someone refuses to disclose their holdings, Professor Martin asked? This is all voluntary, Dr. Hamilton said, and is a major problem if someone withholds the information because there could be conflicts or even fraud. So if the person took action that was later demonstrated to be a conflict, there would be repercussions, Professor Martin asked? Everyone is subject to federal sentencing guidelines, Dr. Hamilton commented, and the sanctions can include dismissal. If this is approached in a conciliatory way, rather than as a "gotcha," Mr. Bianco explained, it is effective and used as a way to manage potential conflicts. Are the reporting requirements specific or more general, Professor Bauer asked? If an individual owns more than \$10,000 in a specific mutual fund, the fund must be identified; the reporting goes as far as requiring a report on mortgages. It is quite intrusive, Dr. Hamilton said. It is patterned after the state requirements,

Mr. Bianco said. Does it cover spouses, Professor Wells asked? It does, Mr. Bianco said, and also children.

At what levels would this apply on the coordinate campuses, Professor Brorson asked? Dr. Hamilton said it would apply to the chancellor, the vice chancellors, and perhaps at lower levels.

That is one of the questions he is asking for advice about. It is certainly possible to give examples of how a department head or chair can create conflicts of interest. That may in part relate to how long one serves in the position, Professor Martin suggested; in CLA, with a three-year term renewable once, there is probably less opportunity for mischief. But even in those cases, there could be decisions made about research on one topic that would affect royalty income generated by another product, Dr. Hamilton said. Professor Morrison said he understood that issue but that it does not square with the language that is being used to describe the potential problems. It is not a conflict if it is managed, Mr. Bianco said.

Other special considerations include "within all categories, additional safeguards for research involving human subjects must be addressed--institutional financial interests must not influence IRB deliberations [and] additional clinical oversight is required to monitor subjects protection." There has been a lot of publicity about, and federal scrutiny of, human subjects research.

There were a number of questions they posed to the Regents, Mr. Bianco said. Have they identified all types of potential institutional conflicts? Are additional firewalls needed between Patents and Technology Marketing and Asset Management? Between PTM and researchers? If the University has equity in companies sponsoring clinical trials, how do we reassure the public that we have sufficient oversight of human subjects research?"

Some institutions prohibit a faculty member from having any financial interest in a company sponsoring his or her research; the University addresses each situation individually. The conflict management committee provides advice. They believe this is a more faculty-friendly approach, Mr. Bianco said, and it seems to work. It seems expensive in terms of the time required, Professor Martin commented. In some cases, however, the research needs the particular faculty member, Mr. Bianco said, and in some cases the faculty members divest their holdings. There are a lot of administrators going down to the deans level, Professor Erdman observed; will this require appointment of more committees? There will only be one, Dr. Hamilton said.

The major question is how to ensure the sanctity of research, Professor Feeney said; they do not want that compromised. For example, the University receives millions of dollars in royalties per year from the sale of Ziagen; they do not want to see any question about whether the University would do research that might affect that royalty income--there should not be questions about the University's research because of possible financial conflicts or because of the University's investments. One of the biggest problems the University faces is perception, Dr. Hamilton agreed; fighting conflicts of interest completely is almost impossible--nothing can be done 100%. An individual took a senior position at the University but did not disclose an indictment.

Dr. Hamilton said he would return to the Committee as the policy is more fully developed; are there other Committees with which he should speak? He already plans to take it to the Senate Research Committee. It was agreed that he should also bring it to the Senate Committee on Faculty Affairs.

Professor Wells asked why department heads/chairs would not be covered by the institutional conflict of interest policy. Dr. Hamilton said he did not say they would not be; that is a question he is asking. Professor Wells suggested that they should be. Professor Morrison said that anyone exercising administrative authority for the University should be covered, including, for example, purchasing officers. Dr. Hamilton noted that he has authorized the technician in his lab to make purchases for his grant. The application of the policy has to be reasonable, Professor Wells said; it has to stop somewhere. He still has the responsibility, Dr. Hamilton agreed, even though he has authorized the technician to make purchases.

