

Minutes\*

**Senate Research Committee  
Thursday, April 1, 1999  
626 Campus Club  
3:00 PM**

Present: Len Kuhi, Chair; Richard Poppele, Ed Wink, Lorraine Francis, Barbara Van Drasek, Albert Nakano, Eric Klinger, Burle Gengenbach, Mark Paller (for Frank Cerra), Vic Bloomfield, Fay Thompson, WinAnn Schumi

Guests: Christine Maziar, VP for Research and Dean of the Graduate School

Regrets: Scott McConnell, Bianca Conti-Fine

Absent: Amy Levine, Marilyn Delong, Lincoln Kallsen, John Finnegan, Jesse Grenz, Peter Reichert

[In these minutes: PI Eligibility, Education in the Responsible Conduct of Sponsored Research and Grants Management Policy, Enforcement Model, Intellectual Property, Research Safety Program]

The University Senate Research Committee met at 3:00 PM on Thursday, April 1, 1999 in 626 Campus Club on the East Bank of the U of MN.

**APPROVAL OF MINUTES.**

The minutes from the Research Committee meeting held on February 25, 1999 were approved as written.

**POLICY UPDATES.**

Professor Len Kuhi, Chair, reported minor changes to the following policies:

Principal Investigator Eligibility Policy. The PI policy was reviewed by the Office of the General Counsel. Under Section IV, subsection 4, the last sentence should read, "However, principal investigator status may be rescinded for just cause in accord with applicable University policies with the right of review through the Judicial Committee or the all-University grievance process as appropriate."

Education in the Responsible Conduct of Sponsored Research and Grants Management Policy. Under Guidelines, Section 5 should read, "The University has the responsibility to publicize the educational requirements of this policy to all employees, to commit the resources necessary to establish and sustain the ongoing educational program, and to see that it is actually carried out."

**ENFORCEMENT MODEL.**

The Enforcement Model was developed to ensure that participants in all positions and at all levels fully comply with the Grants Management Policies and Procedures. It provides for corrective action, remediation, and/or discipline for violation of the policies and procedures, as appropriate, depending on

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\*These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate or Twin Cities Campus Assembly; none of the comments, conclusions, or actions reported in these minutes reflect the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

the scope and seriousness of the matter. Members of the Research Committee approved the Enforcement Model as it was presented to them.

Professor David Hamilton introduced Michele Gross and Karen Dewanz to present the committee with information about oversight reports that apply to areas of potential risk. Seven oversight reports are accessible on the Sponsored Projects Financial Oversight Reports web page, which describes contents and purposes of financial reports as well as identifies users of the reports. The seven reports are: 1) Sponsored Accounts in Deficit; 2) Spending Rate of Sponsored Accounts; 3) IDC Rate; 4) Aged Pre-Award Accounts; 5) Fixed Price Account Balances; 6) Program Income; and 7) Non-Salary Expense Transfer Activity.

Professor Hamilton asked committee members to review the sample reports included in the Sponsored Project Financial Oversight Reports handout. Ms. Dewanz described the new principal investigator report, including detail about the budget, personnel expense, non-personnel expense, and access to financial reports on the Web (an aid to help find reports). Professor Hamilton thanked Ms. Dewanz and Ms. Gross and noted that he expects that the new access to these reports will have a positive effect on the University.

Professor Kuhi expressed thanks on behalf of the committee to Professor Hamilton and others on the hard work of the Grants Management Project.

#### **INTELLECTUAL PROPERTY POLICY.**

A joint meeting of the Research Committee and Faculty Affairs Committee (SCFA) was held to discuss the Intellectual Property Policy. The following members of SCFA joined the meeting for this discussion: Professors Carol Chomsky, Rick Purple, Jim Perry, John Fossum, Josef Altholz, Janet Holdsworth, Gary Balas, and Marsha Pankake.

Vice President for Research and Dean of the Graduate School, Christine Maziar, noted that although there was substantial agreement among the members of the Intellectual Property Policy working group on the policy's major issues and resolutions, there was a great deal of difficulty in capturing suitable language for the policy.

