

FACULTY CONSULTATIVE COMMITTEE (FCC)
February 4, 2016
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 represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

[**In these minutes:** Academic Analytics; Senior Leadership Team Update; Unionization Discussion; Compliance Review Preliminary Report]

PRESENT: Colin Campbell (chair), Dan Feeney, Gary Gardner, Kathleen Krichbaum, Scott Lanyon, George Trachte, Heidi Barajas, Janet Ericksen, Joseph Konstan, Karen Mesce, Chris Uggem

REGRETS: Jigna Desai (vice chair), Catherine French, Linda Bearinger, LaDora Thompson, Susan Wick, Dale Carpenter, Greta Friedemann-Sanchez, Jean Wyman

ABSENT: Oren Gross

GUESTS: Daniel Jones-White, analyst, Office of Institutional Research; Linc Kallsen, director of institutional analysis, University Budget and Finance; Professor Will Durfee, Senior Leadership Team member; Amy Phenix, chief of staff, Office of the President; Gail Klatt, associate vice president, Office of Internal Audit

OTHERS ATTENDING: Phil Buhlmann, co-chair, Academic Freedom & Tenure; Belinda Cheung, assistant vice provost of graduate education, Graduate School; Brian Edwards, reporter, Minnesota Daily; Vickie Courtney, director, Senate Office; Patricia Straub, Senate associate, Senate Office

1. **Academic Analytics:** Professor Campbell welcomed Daniel Jones-White, analyst, Office of Institutional Research and Linc Kallsen, director of institutional analysis, University Budget and Finance, who were invited to provide information on Academic Analytics. Before beginning, Professor Campbell called for a round of introductions.

Mr. Kallsen began by putting this agenda item in context. He said Academic Analytics is a database of Ph.D. programs and departments at more than 385 universities in the United States and abroad that the University has been purchasing with non-recurring funding since 2011. The question that has been raised to the provost is whether the University should continue to purchase this data or not. In order to make this decision, Provost Hanson asked whether the data is useful and how it is being used. In Mr. Kallsen's opinion, there is insufficient information to know at this point because not enough analysis has gone into helping the institution understand the data. As a result, the provost requested making people across campus aware that the data exists by interacting with faculty, department heads, associate deans, etc. Depending on the outcome of these discussions will determine whether Academic Analytics is retained or not.

Professor Uggen asked about the cost of Academic Analytics on an annual basis. Mr. Jones-White said the 2014 release cost the University \$128,000 and for a two-year subscription the cost is just under \$250,000. Mr. Kallsen added that the institution has multiple products, and while they do not compete with each other, they do overlap somewhat. Currently, an evaluation of all the products in this space is underway.

As part of the evaluation process, Professor Konstan suggested three things be considered:

- Quantity of data does not replace quality data.
- More data is being introduced at a time when assessments of quality data are being withdrawn.
- From a qualitative perspective, are efforts to assess and improve productivity internally really happening?

In Professor Konstan's opinion, getting data and then seeing if people are using it makes it difficult to justify the expense. Therefore, more effort should be spent finding out how different parts of the University are using the data, and, if they are not using it, consider reinstating more external support to ensure use of the data. Only after this is done can the question of whether the data is helpful able to be answered.

Mr. Jones-White added two additional points of context for discussion purposes. First, while the data is not new, the 2014 data was just made available late November/early December for the institution. Secondly, an announcement will be coming out soon to all the deans and associate deans to make sure all the different stakeholders are aware of the availability of the data. He noted that Academic Analytics was founded in 2005 in an attempt to improve the way the National Research Council assessed doctoral programs. There is a lot of confusion on campus about what Academic Analytics is and how it relates to the two other faculty productivity collecting systems operating on campus that measure what faculty do. Besides Academic Analytics, the two other systems are:

- *Works* - <http://www.academic.umn.edu/provost/works/>
- *Experts@Minnesota* - <https://experts.umn.edu/>

Currently, Academic Analytics has 120 subscribers, including 35 Association of American Universities (AAU) members, 9 Committee on Institutional Cooperation (CIC) members and 5 members of the University's comparison group (Ohio State University, University of Florida, University of Illinois, University of Texas and University of Wisconsin). Academic Analytics is not a tool designed to help an individual faculty member advance their research, but rather it is designed to help programs and colleges make informed strategic decisions.