What about the case where five deans want to set up a company to deliver new products and approach the administration about purchasing a building, Professor Erdman asked? Say the University has gifts and investments in the area of research. It is difficult to decide where to invest the institution's limited funds. Dr. Hamilton said that he and Professors Balas and Campbell have met to start laying out the administrative procedures for investment of the University's royalty income in these kinds of ventures. The President has appointed the advisory committee that was promised; like other compliance committees, it will be composed mostly of affected faculty, senior administrators, a member from the public, and will provide advice to a senior officer requesting it. In all of the discussions in the last year about royalty income and University Enterprise Laboratories, the members of this Committee expressed very diverse opinions, Professor Martin recalled; that would not necessarily happen if only affected faculty are appointed to the committee. There were many questions from faculty who will never have involvement in royalty income or developing intellectual property for the market; those questions were nonetheless useful; one can hope that distance from the issues helps provide perspective. Dr. Hamilton agreed that the questions had been very helpful.

Professor Campbell asked why, for example, the supervisor of the purchasing agents is not responsible. That person is, Dr. Hamilton said. The further down in the organization one goes, the more that must go up; how far up do the approvals go, Professor Campbell asked? All to the President? They do not, Dr. Hamilton said; they are looking at a REPA-like system, with the supervisor referring questions to the committee if he or she thought a conflict might not be managed. If the issue is handled at the supervisor level, there is no conflict, Mr. Bianco pointed out.

Will there be a discussion of the Conflict of Commitment policy in the near future, Professor Martin asked? Dr. Hamilton promised that there would be "a flood" of policies, including Academic Misconduct and Conflict of Commitment. They are ready to do on the latter, he said.

Professor Martin thanked Messrs. Bianco and Hamilton for their report.

3. Faculty Consultative Committee Election Protocol

The Committee reviewed and approved with minor changes a draft protocol for conducting the elections for this Committee. It voted to recommend them to the Nominating Committee, which will have the responsibility for adopting and following them.

4. Number of Faculty Required in a Unit for Senate Membership

Professor Martin distributed copies of a table indicating the number of faculty/P&A staff who are represented in the Senate in various units. The Senate constitution provides that every collegiate unit is entitled to at least one representative, but two of the units (Agricultural Experiment Stations and College of Continuing Education) have only 3 and 11 individuals who are represented, respectively. Should units

with such a small number of faculty/P&A be eligible for a representative in the Senate? There has never been a convention or constitutional provision on this point, Professor Martin reported; what does the Committee wish to recommend, if anything?

In the case of the AES, Professor Hoover reported, most individuals are now tenured in academic departments, not the AES. Several Committee members suggested that AES be combined with the College of Agricultural, Food, and Environmental Sciences, or that the three eligible individuals be asked to select a unit with which they would be counted for the purpose of electing senators.

Professor Morrison wondered if the trend in CCE was not toward zero, or if there are P&A staff, if the trend is down, but then to a stable number at 3 or 6 or something.

It was agreed that the Committee would consider recommending language amending the Senate constitution.

5. Reorganization of the Senate

Professor Feeney recalled that he had mentioned earlier that there would be a straw poll of the members of the Senate about the reorganization proposals; he distributed copies of the draft. The CONTENT of the proposed straw poll generated considerable controversy, as did the fact that there would even be one. As a result, he is getting a small group together to discuss the idea. One issue that has been raised by some individuals is the alignment of reporting lines of some committees in the proposed reorganization; some wish to leave the reporting lines as they are now (to the University Senate), while he and some of the other faculty have proposed that they report to the Faculty Senate. He said that he was on record saying that he would not bring forward to the Senate a proposal that does not have the committees in question (Educational Policy, Finance and Planning, and Research) reporting to the Faculty Senate.

Professor Feeney said he favors a more inclusive Senate but some apparently see the change as a way to dilute the influence and voice of the faculty; that is why the question of reporting line is important. The faculty have proposed reducing the faculty proportion of the University Senate, but in return they have insisted that those three committees report to the Faculty Senate. Some do not like that; some of the coordinate campus representatives do not like the proposal to eliminate the Twin Cities Campus Assembly.

