

Minutes*

**Academic Freedom and Tenure Committee
Friday, December 13, 2013
10:00 – 12:00
238A Morrill Hall**

Present: Carl Flink, Karen Miksch (co-chairs), Phil Buhlmann, Arlene Carney, Jerry Cohen, William Craig, Barbara Elliott, Jessica Larson, Gary Peter, Scott Petty, Paula Rabinowitz, Nicole Scott, Nathan Shippee

Absent: David Born, Teresa Kimberley

Guests: Vice Provost and Dean Sally Gregory Kohlstedt, Associate Dean Melissa Anderson, Karen Starry (Graduate School), Aaron Beek (Council of Graduate Students); Professor Fred Morrison

[In these minutes: (1) graduate student academic freedom appeals committee; (2) four-year review of associate professors; (3) interpretation of the term "compensation" in the tenure policy]

1. Graduate Student Academic Freedom Appeals Committee

Professor Flink convened the meeting at 10:00 and welcomed Vice Provost Kohlstedt to discuss issues associated with a graduate student academic freedom appeals committee. The concern, he explained, is that graduate students, in their capacity as researchers (as opposed to a TA or RA role) do not have a clear place to go if academic freedom questions about their work arise. They have an uneasy status with no direction in such cases.

Vice Provost Kohlstedt said that she had reviewed the minutes of the Committee when this topic had been discussed earlier and asked Graduate School staff if any such case had come up in the recent past (none had). So they looked at the Board of Regents policy on Academic Freedom and Responsibility, which is often where students start. This and information on line leads them to various other places including them to the Grievance Office, the Student Conflict Resolution Center, and the Graduate School, because the kinds of potential problems may relate to teaching, research, or other aspects of their study and work. In the Graduate School, Karen Starry is often able to help a student determine what might be the next steps. Dr. Kohlstedt said she came to the meeting to learn about concerns the Committee may have.

Professor Flink asked Mr. Petty to discuss examples. Mr. Petty noted instances when a graduate instructor has a curriculum that is largely set and the classroom is not really their own, versus the case when a department decides what is to be included in a course but leaves it up to the faculty member to decide how to do so. Graduate students have a script; faculty members do not. Is that an academic freedom issue? It is understandable that a department wants certain content delivered and do not wish to have inexperienced or disorganized instructors, but the graduate students may have no flexibility. (This situation is more common with new graduate students; advanced graduate students do not typically face

* 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.

similar teaching restrictions.) Ms. Scott reported that she had a publication coming out and had questions about the process but had no place to go to get answers. The biggest issue, Mr. Petty agreed, is that graduate students do not know where to go. Even with the best rules, they are of no use if there is no "judiciary" option.

So one question is how to negotiate issues, Dr. Kohlstedt observed, such as with advisers. There are workshops on publications and how to teach, and graduate students usually start with their own department. If there is a rub, the question often comes to the Graduate School office, and there could be a grievance. They try to handle the cases, but they can go to a committee with faculty and students, or the recommendation may be that they should be referred elsewhere. She expressed regret that the Graduate School is not seen as the first stopping place for advice.

Professor Flink pointed out that the Committee is not saying there has been a problem; the discussion is intended to be a proactive dialogue: is there an issue or do the procedures simply need to be clarified?

Professor Miksch reviewed a little history. When she and Professor Elliott co-chaired the Committee, the Faculty Consultative Committee commissioned a number of questions that arose from the controversy surrounding the "Troubled Waters" film. This Committee prepared a white paper on academic freedom that the Faculty Senate endorsed; one of their recommendations was the need to educate the University community that the Board of Regents' policy on Academic Freedom and Responsibility covers everyone at the University—faculty, staff, and students. They tried to be clear in the white paper that there are different paths for addressing concerns about academic freedom for faculty and non-faculty; people asked about the path for graduate students. The Committee did not know what it was, so started asking. It can be frustrating if a situation arises and someone does not know where to go to have it addressed; the Committee knew there was a right, but where was the remedy? There is a path for a graduate student as an employee (the Office for Conflict Resolution), and for faculty (the Senate Judicial Committee), but no clear path for graduate students as graduate students. That is where the discussion started.

