

Minutes*

**Faculty Consultative Committee
Thursday, November 21, 2013
1:15 – 3:00
Room 238A Morrill Hall**

Present: Will Durfee (chair), Linda Bearinger, Avner Ben-Ner, James Cloyd, Eva von Dassow, Jigna Desai, Janet Ericksen, Gary Gardner, Maria Gini, Joseph Konstan, Russell Luepker, Alon McCormick, Karen Mesce, Paul Ranelli, Rebecca Ropers-Huilman, David Satin

Absent: Ned Patterson, Chris Uggen, Jean Wyman

Guests: President Eric Kaler

Other: Amy Phenix (Chief of Staff, Office of the President); Ken Savary (Office of the Board of Regents); Jon Steadland (Office of the President)

[In these minutes: (1) committee business; (2) proposed changes to the Student-Rating-of-Teaching form; (3) Faculty Senate docket; (4) discussion with President Kaler; (3) Faculty Senate docket, cont.]

1. Committee Business

Professor Durfee convened the meeting at 1:15 and brought up two items of Committee business.

-- The Committee makes recommendations to the Committee on Committees on certain committee chairs; Committee members agreed on the names to be recommended.

-- Vice President Friedman will join the Committee on December 5 for a "reflections" discussion but has asked that the discussion be closed. The Committee voted to close that portion of the meeting.

2. Proposed Changes to the Student-Rating-of-Teaching (SRT) Form

Professor Durfee turned to proposed changes to the Student-Rating-of-Teaching (SRT) form and said that there are two things people are looking at: the student-release questions, which provide information to students to help them in choosing courses, and changing to an automatic-release system (at present, it is an opt-in system that is not working because it is difficult to find and only a small number of faculty members authorize release of the data). This has been a 2-3-year discussion; the proposal comes to the Committee today and will be up for discussion at the December 5 Faculty Senate meeting.

Professor McCormick provided additional background. Starting about 18 months ago the Senate Committee on Educational Policy (SCEP) made recommendations to Vice Provost McMaster about improving faculty buy-in to releasing the data from the student-release questions on the SRT form. There has been a little progress in faculty buy-in so far. Last Fall, SCEP talked with an attorney from the Office of the General Counsel; she informed SCEP that if questions on the SRT form were recast so they were about the course, not about the instructor, it might be possible to move to a new system not requiring opt-

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

in by faculty. Also, last spring the Minnesota Student Association requested an opt-out system and made a report to the Board of Regents.

To address these concerns, as well as other concerns about the SRT, last summer a working group organized by Vice Provost Carney, consisting of Drs. Dohm, Gram, and Langley, developed a proposal that they brought to SCEP last month for discussion in order to start the conversation, Professor McCormick reported. The group took suggestions from SCEP and the Senate Committee on Faculty Affairs (SCFA) and revised the proposal. SCFA has endorsed the proposal; SCEP still has questions about the wording and whether there could be an opt-out system.

SCEP considered the problem of repetition of questions, Professor McCormick said, and some expressed regret at the loss of certain questions. Dr. Langley (reporting to SCEP for the working group) reported that in the cases SCEP members asked about, responses were all over the board and not useful for students; in the case of the question about what would have made them a better learner, SCEP was informed that the question did not elicit productive responses.

The revision from the working group is shorter but there remains the question about whether the items are only about the course, and the final version will need the approval of the Office of the General Counsel.

Professor Konstan reported that SCFA reviewed the proposal twice but did not become involved in wordsmithing the SRT items; it concluded they are good enough, fair, and its concerns have been addressed. SCFA took the position that everyone can recognize that the answers to the question about the course are also about the instructor—but SCFA was not uncomfortable with that conclusion and believes that the questions represent a reasonable balance (if the proposed division of questions between the instructor and the course is the way the law requires that they be structured). SCFA supported the proposal unanimously, and while there are some parts that some do not like, SCFA would rather get this project done than talk about it for another 2-3 years.

Professor McCormick cautioned that the version before the Committee today is still not the final one. Dr. Gram has said they will consult further on it, and SCEP remains in discussion about certain items.

Professor Gardner asked how one opts in to the current system—which question, he said, may suggest part of the problem with it. Professor McCormick said that in the past there was a more obscure system, now there is a place on the 1-stop where one can authorize the release of the data (this is in addition to the methods described in periodic reminders to the faculty from Vice Provost Carney—a paper form that accompanies the SRT forms, and a website listed on the reminder). Professor Gardner suggested that when one submits grades, there should be a place to indicate that one is authorizing release of the student-release data, and not require an extra step to find it.