If this proposal does not pass the Senate this year, Professor Feeney predicted, it will be dead. There will be a 30% turnover among the faculty/P&A members of the Senate and nearly a 90% turnover of students, so that the educational process would have to start all over with the Senate next year. He repeated that he is not wedded to the proposal but that he wanted it to have a good hearing and then be voted up or down on the merits. Given the objections he has been encountering, however, he suspects that the proposal for the grand experiment may "go down in flames." His concern, however, is that it not go down because of the WAY in which it was brought to the Senate.

Professor Morrison suggested that the straw poll be made very brief and that it be sent out very soon. Others suggested adding the longer version as an attachment. Professor Feeney agreed with a comment from Professor Erdman that the straw poll should be conducted and that if the plan does not pass this year, it is dead. He said that he was chastised about doing a straw poll, but he felt he needed to get the information it would provide; it is this group that must get the plan through the Senate and he

thought the need for a straw poll was not a debatable proposition. Following brief additional discussion, Professor Martin summarized the views expressed by telling Professor Feeney that the Committee clearly wished the straw poll conducted in order to see if any more time should be spent on this effort.

6. Mt. Graham Telescope Project

Professor Martin turned to Professor Balas to report on the response of the Senate Research Committee to the request for consideration of another statement about Mt. Graham. The Research Committee felt that it did not need to speak again, that it had voted twice already, and that it wished simply to reaffirm its previous position, Professor Balas reported. They were adamant that they would not adopt another resolution.

The effort to work with the Social Concerns Committee did not pan out, Professor Martin asked? They did work with the Social Concerns Committee, Professor Balas said, and he and Professor Kuchenreuther, the chair of the Social Concerns Committee, were able to work together. There is a better relationship between the two committees, he said. Professor Kuchenreuther suggested that this issue has led to a focus on how the University discusses controversial subjects, and that perhaps it would be helpful to have a forum before issues are brought to Senate committees.

7. The Calendar

Professor Hoover next reported that the Committee on Educational Policy (SCEP) had approved the 2007-08 calendars for the campuses. She expressed amazement at how much time SCEP members can spend talking about the calendar.

Where is the discussion about starting the Twin Cities spring semester before the MLK holiday, Professor Marshak asked? That was part of the discussion, Professor Hoover said. One student member of the Committee who asked why spring semester is 74 days long and fall semester 70; the history was explained but he didn't buy it. The same class taught the two semesters are different, he argued. He raised the question about starting before the MLK holiday, Professor Hoover said, and SCEP members are divided in their views. SCEP concluded it wished the administration to conduct a survey of those affected by the Twin Cities calendar about two matters: (1) whether spring semester should be 70 days, the same as fall, and (2) whether spring semester should start before the MLK holiday. If both of those options were supported and the calendar changed, spring semester would end two weeks earlier than it does now.

The 2007-08 calendar follows the pattern of recent years, Professor Hoover said; they approved it in order that incoming students next fall would have the full four years of calendars to work with. SCEP decided that if it received a lot of information suggesting a change should be made, the calendars could be amended.

Senior Vice President and Provost Maziar had joined the meeting at this point; she inquired what the arguments were in favor of starting spring semester after the MLK holiday. People use the time for research and to prepare for classes, Professor Hoover said. Professor Sampson said that fall semester gets close to Christmas, grading lapses into the holidays, and people really cannot shift gears until January. Professor Balas argued that the 72-hour rule should mean that grades are turned in, although Professor Martin noted that the rule is only in effect for days the University is open, so holidays and weekends are not included. When finals end December 22 or 23, and if it is a Friday, the due date for grades is after

Christmas. Moreover, if one is teaching a course with TAs, Professor Sampson said, they want to get out of town for the break, and the 72-hour rule goes out the window.

