

Minutes*

**Senate Research Committee
Monday, September 16, 2002
1:15 - 3:00
238A Morrill Hall**

Present: Gary Balas (chair), Melissa Anderson, Victor Bloomfield, James Cotter, Kris Davidson, Robin Dittman, Sabine Fritz, David Hamilton, Paul Johnson, Katherine Klink, Phillip Larsen, James Luby, Scott McConnell, Sharon Neet, James Orf, Virginia Seybold, Barbara VanDrasek

Absent: Gerry Baldrige, Kathleen Conklin, Sharon Danes, Wendy Pradt Lougee, Mark Paller

Guests: Mike Volna (Controller's Office); Edward Wink (Sponsored Projects Administration); Professor Candace Kruttschnitt (ad hoc committee on research secrecy)

Other: none

[In these minutes: (1) opening comments (bioterrorism); (2) policy on sponsored receivables and liability for defaults; (3) issues pending (research secrecy, defaults on receivables, accountability of support units, fringe rates for graduate students, IRB, start-up companies, responsible conduct of research); (4) research secrecy and the process for dealing with requests for exceptions]

1. Welcome and Preliminary Comments

Professor Balas convened the meeting at 1:30 and began with a round of introductions. He noted the Committee would review the list of issues pending before it; he asked that Committee members make suggestions for the list. At the next meeting, Interim Dean Bloomfield will discuss the new office for post-docs and Senior Vice President Cerra will talk about bioterrorism research (for example, where the University stands on certification of "select substances," if it would take funding for research that would require labs with special restrictions, and if the University generally would conduct anti-bioterrorism research).

Professor Orf asked if there would be any discussion of plant diseases. There must be, Professor Balas said. Dr. Hamilton said he would also talk about bioterrorism; there is a policy in penultimate form concerning "select substances" and a biosafety committee that is discussing them vis-à-vis materials from the Centers for Disease Control and the U.S. Department of Agriculture. Professor McConnell recalled that there was also a committee that audited substances in University labs; Dr. Hamilton said it consisted of Environmental Health and Safety staff who went to most labs associated with a CDC list of agents and made an inventory of all "select substances." Professor Seybold said she had been audited; the issue is the minimum level of possession that should require security.

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

2. Sponsored Receivables

Professor Balas welcomed Mr. Volna to the meeting to discuss the manner in which the University collects payments from research sponsors.

One of the units that reports to him, Mr. Volna said, is Sponsored Financial Reporting (SFR), which is linked and coordinated with Sponsored Projects Administration (SPA). SFR bills, collects money, prepares reports, and coordinates audits of sponsored funds that flow to the University. His office is working on a plan to enhance reporting.

Mr. Volna reviewed a matrix identifying the collections process for sponsored receivables. A receivable can fall into one of five categories: current, delinquent (more than 30 days), default (with payment plan in place), default (no payment plan in place), or subject to the legal process. Actions taken depend on status; the decision-maker is SFR (except for current receivables, where no action is required, and where there is pending litigation, which is controlled by the General Counsel). The impact on spending also varies with the status of the receivable, from no action (current) to determined on a case-by-case basis to "cease spending" (default with no payment plan in place or if there is pending litigation). In terms of the impact on accepting new awards from the sponsor, the impact varies and the University (SPA) tries to negotiate payment on past-due receivables. In the case of default with no payment plan in place, SFR will require payment in full at the time of the new award and/or full payment of outstanding invoices or the award will be rejected. In those instances where litigation is pending, no new awards will be processed.

Much sponsored research does not fall under this scheme, Mr. Volna pointed out; the University receives a Letter of Credit from the federal government and never sends an invoice. Research sponsored by the private sector, foundations, and the state requires invoices--and some of them must be very detailed, sometimes monthly. Some sponsors do not pay, for a variety of reasons: they dispute the bill, they are bankrupt, they have cash-flow problems. His office is trying to codify the procedures the University will use to deal with receivables problems.

If the system is to work, they must have a history of sponsorship. One PI may not know about problems with a sponsor that other PIs might have had; there is INSTITUTIONAL knowledge but the coordination is weak. Mr. Volna pointed out that there is good reason to provide this knowledge: the University is at financial risk in these cases and if it had known about the problems it could have handled projects differently. This current effort is to establish a new system to develop reports by sponsor, by PI, and by department to show collection activity; SFR will work with SPA to communicate the information to departments and PIs, in concert with the Office of the General Counsel.