It was noted that as of this discussion, the General Counsel's office has indicated that an opt-out system with the current questions would not be acceptable under Minnesota privacy laws, but that opinion may be subject to further review with the new proposal.

Professor von Dassow said that she had been in several of the SCEP discussions last year about this proposal; she expressed support for Professor Gardner's suggestion of a checkbox when grades are

turned in. She also said she had no objection to releasing answers to the questions in the revised proposal and supported doing so regardless of an opt-out provision.

Committee members turned to discussion of the specific questions. Professor von Dassow asked why the question about the instructor's engagement of the students was dropped. Dr. Langley told SCEP that the working group was concerned with the variations in how the results would be interpreted, Professor McCormick said.

Professor Gini asked why the open-ended question about what someone could have done to be a better student was removed. She said she liked that question because students become aware of what they should have done to be effective learners. Professor McCormick said that SCEP members offered the same opinion to the working group. Professor Durfee said he liked the revised question a great deal and got nothing from the one that was dropped. Professor Ben-Ner said he thought it an important question for self-reflection by students.

Professor Ben-Ner asked what the purpose is of the question about whether the grading standards were clear. That is open to interpretation and too vague; in some disciplines they could be clear but in others (that may be more subjective), they may not be.

Professor Konstan said he never liked the question about what a student could do to be a better learner, but it does frame the responses to the other questions. It will be interesting to see if scores go down. It bothered him to lose the question about the time the student spent on the course because the answer was very effective at normalizing the written responses and set the context for interpreting the answers. In terms of fair versus clear, he said he was concerned that students will interpret that to mean objective--which may be an appropriate goal in some cases, but not in others. People will have to be careful how they interpret the results.

Professor Bearinger asked if the questions had been reviewed by those involved in online education. She said she wants to have a set of measures that is applicable to both kinds of instruction; it did not strike her that these questions would work as well for online courses. Professor McCormick said that Dr. Langley is very familiar with online instruction.

Professor Ropers-Huilman said that she liked the question about what a student could do to be a better learner because it prompts students to think about their responsibility for learning. However, the SRT form is an assessment of teaching and so she does not object to removal of the question. She said she often gives student separate forms assessing other things she is interested in, including how a student engaged in the class.

In terms of clear grading standards, Professor Ropers-Huilman said, she only has graduate students and so does not use multiple choice or objective grading. Nevertheless, she does need to be able to convey to her students how they will be graded, and she endorses the question.

If one subset of the questions evaluate the course, not the instructor, in some small courses with the same instructor teaches it year in and year out, the evaluation will be about the instructor as well, Professor Ericksen commented.

Professor Gardner said he liked very much the question about what a student could have done to be a better learner (such as when students indicate they could have done more of the reading) because it

tells him what he needs to emphasize. In terms of the time required, he explains to students that a 3-credit course, by University policy, is to be about 9 hours of work per week, which they do not do. He said he had no problems with the open-ended questions but suggested that the answers to the question about the use of technology could be "it depends," because some courses use it more than others.

Professor Mesce asked about team-taught courses. In the past, students could recommend an instructor; if there were three instructors in a course, the results could be parsed so a student could recommend one instructor and not the other two. How would that work with evaluation of course? Professor McCormick said that his understanding of the current proposal is that with evaluation of the course, the various instructors' results for the "course" student-release questions would be lumped together into course results in the student release question results. SCEP was attentive to the idea that there could be two different forms with two preambles, one for the instructor and one for the course.

Professor Satin, noting that he was in the Medical School, which does not use the SRT form used elsewhere, asked what the rationale is for not releasing the results of the questions to students, and how are they different from ratemyprofessors.com? Professor McCormick said that the University does not control ratemyprofessors.com and his understanding from Vice Provost Carney is that Minnesota law prohibits releasing information that is considered personnel data (which the results of some of the SRT questions are considered to be).

Professor Bearinger said, apropos of Professor Mesce's question about multiple instructors in a course, that if there is only one global course rating for such courses, it should not be used in promotion-and-tenure decisions for those instructors. Professor McCormick said his understanding of the current proposal is that student release "course" question results would be released publicly by course, but that all the results (to "instructor" questions and "course" questions, would be reported by instructor both to the instructors and to department heads.