Faculty, said Professor Gardner, have requirements to produce CVs in many different formats. Why? Why isn't there just one format? Internally, the University should select one format. Mr. Jones-White replied that neither Academic Analytics nor Pure, a research information system, uses information from a faculty member's curriculum vitae (CV). Instead, the University submits a list of faculty to these companies and they use their data sources to collect this information. The point is, said Professor Gardner, he does not have the time to correct the misinformation that these companies enter. Faculty should be able to send these companies their data and the companies should check it against the information they have. He added that regarding grants, it is clear many of the University's senior administrators value indirect cost

recovery (ICR) as much as if not more than the seven criteria included in a faculty member's CV. If this is true, and they really do primarily care about ICR, then these tools are a waste of money.

Another impact factor, said Professor Gardner, are graduate degrees. One of the University's roles as a Research 1 university is to prepare faculty for other institutions. Having said that, this is a metric that should be measured because when the University goes to the legislature, a number of legislators do not understand why the University has graduate and professional programs. The University needs to be able to make the case for why it is important to have graduate and professional programs. Professor Konstan agreed and said this is the one measure that is not in any of these tools and yet it is important the University be able to demonstrate its success in educating people. The University should be able to track people after they graduate so it can attribute back what its faculty have accomplished. This would be worth spending money on versus how many grants and papers a faculty member has produced.

Professor Barajas noted that given the University's Strategic Plan and Grand Challenges and the time and effort faculty are putting into it that there should be a way to measure work with different communities. A lot of faculty who do engaged scholarship do not receive ICR despite the fact they could have a lot of grants.

Academic Analytics could be a useful tool for assembling data, especially for program reviews, said Professor Uggem. However, he wondered about the availability of freeware that could collect a lot of this same data. For him personally, while Academic Analytics could be a useful tool, its usefulness seems limited. To be clear, said Mr. Jones-White, the aggregate counts are only part of the information that is collected; Z-scores and percentile ranks are also available. He said the tool counts things not only for the University of Minnesota, but all 389 doctoral degree-granting colleges in the U.S. and helps with benchmarking one program against another. If the University wants to make program level comparisons about its programs with other programs across the U.S., Academic Analytics is the tool that makes these comparisons possible.

Is this tool being widely used at the University, asked Professor Campbell? In his opinion, the issue is less about whether Academic Analytics is a useful tool, and more about whether it is being used. Mr. Kallsen said he could not agree more and that is the reason he and Mr. Jones-White are setting out to collect this information. Once this information is collected, he will make a recommendation to Provost Hanson to either keep or get rid of Academic Analytics. Professor Gardner said the real question is whether people at the dean's level are using the information. In Mr. Jones-White's opinion, he would like the data in the hands of the programs for their strategic planning rather than central administration mandating its use. The value of this tool is its ability to help DGSs, department and program chairs, associate deans of research and graduate studies, etc. evaluate their programs.

Professor Campbell thanked Mr. Kallsen and Mr. Jones-White for consulting on this matter. Members were told if they have further comments to send them to Mr. Jones-White.

2. Senior Leadership Team update: Professor Campbell welcomed Professor Will Durfee, former FCC chair and current faculty member serving on the Senior Leadership Team (SLT), to provide information on his experience serving on this body.

Professor Durfee began by providing information about the composition of the SLT, which includes all of the direct reports to President Kaler such as the vice presidents, chancellors as well as the co-leaders of University Relations, the Secretary to the Board of Regents and three deans. As of this year, at the request of the FCC, the SLT now also includes a faculty member. The SLT in total has 27 members. Professor Durfee said he started serving on the committee in November 2015. Going forward, faculty representation on this committee will be institutionalized, and it will be the immediate past chair of the FCC, unless that person is unable to serve for some reason in which case another FCC faculty member would serve instead.

