

Minutes*

**Senate Research Committee
Monday, April 15, 2002
1:15 - 3:00
238A Morrill Hall**

- Present: Scott McConnell (chair), Melissa Anderson, Gary Balas, Kris Davidson, David Hamilton, Paul Johnson, Katherine Klink, Leonard Kuhi, James Luby, Sharon Neet, James Orf, Mark Paller, Virginia Seybold, Sarah Shoemaker
- Absent: Victor Bloomfield, Kathleen Conklin, James Cotter, Robin Dittman, Lawrence Jacobs, Phillip Larsen, Stephanie Root, Kenneth Winters
- Guests: Edward Wink, Sheryl Goldberg (Sponsored Projects Administration); Professor Patrick Brezonik (Faculty Education Advisory Committee for the Responsible Conduct of Research); Professor Caroline Hayes (Mechanical Engineering), Mr. Mark Bohnhorst (Office of the General Counsel)
- Other: none

[In these minutes: (1) faculty education program for the responsible conduct of research; (2) an exception to the Regents' policy governing secrecy in research]

Professor McConnell convened the meeting at 1:15 and welcomed new members Professors Katherine Klink and Virginia Seybold, both of whom have been unable to attend consistently because of commitments made prior to their appointment to the Committee.

1. Faculty Education Program for the Responsible Conduct of Research

Professor McConnell then thanked Professor Brezonik for joining the meeting and explained that the Faculty Education Advisory Committee (FEA Committee) was appointed by Vice President Maziar, met during the year, and brings to the Committee a set of recommendations. Professor Brezonik wishes to consult with the Committee and then perhaps bring the recommendations to the Senate. He turned to Professor Brezonik to explain in more detail.

Professor Brezonik began by saying that he chairs the FEA Committee, which is charged with implementation of the Responsible Conduct of Research (RCR) program. This includes orienting new faculty to the University's program, developing a plan for continuing education (as called for by the University Senate), and identifying the responsibilities of academic administrators regarding RCR training.

* 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 represent the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

With respect to new faculty and RCR, the FEA Committee makes two kinds of recommendations. First, they should receive an orientation, both at the University and at the college level, and second they will need to complete basic training in RCR. This part of the report read as follows:

A. New Faculty

Faculty joining the University of Minnesota shall receive an introduction to the University's goals for research and scientific integrity at University and collegiate orientation programs and shall participate in the basic RCR curriculum during the first term of appointment to a tenure-track position.

1. ***University-wide orientation for new faculty.*** In a welcoming address, the Vice-President for Research (VPR) shall discuss University expectations of the highest of scientific and scholarly integrity and describe existing programs of education and oversight designed to ensure that faculty members understand their responsibilities and have the necessary information to meet them.

2. ***Collegiate-level orientations.*** The collegiate associate dean for research shall reiterate the expectations described by the VPR and introduce the faculty members to more specific collegiate expectations, requirements, if any, and resources. In cases where colleges do not hold orientations, the collegiate associate dean for research shall send a memorandum to new faculty members outlining expectations and identifying supporting resources. The Office of the Vice President for Research (OVPR) will develop a brochure outlining the RCR, to be distributed during orientation programs or as an enclosure to the dean's memo. The OVPR also will send an email on this topic to new faculty.

3. ***Basic RCR.*** Faculty members are expected to attend RCR training within the first 12 months of appointment or prior to receipt of external or Grant-in-Aid funding. Colleges are encouraged to offer the basic curriculum in the RCR tailored for their college and delivered by faculty. The extent of coverage of each topic may vary by college, as appropriate, as long as the curriculum is approved by the Faculty Education Advisory (FEA Committee) Committee of the OVPR. The OVPR will continue to offer the basic RCR curriculum, and to the extent possible it will organize this training around disciplinary groupings (e.g., life sciences, arts & humanities), with training modules delivered by faculty from those disciplines. The extent of coverage of each topic will vary as pertinent to that disciplinary cluster.

College offerings of basic RCR training will be posted on the OVPR website and open to faculty of other colleges as space permits. Faculty will be encouraged to attend the one most closely aligned with their research or scholarship. Registration and record keeping will remain centralized. EGMS will remind faculty of this requirement when a grant is submitted.