There are strategies that other institutions use in scheduling exams to help deal with that problem, Dr. Maziar said. For example, large classes requiring TA support for grading are scheduled early in the exam period so those students can leave earlier; there should not be exams for big classes at the end of finals week. It would be interesting to learn how many faculty have decided not to give a final examination because the time pressures at the end of fall semester are too great, Professor Sampson said. He said he could accept looking at what other institutions do, but it is important to look at what happens in classes, not just at the schedules. Dr. Maziar said there is also a need to understand the pattern of grades turned in (or not).

8. Governance Policy

Professor Martin asked Dr. Maziar next to comment on the proposed revisions to the governance policy (that was adopted by the Faculty Senate over a year ago but not yet approved by the administration). Dr. Maziar said she had three minor amendments to propose; she read them, and Committee members' reactions suggested they could accept them.

Professor Feeney explained, in response to a question from Professor Campbell, that the issue of who has authority over curriculum, hiring, and so on, in departments was brought to this Committee and the Committee on Faculty Affairs. This is not a problem confined to the Academic Health Center, he observed; there are units around the University where the tenured and tenure-track faculty are outnumbered, sometimes by a large number, and thus paralyzed in their ability to act, even though they are charged to do so. The policy, approved by the Faculty Senate, vests the final authority over department decisions in the tenured and tenure-track faculty, subject to the authority of the Board of Regents and the authority they have delegated to the University's officers.

Dr. Maziar pointed out that the policy, once approved, would present significant, but not inappropriate, challenges for her in ensuring that University policies are followed. She also observed that the language in the policy establishing the mechanisms of governance makes clear that there are a set of responsibilities invested in the tenured and tenure-track faculty. In different disciplinary cultures, it can be appropriate to delegate or share those responsibilities with other groups, but in the end, the responsibility falls on the shoulders of the tenured and tenure-track faculty. Just as with the Board of Regents, it delegates responsibility to the President but in the end the buck stops with them.

The Committee held a discussion about the difference between heads and chairs, how some units are not run in a manner anything close to that envisioned in the governance policy, how faculty may have no or little voice in hiring, promotion, and tenure decisions, and how the expectations set out in the policy can be met. One way is for people to let the Provost know that the policy is not being followed, Dr. Maziar pointed out. Some parts of the University may not pay any attention to the policy, and they will have to be brought to the attention of Drs. Cerra and/or Maziar, as appropriate.

9. Scheduling Problem

Dr. Maziar reported that Professor Hoover had alerted her to a problem serving students in two of the large science departments. She said she will devote some attention to resolving the problem.

Professor Martin thanked Dr. Maziar for joining the meeting.

10. Searches

The Committee discussed the status of several searches: the IT dean (nothing seems to be happening); the Vice President for Research (the search committee has met and has agreed to hire a search firm); the Dean of the Graduate School (on indefinite hold until the administration decides whether there will be a dean).

Several members of the Committee raised eyebrows at the news that a search firm had been retained in the research vice president search. Professor Martin emphasized that it was important for the faculty members on the search committee to contact their colleagues at other schools and find out who those COLLEAGUES recommend, not who the search firm recommends, which is what happened when she participated in the search for the provost. Professor Morrison said he was not concerned if the search firm identified candidates but that it should not play a screening role. It should be asked to find candidates, thanked, paid, and sent on its way, he maintained. Many of the names that search firms provide come from smaller schools, Professor Marshak said, and noted that several recent administrative searches using search firms led to hires from smaller schools rather than peers of the Twin Cities campus. Don't the Big Ten schools have candidates, he asked? Professor Sullivan agreed, and said that in the presidential search they used the firm to gather information, but that the search committee found most of its own candidates. In the case of the stock candidates the firms have at hand, most of whom do not come from the University's peer institutions, they were identified and dismissed quite quickly by the search committees, Professors Martin and Sullivan said. Professor Sullivan commented, however, that he thought the search firm did identify a couple of people from smaller schools who were extremely good and who will likely be leaders in higher education in future years.

Professor Martin thanked everyone for attending and adjourned the meeting at 2:10.

-- Gary Engstrand

University of Minnesota