FACULTY CONSULTATIVE COMMITTEE
November 13, 2014
Minutes of the Meeting

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 reflect the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

[In these minutes: Student Conduct Code-section IV, subd 4 (Refusal to Identify and Comply) & subd 16 (Disruptive Behavior) and the Outdoor Sound Policy, Discussion with Vice Provost for Faculty and Academic Affairs Al Levine]

Present: Rebecca Ropers-Huilman (chair), Chris Uggen (vice chair), William Durfee, Eva von Dassow, Gary Cohen, Gary Gardner, Joseph Konstan, Kathleen Krichbaum, Susan Wick, Colin Campbell, Dale Carpenter, James Cloyd, Janet Ericksen, Jean Wyman

Regrets: Linda Bearinger, Jigna Desai, Maria Gini, Karen Mesce

Others attending: Ole Gram, Jon Steadland

Guests: Vice Provost for Student Affairs and Dean of Students Danita Brown Young; Sharon Dzik, director, Office for Student Conduct and Academic Integrity; Jason Langworthy, board associate, Board of Regents; Maggie Towle, associate vice provost, Student Unions and Activities; Megan Sweet, chief of staff, Office of Student Affairs; and Vice Provost for Faculty and Academic Affairs Al Levine

1. Professor Ropers-Huilman convened the meeting, welcomed those present and called for a round of introductions.

2. Professor Ropers-Huilman said the first agenda item will focus on the policies associated with the Student Conduct Code and the Outdoor Sound Policy, which were referenced in the "dissent on campus" letter that members received about three to four weeks ago. She called on Vice Provost for Student Affairs and Dean of Students Danita Brown Young to make some opening remarks. Vice Provost Brown Young thanked the committee for the invitation to talk about the policies mentioned in the letter, specifically the Student Conduct Code-section 6, subd 4 (Refusal to Identify and Comply) & subd 16 (Disruptive Behavior)
[http://regents.umn.edu/sites/regents.umn.edu/files/policies/Student_Conduct_Code.pdf] and the Outdoor Sound Policy [http://outdoor.umn.edu/sound/]. She then asked Sharon Dzik, director, Office for Student Conduct and Academic Integrity, and Jason Langworthy, board associate, Board of Regents, to talk about the history of Student Conduct Code.

Mr. Langworthy began by talking about the creation of the Student Conduct Code in 1970, and noted that before the Student Conduct Code was in place, there was a student handbook, which contained vague descriptions of student behavior and conduct. Faculty,

students and staff agreed that the handbook was too ambiguous and did not allow people to understand expectations for student behavior and conduct. As a result, in 1970, a subcommittee was formed to review the student handbook and to create a distilled version, which created a Board of Regents policy and the conduct code. Throughout the review process, the intent was to have the Student Conduct Code achieve an educational purpose. He turned members' attention to the specific sections of the policy referenced in the letter mentioned earlier, Section IV, subd 4 (Refusal to Identify and Comply) & subd 16 (Disruptive Behavior). For the most part, these sections of the policy have remained consistent throughout the history of the Student Conduct Code.

Next, Sharon Dzik, director, Office for Student Conduct and Academic Integrity, reiterated that the policies concerning student behavior are intended to be educational and the Office for Student Conduct and Academic Integrity emphasizes student development. She pointed out that in section VII under *Sanctions* the policy talks about factors to consider in determining appropriate sanctions and read the following excerpt from the policy, "Separation from the University through suspension or expulsion is a serious sanction that may be appropriate for: repeated violations of the Code, for serious scholastic dishonesty, and for misconduct that constitutes a threat to community safety or well-being." The Office for Student Conduct and Academic Integrity implements the policy and is conscious of using all the opportunities it can to educate students about the consequences of their behavior. The vast majority of the interactions that the Office for Student Conduct and Academic Integrity has with students are educational and developmental in nature. Ms. Dzik then spent a few minutes talking about the process once a case is referred to her office. Vice Provost Brown Young noted that the Office for Student Affairs encourages students to familiarize themselves with the Code, which is on their website. Megan Sweet, chief of staff, Office of Student Affairs, added that while students charged with a violation of the Code can retain a lawyer, they also have the opportunity to work with a trained advocate/ombudsperson, which is provided through the Student Conflict Resolution Center (http://www.sos.umn.edu/).