For some specific topics that are best handled on a centralized basis (e.g., financial management and biosafety), materials will be available on the web, and will have a central point of contact. Collegiate programs will consider these as part of their programming, as applicable, and the collegiate associate dean for research will ensure faculty are made aware that they are part of the RCR requirement for eligibility as a principal investigator. These materials may be supplemented by the Colleges, but not replaced.

The University-wide sessions were new last year; Professor Brezonik said he hoped they could be expanded. Not all colleges provide an orientation to new faculty; if they do, they should include RCR. On the issue of RCR training, the FEA Committee reached a compromise with the Vice President for Research. The Vice President's office wanted the responsibility for providing training to devolve to the colleges, but there was considerable reticence on the part of the colleges because it would be another "unfunded mandate." Consequently, the colleges and groups of colleges will be encouraged to provide training and the Vice President's office will also continue to provide training, although less frequently than in the immediate past. Professor Brezonik said he expected that the Vice President's office would exercise leadership in working with the colleges to develop programs, and that over time the programs would gradually be transferred to the colleges.

Professor Anderson recommended that the general RCR training section specify that faculty will receive RCR instruction by the end of the first 12 months of their appointment or by the time they submit a funding proposal or receive a faculty grant-in-aid, WHICHEVER COMES FIRST. Not including this clause suggests that faculty who are never funded never need the RCR training, when, in fact, most of the training is relevant to all faculty, regardless of funding sources, she said.

A second area of recommendations deals with continuing education. The report read as follows:

B. Continuing Education

Change is constant in the research and scholarship environment, and the RCR Program therefore includes a continuing education requirement. Continuing education consists of two components. The first addresses needs for easy access to information on recent changes in grant regulations and federal/state/university policies associated with the responsible conduct of research (see component 1 below). The second promotes continuing awareness and discussion of ethical issues related to research and scholarly activities among members of the University community (see component 2 below). So that the University can assure that these requirements are being met, faculty and administrators will be responsible for reporting their participation, as indicated in the component descriptions.

1. *Informational Component.* To implement this component, the OVPR will provide and maintain a Web site that gives current information on regulations and policies related to research conduct. The Web site will be updated as needed and will encompass the broad range of regulations, policies and guidelines. The Web site will allow faculty investigators and administrators to access the site at their convenience for a quick overview of changes in regulations and policies. The site will be a starting point for links to more in-depth information. Faculty and other PIs will have the discretion of reviewing those portions of the material that are relevant to their research, outreach, and scholarship. This component must be completed within the 12 months preceding the submission of a proposal routing form (PRF) for a new sponsored project to retain eligibility as a principal investigator.

2. *Awareness/Discussion Component.* In the spirit of the philosophy that knowledge never used is knowledge that is forgotten, the University shall provide a wide variety of venues to maintain awareness and promote active discussion of RCR issues among its faculty, research professional staff, and academic administrators. Members of these classes are expected to

participate periodically in “active learning” activities related to responsible research and scholarship or professional ethics. These may be activities at the University or off campus (e.g., at other universities or professional conferences). The activity might be a lecture given by someone with expertise in the topic or a structured discussion among colleagues. As described below, many types of traditional faculty activities meet this requirement. Faculty, research professional staff, and academic administrators are responsible for participating in this component and reporting on it once every three years. Several options for self-reporting this component of continuing education will be made available, including reporting by email, Web, and paper.

Examples of activities that meet this requirement

- Departmental seminars dealing with topics in RCR or professional ethics
- Programs sponsored or co-sponsored by OVPR, such as the University-wide Forum Series on RCR issues
- Programs sponsored by institutes or centers, such as various series offered by the Center for Bioethics
- Seminars, lectures, programs or other sessions at professional societies, other universities, or other institutions on relevant topics
- Teaching part of one or more courses or workshops for faculty or graduate or undergraduate students on research and professional ethics

There is both an informational component and an awareness/discussion component, Professor Brezonik pointed out. With respect to the first, there needs to be easy access to information on regulations and policies so faculty can know current rules; this will be provided on a web site. The FEA Committee calls for completion of information review within 12 months preceding submission of a grant proposal.

Must faculty do this every year, Professor Balas asked? If they are applying for grants every year, then they must, Professor Brezonik said. Do the rules change that often, Professor Balas asked? Dr. Hamilton said they change 70-100 times per year; the situation is so bad that the Vice President's office has someone who spends 75% of her time tracking the changes. Then how are faculty expected to be experts, Professor Balas inquired? No one expects them to be experts, Dr. Hamilton replied; the web site has not yet been set up, but it will try to highlight things most important for individual faculty (e.g., it might be divided by agency).