Professor von Dassow agreed with Professor Konstan about adding back to the list a question addressing the student's performance in the course, such as what grade the student expects to receive, because this affects all other responses. Whether it asks about how much time the student put in or what grade the student expects, such a question provides a benchmark for gauging other responses.

Professor Durfee thanked Committee members for the suggestions and said that if they had further comments, they should direct them to Dr. Langley. The goal, he said, is to bring the proposal to the Faculty Senate for action in May.

3. Faculty Senate Docket

Professor Durfee reviewed the draft docket for the December 5 Faculty Senate meeting and noted that the Committee had received a letter from 14 faculty senators asking that issues related to the case of Dan Markingson (a patient in a clinical drug trial in 2003 who committed suicide) be placed on the docket, that there be sufficient time for discussion, that there be a resolution for action, and that a letter from bioethicists be provided to the members of the Faculty Senate. Professor Durfee asked Committee members how they wished to proceed and noted that the docket as proposed already filled the time allowed for the meeting.

Professor von Dassow said she believed the Committee was obligated to honor the request from the senators, regardless of the time limitations. She also suggested that this Committee need not prepare a resolution; the authors of the request could be asked to do so.

Professor Konstan said he did not believe the Committee could provide an answer in the time left at this meeting to discuss the subject. It would be ideal if the request were moot; he suggested asking the president if he would assent to an external review, as requested by the letter from the bioethicists, and then the senate would not need to deal with it. If it is not moot, it would be irresponsible for the Committee not to bring forward the issue: it has gathered enough attention from colleagues that it should be taken up. He agreed with Professor von Dassow that the senators could draft a resolution.

Professor Ben-Ner said he did not know the answer to the discussion about putting a question to the president. He said he found annoying the table of analyses of the various reports about the Markingson case that were attached to the letter from the senators; anyone could write such rebuttals to anything any agency, judge or faculty member writes. What does this prove or disprove? What is the purpose of the request? To try to improve IRB rules? To get at the connection between parts of the Medical School and drug companies? To reexamine what colleagues from the Medical School have done then and what might they have done differently? Is to redress an alleged wrong committed in the past? He said it was not clear what purpose is served. He said he would be glad to talk about IRB rules and their enforcement, which have apparently changed in different directions during the past decade. He would be prepared to have an evaluation of the relationship between drug companies and clinical drug trials, about which he reads in the media but doesn't know specific details in the University of Minnesota context. These are important matters that need to be considered thoughtfully by different bodies at the University without the urgency of a short deadline.

Professor Durfee said the discussion is about whether the issues raised in the letter should be on the docket. There has been a request from faculty senators; this Committee has final say over the docket. It needs to figure out to allocate time. Professor Ben-Ner said his point was not divorced from the question of why or why not but agreed that a request from multiple senators should be honored.

Professor Satin agreed and said the issue has gathered enough steam that the Committee should not drag its feet—it should put the matter on the docket. But it must come with information about the issue and faculty senators must realize that they will need to do a considerable amount of reading if they are to vote intelligently on any resolution.

Professor Satin said, apropos of Professor Konstan's comment about the possibility of the issue being moot, that irrespective of the outcome, it would be valuable to have a record of where the Faculty Senate stood.

Professor Ranelli said the matter should be on the docket.

Professor Luepker said what bothered him, is that the authors of the messages had already concluded what the answer should be. He agreed with Professor Ben-Ner that the table of analyses was annoying; he is smart enough to read the reports and reach his own conclusions. As for bringing the matter to the Faculty Senate, a group of 150+ people is not a good decision-making body unless there has been due diligence, and this Committee itself has not had the necessary discussions. He observed that there is only two weeks before the December 5 Faculty Senate meeting, during which time the Thanksgiving holiday falls.

If the issue is on the docket, it will need considerable discussion, Professor Durfee observed. Should it include a resolution, as the 14 senators requested?

Professor Satin said the matter needs to go on the docket but there should be no decision on December 5. There is no way that the members of the Faculty Senate will have sufficient time to make a decision. He suggested putting the topic on the docket for information and providing resources, and also inform the Faculty Senate that the Committee will be working to provide additional material later. But it should not be put on for anything other than for information, to be followed up at the next meeting.