Professor Davidson asked about the number of cases the University has had and the amount of money involved; is this a big problem, he asked? That depends on one's definition of "big," Mr. Volna said. There are receivables that are currently outstanding and there are those that have been written off. In the second case, the University writes off about \$1.5 - \$2 million per year. What about the number of grants with problems, Professor Davidson inquired? That varies, Mr. Volna said; it is difficult to identify the number of delinquent accounts because the system does not identify them that way. There is probably about \$5 million outstanding in non-current receivables. He said he thinks that is a pretty big number and it would be better for the University if it could collect the money faster.

The amount could get bigger if there are more business failures, Professor Davidson observed. Mr. Volna agreed; since the University increasingly emphasizes research, the funding cannot all come from the federal government, so outside funds may be getting somewhat riskier.

If an obligation cannot be collected, who pays, Professor McConnell asked? The amount is written off to the department, Mr. Volna said. There is a 1999 policy providing that uncollected debts are charged to the department. There has been a lot of clean-up the last two years and some obligations have been split between the department and central administration.

Is there any sharing of information, or is it possible to share information, across institutions, when there may be an increase in defaults, Professor Seybold asked? It is possible, Mr. Volna said, although it is not done. Is it legally permissible to do so, Professor Seybold then asked, since he mentioned the involvement of the General Counsel. He was referring to a web-based report, Mr. Volna said; the University must be careful about what it puts on a web because a sponsor could object. The University uses Dun & Bradstreet to consider sponsors if it has had no history with the sponsor.

Since the University takes the award, not the department or the PI, Professor Balas maintained, it is not fair to assign defaults to departments. They do not send invoices and try to collect. Does the University ever sue a sponsor, he asked? If a department does not want to accept the burden of a default, how can it encourage the University to sue? On the issue of fairness, Mr. Volna said, there was a high-level group that considered where to assign defaults. He agreed that legally it is the University that signs agreements with sponsors, but it is not the Board of Regents that decides to take an award from a sponsor; that decision is made by the PI and the department. This effort is an attempt to put information in the hands of PIs and departments so they can make informed decisions about accepting a grant from a sponsor. This is a decentralized institution, Mr. Volna observed; he said he did not see how it could decentralize decision-making on grants but centralize the liability for defaults.

Professor Balas said that the process does not feel decentralized; SPA decides about a grant and signs. The deans have a say. But if anything goes bad, the department is on the hook--while it has not place in the decision-making process. SFR lets departments know if a sponsor is not paying, Mr. Volna said, and in meeting with departments on old collectibles it was clear they knew what was going on. They are not out of the loop; they are fully consulted, he said. As for the second question, the University considers suing all the time, but tries to take the avenue that will provide the largest payback at the least cost.

Most of the worst cases one can imagine would be with the connivance of the PI, Professor Davidson observed. Professor Balas said he took the exact opposite view, that PIs are not at fault. SFR does not send invoices soon enough so the University does not receive the money. What can a PI do besides spend the money provided in a grant--and cannot spend more than that. Professor Davidson said he knows of one instance where the PI will spend the money as fast as possible.

Professor McConnell said he suspected the truth was somewhere in between the views of Professors Davidson and Balas. It seems likely that colleges and departments are not equally at risk; those that rely more heavily on business and industry grants are probably at greater risk. One central principle to consider is balancing risk (which the University does with ICR funds). Setting aside malfeasance, he said, risk might not be evenly distributed across the University. Do some of these non-

federal grants carry no or little ICR funds? Mr. Wink said that if the University receives a grant from a company, it seeks the full ICR rate.

There could be more risk where units do not receive ICR funds, Professor McConnell said. Some of the funds could be saved to cover defaults (although no department or college is doing so, he surmised). Passing the defaults to departments is supportable but it does not properly address the problems of PIs who are at risk but without blame. Deans and faculty could be more conservative about signing off on grants. It may be that the institution could say that in those instances where everyone did what they were supposed to do, there will be institutional coverage of defaults.