What are faculty expected to do, Professor Balas asked--will there be reading comprehension quizzes? There will be no tests, Professor Brezonik said. Professor McConnell said this is related to the changes in grants management; the University is responsible for making information available, faculty certify that they did X (even if they did not do X), and the University is covered if the rules are broken. In the past it was left to investigators to learn what they needed to know; that remains the case.

The awareness/discussion component arises from the conviction that knowledge not used is knowledge forgotten, Professor Brezonik said; the University cannot expect faculty to know things if they never use the information. This is a requirement that faculty periodically be engaged with RCR issues in as painless a way as possible in the normal course of their work. The participation, which includes faculty, academic administrators, and research professional staff, is to occur at least once every three years, and might be accomplished through a variety of options (itemized in the selection from the report, above). Individuals would self-report the participation, probably through a web site (although it has not

been established and the details need to be worked out). The FEA Committee wants to make this as easy as possible; Professor Brezonik noted that the FEA Committee is composed of faculty members and is not trying to make life difficult--but if RCR is important to the University, then these kinds of things must be done.

The third element of the FEA Committee report dealt with the roles of academic administrators.

C. Department Chairs, Heads, Deans, and other Academic Administrators

The best assurance for sustaining a community of integrity is a fully informed and involved academic leadership. To support this goal:

1. The "Seminar for New Deans and Department Heads" will be modified to include RCR.
2. Department chairs/heads and deans in units where sponsored research is performed shall be required to meet the same RCR requirements as principal investigators whether or not they are currently engaged in funded research.

The FEA Committee believes department heads and deans need to be informed about RCR and that they cannot be effective academic leaders if they do not participate in and know about RCR.

Professor Neet noted that the coordinate campuses have perhaps two or three PIs; it is not realistic to expect that they will be able to keep up. Is there a way to plug them into Twin Cities efforts? The structure outlined will not be necessary at Crookston, Dr. Hamilton said, and they do have ITV as well as coordinate campus groups at RCR presentations. What about chairs, Professor Neet inquired? The Chancellor and Academic Vice Chancellor were at the RCR seminars, Dr. Hamilton said.

There was to be a discussion of portals today, Professor McConnell noted, but it had to be moved to the May meeting; it, however, bears on how the coordinate campuses can be involved in RCR. There is partly a problem of providing information and partly a problem of tailoring the information to the needs of the PIs. There should be a way to prompt or to reach everyone on occasion; is there thought in the Office of the Vice President about service delivery? That is what the portal is intended for, Dr. Hamilton replied; the Committee will hear about it in May. With the PeopleSoft databases, it is possible to supply information tailored to the needs of individual faculty.

Professor Klink inquired about the relationship of RCR and the ethics component of graduate training. They are linked to the extent that faculty participate in seminars or lead classes. There are several audiences around the University for RCR training, Professor Klink observed; to what degree is there overlap or replication of activities? Does the Graduate School know what the Provost's office is doing? Some RCR events have both faculty and graduate students. Dr. Hamilton agreed there should be tighter coupling between the two activities.

How motivated will faculty be to become more involved in the RCR educational process, Professor Balas asked? The faculty in his department will have "a coronary meltdown" if asked to do more. They are asked to do more and more training on this and that--and at the same time they have less and less support and funding for supplies. How can participation be encouraged rather than seen as a penalty that one must pay in order to get research funding? Professor Brezonik responded that he was tired of those arguments. This is not a penalty and there are a lot of ways to meet the requirements. If

someone cannot spare an hour in three years they should change the way they work; no one should be that busy. As part of being on the graduate faculty and being a mentor, faculty should go to graduate student seminars or they are not doing their job.

The objections are not logical, based on an hour's time, Professor Davidson said; it is a background matter. When he first came to Minnesota, he had the impression that responsibility was consciously separated from power: some had responsibility for things while others had the power and the money. Professor Brezonik is right, he said, but these may be age-related reactions. There needs to be a way to counter the psychological effect of this proposal.

The University has a lot of requirements, Professor Brezonik observed. This is an effort to show that it is not some faceless entity imposing rules; this is a faculty committee that is also trying to help see what is an individual and institutional responsibility.

Part of this is defining the power of the faculty, Professor Seybold said. They teach and try to empower graduate students. It is difficult to bring these issues to the educational process or to comply with the rules until the faculty are aware of them. That is what the FEA Committee has tried to address: education and information, but also to get at the culture.