Essentially the SLT is an information-sharing group, said Professor Durfee, and it meets monthly for an hour and a half. So far, Professor Durfee reported having attended one meeting and the mid-year retreat. Examples of information that was shared at these meetings included:

- Audit review of the Athletics Department
- Strategic Plan update by Provost Hanson
- Supplemental budget request to the legislature
- Fetal tissue
- Discussion about how best to advance the Board of Regents priorities
- Space utilization updates

Professor Durfee noted that there has been tremendous receptivity among the SLT to having a faculty member serve on the committee. He noted that the faculty rep on this body is a good person to remind the administration to consult with the faculty and to solicit their views on different topics/issues.

Professor Lanyon asked Professor Durfee whether as a member of the SLT he could bring governance issues to that group. Can the FCC request certain issues be brought to the attention of the SLT or would it be better to have the FCC chair and vice chair raise issues when they meet one-on-one with the president? Professor Durfee replied that appropriate governance issues could be brought to this group, but, in his opinion, raising issues with the president during the one-on-one meetings is a remarkably effective way to get the president's attention.

Professor Krichbaum asked who the three rotating deans on the SLT are and how they are selected. Professor Durfee said the three deans on the committee this year are John Coleman (CLA), Brian Buhr (CFANS), and Sri Zaheer (CSOM). He added that he does not know how the selection process works, or how long they serve, but presumably it is for a year after which three other deans are appointed.

Professor Campbell thanked Professor Durfee for the update and said he will be invited regularly to attend FCC meetings to report back on the work of the SLT.

Segueing into the next agenda item, a discussion on unionization, Professor Gardner asked whether this was a topic of discussion for the SLT. Professor Durfee replied that this topic was

not on the agenda. In his opinion, this group, in particular, is sensitive to discussing this topic from an administrative perspective when there is a faculty member in the room.

Professor Feeney asked Professor Durfee whether he senses efficacy or a recognition/acknowledgement of faculty governance by the SLT when issues bubble up. In Professor Durfee's opinion, this varies among the senior leaders. He suggested that chairs of the various governance committees should be sitting down with the senior leader counterparts who serve on their committees as ex-officio members to strategize and set the agendas based on issues of importance. Professor Durfee believes that in general the senior leaders recognize the importance of faculty governance.

3. Unionization discussion: The purpose of this discussion, said Professor Campbell, is simply to share information and talk about the issue of unionization. With that said, Professor Campbell opened the floor for discussion.

Professor Konstan began by saying he would like to be on the record with his comments, which follow: 1). Faculty need to have a vigorous discussion or debate around the union drive that is currently underway. It would be good to identify a neutral party to host and moderate such a debate. He said he has concerns because he is hearing a fair amount of partially informed and misinformed information being discussed and shared. 2). While he believes unionization is the wrong solution, he strongly supports the motives of the people bringing this effort forward. There has been a near gridlock in the issues and efforts raised by the faculty in the past few years. 3). The reason unionization is even being discussed is because there is a failure in leadership at the University. There are senior leaders—people who report directly to the president—who have squelched virtually every single initiative faculty have brought forward over the past few years, e.g., maternity/paternity, sabbaticals/leaves. This has happened even when initiatives seem to have support from deans and the Provost's Office. A positive possible outcome of these efforts would be to have unionization narrowly defeated and then to see major changes in the upper administration shortly thereafter. There is a need for an awakening.

Professor Gardner said he shares some of Professor Konstan's sentiment, and quoted Vice President for Human Resources Brown from a recent Minnesota Public Radio interview when she said the University "wants to continue working directly with faculty on governance and terms and conditions of employment. We believe the current governance structure gives faculty a strong voice and it will continue to be effective in the future." At the January 21, 2016 FCC meeting that Vice President Brown attended, said Professor Gardner, members specifically asked about the University's position regarding the current pay plan, sabbatical plan, etc., and did not receive an answer other than that will be a decision for the president and provost. In Professor Gardner's opinion, it seems like the faculty are being viewed as more of an adversary than SEIU (Service Employees International Union). The faculty and administration will need to work together if they expect to achieve their goals. There is not a crisis precipitating this vote like there was back in the late 1990s.