That idea was considered, Mr. Volna said. Mr. Pfutzenreuter pointed out, in the earlier discussions, that funds are all decentralized and the pool of central funds is very small, so there are no pools of money that could be used to insulate against defaults. The administration would have to take back money from the colleges in order to do so. Or, he said, one could look at the ICR pool, but that will mean asking people who have never had a problem to pay for those who do. Professor McConnell pointed out that he never uses radioactive materials in his research but he nonetheless helps pay costs associated with them.

Professor Klink observed that if one thinks about technology transfer (e.g., medical devices, computer technology), those often involve high-risk ventures. If the University wants to encourage faculty to do research in those areas, it should provide a safety net so faculty and departments are not stuck when things go awry. The Vice President for Research encourages people to make patent disclosures about their research. A lot of the research that people already have may be patentable. His office is trying to raise awareness about the potential transfer of what people are doing to the public sector. Professor Balas pointed out, apropos Professor Klink's comments, that if a PI wants to work on a project and a company offers funds to bring it to fruition, people could be a greater risk. There may be the potential for more profit but there could also be more risk.

What tools are available to use if a company is interested in an invention, Professor Larsen asked? Dun & Bradstreet, Mr. Volna said. And if one has questions, they should call, Professor Larsen inquired? SPA, Mr. Volna said. It will help negotiate an agreement that will protect the University. If one is ready to sign a licensing agreement to sign over a product, Mr. Wink said, the University wants to be sure the company is financially strong (although the University will keep control over the product). A lot of trouble can be avoided if a company is checked out before anything is signed.

Professor Balas said that most departments are not allowed to keep a financial cushion to cover possible defaults on sponsored research. And one hears about the administration sweeping balances so there is little incentive to build balances. Moreover, there are many companies with which a PI might do business that appear just fine but that turn out not to be (e.g., Enron, Worldcom). The PI doesn't know the company will go bankrupt but they are stuck with the default. Any company knows that a certain amount of money will not be collectible and take it into account in its business plan. The University should act more like a business in this regard.

The largest reserves in the University are held by the units, Dr. Hamilton pointed out. They can have reserves. The talk about sweeping balances is insidious; there are always rumors of a sweep but it has never happened in the 26 years he has been at the University. There are taxes on departments, but the University has never swept balances.

This discussion is about a risk pool, Professor Neet pointed out. The University could take a small amount from each grant to build the pool, and would take from all.

When someone wants to accept a grant and SFR or SPA review the source, is the PI or department notified if there are red flags, Professor Davidson asked? Not now, Mr. Volna said, but that is one goal of the new system. Departments will receive reports. Even this will not be perfect, he said; the University has been caught a couple of times by people "dba" and did not realize it was the same outfit. In general, it is companies that engage in devious activity far more than people at the University. PIs will usually fight for research but there are few shenanigans.

This information must be provided in conspicuous form, Professor Davidson warned. Mr. Volna agreed and said they are discussion how to provide it. It must also be timely, Professor Orf said, and not provided after documents have already been signed. Mr. Volna said there are two issues: the timeliness of the reports and the timeliness of the information on which the reports are based. The intent is to provide reports monthly, so in the worst case the information would be out of date by a month. How active will his office be in alerting PIs, Professor Orf asked? It is his preference to make the information accessible, Mr. Volna said, rather than push it out to the PIs. That will enable PIs to obtain the information whenever they want it, rather than have to wait on a report. What is provided should be a note on problems, not all the details, Professor Orf added. Mr. Volna agreed that an "exceptions report" would be helpful, one that lists companies that have taken a longer time to pay.

Mr. Volna said he understood the biggest concern of the Committee to be identification of a mechanism to fund uncollectibles. If the department is to foot the bill, it should be part of the decision-making process, Professor Balas said. Mr. Volna said that the authority identified on the matrix is the dean, because it is the dean who is liable in the event the department cannot pay. Professor McConnell said the department head should sign before the dean so that the department head acknowledges risk. Professor Balas said that there should also be a report on when invoices are sent so that if a company calls a PI, the researcher can check on the invoices; he related that he has received calls from sponsors telling him they have not received invoices. That will be built into EGMS, Dr. Hamilton said.

Professor Balas thanked Mr. Volna for his presentation.