Professor McConnell said that in terms of department heads, implementation of the new culture of RCR is not even across the University; it has come more slowly in some units. This effort also breeds a certain cynicism; faculty are trying to do right but have to "write another stupid memo." There needs to be attention to how colleges and departments define RCR, keep current on it, and establish a culture that recognizes the importance of RCR.

Professor Orf asked about the two-tiered system, with both central and collegiate efforts on RCR. There are different cultures in colleges, he pointed out; how will it be possible to keep everyone level if there is only the bare minimum of information provided by central administration? He said he hoped there would be more interaction with the central administration in order to be sure faculty know where all the opportunities for RCR participation if they do not have adequate opportunities in their own college. Dr. Hamilton said that all college offerings will be on the web site and anyone can pick which ones they wish to go to. A majority of the colleges have not been overly-enthusiastic about the RCR effort and see it as an unfunded mandate. He said the Vice President's office does not want it seen that way and will provide help. The biggest criticism has been that the RCR training "does not apply to me" and that it is too general. The colleges need to understand they can get central help and have tailored presentations, Professor Orf responded. Dr. Hamilton agreed, and added that the FEA Committee exists to serve as a moderator, to provide help, and to be sure the college efforts are sufficient.

Professor Davidson noted that there is a difference between the college and the department; in his college, he said, there are four cultures. Fields are different, he said.

Professor Johnson said that it was not clear if one has to meet the requirements even if one does research that is not sponsored; those faculty could fall beneath the radar screen unless the RCR effort goes outside the Electronic Grants Management System. Is the intent to pick up everything? If so, this effort will not do so. There is a policy vacuum, Dr. Maziar said. RCR participation is required by Regents' policy for PI's. If one does not have sponsored research, one does not appear as a PI. In the Graduate School there is a school-wide program to check student transcripts to be sure the students have gone

through the required training. There is no way to do that with faculty. She said she would be concerned at extending the RCR effort beyond sponsored research; there is no way to monitor it or to provide the necessary support.

What about the Institutional Review Board, Professor Johnson asked? What about people who work with human subjects but receive no funding? Such research is not exempt from IRB procedures, Dr. Maziar said. That needs to be clear, Professor Johnson said. Professor McConnell agreed that University policy requires IRB approval for any use of human subjects. Dr. Hamilton agreed, however, that the RCR education will not pick up everyone, a gap that will need to be addressed.

Is it not the responsibility of department heads and administrators to see that faculty research is properly managed, Professor Seybold asked? Without a proposal for funding, there is no document that describes what a faculty member is working on, Dr. Maziar observed; any review is after the fact in an annual report.

There is the danger of "compliance creep," Professor McConnell said: what one must comply with gets bigger and bigger. The IRB could be included in this report, or simply say that there are other issues a PI must attend to, such as use of human subjects, biosafety hazards, etc. The FEA Committee must decide how much is enough.

The use of a web site is a way to make the effort less personal and it can be onerous while not teaching the PI anything, Professor Balas said. They check boxes and go on. This proposal makes things worse, because it does not provide for meetings with people to whom one can talk and get answers to questions. The web breeds impersonal reactions, faculty don't care, and just wash their hands of the issues. Professor Brezonik agreed that a web site is impersonal, but they are trying to make the process as efficient as possible for the faculty. He also pointed out that the "awareness/discussion" component of the RCR continuing education requirement involved personal interactions and live discussions. He said that he was not overly-concerned that some people who may fall through the "compliance-reporting" cracks; he said he hoped that over time people would see the benefits of knowing about RCR and will realize they can get in trouble if they do not.

The Committee discussed next what should be done with the FEA Committee report. It was agreed that eventually the report should go to FCC and then to the Senate, but in the meantime, Dr. Hamilton said, the FEA Committee should discuss it more in light of the comments made at this meeting.

Professor McConnell thanked Professor Brezonik for his report.

2. Exception to the Secrecy in Research Policy

Professor McConnell now welcomed Professor Caroline Hayes and Mr. Mark Bohnhorst to the meeting to discuss a request for an exception to the Regents' policy on secrecy in research. He said he wished the Committee to talk about five things:

- an update on what happened to the last actions the Committee took on requests for exceptions to the research secrecy policy;

- development of a basis on which the Committee will make decisions about requests for exceptions to the research secrecy policy;
- the request for the exception before the Committee today;
- the sense of the Committee about preparation of a document for the Senate that would go to the President; and
- what to do in the summer if requests for exceptions arise.