Professor Ben-Ner repeated his question: why conduct now a discussion of events that occurred ten years ago? What is a Senate resolution seeking to address? Redress? He said he could not understand how returning to events of ten years ago would improve current practices. Before a perfunctory senate discussion of 20-30 minutes, the Committee needs to figure out what it is embarking on and be prepared to offer a reasoned course of action. The request by faculty senators has to be honored without questioning their motives for bringing up the issue for discussion, but the Committee should focus its effort on improving current rules and practices and not on deconstructing past decisions and analyses by various bodies that weighed in on the matter in the past.

Professor von Dassow said, in response to Professor Luepker's comment, that of course people who sent him emails had already decided. She said that only putting the item on the docket for information would satisfy no one but agreed that the Committee could not draft a resolution during this meeting. Many people know a great deal about the issue so it would not be an incoherent discussion.

Professor McCormick commented that if faculty senators need information, they also need to be reminded of what information is not available.

Professor Cloyd said the issue needs discussion broadly and the Faculty Senate is the appropriate venue. He asked what impact a resolution for action would have. Professor Durfee said that presumably it would constitute a request to the president to commission an external review of the case.

Professor Gardner said he was disappointed that the senators who sent the letter to the Committee did not submit a resolution as well, which would have been appropriate and would have helped the discussion here. This goes to the questions he asked before: what would constitute an independent inquiry? How will the Committee know what to move on?

Professor Konstan suggested that the matter could be referred to the Senate Research Committee.

His second question, Professor Gardner said, is about what IRB policies are now versus what they were ten years ago. Have there been changes that preclude events such as those that arose in the Markingson case? That is a subject about which there could be discussion and one that could be referred to the Senate Research Committee.

Professor von Dassow said she would like to leave open the possibility that there could be a resolution that faculty senators could vote on at the meeting. In response to Professor Gardner's question about what would constitute an independent inquiry, it is her understanding that it could be an inquiry conducted by a panel appointed by the governor and composed of people who have the requisite knowledge but who have not already aligned themselves with one side or the other in this case.

Professor Cloyd said that what needs to be conveyed to the Faculty Senate is that it should take the issues seriously and that this Committee endorses careful consideration; this Committee needs to identify a pathway to a conclusion. This Committee also asked "what's the question?" Is it scientific misconduct? Conflict of interest? A matter of informed consent?

Professor Durfee suggested, for the Faculty Senate, that the matter be on the docket for information, with an explanation of the steps that would follow, with time allowed for some discussion, and there be an actual resolution (to be acted on at a later meeting). [The docket discussion continued following the conversation with the president.]

4. Discussion with President Kaler

Professor Durfee welcomed the president to the meeting.

The president began with a few remarks about the Markingson case.

Professor von Dassow commented that letter sent by Trudo Lemmens, et al. talks about the Markingson case because that case was the subject of a lawsuit and is a matter of public knowledge, but the concern is that similar problems exist in other cases as well and that they may represent systemic problems; she noted the criticisms of the reviews of this case that had taken place; she suggested that the University is obligated to examine how research is conducted, and in a public way; she said an independent inquiry could clear things up and provide a public benefit for the University, so it should resolve that there be one.

Professor Ben-Ner said that if there is a problem with IRB procedures, they should be addressed; if the rules appear to allow conflicts of interest, they should be addressed; if all drug companies participate in research, that should be addressed; if there is a problem with faculty members, it should be addressed. But it does not make sense to re-open all the details of this particular case.

Professor Konstan said that this feels like two rams battling each other—the struggle isn't being resolved. While the University may try to outlast the letter-writers, they seem in it for the long term. He suggested redirecting the attention to proposing a review that looks at the broader question of how the University currently conducts and oversees research with potential risks to human subjects. While they may want to avoid re-opening Markingson per se, and avoid subjecting the two researchers involved to double jeopardy, that shouldn't prevent the Committee from taking a serious look at whether the University's research policies and practices uphold the standards it aspires to. The Committee should proactively suggest that it is worth exploring whether institutional practices are consistent with the best practices of its peers, or whether they need to be improved. In other words, rather than continue rehashing Markingson, the Committee should be looking at whether the University learned something over the past 10 years and whether its current practices and policies are where it wants them to be.

The president said he would be willing to entertain a question about how such research is conducted.