3. Issues Pending Before the Committee

Professor McConnell pointed out, vis-à-vis the list of issues pending before the Committee that had been distributed, that there are other burdens on research projects that departments carry, such as pay-outs for accumulated vacation and sick leave. Professor Neet's comment about defaults suggests a logical plan for paying for these costs; right now units take a head-in-the-sand approach. Should the Committee suggest to Drs. Bloomfield and Hamilton that the administration should take care of these costs? Mr. Volna reported that his office is developing a plan for vacation and sick-leave pay-outs. It was noted that the Senate Committee on Finance and Planning had also taken up the issue, although no resolution to the problem has yet been presented.

Professor McConnell also noted that Dr. Hamilton had mentioned department reserves. Most of those are not discretionary, he said. Units squirrel away money because they worry about unknown liabilities; perhaps if there were provisions for central coverage of those potential liabilities the units

would have to set aside less money for contingencies. It was noted that the Senate Committee on Finance and Planning had also asked the administration to consider developing a method of categorizing unit reserves that distinguished between those that are committed and those that are discretionary.

Professor Neet said that this is a discussion about using business practices and there is a confusion between business practices and entrepreneurship. Some people will go to the edge and want to be bonded. But society looks to universities to be creative; unfortunately, the trend seems to be moving to "we better be sure it works or there will be a penalty." She said she hoped the institution would not lose its creativity.

There was a subcommittee looking at research secrecy, Professor Davidson recalled. In a serious case, would the University REALLY pull out? The Army might not make concessions because it knows that cancellation of a grant would hurt graduate students and so on. He said he suggested establishing a small pool of funds so that the University COULD shut down a grant. It would be possible to identify how much the University would need to self-insure against these problems. The same people who argue the University should follow business practices are the ones who do not want to self-insure, he said.

In terms of fringe rates for graduate students and the corresponding tuition fellowship (i.e., a 12.5% appointment is permitted but unlike appointments at 25% or more, the 12.5% does not carry a tuition fellowship), Dr. Bloomfield said that he is not fully up to speed on the issues. He said the 12.5% appointments can be used to game the system and could lead departments to make a lot of low-percentage, high-fringe-benefit cost appointments that would put graduate students at a disadvantage.

On the issue of a direct charge system versus the current practice, Dr. Bloomfield pointed out that at present fringe benefit rates are based on a projection of what costs will be; sometimes the projection is too high, sometimes it is too low (health insurance has been difficult to predict). The Graduate School has discussed a plan to minimize the yo-yo effect of these changes; he promised that it is on his "to do" list.

The final fringe benefit issue, that Graduate School fellowships should increase as fringe benefits increase, Dr. Bloomfield said that they do. The stipends do not necessarily increase. Professor Balas said he was not sure that with multi-year fellowships the tuition benefit increased with tuition. Dr. Bloomfield said he thought they did.

Professor Balas said that Mr. Wink will talk with the Committee about ICR rates and provide information about which units receive full ICR rates and which are subsidized because they do not. Will there be a new rate negotiated this year? Mr. Wink said that the current rates were originally scheduled to last through 2003 but the University has negotiated to have them continue through 2004. The current year is the basis for negotiating the future rate.

Mr. Wink also said, apropos uncollectibles, that his office wants to do more on the issue and will consider a policy on a central pool. Dr. Hamilton said he believed the Committee should talk at a higher level about the issues; it need not consider a policy because he will bring one.

Professor Orf noted a question on the list of issues that asks if there should be a prohibition on starting research before funds are received. Is there a change in policy being considered, he asked? There is not, Dr. Hamilton said. He said it is legitimate to listen to those who want such a prohibition but the

advocates of the change will have to make the case. There is a pre-award policy, Mr. Wink noted. Professor Balas said the Committee would not take up this issue in the near future.

One of the issues that has been before the Committee in the past is the accountability of SPA and SFR; this has high visibility across the University, Professor Balas said. These units work for the faculty but have many responsibilities; there is a range of faculty experiences with the two organizations, from the very good to the not so good. He said that he would like to work with the administration to develop a survey that could identify problems.