Professor Ericksen said she is being asked regularly what will happen to the Morris faculty if the Twin Cities faculty vote to unionize. What would a unionization vote mean for faculty governance if the Twin Cities faculty vote to unionize? Professor Campbell pointed out that the

Academic Health Center and the Law School faculty will be exempt from voting. Professor Gardner reiterated a comment he made at the January 21 FCC meeting, which was that governance is a condition of bargaining. If the bargaining agent says it wants to keep the current governance structure that could be agreed to in the bargaining agreement. There is no requirement that governance will cease to exist.

Professor Feeney noted he was chair of the Senate Committee on Faculty Affairs (SCFA) the last time there was a unionization effort. He said back then the committee invited the union organizers to a SCFA meeting. To Professor Gardner's point, if faculty governance is on the table for discussion, it would behoove the committee to invite the organizers to hear what they have to say. Professor Lanyon agreed that a dialogue is definitely needed. However, besides inviting the union organizers, people who are opposed to unionization should also be invited. What is faculty governance allowed to do? Professor Lanyon said he wrote to the Bureau of Mediation Services (BMS) to find out what governance is allowed to do, but as of right now he has not gotten a response. He said he is also concerned about the misinformation that is circulating around as well as the lack of information. To be clear, he added that he is a faculty member, but he is also a department head, and, during the last union effort, department heads were not counted as faculty and could not vote. Professor Konstan noted that there is a group of faculty who are attempting to create an organized opposition to this effort, but he does not know how far along they are, etc. Professors Barajas, Uggen and Buhlmann all agreed with the need for a forum to get neutral and accurate information out about what it would mean if faculty vote to unionize. Faculty are going to be asked to cast a vote on an issue of great importance that will undoubtedly have career implications, but currently they do not have enough information to make an informed decision on how to vote.

Professor Konstan said unlike the FCC that is comprised entirely of faculty, there are other Senate committees that have ex-officios on them who are administrators. With that said, if these committees plan to have discussions on topics involving terms and conditions of employment, the ex-officios will need to be notified so they can check to see whether or not they can attend these meetings. In addition to this, said Professor Lanyon, Senate committee chairs have not gotten the guidance they need to know what can and cannot be discussed. He noted that he would not want faculty governance to be tainted by being viewed as a tool of the administration. Professor Konstan added while being a tool of the administration sounds derogatory, the faculty fail if they are not a tool of the administration in the positive sense. Governance is a tool to facilitate consultation. Professor Campbell jumped in and said he agrees more or less with all the comments thus far, however, there are staff people involved in governance that do not have the protection of tenure like faculty. There is a vulnerability for these individuals and because of this he thinks it is important that the FCC not be perceived as having an agenda. Secondly, noted Professor Campbell, regarding the status quo and the promotion and tenure process, there has to be a definitive decision on this matter. Having an administrator give this answer is simply not good enough, it needs to come from BMS.

Professor Krichbaum raised the question if the FCC sponsors a unionization forum, can administrators attend. Professor Gardner said while he is not a lawyer, he would think the BMS would make that decision. Professor Lanyon suggested because he has not heard back from

BMS that Professor Campbell may want to follow up with them and get answers to the questions that he posed.

Professor Konstan said he foresees a problem, which is that there is no model of labor law with regard to union organizing that recognizes an entity like the University. With this said, he would not be surprised if it were difficult to get concrete answers from BMS given the lack of precedence with questions that have already arisen. In Professor Gardner's opinion, faculty should assume the University is unlike any other entity BMS has dealt with, and, therefore, should just keep moving forward. In response to this discussion, Professor Campbell asked members to give him and Professor Desai the opportunity to talk with President Kaler and Provost Hanson before petitioning the administration for answers. Professor Lanyon said it makes sense to him that because there has been no word from the BMS that faculty can tell the administration that things should move forward and the status quo order has no impact on faculty governance.

