

Minutes\*

**Faculty Consultative Committee**  
**Thursday, November 19, 1998**  
**12:45 – 3:45**  
**Room 626 Campus Club**

Present: Sara Evans (chair), Kent Bales, Linda Brady, Mary Dempsey, David Hamilton, M. Janice Hogan, Roberta Humphreys, Judith Martin, Fred Morrison, V. Rama Murthy, Matthew Tirrell

Absent: Gary Davis, Marilyn Grave, Stephen Gudeman, Michael Korth, Leonard Kuhi, Marvin Marshak

Guests: Vice President and Dean Christine Maziar

Other: Maureen Smith (University Relations); a reporter from the AHC

[In these minutes: exceptional status; intellectual property and research issues with Vice President and Dean Maziar; changes to Senate documents; dinners with legislators; faculty public outreach]

**1. Various Items of Business**

Professor Evans convened the meeting at 12:45 and began by noting a list of issues that it has been suggested should be raised with Dr. Maziar. A matter related to research issues is the recent settlement with the federal government and its impact on the University's exceptional status with NIH.

Professor Hamilton reported that the exceptional status remains in place. It requires that NIH review the University's grants management system and determine if the University is to be removed from exceptional status. That will occur over the next 10 months. With the settlement of the lawsuit, he can now deal directly with NIH (he was not permitted to do so while the suit was pending). He said he intends to be aggressive. He added that had this settlement occurred before the meeting with the AHC senators and AHC FCC members, this Committee would have heard concerns about it.

There will be a follow-up meeting with the AHC senators and FCC, Professor Evans reported; it has been scheduled for mid-January. Some of those who attended sent emails afterwards inquiring "what can FCC do for us?"; others emphasized how demoralized the AHC faculty are. She said that she rejected the "what can FCC do for us?" approach, and has suggested instead that FCC and the AHC people focus on what faculty-initiated steps can be taken – by the AHC faculty, with FCC support, and perhaps by FCC in concert with AHC faculty. She said she wanted to break through the overwhelming sense of discouragement that was expressed at the meeting.

The Committee held a brief off-the-record conversation about the fallout from the meeting with the AHC representatives and how FCC should proceed.

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## **2. Discussion with Vice President and Dean Christine Maziar**

Professor Evans welcomed Dr. Maziar to the meeting, her first with FCC, and commended her for her involvement in Senate committee activities. She called for a round of introductions, and then drew Dr. Maziar's attention to the list of issues that had been prepared (and sent earlier to Dr. Maziar).

Dr. Maziar began with the Intellectual Property (IP) policy, which had been the subject of a number of very heated telephone calls and email exchanges over the preceding week or so. Dr. Maziar said the IP policy was a well-intended effort that went awry. She had had a long conversation with Regents' Professor Ellen Berscheid, which had been very helpful for her in understanding faculty concerns.

Dr. Maziar related that when she picked up the issue, she thought it was already well down the road, but that there were elements in the draft policy that concerned her. One was that there were too many claims by the University on faculty instructional work products, especially in distance education and technology-enhanced learning; she tried to remove those provisions. She said she thought it important that the University encourage faculty to engage in distance education and the use of technology, and that the policy as drafted would have discouraged them from doing so.

The intent of the policy, she commented, was to create a situation where the ONLY time the University would lay claim to intellectual property in distance education or technology-enhanced learning would be when there was an explicit agreement to produce something on a work-for-hire basis. The draft policy, unfortunately, muddied the water; some thought it called for the University to lay claim to ALL intellectual property. She said she is committed to working through the policy so that the intent is made clear.

Other universities have tried to lay claim to all faculty intellectual property (e.g., including syllabi, so they would not be shared). That is the wrong thing to do, she said; faculty will share syllabi, because they are colleagues, and it does not require a policy for the self-regulating mechanisms of the faculty to correct what could become an abuse.

Professor Hamilton suggested that it might useful to have faculty-administrative interaction at the outset of the process of rewriting, so that a policy does not go to the President, then the General Counsel, then back to another office, and all around. It would be better to have a small group of senior and knowledgeable faculty help develop a good IP policy. Dr. Maziar agreed. She added that the present draft was the result of a lot of patching and pasting from various places, and that it did not fit together very well. Another problem, Professor Hamilton pointed out, was that the policy languished for a long time in the General Counsel's office, and then another attorney – who was not involved in the earlier discussions – became involved.

Professor Morrison recalled that an earlier Graduate School draft of the policy HAD exerted University claims to much more intellectual property, and those provisions had not been fully eradicated. Dr. Maziar said she believed that the medium (e.g., distance learning, technological applications) should not change the claims the institution can make. There is a long and honorable tradition that faculty work products related to instruction belong to the faculty.