This is number one on his agenda, Dr. Hamilton reported. He said he believes the idea of a survey is a good one and will work with whomever is needed to develop it. They are also doing other things that he will report on during the year. Professor Balas said the Committee would like to be involved in the process. Dr. Bloomfield pointed out that there is reciprocity involved: Faculty are not always faultless in their dealings with SPA and SFR and it is not profitable to lay blame. It would be better to work on ways to improve the system. Dr. Hamilton agreed. He said they are working on improving "customer relations"--and this IS a business service--but they need to know what their customers believe is important. He said he does not want to hear a litany of cases that does not lead to any solutions.

There is a set of mutual responsibilities involved, Dr. Bloomfield said. For example, one of the problem with the IRBs is that they are under-staffed because faculty do not want to serve on the panels. There needs to be a discussion of mutual responsibilities that make support services work. It might be that a request for a small amount of funds and little more faculty time would make it a win-win situation, Professor Balas suggested.

There is a small sample of people who have been at other institutions, Professor Davidson said; the University rarely asks what is done elsewhere. The problem with a survey is that the normal human tendency is to grouse; it would be more helpful to get comments about how things are done better or worse elsewhere.

Professor Balas said he was already working with the Vice President for Research on the IRB issues. He said it had been helpful to hear from the IRB members and staff last year. The Committee will help develop a survey to identify issues of concern and also help identify ways to educate faculty about making work with the IRB a more positive experience--and about the need to serve on IRB panels as well as use them.

One issue on the list concerned start-up companies. Professor Balas pointed out that the Office of the Vice President for Research touts new start-up companies spawned from the University. What is the University policy on start-up companies? Is the University only supportive if the faculty licensing technology is from the University? Do the faculty receive released time for start-up companies? Does the Vice President for Research provide any support funds? How do other universities support start-up companies? Is there a way for the University to be an incubator of new ideas, he asked? Discussion of this issue is a way to find out how the University operates. Dr. Hamilton said this is a good idea; he suggested waiting a little while because he has a lot of learning to do. Dr. Bloomfield also endorsed the item and said it should include the Conflict Review Committee. Professor McConnell said he would be interested to know what the University is doing through the Vice President's office as well as what other institutions do. He said he could imagine that a lot of faculty have start-up companies but not through

any University process. Some units encourage start-ups and provide time for it; others do not, Professor Balas said.

Responsible Conduct of Research training is another issue the Committee will take up: does it work, is there any evidence the University is more responsible, and what are the plans for the future? Dr. Hamilton suggested that the Committee hear a report from Ms. Schumi on the activities of the Office of Oversight and Analysis.

The Scientific and Scholarly Advisory Board exists and will be meeting shortly, Dr. Hamilton said about the next item on the Committee list. It is appropriate to talk about it. In response to a question about what it is, he told the Committee it is a group of senior faculty who review academic misconduct allegations and decide whether there should be an investigation. It is like a grand jury; it decides whether there is sufficient evidence to bring an "indictment." Dr. Bloomfield said the Graduate School is developing workshops to deal with academic misconduct, identifying the University's conflict resolution mechanisms, and developing a roadmap for dealing with such allegations.

On the issue of bioterrorism research, Professor Larsen asked if the discussion would include how the University protects itself and how secure its facilities are. This is a big issue everywhere, Dr. Hamilton noted, but the federal government provides no funds. Professor Balas said he thought this was a different issue from the question of what role the University would or might play in research to defend against bioterrorism (about which Senior Vice President Cerra will talk with the Committee later). It was agreed that security issues should be discussed, with the discussion led by Mr. Bianco.

Professor McConnell noted that Dr. Hamilton had been appointed as interim successor to Dr. Maziar as vice president and Dr. Bloomfield as interim success to Dr. Maziar as dean. He urged that this Committee be involved in any discussions about the structure of these two offices in the future, once a permanent president has been appointed.

The Committee reviewed briefly several additional items (portals, discussion with the new Director of Compliance, and the status of postdocs); Professor Balas urged Committee members to email him with any additional suggestions for issues the Committee should be considering.