Maggie Towle, associate vice provost, Student Unions and Activities, went on to talk about the administrative policy Using and Leasing University Outdoor Space: Twin Cities (http://www.policy.umn.edu/Policies/Operations/RealEstate/OUTDOOR.html). Copies of the policy were distributed to members. The offices responsible for this policy include the Senior Vice President for Academic Affairs and Provost, the Vice President for University Services, and the Vice President and Chief Financial Officer/Treasurer, and the policy owners are Vice Provost – Student Affairs, Associate Vice President for Facilities Management and the Director of Real Estate. She walked members through the policy and noted that the policy clearly outlines when a permit is required, when permits are not required, the permit process and the general rules.

The policy requires a permit for events involving 50 or more participants, said Professor Cohen, but what if the group does not know how many participants will show up? Ms. Towle said that when this has occurred in the past, the Office Student Unions and Activities would have to issue a permit on the spot.

Moving on, Ms. Sweet shared information on the Outdoor Sound Policy. Handouts to supplement the information she provided were distributed. She first turned members' attention to a memo dated September 2, 1999 from the Amplified Sound Policy Review Committee to the Vice President for Student Development and Athletics, which contained recommendations for the use of amplified sound on campus. Ms. Sweet noted that amplified sound is referenced in the Student Conduct Code since it was adopted in 1970. Over the years, minor edits have been made to the Outdoor Sound Policy, but in many ways it has been expanded to allow students and other users of University outdoor space to use amplified sound more frequently. In addition, the policy is consistent with the City of Minneapolis and the City of St. Paul statues regarding the use of amplified and outdoor sound.

Professor Ropers-Huilman thanked the guests for providing background information on the various policies and solicited members' questions, which included:

- Often when people are protesting, they will carry signs. Does carrying a sign constitute a display, which would in turn trigger the need for a permit? Vice Provost Brown Young said it would depend on how the sign was displayed and its size. A sign does not necessarily constitute a display.
- Any policy needs to be substantively right, and should not be biased against different viewpoints. In addition, policies need to be clear so students know what will bring them into potential conflict with University policy. Section IV, subd 16 of the Student Conduct Code, Disruptive Behavior, uses the term disruptive multiple times throughout the policy, but it does not define what disruption actually means. The policy appears to leave what constitutes disruption to the discretion of campus officials. Is this fair and specific enough for letting students know what specific kinds of things could run them the risk of a sanction? Is this policy sufficiently clear? Mr. Langworthy replied that if disruptive behavior is narrowly defined, and if something happens that is disruptive but it is not specifically written into the policy, then the University would not have the ability to take action. Board of Regents policies are purposefully written to be broad and overarching, whereas administrative policies lay out the procedures and processes to be followed. Ms. Dzik added that when interpreting the policy she uses the "reasonable person" concept. For example, as a member of the University community, would a reasonable person consider a particular behavior disruptive?
- While it is understandable the University would want maximum flexibility, the University is a public institution that is governed by First Amendment principles, and these principles require the University not to have unlimited discretion when it comes to punishing speech, for example. Under the First Amendment, the University cannot adopt whatever policy it wants because it is subject to guidelines. How do students know what is considered disruptive behavior? Is there something in the policy implementation guidelines that outlines what is and is not disruptive behavior? There should be implementation guidelines that students can point to affirming they have a safe harbor. Vice Provost Brown Young said if University business were disrupted that would constitute disruptive behavior. Ms. Towle added that another thing to consider when deciding if a

behavior is disruptive is whether or not the behavior was done peacefully. When students apply for a permit, they are informed about the basic parameters for acceptable and not acceptable behavior.