Asked if she consulted with a committee of faculty, Dr. Maziar responded wryly that she is learning daily that she has multiple faculty committees advising the dean. The primary group on which she relies is the Graduate School Executive Committee, and said that it is the group by which policies should be run before they are presented to faculty governance committees. She said she is sensitive to the amount of time faculty commit to governance, and recognizes the legitimacy of the complaint from the Senate Research Committee that the IP policy has been on its agenda too often and taken far more time than it should have. She reported that she is also relying on a committee of associate deans for research; they are the people in the deans' offices who must handle the nuts and bolts of policy implementation, and it is they who can advise on where a good policy (in the abstract) will have problems (in the implementation).

Professor Bales recalled that in the case of one policy last year, after much deliberation by Senate committees, an ad hoc committee settled the issues in 45 minutes. That required identification of the issues, but that done, they were settled. He said that the Committee on Faculty Affairs (SCFA) would be looking at the IP policy today, alone, to identify major issues; if SCFA views differed from those of the Senate Research Committee, then it is perhaps again time for an ad hoc committee. Dr. Maziar asked that Professor Bales relay to SCFA her position that the policy as written is flawed and that he share with SCFA the comments she has made at this meeting. She repeated that she is committed to developing a policy that serves both the faculty and the institution well – objectives that are coincident, she added.

Professor Humphreys inquired about the genesis of these policies; does Dr. Maziar's office have any role in drafting them? The documents seem to appear with strange or conflicting statements. It is patched together, Dr. Maziar agreed, and said she had to take responsibility for it.

Professor Tirrell asked where the IP policy fits in the national context. At Cal Tech, for example, faculty are being asked not to sign copyright release forms. What principles or thoughts or instincts are guiding these policies nationally?

There is a push not to sign releases to journals, Dr. Maziar said, to allow website publication; this is a means of protesting against rising journal prices. For normal academic work products, some institutions see the potential to generate a lot of money from distance education and technologically-enhanced learning, and they worry that faculty will take those products outside the institution and use them with a competitor – a for-profit organization. Some universities are trying to forestall that possibility.

Intellectual property should not be the issue, Dr. Maziar maintained. What should be at issue is conflict of interest or conflict of commitment. It is a waste of time, and only creates ill will, for a university to try to exert claims over what has traditionally been the faculty's intellectual property simply because of medium used for instruction. Some argue that faculty are using more institutional resources for distance education products; in her view, those resources should be considered analogous to use of the library.

Is it claimed that a course created at the University cannot be taught at another institution, Professor Bales inquired? Those institutions that take that position would require permission, Dr. Maziar said; that is not the University of Minnesota's position. What about teaching at a local competitor institution in the evening? That is where concern begins to arise, she said, because then the faculty member is competing with programs offered by the University; the faculty member's first obligation is to

the University, and one must inquire about a conflict of interest or conflict of commitment. It is not an intellectual property question. The basic issue, Professor Bales concluded, is the extent of the University's attempt to own the time and work product of the faculty member.

Part of the reason for these kinds of rules is federal regulations regarding certification of effort, Dr. Maziar commented. Teaching at a competitor institution, in one's field of interest, may or may not be a conflict; it must, in any event, be disclosed and managed.

Two other issues raised, Professor Evans noted, are the question of how well the University's research effort is measuring up (e.g., grant income in the Medical School is "flat") and what the University should do to get itself viewed more positively by those who do the National Research Council ratings.

Across the University as a whole, there has been a modest increase in grant funds, Dr. Maziar said, and there has been a substantial increase in private sector funding of research. One downside in the growth of industrial funding of research is that the money comes in one-year chunks, rather than for 3-5 years, and much more frequent reporting is required, taking more staff time and project administration.

There are concerns that as funding for NASA declines, and Department of Defense priorities change, there could be stress in the funding for the physical sciences. Those faculty, however, have done VERY well in obtaining research funding. It is also the case, however, that places where the President has targeted increased funding are also areas where the federal government is putting money.

With respect to the NRC rankings, Dr. Maziar said she was glad FCC was thinking about the subject. NRC study committees are to begin designing the next study in March, 1999, with 2001-2002 the data collection period and 2003-2004 when the report will be issued. One area likely to receive much more attention in the next study is graduate student placement. A lot of professional associations are focussing on this issue; it is very likely placement will be a measure in the next report. Dr. Maziar reported that she has asked an ad hoc committee, composed of representatives from each of the six Policy and Review Councils, for a report by the end of winter quarter on how to assess placement and approaches the Graduate School might take to assist departments in placement.