Professor Cohen said there are a couple of things about academic freedom that are critical. One, people are only free if they know they are free; is the University communicating to faculty as well as to graduate students and postdocs that they are covered by these aspects of academic freedom and what the limits are so that people understand it? Second, although not a Graduate School issue, there appears also to be no robust appeal mechanism for postdocs if they get in a conflict with faculty, and the Office of the Vice President for Research in some cases simply takes the position of leaving decisions "in the hands of the PI(s) who are assumed to have the most comprehensive knowledge." Professor Cohen asked what power the Graduate School has over an adviser if the advice given is at fault.

Dr. Kohlstedt noted that grievance committees work on the principle of negotiation; they do not have power. They may be positioned to make recommendations.

Professor Rabinowitz said she found the notion of a "script" that graduate students must follow to be disturbing. It is understandable that there is a body of knowledge that must be conveyed, but a script is coercive, limiting academic freedom of instructors. When she was involved in an organizing drive for graduate students at Michigan, one point was that they were both students and workers—and thus had control over their classrooms. It should not be up to the student to negotiate with the department because

these are newer graduate students who are not going to storm the barricades; there should be some other route available for students.

Professor Flink said he favored a gradual approach rather than asking someone to go right to litigation; a grievance committee is negotiating space. The question is where to go if that process breaks down. In a structure with faculty, staff, graduate students, and postdocs, the graduate students seem to be the most vulnerable population, and their ability to file for their rights could be challenged because of the power relationships that exist. He said he was not especially disturbed by the scripted instruction but would be concerned about never allowing a graduate student instructor to ever go off the script.

Professor Cohen said, apropos of the concept of negotiation as a means of conflict resolution, that NIH has looked at the question and there are some gray areas—but there are some absolutes as well. Graduate students must be given advice about the curriculum but limiting access to some information constrains a student's flexibility to devise alternatives for special situations and this is a concern. The question is whether unlimited transparency is projecting unrealistic expectations or if knowledge can be provided in such a way that the limits on how that information can be used are clear. If everything is selectively released, that is a slippery slope. The concept of setting limits, and providing a set of instructions as common knowledge, should allow minimal use of negotiated settlements.

Dr. Kohlstedt said a grievance committee exists to help reach a resolution and to take into account the complexities of a situation. Having a conversation and finding a middle space is critical; the goal is not an ongoing negotiation but a resolution.

Professor Flink said that Professor Cohen's suggestion about communicating the pathways is a good one. The Committee stays away from operational language; the first step is to articulate clearly about what happens at the Graduate School, and perhaps that is information that the Council of Graduate Students could publicize. Perhaps there should be a web page as well.

Dr. Kohlstedt reported that the Graduate School is in the process of changing its website and trying to identify how to make it more user-friendly and informative for students. They will be sure to provide information and a contact point. In addition, there will be an orientation for new graduate and professional students next fall, and this issue can be made part of the orientation, including joining an academic community and enjoying academic freedom. They could also have a panel on academic freedom for graduate students. Mr. Petty said that the Council of Graduate Students would likely be interested in co-sponsoring such an event.

Professor Rabinowitz endorsed adding academic freedom to orientation and the website and said she did not believe academic freedom was well understood by many people, especially graduate students, and especially graduate students from some countries. It is important that academic freedom be on the front page of the Graduate School, explaining what it means in the classroom and in research, and that is important beyond acquiring the skills of one's discipline—graduate students need to understand that it is the ideology of the organization.

Professor Miksch also supported the proposals about orientation and the website. She noted that Vice Provost Carney talks with new faculty about the Regents' Academic Freedom and Responsibility policy, which is one of the strongest in the country. It is important that graduate students understand both academic freedom and academic responsibility. She recalled that the Committee drafted optional

language concerning academic freedom for inclusion on syllabi; graduate students could use it to talk about academic freedom. She also noted that the Committee had looked at the AAUP's carefully-thought-out statement on academic freedom and graduate students; the Committee could ask if the University is following the best practices it suggests. In a number of cases it is, but where to go with a problem is not clear.

(The point was made in conversation that responsibility for postdocs will be moved back to the Graduate School as of January 1, 2014; the point person will be Associate Dean Anderson. The Graduate School has talked with the Postdoc Association about the transition and will work with it on some programming.)

Professor Flink said he believed useful points had been made about orientation and the website; he emphasized that the Graduate School should avoid legalistic and user-unfriendly language.

Dr. Kohlstedt answered affirmatively when Ms. Scott inquired if a graduate student should contact the Graduate School if he or she did not know where to go with a problem. There are staff with considerable experience who can help graduate students and she noted that Karen Starry often serves in that role.