4. Research Secrecy

Professor Balas next welcomed Professor Kruttschnitt to the meeting to report for the ad hoc committee on research secrecy. The recommendations of the ad hoc committee at issue were these:

[start quote from report]

Members of the ad hoc committee expressed strong and unanimous support for the existing Board of Regents Policy on Research Secrecy. It was noted that this policy both reflects deeply held values and provides a workable system for granting exceptions under unusual circumstances. Further, the procedures set forth in this policy for granting exceptions include important safeguards that guarantee that no one person or committee is given the sole authority to grant these exceptions. Accordingly, the ad hoc committee sought to develop a set of recommendations that preserves this Policy, while anticipating the likely increase in the imposition of restrictive language on previously non-classified research.

The ad hoc committee recommends that *a standing subcommittee of the Senate Research Committee be established to develop expertise on the national and University policies that are relevant to the review of requests for accepting research grants and contracts that (i) limit the public dissemination of the results of research or (ii) impose retroactive classification of research.*

The ad hoc committee further recommends that *the standing subcommittee of the Senate Research Committee develop a set of guidelines for reviewing exceptions to the Board of Regents Policy on Research Secrecy and that a useful place to start in the development of these guidelines would be to consider the Necessary Conditions for SRC Review and Review Considerations developed by the SRC last year in their consideration of the requests for exceptions to public dissemination of research information.*

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 Council) must certify that negotiations to remove restrictions have gone as far as possible.*
- 4. A proposed review is limited to only work sponsored by the proposed project.*
- 5. The process of review and recommendations is timely.*

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?*

The ad hoc committee also suggested *that any guidelines developed by the standing subcommittee of the SRC should give explicit attention to the following issues:*

- 1. The importance of sensitizing the research community and their program officers who work with army contracts of the increasing possibility that their research may be classified and the implications this status will have on their use of foreign nationals in their research projects and their ability to publish the results of their research;*
- 2. The importance of disclosing any restrictions that have been placed on a research project to the students involved in the project, especially in light of the need to protect students' publication interests;*
- 3. The importance of considering that exceptions only be granted for government research, and then in as limited a way as possible; and,*
- 4. The importance of informing the Senate Consultative Committee of recent changes in the federal funding environment and what might be anticipated as a result of these changes.*

The ad hoc committee recommended *that annually the chair of the Senate Research Committee and the Vice President for Research should review the guidelines that the standing sub-committee of the SRC develops for review of requests to accept grants or contracts that limit*

public dissemination of information, their application and their consequences in light of the Board of Regents Policy on Research Secrecy.

Summary: Although the ad hoc committee finds the move toward restrictions in publication to be ill-advised for any research, they were willing to entertain some instances of restrictive language in government contracts as long as the spirit of the Regents' policy is not violated. The ad hoc committee believes that, at this point in time, the changes in governmental contracting processes are too new to justify radical changes in policy or procedures. The proposed establishment of an informed standing subcommittee, charged with reviewing the potential exceptions and charged with a yearly self-review, seemed to be the most prudent course of action. If the standing subcommittee of the SRC finds that the restrictions on previously non-classified research are violating the spirit of the Regents' Policy, the acceptance of any contracts with restrictive language will need to be reevaluated.
[end quote from report]

[Note: the pertinent parts of the Board of Regents' policy read as follows:

SECTION I. RESTRICTIONS ON CONTRACT ACCEPTANCE.

Subd. 1. Limits on Disclosure. The University of Minnesota shall not accept support from any source for research under a contract or a grant which would restrain the University from disclosing:

- (1) the existence of the contract or grant;
- (2) the identity of the sponsor or the grantor and, if a subcontract is involved, the identity of the prime contractor if the results of the research must be reported to the sponsor, grantor, or prime contractor; and
- (3) the purpose and the scope of the proposed research in sufficient detail:
 - (i) to permit informal discussion concerning the wisdom of such research within the University; and
 - (ii) to inform colleagues in immediate and related disciplines of the nature and importance of the potential contribution of the disciplines involved.

Subd. 2. Limits on Public Dissemination of Information. The University of Minnesota shall not accept support from any source for research under a contract or a grant, even though it meets the requirements of subdivision 1, if the contract or grant limits the full and prompt public dissemination of results or specifically permits retroactive classification, except for reasons found compelling by the University community through the review process outlined in section II.