A discussion of the major issues involved the following:

- ◆ Decision was made, consistent with previous policy, that the policy would apply to all faculty, staff, and students, and all persons otherwise employed by the university or who receive funding administered by the University (including graduate students and post-docs). Visiting faculty and visiting researchers, however, were excluded with the understanding that it would put the burden on the university as an institution to write in their letters of appointment/invitation to work in our facilities certain provisions with respect to intellectual property. The addition of these provisions resulted from concern that having the intellectual property policy apply to visitors in a blanket fashion would raise barriers for the kind of collaborative work it hopes to promote with industry and researchers at other institutions; this way, intellectual property issues with these individuals are clarified up front.
- ◆ VP Maziar agreed to work on the procedures with the President of the Faculty Senate upon approval of the policy.
- ◆ When does the University own intellectual property? The university owns all intellectual property using university resources with important exclusions, primarily regular academic work products as

defined in the policy. The university has no ownership rights in intellectual property created by a student for the sole purpose of satisfying course requirements; the university also has no ownership rights in intellectual property created by employees that is unrelated to their university responsibilities.

- ◆ The University can own intellectual property rights for a regular academic work product if they are course materials, and only if the creator assigns the rights to the university; these are identified as specially commissioned works.
- ◆ The first subsection of distribution of income describes how the revenue would be divided for intellectual property derived from academic, research, or scholarly study (applies to most faculty, student, and faculty-like P&A intellectual property); the split would be 1/3 to the creator, 1/3 to the VP for Research Office, 8% to creator's college, and 25-1/3% to the department division/center which supported the creation of the intellectual property (proceeds to support creator's research or other directly related university work). Two issues created discussion among the working group: 1) reorganization of departments; and 2) procedure for handling significant revenue flows creating large distortion in a unit's budget.
- ◆ The second subsection of distribution of income deals with intellectual property developed not in the course of academic research. The royalty distribution appropriate to faculty members who are selecting their own research areas did not seem appropriate in this case, yet a mechanism was needed in which those individuals could still be rewarded, allowing a bonus or salary supplements for the creator.
- ◆ There continues to be an Invention and Proprietary Information Agreement in this policy due to federal regulations. Employees will be required to read, understand, and sign this document upon request; the procedures will identify who is expected to be requested to sign the agreement. Concern was raised about the possibility of resistance to signing this form, particularly if individuals don't fully understand the concept of intellectual property.
- ◆ What mechanisms are there to monitor what the University called "out-of-pocket expenses?" Out-of-pocket expenses do not include operational expenses for the PTM office; rather costs incurred in hiring external legal assistance in prosecuting the patents, defending the patents when the intellectual property is challenged, etc.
- ◆ VP Maziar and Professor Carol Chomsky noted the importance of putting into the procedures avenues for disputes and resolutions regarding the operational standards to maximize the flexibility in modifying procedures in the future.
- ◆ It was suggested that the working group remove "academic" before research in Subdivision 4 so that it reads as broadly as possible and to perhaps include it in the definition section for clarification; the working group will consider this. They hoped to reserve academic work product for faculty, students, and faculty-like P&A.
- ◆ Regarding rights to publish, it was noted that any specification of limited period of nondisclosure should be included in the procedures rather than the policy itself.
- ◆ Professor Chomsky clarified the consulting policy and how the University owns faculty intellectual property when consulting outside the university. Specifically, Section 3, subdivision 2(b) is a provision that addresses external relationships; however, it was noted that it should read "in accordance with the terms of the (delete) University's (delete) agreement with the external party and applicable law." The working group will also consider adding to the section the fact that faculty consulting relationships are sufficiently important and occur quite frequently.
- ◆ The intent of the compliance section is to simply indicate the range of possibilities depending upon the seriousness of the action. Concern was raised about the clause stating the sanction of ineligibility of the employee to supervise graduate students. Because the first sentence already states that failure

to comply with the provisions of the policy is a violation and may result in discipline of an employee, the working group will consider removing the sentence that lists the specific sanctions.

Professor Carol Chomsky informed members that the policy is currently a working draft and that it is expected to go before the Senate for discussion at the April meeting and before the Senate for action at the May meeting.

**RESEARCH SAFETY PROGRAM.**

Fay Thompson, ORTTA, reported that the intent of the Research Safety Program is to ensure that research is conducted in a way that prevents accidents and minimizes exposure. Ms. Thompson plans to meet with the Associate Deans for Research in the next two weeks and asked that any comments about the program be sent to her directly before then. She stated that the program may become effective as early as this spring.

The meeting adjourned at 5:00PM.