Professor Luepker said, apropos of the FDA investigation in the case, that it has indictment powers and that its investigations are exceedingly thorough. He said he was offended by the interpretations of the investigation that have been advanced. He agreed with Professor Konstan that it

would worth looking at whether there is adequate oversight of this kind of research because there are a many other units, including CLA, that do clinical research.

Professor Desai said she believed that the case has eroded public trust in the University and that it would be possible to get the best report (similar to the report that followed the Virginia Tech shootings) on what the University needs to do better to protect people coming to it for drug trials. If there is no trust in the University, its research is not trusted.

Professor Satin agreed with Professor Konstan's suggestion and commented that the authors of the letter from the bioethicists are reputable people in the field.

Professor von Dassow also agreed with Professor Konstan's suggestion as the right and reasonable way to proceed; this is less a matter of finding fault than of finding out what went wrong and what to improve. If the Faculty Senate were to adopt a resolution that articulated the goal of examining the norms and procedures governing this kind of research at the University, Professor von Dassow asked the president, could he support it? President Kaler said he would need to think about it; he said that it might be worthwhile to compare the University's current practices with best practices in the field.

The president turned next to the issue of campus safety, which he said is vexing. There have been 20 robberies lately, and there is a predictable uptick at this time every year, but what has been noticeable about these events is the violence. Of the 20, 18 were in surrounding neighborhoods and 2 were on campus. He has met with mayor-elect of Minneapolis about more resources for the Minneapolis Police Department; the University of Minnesota Police Department has taken on responsibilities in the neighborhoods surrounding the campus but it needs help. It is doing an excellent job with the resources it has.

President Kaler related that he recently rode around with the police from 10:00 p.m. to 3:00 a.m. and observed that "it is something to see" when the bars close: students do not make wise decisions. There are 1700 cameras and a large amount of police overtime—they are doing as much as they can.

The president said he had learned from a student that during the recent attempted armed robbery in Anderson Hall, one instructor did not know what to do. The University needs to be sure that the faculty know what to do when a message about a potentially dangerous situation arrives.

Professor Ranelli commented that on the Duluth campus there are dead spots for cell phones. For the emergency system to work, people must sign up—and must not be in a dead zone. Ms. Phenix reported that 80% of the text messages went through in the Anderson Hall incident, and they also placed information on the web. It was remarkable how quickly word got around, but there will always be some people who don't get the message. Professor Ben-Ner observed that in his building, people cannot lock doors from inside the building.

Professor Cloyd asked if there is a national increase in predatory crime on U.S. campuses. The president said he did not know.

Professor Gardner said there is also a dead zone on the St. Paul campus and added that during exam week, there are a number of people who look around for something to steal; it is important that there be more people watching during such periods.

Professor Ropers-Huilman said that the University must increase security but expressed the hope that it will also look at how it engages with the surrounding communities and examine town-gown relations. The president agreed but said that those who commit these crimes do not live in the area; they come from other parts of the metropolitan area.

Professor Durfee thanked the president for joining the meeting.

3. Faculty Senate Docket, cont.

Professor Durfee returned the discussion to the Faculty Senate docket and asked if the Committee wished some discussion time allotted for the letter from the senators. It may not be especially long, he said, but is that the best way to proceed?

Professor Konstan thought so and suggested using separate microphones at the meeting for the speakers who support the letter, those who oppose it, and for speakers with questions. He said it would also be helpful to hear the president's views, if he is willing to share them with the senate.

Professor Cloyd agreed that time for discussion should be set aside and said that it should be framed as looking at the best possible approaches to conducting clinical research and whether the University is following those practices—and not looking backwards and trying to assign guilt. Professor Satin agreed on the need to focus on current practices and said that much has changed in the last ten years.

Professor Gardner said it could be appropriate for someone to move that the issue be referred to the Senate Research to present a proposal for the study of research practices. Someone should draft a motion. Professor Konstan said there needs to be a charge to the Senate Research Committee; one outcome of the discussion could be such a charge.

Professor Bearinger said that per Professor Cloyd, the Committee should take advantage of the conversation it has already had to help the Faculty Senate and avoid having to repeat everything.

It was agreed that Professors von Dassow, Durfee, Konstan, and Satin would develop a motion that the Committee would consider for placement on the docket. The motion would focus on human-subjects research, particularly research with vulnerable subjects.

Professor Durfee thanked Committee members for the discussion and adjourned the meeting at 3:00.

-- Gary Engstrand

University of Minnesota