(Professor Elliott recalled that the Committee reached agreement with Provost Sullivan that the white paper on academic freedom was to be permanently housed on the provost's website; the white paper notes that the point of final appeal on academic freedom matters is the provost. Vice Provost Carney said she was unaware of that agreement but said she would be glad to follow through on it.)

Professor Buhlmann agreed that a graduate student should go to the Graduate School to help with conflict resolution, but he urged that the process not forget the role of the Director of Graduate Studies. Professor Flink agreed and said that any language posted on the website should suggest the DGS as the first point of contact.

Mr. Beek said there should be a list of graduate student rights and responsibilities as well as TA rights and responsibilities. If they have a problem with X, they should go to Y; if they have a problem with A, they should go to B. The faculty also need to be aware of these options, because they can be new to the University or a new faculty member.

Professor Cohen said that with the changes in the Graduate School, DGSs do not receive the training they did before, so their skills are highly variable and they have different backup. He suggested it was time to think about how to educate DGSs. Dr. Kohlstedt said there are plans to have intermittent DGS updates relating to various matters of common concern University-wide, although such meetings will be optional, as well as orientation for new DGSs late in the summer.

Professor Flink thanked Dr. Kohlstedt for joining the meeting.

2. Four-Year Review of Associate Professors

Professor Flink turned now to Professor Rabinowitz, who had questions about the four-year review of associate professors.

Professor Rabinowitz reported that she had co-chaired a committee of the MLA (Modern Language Association) to review whether women faculty members were "stalling out" at the associate professor level; they found that the problem for women was more myth than reality but still exists. While she served as chair of English, she encouraged a number of associate professors to be promoted—but there has not been a lot of vigilance on the matter and the new requirement in general is a good idea.

Trying to implement the reviews in her department, however, raised a number of questions and created considerable anxiety, Professor Rabinowitz related; would the (full) professors be the next ones to face a required review? Moreover, the FAQs for the reviews have no specific process for conducting them, and a key question is the status of the document that is produced as a result of the review, after it is sent to the college and the provost, and its relationship to promotion. The anxiety arises because a good idea (mentoring associate professors) has been turned into a mandate that produces a document that goes to the provost's office. What is its legal status? Is it an alteration of tenure? She heard questions from some CLA departments while others were not concerned; will (full) professors be monitored next?

Vice Provost Carney, responding to the last point first, observed that full professors are already monitored through the post-tenure-review process. But this process and document are not about performance. The Women's Faculty Cabinet brought up the problem, among others. Every year for many years a large number of associate professors come to see her about the fact that their department does not provide feedback on being promoted to full professor (both men and women). Some people are told they are not ready. If that is the case, there should be a message regularly delivered that tells people what they must do to get ready. It was almost sort of a secret in some departments: "we'll tell you when we see that you're ready." Other departments did provide annual reviews.

There is a fairly large number of associate professors who have been in rank more than 8 years, Dr. Carney said, and the provost's office is interested in seeing them move forward—and in seeing that they receive the information they need in order to do so.

The required four-year review of associate professors has been part of the tenure policy procedures since February 2012 and includes a form to be used, Dr. Carney said. If an associate professor does not receive the review, he or she can go to the Senate Judicial Committee with a complaint, so she cautions departments that they must conduct these reviews. A college may give a department approval to delay the reviews, but the associate professors could say they have never received information, in 8 years, and want a review. She said she would like each department to establish its own procedures and they need to think about faculty members who have been associate professors for more than four years. The process, she emphasized, is meant to be completely positive.

Professor Flink said the Committee understood the reviews as evaluation of progress toward promotion to full professor, not about maintenance of one's status as an associate professor. One concern, however, is that there is no guarantee the documents will not be used in the post-tenure review process.

Dr. Carney said the documents would never be part of post-tenure review. The language in the tenure policy and the procedures document directs how post-tenure review is to be conducted. If an associate professor had a four-year review, was told he or she was making progress toward promotion, and then the department voted negatively on promotion, the associate professor could choose to put the document in the dossier—and he or she could always file a complaint with the Senate Judicial Committee

and insist that the positive review be included. Everything about the process is transparent and open, and the goal is to add regularity to the transparency.

Professor Rabinowitz said the concern she hears expressed is that "progress" is a potential incursion into tenure because it assumes there is some direction in tenure. There is, Dr. Carney responded: since 2007, the tenure policy says that people should advance so that they can be promoted to full professor.

