

Minutes*

**Senate Research Committee
Monday, April 7, 2008
12:30 - 2:15
238A Morrill Hall**

- Present: Dan Dahlberg (chair), Arlene Carney, Jerry Cohen, Tricia Conway, Leslie Delserone, Shikha Jain, Paul Johnson, Juergen Konczak, Michelle Lamere, Frances Lawrenz, Jennifer Linde, Timothy Mulcahy, Federico Ponce de Leon, Susan Rafferty, Steven Ruggles, Charles Spetland, Barbara VanDrasek, Sanford Weisberg, Jean Witson
- Absent: Linda Bearinger, James Cotter, Sharon Danes, Robin Dittman, Steven Gantt, Tryphon Georgiou, Bridget Helwig, Mark Paller, Virginia Seybold, George Trachte
- Guests: Cynthia Gillett (Research Animal Resources), Gregory Hestness (University Policy), Robert Janoski (Central Security), Moira Keane (Research Subjects Protection Program), Mary Koppel (Academic Health Center Public Relations), John Merritt (Office of the Vice President for Research), Matt Quast (University Police), Erik Swanson (University Police)
- Other: Melinda Sewell, Peggy Sundermeyer (Office of the Vice President for Research), Associate Vice President Pamela Webb (Sponsored Projects Administration)

[In these minutes: (1) intellectual property policy; (2) animal-rights activism]

1. Intellectual Property Policy

Professor Dahlberg convened the meeting at 12:30 and turned to Vice President Mulcahy to lead a discussion of the revised Intellectual Property policy.

Vice President Mulcahy had distributed earlier to Committee members four documents: "Patents and Commercialization of Intellectual Property" policy, "Invention Waivers and Acknowledgements," "Disclosing an Invention," and "Resolution of Disputes." He also distributed at the beginning of the meeting a one-page handout illustrating how existing policies and documents had been incorporated into proposed new documents. He recalled that the Committee had endorsed the Regents policy *Commercialization of Intellectual Property Rights*. The administrative policy on patents and commercialization and associated procedures is intended to replace a number of administrative and Senate policies in order to improve the administrative process.

Professor Dahlberg noted that the "Disclosing an Invention" procedure provides that the Office for Technology Commercialization (OTC) will take into account the inventor's wishes. How will that be implemented? Vice President Mulcahy said that the OTC staff will meet with the inventor to get a sense of his or her vision and views about commercialization opportunities. They listen carefully, because often it is the faculty member who knows who would be most interested in an invention, but it is not solely the

* 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.

faculty member's decision. OTC has professionals who may design a different pathway to commercialization. It is intended to be a respectful exchange of information and ideas with the understanding that ultimately the professionals must make the decision.

There was also discussion about the need to protect work in order to preserve patent. Dr. Mulcahy said it is always better to protect something as early as possible so it does not get into the public domain.

Professor Dahlberg asked about a graduate student who creates a body of work and needs something in print in order to get a job. If the student is told he or she cannot publish before a patent is granted, that could take a long time and hinder the student from getting on with a career. Dr. Mulcahy said that everyone must assume some responsibility; even if there is no history of disclosing technology, the student and faculty should be thinking about the implications of publishing. OTC can help with quicker filings to obtain provisional patents, which allows protection of the idea and publishing. The goal of Sponsored Projects Administration, he added, is to disseminate findings and there is a limit on how long something can be withheld from publication. These problems are similar across universities and Minnesota uses the same standards as its peers.

The question was posed: should this administrative policy be voted on by the Faculty Senate? Professor Dahlberg said it is useful to have these kinds of discussions and that anything the faculty must live by should be vetted by the governance system.

Professor Johnson described a situation in which he had recently been involved that included discussions with counterpart researchers in the private sector. University staff were invited to what was essentially a research meeting, but those staff were quite aggressive about getting things in place legally before any more discussions could take place. At the end of the day, from the faculty member's viewpoint, they liked the collaboration with colleagues who had a lot more researches, but they were not able to share very much unless OTC or University staff were able to put something in place legally. One becomes unsure how to proceed and coordination becomes more difficult because those concerned about patent and legal issues talk a different language from the researchers.