- While it appears today's guests have a working definition amongst themselves of what constitutes disruptive behavior, this definition needs to be made clear to students.
- There needs to a clear definition about what is disruptive behavior. As the policy is currently written, disruptive behavior is any behavior the administration does not like. The lack of a definition gives the administration a great deal of discretion.
- While the policy seems fairly comprehensive, political speech may shed light on the policy's ambiguity because it is unclear about what is considered disruptive behavior and what is not. Political speech is very different than a riot following an athletic event, for example. The University needs to think carefully how it regulates political speech using a policy that is more designed for crowd control and crimes.
- Three points: 1) At the Condoleezza Rice event, there were non-students doing the same things as the students, and the non-students were not subject to sanctions because they did not break any laws, while the students, who likewise broke no laws, were. 2) There is a lot of emphasis on the educational component of this process; however, students do not need to be told when they can and cannot speak loudly or when they can speak at all for that matter. Students do not want their choices made for them; their education and development entails making their own choices. 3) The Outdoor Sound Policy was not written to take into account such things as protests. It is completely illogical to permit loud noise between noon and 1:00 and not at other times if the rationale is to prevent disruptions of classes since classes are also being held at this time.
- Who is considered an authorized University official? Overreaching rules and policies that are intentionally vague empower arbitrary and authoritarian implementation of these rules and policies. The reason for having safe harbors and rules are to protect people so they are not discriminated against arbitrarily. How can the use of the word "reasonable" not be interpreted as relating to the content of what is being said or protested? How can reasonable behavior be related to the non-content questions that are being protested? Policy combined with guidelines and principles could serve to let people know if they are in a safe harbor or not. Determining what appropriate behavior is at a speech or public event versus what it is in a classroom would be a good place to start when developing guidelines and principles.
- The policy should include examples of what constitutes disruptive behavior and what does not.
- The guests should be applauded for their efforts to invoke the policies in a reasonable, fair-minded way while respecting basic First Amendment rights. Having said that, the permit requirements for events involving 50 or more participants in the Using and Leasing University Outdoor Space: Twin Cities policy seems to be a fundamental violation of First Amendment rights.

Hearing a number of concerns about the policies, Professor Ropers-Huilman asked the guests if they would like to respond. Vice Provost Brown Young said she appreciates the feedback. Recognizing that the University's demographics, attitudes and perceptions have shifted over the years, it is good to have thought provoking discussions like this. She reiterated the importance of the educational component throughout this process and emphasized that the Office for Student Affairs really care about students, not only their academic success, but development as human beings.

In terms of the word "reasonable," said Ms. Dzik, the Office for Student Conduct and Academic Integrity, looks at the behavior. While the focus of this meeting was to be on policy, she acknowledged there was an event that occurred last spring after which she received numerous emails, the majority of them saying "I was not there, but…" University students need to know when they engage in any kind of protest or activism what behavior(s) will get them in trouble. This has been a great conversation. Vice Provost Brown Young added the goal is for there to be an open dialogue, and the importance of the University community knowing about the policies and the processes if there is a policy violation.

Professor Ropers-Huilman thanked the guests for a productive discussion. After the guests departed, Professors Ropers-Huilman asked the committee about next steps for this issue. Professor Konstan said he feels strongly that it is a mistake to have policies that depend on the goodwill and skill of those implementing the policies. He added that he would like the FCC to pursue this matter further and members agreed.

Professor Ropers-Huilman suggested that the group could form an ad hoc committee to meet with and discuss revising the Student Conduct Code as well as the Outdoor Sound Policy with Vice Provost Brown Young and her team, ask Vice Provost Brown Young to re-evaluate the policy and return to the FCC, ask another Senate committee(s) to take up this issue and report back to the FCC, or do nothing.

Members agreed that at bare minimum subd 16 on disruptive behavior needs to be more clearly defined because as it is currently written it gives the administration too much discretion in terms of how it interprets disruptive behavior. Professor Carpenter admitted having come into this discussion sympathetic to the University administration and the problems associated with maintaining a civil and respectful atmosphere of dissent and speech. However, after reading the policy and talking with the guests, he said he is troubled by the fact that the University has policies that rely on the goodwill and judgment of administrators for implementation.

3. Professor Ropers-Huilman welcomed Vice Provost for Faculty and Academic Affairs Al Levine and called for another round of introductions. She said the three issues she asked Vice Provost Levine to come prepared to discuss were: 1) post-tenure review (PTR), 2) faculty diversity, and 3) leadership development for chairs and department heads.

Vice Provost explained that post-tenure review begins with the annual review of the tenured faculty, often as part of the annual merit review. That is, it is always initiated at the department level. He added that the PTR process is not designed to be for punitive purposes, and has a development focus to ensure that faculty who are not meeting departmental goals and expectations get back on track.

Professor Ropers-Huilman asked Vice Provost Levine whether in his opinion he believes that PTR is effective in developing, maintaining and sustaining an excellent faculty. Vice Provost Levine replied that most PTR cases have a satisfactory outcome in which faculty complete a mutually agreed-upon performance improvement plan.