What about people promoted before 2007, Professor Rabinowitz asked? Someone's position is never in jeopardy, Dr. Carney said, because they have indefinite tenure. There are still a few tenured assistant professors and they remain in place. Tenure is a lifetime contract: as long as someone maintains the performance standards established by the department's 7.12 statement, everything is fine; the four-year review of associate professors is not about losing their job. There is *no* basis for any associate professor to fear losing his or her job because of the required four-year review. Some may feel bad if they learn that they are not making progress toward promotion to full professor, but that conclusion does not put their job at risk. There may be some people who stay at the associate professor level for their entire career, people who have already been here a long time, but what about newly-tenured faculty? The University is saying that it expects them to become full professors and it is telling senior faculty that they are expected to help their junior colleagues achieve promotion. Before the required review, sometimes associate professors were simply thrown into the job and expected to figure out how to be promoted; the review is leading to a better job of assisting and mentoring associate professors. Dr. Carney said that Professor Rabinowitz had done a great job, while chair of her department, of mentoring associate professors; some of them were very close to promotion but had fallen into the mentality that they would always be associate professors. Without introspection and information, they would not have moved forward even if doing so would have required very little work.

Professor Rabinowitz said that listening to Dr. Carney describe the process was like living on two different planets. There is a level of paranoia among associate professors and the review asks full professors to make time commitments. The aim of the process has not been communicated to associate professors, who see it as punitive. That is not true for all associate professors, Dr. Carney said; she has received tremendously positive response from a large number of associate professors.

Professor Cohen said he was impressed by Dr. Carney's passion about the reviews. He did not come through the process because he was hired as a full professor, but he expected to help junior faculty and believes it to be an excellent process to have annual reviews. The reviews help account for the tenure rate and it would be a bad idea to abandon the four-year reviews as a way to check up on progress. A lack of attention to associate professors does no one any good and there are gender issues about approaches to one's career; everything the University can do to help deal with barriers is a good thing. He said he understood the fears of some but to do without the reviews would be worse. A less transparent promotion and tenure process is not a good thing, either; ignorance is not bliss because it keeps people in place and suppressed. He said he would support a two-year review.

Professor Flink observed that the Committee adopted a resolution last year endorsing the four-year reviews. There is a need, however, to find language and communication that targets full professors to make them aware of their responsibilities; the uneasiness that exists may be due to the fact that the intent has been less clear than it could be. Another call for more communication could help. Dr. Carney said she has incorporated much of the Committee's discussion in the orientation for new chairs and has

provided redacted examples of the forms that are done well along with the 7.12 statements. She said she believes the chairs felt the process is valuable, so perhaps it is necessary to do the same for current chairs.

Professor Larson commented that she's seen both sides: she was promoted mostly through her own self-advocacy but said the process does work and help prevent the full professors from becoming complacent. It can be made clear what they want the associate professors to provide and the process can be quick.

Dr. Carney said there may need to be a best practices document for associate professors on how to present their case vis-à-vis the provisions of sections 7.12 and 9.2 of the tenure policy. She has been asked whether a department is expected to look at the 7.12 statement in reviewing associate professors for promotion (!); she tells them they need to look at it point by point when evaluating the associate professors.

The associate professors should also be provided examples on what a dossier looks like and how they can vary, Professor Miksch suggested. Her college is developing procedures for the four-year review in order to help faculty members see what other departments are doing and to provide exemplars. She noted that Dr. Carney has reminded the Committee that it is not colleges that develop procedures for the four-year review, it is departments. Dr. Carney affirmed the point.

Professor Flink said he was glad the topic had come up and said he would also like to see language added that address the issues that come up for associate professors who serve as department chairs.

3. Interpretation of the Term "Compensation" in the Tenure Policy

Professor Flink welcomed Professor Morrison to the meeting to discuss the meaning of the word "compensation" in the tenure policy. The Committee is looking for his wisdom.

Professor Morrison remarked that he was glad the Committee was looking for wisdom but that that is not what he meant to provide. He noted that he teaches statutory interpretation, and the question is not what was intended but what was written.

Professor Morrison began with section 4 of the tenure policy, which provides very specific protection for certain things:

4.1 Written Notice Of Appointment.

Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must include the following:

- (a) Whether the appointment is regular or term;
- (b) Whether it is full or part-time and the percentage of time involved;
- (c) If for a fixed term, its expiration date;
- (d) If regular, whether it is probationary or with indefinite tenure;
- (e) Whether it is on a twelve-month, academic year or other specified annual basis;
- (f) The rank of appointment;

- (g) The academic unit or units to which the individual is being appointed;
- (h) The recurring salary; and
- (i) Additional salary as described in subsection 4.4.