Professor Campbell thanked members for a good discussion and said if anyone has any further thoughts on this matter to give him a call to discuss.

4. Compliance Review Preliminary Report: Professor Campbell welcomed Amy Phenix, chief of staff, Office of the President, and Gail Klatt, associate vice president, Office of Internal Audit, and called for a round of introductions.

By way of background information, Ms. Phenix reported that she, General Counsel Bill Donohue and Ms. Klatt embarked on this compliance review project last August. Lynn Zentner, director, Office of Institutional Compliance, provided staff support. Ms. Phenix went on to explain that President Kaler wanted to step back and look at the University's compliance program given recent issues, the current regulatory environment, and also to think about how to strengthen the program and structure it so it is consistent with best practices. Additionally, there was a desire to explore creating a formal ethics program for the institution because currently there is no central office responsible for proactively promoting - through communications and other engagement activities - an ethical culture systemwide. It was also noted that the report is a preliminary draft and would be presented to the Board's Audit and Compliance Committee in February for input from Regents and faculty on the FCC.

Ms. Phenix said that extensive consulting and research was done in preparation for drafting the report, which she outlined in a fair amount of detail. From this work, the work group developed a set of recommendations that she asked Ms. Klatt to review with the committee. Before going over the recommendations, Ms. Klatt added that the Board of Regents' Audit Committee has taken a high interest in the compliance arena. This year, the Audit Committee's name was changed to the Audit and Compliance Committee. It is clear the Board of Regents wants the University's institutional compliance program to be effective as possible. Regarding benchmarking, Ms. Klatt explained that most organizations premise their programs on the federal sentencing guidelines, which is the national standard. She also noted that the University of Minnesota was a forerunner in establishing an institutional compliance program, and its program has been mirrored by other organizations over the years.

Ms. Klatt then highlighted the three primary recommendations in the report:

- Establishment of a formal institutional ethics program within the Office of Institutional Compliance (OIC). Ms. Klatt said that the University is an outlier compared to its peers in this regard in that it has no formal institutional messaging, programming or training around ethics.
- Assign responsibility to OIC for inventorying and monitoring employee compliance training requirements. Due to system and recordkeeping limitations, the University currently has no systemic way of tracking required compliance training for specific positions and informing faculty and staff when they need to take it.
- Add a practice of conducting in-depth compliance program reviews. These reviews are intended to be proactive and would be done in a collaborative manner with the responsible compliance partner.

Additional recommendations included:

- Enhance the organizational stature of the compliance officer and change the title of the position from director to chief compliance officer.
- Continue having the compliance officer report to the president, and eliminate the dotted line reporting relationship to the general counsel.
- Maintain the reporting line of the OIC to the Office of the President.
- Add the chief compliance officer as a member of the President's Senior Leadership Team.
- Create venues and standard protocols for sharing information among leaders who have intensive compliance responsibilities.
- Enhance the compliance officer's relationship with the Board given their strong interest in this area by creating a new annual meeting between the chief compliance officer, the chair of the Board, and the chair of the Audit and Compliance Committee.
- Maintain the University's Compliance Partner Program.
- Build compliance related measures into the University's performance management process to be sure people are held accountable if they have compliance obligations.
- Maintain the reporting relationship of the Conflict of Interest Program within the OIC.
- Continue to base the University's Compliance Partner Program on the federal sentencing guidelines.

Professor Konstan said while the recommendations make good sense, the report as a whole bothers him. Missing in the report is a recommendation that the OIC be responsible for assessing the burdens of each compliance activity because this causes more work for everyone. Ms. Phenix said this is a fair observation and pointed out that there needs to be a balance between meeting compliance requirements and overburdening faculty. Professor Konstan said he would like to see something in the report that makes it clear the OIC is charged with not only ensuring compliance, but also with ensuring its investment in compliance is appropriate for the payoff.