Professor Gardner said that from a public perspective, PTR is not working. How can the University describe the process in such a way that it showcases the University's high-performing faculty? Vice Provost Levine said that the expectations for tenure and for satisfying minimum performance expectations have been strengthened substantially in the past 7 – 8 years.

Professor Cohen said he cares a lot about research productivity. During the annual review process, it is fairly easy to determine if research is being done, and papers published, etc., but it is much more difficult to assess the quality of a faculty member's teaching.

Professor Cohen added that the form for reporting the four-year promotional review of associate professors looks suspiciously similar to the probationary faculty reporting form and although he acknowledged that the four-year promotional review by no means is a performance review, the form could lead some to form that impression. Is any progress being made in improving, clarifying and making worthwhile the four-year review process? Vice Provost Levine agreed that a number of faculty see the four-year process as a threat, however, some associate deans have indicated that they like the process because they see it as an opportunity to have a serious discussion about promotion to full professor, and, in some cases, discuss attendant performance issues. He added that the form is an issue, but it is not "the" issue. Supervisors need to take the time and really evaluate performance on a regular, ongoing basis. With regard to the question about assessing the quality of the teaching, said Vice Provost Levine, it is clear the Student Rating of Teaching (SRT) used as a sole metric for assessing teaching effectiveness is not a perfect system. The policy on evaluation of teaching calls for a multi-pronged approach for evaluating teaching effectiveness, including peer review of teaching.

Professor Konstan asked if the University's minimum standards are where they should be. He added that the challenge with this question is that people cycle in levels of performance. Another issue that comes into play is workload. Within and across units faculty resentment is created when the perception exists that if one performs poorly enough that they will not have to work as hard. If a person does a poor job, they have less work than someone who does a good job. The University overall does a poor job of workload balancing. Another point that intersects with the previous two points, noted Professor Konstan, is that there is also remarkable salary compression. All these

combined have less to do with concerns about underperformance as about equity and keeping people motivated to do well in times when intrinsic motivation is insufficient.

As co-chair of the Rejecting Complacency Issue Team, commented Professor Uggen, he heard a number of junior faculty voicing dismay that they were being held to higher standards than their colleagues and they felt this was immoral and corrupt. A barrier that was frequently heard in terms of supervision was the reluctance by the department chair to take action to address underperformance because he/she would no longer be department chair a couple of years from now. He then asked Professor Ropers-Huilman to speak to the trigger for PTR in her department. Professor Ropers-Huilman explained that in her department the 7.12 documents outline the process for annual merit review and in that merit review process if a faculty member falls below a particular threshold, then PTR considerations are automatically triggered. This removes some of the chair's flexibility in making a decision to initiate PTR or not. Vice Provost Levine agreed that the 7.12 documents should contain language outlining the process for PTR, and the set of goals and expectations or minimum performance requirements that faculty are expected to satisfy while tenured.

In Professor Gardner's opinion, the annual merit process is more important than PTR. Annual merit reviews are where problems are solved before they become too big. The problem, however, comes when departments have no guidelines for dividing up the salary pool that it has been allocated. There should be a formula that departments can use to implement the salary pool allocation based on performance across all departments. Doing this would recognize high performers, said Professor Gardner, and he believes such a policy should be developed.

Professor von Dassow observed that it is easy for deans to like the four-year review of associate professors, because it is work they are assigning to chairs and full professors. She said she disagrees with algorithmic decision-making because this is a mechanism for excluding human judgment, which must be exercised during the peer review process. There are a lot of incentives to publish in quantity, for example, without regard to quality, content and real substance.

In the situations where the very high achievers are financially reward, noted Professor Cloyd, it has been his experience that faculty who are performing well, but fall below the top performers, are likely to get a lower than average pay increase given the finite amount of money. He asked Professor Gardner if he sees a solution to this problem. Professor Gardner explained the merit review salary allocation system he used when he worked in the private sector.

A one-time peer review of teaching, said Professor Cloyd, does not necessarily capture whether the faculty member is doing a good job or not. The alternative to this would be a more comprehensive and labor-intensive process. He asked Vice Provost Levine if he is aware of departments that have implemented a more comprehensive process for conducting peer reviews of teaching. Vice Provost Levine said that some colleges and departments that have a more comprehensive process, and that the Center for Educational

Innovation can assist in devising efficient ways of implementing peer evaluation systems. Professor Wick added that she agrees with Professor von Dassow and if the algorithm used for merit reviews is quantitative over qualitative this is a problem.