Section 4.3 provides that no changes can be made to items (a) – (i) during the term of appointment. Items (a) – (g) are fixed and a faculty member must consent to any change in them.

Section 4.4 deals with salary and is split between recurring and non-recurring components, Professor Morrison said. (The second paragraph: "Recurring salary will not be decreased except by action expressly authorized in this section or in sections 7a, 10, 11, or 14 of these regulations or with the agreement of the faculty member. If a faculty member's recurring salary is decreased, the amount of the decrease and the reason therefore shall be set forth in a written notice and provided to the faculty member. No decrease in recurring salary shall occur in violation of the academic freedom of the faculty member.") For most faculty members in the liberal arts, science and engineering, and a number of other units, the recurring salary is most of the salary and non-recurring salary consists of things like administrative augmentation; in the Academic Health Center, it includes clinical income. So the salary cannot be changed. That is the starting point: what cannot be changed is salary, not compensation.

Professor Morrison observed that in a few places in the tenure policy, the term "compensation" is used. Section 11, dealing with fiscal emergency, sets up orders of priorities for doing so.

11.2 General Principles Of Priority.

The following general principles of priority apply in any financial crisis.

- (a) first, the University must fully utilize all means consistent with its continued existence as an institution of high academic quality to reduce expenses or to increase income which do not involve the termination of faculty positions or the impairment of faculty rights.
- (b) second, the University may consider alternatives which involve only the temporary reduction or postponement of faculty compensation or the reduction of fringe benefits.
- (c) only thereafter may the University suspend or terminate faculty positions in accordance with the section.

The University must go through the alternative approaches before the question of compensation is ever reached. It did so once, adopting a 1.15% salary reduction across the board, which passed the Faculty Senate. It also included a 3-day layoff for Civil Service employees. That is as far as things have ever gone.

What does compensation mean? Professor Morrison referred to sections 4.5 and 11.4.

4.5 Reduction Or Postponement Of Compensation.

If the University or a collegiate unit is faced with financial stringency that does not amount to a fiscal emergency, the president may propose a temporary reduction or postponement in compensation to be allocated to faculty in accordance with a mathematical formula or similar device. If approved by the Faculty Senate or the appropriate collegiate assembly, respectively, and the Board of Regents, the recurring salary of all faculty members in the University or in the

designated collegiate units shall be reduced temporarily in accordance with the formula or device. The reduction may not continue for longer than two years, unless renewed by the same process.

11.4 Second Stage: Reduction Or Postponement Of Compensation.

If the University has implemented all of the measures which are required to be considered in the first stage, which are consistent with its continued operation as an institution of high academic quality, and they are inadequate to meet the shortfall, the president may, after consultation with the Faculty Consultative Committee, propose the temporary reduction or postponement of faculty compensation for a predetermined period not to exceed one year, according to a mathematic formula or similar device. The Faculty Consultative Committee will report on the adequacy of the steps taken in the first stage and make its recommendations on the proposal. If the Faculty Senate approves the proposed action (or any modification of it) by an absolute majority of its membership or by a two thirds vote of the members present and voting (a quorum being present), the Board of Regents may take that action (or any less stringent action) and, to that extent, modify the terms of the appointments of all faculty members. The Board of Regents may rescind the action at any time thereafter. Such action may be repeated by the same procedures.

Section 4.5 was changed a few years ago, Professor Morrison said, and section 11.4 refers only to compensation. What were the authors thinking about when they wrote reduction or postponement? That it would truly be temporary, similar to what happened in the 1930s, when the University paid 80% of salaries and gave an IOU for the remainder—which was fairly common in public institutions at the time. There was no intention to deviate from the vested salary provided for in section 4.

Dr. Carney said that what happened a few years ago was action taken under the provisions of section 4.5. The general notion behind the three stages (in terms of faculty compensation), Professor Morrison said, was (1) all is OK, (2) the sky is falling, and (3) the sky has fallen. Events a few years ago reached (2), not (3). His thought is that one needs to look at the language of sections 4.1, 4.3, and 4.4: some elements are absolutely protected, (a) – (g), there is also (h) and (i).