Professor Humphreys related that she had examined the information about the physical sciences in the last NRC report; some of it was just wrong. The information being sent should be passed by department chairs before being forwarded to the NRC by the University. Dr. Maziar said that some of the information probably came from Dr. Zetterberg's office, and she noted that the University itself has 3-4 different ways to count faculty. The suggestion, however, is a good one, she said. Part of the perceived problem, Professor Morrison pointed out, is that professional associations and probably the NRC have very specific definitions on how to count faculty. Professor Bales recalled the problems the Academic Appointments Subcommittee has had in getting a count of faculty.

Dr. Maziar commented that "we have too many people mucking around in the data pot" and said that the Enterprise Systems Project is intended to help create one basic data set that all can work from. Having different sets of books is unwise.

At most universities, Professor Murthy said, there is much publicity given to faculty who do research, no matter their title. He said, however, he did not care about NRC rankings, because they are all

perceptions – but that if perceptions are important, the University should look at what others are doing by way of celebrating their accomplishments.

Dr. Maziar agreed. She said that Midwesterners – of which she is one – are embarrassed to brag about themselves. After a number of years at Texas, however, she has come to see the value of a little swagger. If faculty do not want to brag about themselves, they certainly have colleagues they could brag about. Newly-appointed Vice President for Institutional Relations Sandra Gardebring will be a dynamo for the University and for arousing enthusiasm. Any help that faculty can provide would be welcome.

Dr. Maziar said she was in favor of doing things that would push the University higher in the NRC rankings, as long as those things coincide with University goals. Publicity for colleagues and graduate student placement are things the University OUGHT to do anyway.

Professor Evans recalled that the Committee had had a Committee on Public Understanding in order to promote faculty talking to different audiences, established when the Committee realized how important communication is with the public in Minnesota. If the faculty can learn to communicate well in the state, presumably it can do so nationally as well. Dr. Maziar said she had recently been at a lunch with the land-grant professors, and has asked why they had picked Minnesota; she said she wished people could have heard the comments about the quality of the University, of the Twin Cities, and of the state.

Professor Evans thanked Dr. Maziar for joining the meeting, and expressed the hope that these exchanges could be regular.

### **3. Document Review Protocol**

Professor Evans drew the attention of Committee members to a draft “Document Review Protocol,” intended to deal with the problem of changes made to Senate or Assembly policies after they have been adopted and forwarded to the administration or Regents. There have been difficulties along this line for some time, and the point of the protocol is to assure the administration and president that the Senate is NOT concerned about typographical or numbering or technical changes, but that substantive changes will be brought back to the Senate.

The protocol creates a committee of three – the FCC vice chair, the Senate vice chair, and the Clerk of the Senate – to review changes in Senate or Assembly documents, and to take appropriate steps depending on the nature of the changes proposed.

Professor Dempsey expressed concern that changes would be made anyway (the protocol should catch them) and that the tenure code would be changed. Professor Morrison commented that there is a misprint in the code, and a typo, and somebody should be able to fix things like that. The notion in the protocol is that the review committee could only approve changes such as that; anything more would be brought back to the Senate.

Following brief edits suggested by Committee members, the Committee indicated by absence of dissent that the draft should be sent to the President for his review.

#### **4. Committee on Public Understanding**

Professor Evans alluded to her comment to Dr. Maziar about the Committee on Public Understanding, and said she wanted the question of whether to appoint and continue the committee on the table. It existed a couple of years ago, hired a public relations firm to obtain an analysis of ways faculty could reach out to the broader community, and that effort led to the faculty ambassadors program.

There needs to be a discussion of what role FCC should play in continued efforts at publicity. There does not need to be a formal committee, but there may be need for a group with the goals of seeking invitations from business and social groups to speak about the need for academic freedom, the work of the faculty, and the contributions of the University to the economic vitality of the state.

Professor Evans asked that Committee members think about this, and said she would raise it at a future meeting.

Professor Murthy said he was a faculty ambassador but has never been called. Professor Evans pointed out that faculty do much of this kind of outreach in the normal course of their work; maybe there needs to be a better way to count it.

#### **5. Dinners with Legislators**

Professor Evans next related that Professor Craig Swan, when he was serving as the FCC legislative liaison, had urged that FCC members have dinner with legislators on the higher education committees. The outstate legislators, in particular, are stuck in St. Paul during the session, and might welcome an opportunity to have dinner with faculty.

FCC members agreed that this was a good idea; Professor Evans promised to pursue it with Professor Marshak, the current FCC legislative liaison.

The Committee then turned to personnel matters, in closed session. The meeting was adjourned about 3:15.

-- Gary Engstrand