As for updates, the Faculty Consultative Committee has appointed an ad hoc committee to look at research secrecy policy issues; the group includes three members from FCC and three members from this Committee plus ex officio membership (that includes Mr. Bohnhorst and Vice President Maziar); it will be chaired by Professor Candace Kruttschnitt. Professor Feeney, the incoming chair of FCC, has suggested a list of problems the ad hoc committee should look at, and it is possible it will recommend changes in the policy structure, not just changes in the Regents' policy. The focus will be at the macro level, not just micro-level issues.

Vice President Maziar responded that it will be important for the group also to deal with the micro-level issues as well, however, because this Committee needs some guidance.

Professor McConnell reported, as a second update, that the Senate Consultative Committee (SCC), acting on behalf of the Senate, took up the two recommendations for exceptions to the research secrecy policy and disagreed with the recommendations of this Committee. The Senate, however, took up the SCC action as new business and voted to support the recommendations of this Committee. The President has thus far not acted on the recommendations. (Vice President Maziar reported that the President has indicated he would accept the recommendation of the Senate.)

In the case of one of the requests, that of Professor Tamma, the offer of funding was withdrawn because the process took too long, Professor McConnell noted. This Committee is required to report to the Senate on problems with the existing research secrecy policy; this issue of timing is one problem about which it might make such a report. Vice President Maziar noted that the Senate meets five or six times per year, and in the case of Professor Tamma, the request moved forward about as quickly as it could have. Any delay was not because of the governance system.

Professor McConnell next distributed a handout that contained a draft basis for considering exceptions to the research secrecy policy. He explained that it was divided into three major sections. The draft read as follows:

- A. Fundamentally, the SRC is committed to the intent and implementation of the Regents Policy on Research Secrecy. Any exceptions to this policy require balancing a faculty member's interest in conducting a line of research and the University's interest in full and unrestricted disclosure of research.
- B. Necessary Conditions for SRC Review
 - 1. Public disclosure of receipt of research funds must be allowed

- 2. All International Trafficking in Arms Regulations and related restrictions on participation of graduate students must be removed
- 3. Sponsored Projects Administration, with the PI and others (e.g., Office of the General Counsel) must certify that negotiations to remove restrictions have gone as far as possible
- 4. Any proposed review is limited to only work sponsored by proposed project
- 5. The process of review and recommendations is timely..

C. Review Considerations

- 1. Is the work a continuation or logical extension for the faculty member's program of research?
- 2. Does the work extend the scholarship of the faculty member?
- 3. What is the scope of review? Is it drawn as narrowly as possible?
- 4. What is the likelihood any review will lead to restrictions in dissemination?

Dr. Maziar said she would recommend that the Committee NOT bend on research funded by private companies or individuals. The willingness to consider exceptions to the policy should be based on national security considerations or federal funding. The two different sources are very different, she said; the University should differentiate between private, proprietary interests and those of national security. The motivation for seeking exceptions to the research secrecy policy are very different as well. In the case of the military, for example, the agencies have every interest in seeing publications come out because their programs are valued in part on publications that result from funded research; there is no such interest on the part of the private sector.

Professor Davidson agreed. He said that if universities around the country had strict and uniform policies on accepting corporate funding, the corporations would have to bend. The federal government does not. Professor Balas did not agree completely; he maintained that if the leading institutions said "no" to federal restrictions on research, the federal government would also have to bend.

Professor McConnell turned next to Mr. Bohnhorst and Professor Hayes to discuss the request for an exception before the Committee. Mr. Bohnhorst related that this has been a seven- to eight-month process. Professor Hayes' research was a continuation of what she had been doing previously, and then she received the contract with restrictive language. They have been delayed in dealing with the issues in part because of the post September 11 climate, and in part because a key government official retired during the negotiations. When the negotiations were conducted, the University was told the government would not yield on the language. Another university involved in the same contract finally signed, after registering its dissent, but said the clause did not apply. Mr. Bohnhorst said he did not believe the University could take that position; if the language is in the contract, it is binding.