4.3 Changes In Terms Of Appointment Other Than Faculty Compensation.

Except for raises in rank and except for action expressly authorized by these regulations, no changes of (a) through (g) items listed in subsection 4.1 may be made during the term of an appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate.

4.4 Faculty Salaries.

[INTERP 1] Each faculty member shall receive a recurring salary, and may also receive an additional salary which may be for special awards or for activities in addition to regular faculty responsibilities such as clinical practice, administrative service, overload duties, summer school teaching and summer research support and similar activities.

Another question is whether the language addresses fringe benefits, Professor Morrison said. They are part of the compensation system, and expectations, but they are not secured to faculty members in the exact form that they were at the time they came to the University. Health care changes all the time,

and the faculty member doesn't negotiate health care as an individual—those are negotiated through the Benefits Advisory Committee for the faculty as a whole. No single faculty member can disagree with health coverage and stop it—that would be a disaster. The same is true for group life insurance and some other fringe benefits. He said he does not see those as what are protected by the tenure policy.

If the University faced a difficult financial crunch, could it look only at salaries? Professor Morrison suggested that section 4.5 means it can look at everything, such as additional charges for health care, or not provide it at all and send employees to the market, and no single professor should be able to stop those decisions. Collectively, the faculty can make its concerns known, which has a big influence on decisions. But the basic/recurring salary is protected, while additional salary for a term, or clinical salaries, perhaps could change. The term "compensation" was used when people were thinking about a major catastrophe and looked beyond individual salaries.

Professor Miksch said that when the discussion about furloughs took place and the faculty agreed to a salary reduction, the Committee was asked if the reduction included the University's contributions to the Faculty Retirement Plan. There were also conversations about how the University could save money if it reduced its contribution to the retirement plan by three percentage points. The Committee asked whether the retirement-plan contributions were "compensation" and thus required a Faculty Senate vote. The decision was made to make no change in the contributions for current faculty and staff, only for those newly hired. So her question is why use the language of section 4.5 about the postponement or reduction in compensation, and not salary? She said she thought compensation meant more than salary, so if there were a reduction in the University's contributions to the retirement plan, that would require a Faculty Senate vote.

Professor Morrison said there are two questions. One is whether the University can set a second, separate contribution rate for new employees. The answer to that question clearly is "yes." The second question is easier: when the University reduced compensation by 1.15%, it also automatically reduced the contributions to the retirement plan by 1.15%. He said he thought that would be the standard rule—and it is as far as the University can go. Section 2 of the tenure policy provides that the policy is part of the contract between the Board of Regents and the faculty member; if the provisions are part of the contract, the Board of Regents cannot unilaterally change them, but it may do so with the consent of the Faculty Senate or in other ways authorized in the policy. He said he would differentiate between (1) salary and items that are a percentage of salary under which the individual faculty member has rights that can only be altered for under the terms of the Tenure Policy and that alteration must apply to all faculty members and (2) such things as the medical premium rate, the number of doctors in a network, and so on under which the faculty as a whole has a role in consulting with the University on the standards and costs. It is a problem, under the tenure policy, to reduce items that are tied to salary. Section 4 is important in protecting the base salary; there can be problems with clinical income, which depends on clinical production, and augmentations are only for a year at a time.

Vice Provost Carney asked Professor Morrison how his views fit with section 19 of the tenure policy. Section 19 provides that the tenure policy is subject to amendment by the Board of Regents, and amendments may come from any source. In recent years the amendments have all come from the faculty, but the policy allows the Board to change the policy after consultation with the faculty. Some people worry about that. Professor Morrison said he would be worried, too, because in 1995 the Board proposed changes, but they did not happen because there was extensive faculty and public outcry against the proposal. That was not contractual employment protection, it was the exercise by the faculty of their

professional and political connections to influence the outcome. Section 19 gives the Regents legal authority to change the provisions of the tenure policy against the faculty's will. What happened in 1995-7 shows that there are political and professional limits that prevent the Regents from taking unreasonable actions. What has happened with the Minnesota Orchestra is exactly what happened at the University: one side took unilateral action. Section 19 is a great risk but also a great barrier, because there would be "blood on the floor" if the Board took unilateral action that violated settled expectations. But no one is pushing for any such changes. The University has been through that; he called the events the "tenure wars." The dispute came to a reasonable conclusion; the faculty were not able to achieve all they wanted, but neither did the Board.

Professor Flink thanked Professor Morrison for joining the meeting and adjourned it at 12:00.

-- Gary Engstrand

University of Minnesota