Dr. Mulcahy said his office is watching these situations closely because it has been an issue in the past: with all good intentions, in collaboration with sponsors, faculty members have made commitments that put their own and departmental intellectual property at risk. The University just wants to be sure that before any money changes hands that everyone knows the ground rules. He agreed that researchers must have the freedom to have discussions without kibitzers, but before any agreement is reached the staff need to be involved in developing the agreement. He also said that in the past there were rigid rules no matter how interesting the intellectual property was; now they look at what is at stake and the potential benefits, and if appears that more interaction would be more beneficial, there can be more cooperation and more incentive to develop a partnership. If it is important the process go forward, especially if there is little intellectual property money likely to be involved, the process can be more informal. What is key is any agreement that would tie the researcher's hands down the road. If someone feels that University staff are getting in the way, however, they should let him know, Dr. Mulcahy said. The situation might not change but his office can provide help in finding ways to make things work.

Professor Johnson concluded that there is a natural tension and that he is grateful there are people in the Vice President's office to help, people whom he can ask questions.

Professor Dahlberg commented that the discussion reflects the difference between the ivory tower and the commercial world. Faculty have felt that the University has been protecting them from "those people out there," protection faculty needed because they are sometimes naïve. Professor Johnson agreed and said that in his case the staff came in late, but now they come in earlier and create a tension that people just have to live with. He emphasized that he has had very good experiences with OTC and the Vice President's office.

Dr. Mulcahy said his office has been more active in identifying opportunities for faculty and those who might do business with them. It is not their intent to intrude but to be helpful. He agreed that there is a tension but being involved early on can help reduce the risk and later problems. He said they try to find an equilibrium point and as they become more familiar with the process, the tension should be reduced. As a summary statement, he said the goal is to optimize the ability of faculty to work with those on the outside. He noted that sometimes it is other universities that prove to be the most difficult to work with.

Professor Dahlberg asked the Committee if the policy should go to the Senate. Dr. Sewell reported that the Regents policy cannot be changed without Senate approval and that this administrative policy is only to implement the Regents policy—and is not as important as the Regents policy, which determines the distribution of royalty income, for example. Dr. Mulcahy said his office enjoys good relationships with this and other Senate committees and has no problem sharing information. The question of whether the Faculty Senate needs to ratify the policy is up to the governance system to decide, but he intends to have good relationships with it in any event.

The Committee voted unanimously to endorse the policy. It also voted 7-3 to forward the policy to the Faculty Senate. Professor Dahlberg said he would bring it to the Faculty Consultative Committee for a discussion about whether it should be for information or action. Professor Cohen said it is important to encourage strong faculty governance and to inform faculty about issues. If the policy goes to the Faculty Senate, it will receive a more widespread reading.

Before proceeding to the next agenda item, Professor Dahlberg welcomed Professor Delserone to the Committee.

2. Animal Rights Activism

Professor Dahlberg next welcomed several guests to discuss animal-rights activism: Cynthia Gillett (Research Animal Resources), Gregory Hestness (University Policy), Robert Janoski (Central Security), Moira Keane (Research Subjects Protection Program), Mary Koppel (Academic Health Center Public Relations), John Merritt (Office of the Vice President for Research), Matt Quast (University Police), and Erik Swanson (University Police). It was moved, seconded, and voted unanimously to close this portion of the meeting.

In the course of the discussion, Ms. Keane explained the actions the University is or has taken to protect researchers who use animals in their research, Mr. Janoski explained the security infrastructure across the system, Chief Hestness explained the role of the University Police and individuals on his staff, Ms. Koppel explained the public service and educational role that her office plays, Sgt. Swanson explained the relationships between the University and the FBI and anti-terrorism efforts, and Mr. Quast

said that communications now are much better than they were in the past. Chief Hestness said that no one should be afraid to call the police if they have a concern, nor should they apologize for creating an inconvenience; they are glad to respond to calls, he said.

Professor Dahlberg thanked the guests for joining the meeting and adjourned it at 2:00.

-- Gary Engstrand

University of Minnesota