The Army Research Laboratories (ARL) is the sponsor. In a February conference call, senior contract personnel from ARL indicated that they agree with the University's view that under federal

policy publication clearance restrictions should not be imposed on university fundamental research, such as the work here. However, the actual source of funding for this work is the Army Materiel Command (AMC), and AMC has promulgated a policy requiring publication clearance for all projects it funds. ARL personnel are working to get that policy changed as it applies to university-based fundamental research, but that is a long process. In the meantime, this case must be dealt with. It was agreed in the conference call that Professor Hayes would redefine her work, and that ARL contract personnel would then pre-review the work with ARL security, with the aim of getting an agreement either that no pre-publication review would be required for this contract, or in the alternative that ITAR (which would ban the inclusion of foreign students in the work) does not apply. The result was that the government determined that ITAR does not apply; however, the pre-publication clearance requirement would not be lifted. ARL has stated, however, that the likelihood of any actual restriction on publication is extremely remote.

Professor Hayes explained that the research involved in the contract is part of basic research she has been doing for the last five years.

Is there any hope that these issues will be resolved at the federal level, Professor Balas asked? There is, Dr. Maziar said; the problem with the Army Materiel Command can be resolved; a lot of universities are complaining because the restrictions are inconsistent with White House directives. The bigger fear is that these kinds of restrictions will spread to NIH and research in on infectious diseases, for example. NIH researchers are not used to such restrictions; engineers, on the other hand, are at least used to working with the military.

Perhaps the Committee should provide information to faculty about what exceptions it will approve and which it will not and how the Committee will make decisions, Professor McConnell suggested. That may not be workable, Dr. Maziar said; the University often does not receive contract language until late in the process. And this will be completely novel for NIH researchers.

Is there a possibility that students will not receive their degrees because of the contract, Professor Balas asked? That could be an issue, Professor Hayes said; if a Master's-degree student's thesis is dependent on the project funding, and it is not approved, the student could have difficulty obtaining the degree. She said she did not know if the thesis would also have to be signed reviewed and approved.

Does the contract say how long the publication review would take, Professor Balas then asked? It only says the publication must have approval, Mr. Wink said. The sponsoring agency should have an obligation to conduct a timely review, Dr. Maziar added. There is also a risk to the student, who will not know if he or she can use the research results, or if the use will be delayed, Dr. Paller said. Mr. Wink reported the University says it will give a 45-day notice before publication. His concern, Professor Balas said, is that a student may not be able to graduate in a timely fashion.

Professor Hayes said her research is characterized as “applied”, rather than “basic,” but she has been told the Army has no intention of exercising its pre-publication review rights but also has no power to get rid of the language in the contract.

How long does the grant last, Professor Orf asked? It ends in October of this year, Professor Hayes said. If there is no change in the publication restrictions, she will not apply for the funding again-- which is unfortunate, because it is funding she could use, but she does not want to apply for funds she cannot accept.

This is a retrospective approval, Professor Johnson asked, and does not apply to future years? It is only this project; the funds have not been received by the University because it has not signed the contract, Professor McConnell explained. The work has been funded from other sources; it has been paid from department accounts, Professor Hayes said. If the money is not received under the contract, the department is left holding the bag and it will come from her start-up funds.

Her program officer encouraged her to continue the work, Dr. Maziar noted. The grant was for five years, Professor Hayes said, and began when she was at the University of Illinois. She came to Minnesota in 1998 and her subcontracts followed her; the program officer did encourage her to continue the work. What changed was new language in the contract, Dr. Maziar said; the nature of the work has not changed.

Professor Balas moved that the Committee approve the request for the exception. The motion was approved 11-0.

Professor McConnell moved to the process for reviewing exceptions; is it worth trying to explain to others the basis on which the Committee makes decisions, he asked? Professor Kuhl suggested that Professor McConnell's draft should be forwarded to the ad hoc committee being chaired by Professor Kruttschnitt.

Professor Anderson recommended that the minutes of this meeting be compared to Professor McConnell's draft; the questions raised during this meeting should provide guidance on the criteria the Committee believes important.

Professor Klink said she was a little uneasy about the extent to which these guidelines could be seen as a way to obtain exceptions; people could look at them and decide to apply. The Committee does not want to encourage exceptions, but there may be the perception that if people go through these steps, they will obtain one. The main point to be made is that the Committee does not wish to see these requests. Professor McConnell noted that the request to this Committee is only the beginning of the process; its action may not mean anything.