President Kaler has said on a number of occasions that risk needs to be treated differentially depending on the amount of risk that exists, said Professor Gardner. He added that faculty are being worn down by the increase in administrative responsibilities. Ms. Klatt reminded the

committee that the OIC is oversight and all the policies are owned by various vice presidents who are ultimately accountable for them. Professor Konstan said recognizing the University's culture is highly risk adverse then maybe it should be the responsibility of the chief compliance officer to make sure people are complying well enough but not at extensive cost. Ms. Phenix said this suggestion to make sure administrative burden is being calibrated within the programs could be part of the program review process that the work group is proposing to create.

Professor Feeney noted that he likes the fact that the chief compliance officer remains a presidential report and that Conflict of Interest Program has been elevated in the report because it is a high priority.

Professor Campbell said in the charge to the work group it specifically says that faculty governance leaders were to be consulted on this matter and this did not happen. This is yet another example of an ongoing institutional problem that the University has, which is that faculty are people who get told things. This is not consultation. The report was submitted to President Kaler on January 25. The work group did everything else outlined in the charge but consult with faculty. Failing to consult with faculty seems to be a mindset of this administration. Ms. Phenix admitted not consulting with faculty earlier, but said she and Ms. Klatt are here now. She reminded Professor Campbell and the rest of the committee that this is a draft report. Professor Campbell said the feedback the FCC just gave is that faculty think they are already being overburdened, and if faculty had been consulted before these recommendations were drafted, some of them may have come out differently. There is a perspective that is missed when a group is excluded; this was a lost opportunity. He said he would like to see the administration's mindset changed from should faculty be consulted to why haven't faculty been consulted.

Getting back to the report, said Professor Campbell, he was wondering whether there should be a faculty member on the Executive Oversight Compliance Committee (EOCC). While he is cognizant that faculty are busy, there are faculty with expertise in this area that would bring the faculty voice to the table. Professor Lanyon noted that the reason governance exists is to work with the administration and not at odds with them so faculty can help anticipate issues at a time when they are easiest to change. The intention of the report, said Ms. Phenix, is that it is a preliminary report and it is clearly marked 'draft' for that very reason. Input is being solicited now from the FCC and input will also be sought from the Board of Regents. This is not a final report. Professor Konstan said while he appreciates hearing this, he questioned why a preliminary report was even drafted before all groups were consulted. Ms. Phenix said this is a fair criticism, accepted responsibility and acknowledged the work group should have consulted earlier with the FCC on this matter. Professor Konstan said he is confident the work group will make changes to the draft as a result of this discussion. The FCC, added Professor Konstan, is hopeful going forward that faculty will be consulted on the front end of the process rather than the tail end.

Professor Campbell said in general he was favorably impressed with the report. He added while he agrees with the oversight as opposed to operational structure, his concern has to do with the decentralized structure; there should be more accountability, in his opinion. Ms. Klatt shared that there have been discussions about setting up an advisory group around ethics that involve faculty members. She said she has had conversations with faculty members who are interested in

the ethics arena and expressed an interest in participating so there has been some faculty consultation. Professor Gardner reminded those present that there are ethics requirements for graduate programs and there are faculty teaching these courses. He suggested taking an inventory of the existing resources before reinventing the wheel.

Professor Konstan said there is a structural element missing that was not part of the charge, and that is what happens when there is a major lapse? What happens when there is a compliance disaster? Where does the responsibility lie for figuring out if the problem is structural or non-structural? This cannot be the responsibility of the chief compliance officer because if it were it would be impossible to figure out if the problem is the chief compliance officer. These are questions that should be thought about, and if not addressed elsewhere, they should be included in this report. Ms. Klatt replied that under the existing structure, it is highly varied in how this happens.

Faculty researchers, said Professor Uggen, often struggle with getting answers to their questions related to compliance, having a point of contact for faculty is important, especially for new researchers.

5. **Adjournment:** Hearing no further business, Professor Campbell adjourned the meeting.

Renee Dempsey
University Senate Office