Subd. 3. Future Limitations on Contracts. Subdivisions 1 and 2 shall apply to any research under a contract or grant which does not limit the full and prompt public dissemination of results at the time the research is undertaken by the University but becomes so limited thereafter. As soon as this occurs, the contract or grant, and the disposition of the results of the research obtained under such contract or grant shall be reevaluated under the provisions of section II.

SECTION II. SENATE RESEARCH COMMITTEE.

Subd. 1. Report to the Committee. The director, research contract coordination, or some other designated University official, shall report to the Senate Research Committee every proposed research grant or contract which meets the requirements of section I, subdivision 1, but limits the full and prompt public dissemination of results. If this officer is not certain whether a particular research proposal requires the committee's recommendation, the officer shall submit the proposal to this committee for its determination.

Subd. 2. Committee Report to the Senate. The committee shall recommend to the senate at its next regularly scheduled meeting acceptance or rejection of every proposed contract or grant which limits the full and prompt public dissemination of results in sufficient detail to permit informal discussion of the recommendation made. In addition, the committee shall report on any problems encountered in implementing this policy.

Subd. 3. Ad Hoc Subcommittees. In performing its functions hereunder, the committee shall be authorized to seek the advice and assistance of ad hoc subcommittees competent to pass on the particular matters that may be involved. If some other University committee also has jurisdiction in a particular case, nothing in this statement of policy shall deprive it of that jurisdiction.

Subd. 4. Senate Recommendations. The University Senate shall review the recommendations of the senate research committee and forward its own recommendations to the president. All proposals which are to be submitted for senate evaluation shall be accessible to members of the University community (the faculty and students) in sufficient detail to permit informed evaluation and discussion.

end of Regents' policy excerpt]

Professor Kruttschnitt noted that two of the members of the ad hoc committee are on this Committee (Professors Balas and Davidson); the ad hoc committee was appointed and charged because of the three requests last year for exceptions from the provisions of the Regents' policy. The University has three options, Professor Kruttschnitt said (quoting from the report):

- (1) Continue with the current procedure of granting exceptions as specified in the Board of Regents Policy on Research Secrecy, Section II.
- (2) Form a standing subcommittee that will develop expertise in the range of national policies that have affected, and are currently affecting, whether projects are classified or treated as fundamental research.
- (3) Recommend that no exceptions be made under any circumstances to the University of Minnesota's policy on ensuring public dissemination of information generated from research grants or contracts.

The ad hoc committee came unanimously and swiftly to the conclusion that option (2) was the most desirable. There are two rationales in support of that option: First, members of the Research Committee had good ideas about what to put in a report and it is impossible to articulate what might come along in terms of exceptions, and second, it is premature to make any radical change in the Regents' policy--one can't predict if there will be five or six cases this year or if there will be none.

After the proposed subcommittee has made a recommendation, it would then go through the normal sequence of events set out by the Regents' policy: the Senate Research Committee would make a recommendation to the University Senate, which in turn makes a recommendation to the President. She said that as the subcommittee developed expertise, it would not be expected to slow down the process. The ad hoc committee did not favor eliminating the requirement that exceptions be brought to the Senate; it is an important part of the checks and balances.

Professor Balas said that another argument for not changing the Regents' policy at this time is that some might be in favor of changing the policy; it is a strong policy now and should not be changed. Some do not like the requests going to the Senate but it is an important part of the process. Professor McConnell pointed out that ALL of these actions are advisory to the President.

Professor Orf moved that the Committee accept the recommendations of the ad hoc committee and appoint a standing subcommittee to develop expertise and to deal with requests for exceptions as provided in the Regents' policy. Professor McConnell said that a standing subcommittee is a very good idea; the discussions last year (when the Senate Consultative Committee acted on behalf of the Senate because of the press of time) were more about ideas and perspectives but did not represent the perspectives of PIs. More over, Professor Balas added, FCC has made it clear it does not want those discussions to come back to SCC again.

One other thing the ad hoc committee believes the standing subcommittee should do, Professor Kruttschnitt said, is sensitize PIs about the issues surrounding restrictions on research and it should alert graduate students to the impact such restrictions might have on their research.

The Committee voted unanimously in favor of Professor Orf's motion. This action will be reported to the Faculty Consultative Committee.

Professor Balas adjourned the meeting at 3:25.

-- Gary Engstrand