Dr. Maziar said she was also ambivalent. She wants the University to "stand tough" and put pressure on the federal government to modify its stance. At the same time, she is concerned about the disruptions to faculty research and graduate student progress. It was not good news that Professor Tamma did not receive his funding, Professor McConnell agreed. That has already happened to her to some extent, Professor Hayes said; because of the delay, she would receive less funding than originally proposed as a direct result of the contract delays.

Dr. Maziar said she hoped the pendulum would swing back in the other direction soon. In the meantime, the guidelines drafted by Professor McConnell help to implement the policy and make it work.

Do researchers know what the restrictions might be, Professor Orf asked? Or do they come afterwards, so faculty do not know if they should apply for a grant? These are exceptional times, Dr. Maziar commented. The potential restrictions should be flagged so that faculty in doubt can ask, Professor Orf said. Dr. Maziar said these issues are being brought to the research associate deans so they are aware of them.

Professor Neet said one must think about the abuses that occurred during the Cold War and what universities did then. After September 11, there seems to be a desire to return to a Cold War mentality; a lot of biological and chemical research could be done, and it will be done somewhere at government expense.

With respect to the item in Professor McConnell's draft ("3. Sponsored Projects Administration, with the PI and others (e.g., Office of the General Counsel) must certify that negotiations to remove restrictions have gone as far as possible"), Professor Orf suggested that faculty should be informed about organizations from which they ought not seek funds. The problem is that many funding agencies might go in this direction, Professor Balas said, and the University cannot tell all those researchers not to seek funding from them. No one knew the Army Research Laboratory would move in this direction. And no one wants to go through this process, so faculty will not knowingly seek funds with restrictions.

Professor McConnell noted Dr. Maziar's point about national efforts to have the policy changed, but he noted that all three of the exceptions before the Committee recently have come from the Army Research Laboratories. It may be that faculty should be alerted that ARL is a high-risk agency in terms of research publication restrictions. Ms. Goldberg said they could do so.

Mr. Wink said that Professor McConnell's document gives guidance to faculty about what they must do. His office will, in any event, ALWAYS negotiate to try to preserve the University's right to publish. No faculty member wants to have funding that includes publication restrictions, Professor Luby said; it can be "a career-killer." Mr. Bohnhorst noted that the Department of Energy has a mandate to protect information that is "sensitive but unclassified."

The Committee could include in its guidelines a proviso that it will not look favorably on requests for exceptions if faculty were warned about restrictions from particular agencies, Professor Davidson said. One problem is that if a person in a given department runs into difficulties because of review clauses in funding agreements, then all the people in that department should be alerted, since their funding proposals might be susceptible to the same kinds of restrictions, Professor Anderson said.

With respect to the provisions in part C of Professor McConnell's draft, Dr. Paller said he was concerned that the Committee might make a decision based on a letter or comment from program officer or a friend that the research will not be subject to pre-publication review, or that the Committee would make the decision on the basis of how badly the faculty member needed the money. The criteria should be objective, he said.

Professor Kuhi asked if the Committee proposed to endorse the draft or send it to the ad hoc committee and ask it to develop recommendations. Professor McConnell said his only concern was that the process for review not be slowed down. He said that Professor Hayes has had discussions with a funding agency (DARPA) to provide support from May to August; how should she proceed? Professor Hayes said she did not want make the effort to pursue the funds if the contract will not be approved.

What are the options for obtaining approvals over the summer, Professor McConnell asked Mr. Bohnhorst? Mr. Bohnhorst said there are three:

-- the Committee and the Senate could meet in the summer;

- an ad hoc committee and a committee of the Senate could act in lieu of full Committee and Senate action (the Senate Consultative Committee has acted on behalf of the Senate, so there is a precedent, and the Regents' policy provides for the use of ad hoc committees); or
- if it not practical for the Committee and Senate to function over the summer, the President would have the authority to act without recommendations (the Regents' Delegation of Authority to the President makes him ultimately responsible for proper administration, so if the committees cannot act, he must retain the ability to do so); thus, the Committee and the Senate could inform the President that they are deferring to him with regard to matters arising over the summer.

Dr. Paller said the President should be provided some advice; there are people around during the summer who could be convened. Professor McConnell said he would tell the Faculty Consultative Committee that this Committee would appoint a subgroup to work in the summer if the Senate Consultative Committee would do the same.

Professor McConnell thanked everyone for attending and adjourned the meeting at 3:10.

-- Gary Engstrand

University of Minnesota