After listening to this discussion, said Professor Ropers-Huilman, the central issue does not appear to be PTR but rather the issue is how faculty are evaluated and rewarded. Professor Cohen agreed and commented that annual reviews are important because cases for PTR build from evidence coming out of the annual reviews. In Professor Konstan's opinion it is pointless to address the PTR issue until there is a meaningful review process in place that feeds into the PTR process. Once a meaningful review process is in place, then the question of whether the PTR process is flawed can be asked. Professor Gardner added that he believes the bigger issue is how to reward merit so faculty stay at the University rather than going elsewhere. Consideration should be given to a step system similar to that used by the University of California system, which allows inflation to be separated from merit so high performers can be recognized.

Professor Ropers-Huilman asked Vice Provost Levine to comment on professional development for department chairs. She said it is her understanding that the University has good development opportunities already, but more training is still needed. Vice Provost Levine said relative to other universities in the CIC, the University is doing well in this area. The University's program not only provides information to department chairs but offers opportunities for discussions to take place as well. Beginning in January, noted Vice Provost Levine, there will be a beta test of informal department head chats, which will be an opportunity for department heads and chairs to get together and talk about issues that are important to them. Networking and peer discussions are important to foster.

Are there obvious holes in the current development opportunities for department heads, asked Professor Ropers-Huilman? Vice Provost Levine said of course there are holes, but he is unsure at this point how to plug them. Much chair and head development is on the job training and there is a need to balance formal programming with the many other demands put on department heads for their time.

Professor Shunk-Ericksen commented that she would like to continue to see inclusion of the system campuses in training opportunities for department heads.

Professor Gardner suggested having discussions with 3M, for example, to hear about how they groom their managers and what kinds of skills they find important. Vice Provost Levine mentioned that the CIC offers department head training as well for a limited number of people. Professor Gardner said he participated in the University's department head training and found it valuable for a couple reasons: 1) it provided an opportunity to meet and interact with key administrators and 2) it provided a venue for meeting other department heads. He added that he thinks it would be beneficial if the University would offer additional training for department heads who have been in their job awhile.

Professor von Dassow commented that there are a lot of burdens placed on people who agree to be department chairs. Historically, said Vice Provost Levine, people who accept leadership positions have a lot of additional responsibilities on top their regular scholarship, teaching, etc.

Professor Konstan rhetorically asked how being a department chair can be viewed as a valued part of a faculty member's career rather than something to get out of. This issue goes beyond the question of what department heads/chairs do and know because there is the other issue of how one goes about leading one's followers, and not simply dictating to them. This could be another aspect of leadership development and training that needs to be explored. Vice Provost Levine agreed with the complexity of the department head position, and for this reason it is important to have an active FCC in the college that meets regularly with the dean. This raises another point, said Professor von Dassow, there is little integration from department, to college, to University governance. What goes on in departmental faculty meetings bears no relationship to the other governance bodies at the University; there are no linkages among the various governance structures that exist.

Professor Ropers-Huilman commented that as she read the Strategic Plan, the responsible parties for a majority of what was outlined in the plan were not department heads. Department heads were not structured within the Strategic Plan as being leaders. If department chairs were truly seen as leaders of this institution, it could help with communication, etc. Additionally, if department chairs are mid-level leaders, there should be ongoing development opportunities for them.

Professor Ropers-Huilman thanked Vice Provost Levine for a good conversation. Vice Provost Levine said these discussions are important. If the University is serious about improving its faculty, it should work with faculty to develop them (continuous improvement process) rather than focusing on punitive actions.

4. Before adjourning, Professor Ropers-Huilman called on Professor Durfee who had requested to be added to the agenda. Professor Durfee reported that Professor Gary Balas, former FCC chair, recently passed away. He went on to talk about a number of Professor Balas' accomplishments over the years. Professor Durfee said that a resolution will be written and sent to the Faculty Senate for information. He then called for a moment of remembrance.

5. Hearing no further business, Professor Ropers-Huilman adjourned the meeting.

Renee Dempsey, University Senate