

Minutes*

**Senate Committee on Faculty Affairs
Tuesday, October 10, 2000
3:07 – 5:00
Room 300 Morrill Hall**

- Present: Richard Goldstein (chair), Josef Altholz, Carole Bland, Carol Carrier, Robert Fahnhorst, Daniel Feeney, Robert Jones, Charlene Mason, Larry Miller, James Perry, Dwight Purdy, Lisa Wersal
- Regrets: John Fossum, Cleon Melsa, Wade Savage, Tom Walsh, Carol Wells
- Absent: Avner Ben-Ner, Joan Howland, Theodore Oegema, George Seltzer, Sheila Warness
- Guests: Professor Mary Dempsey (Tenure Subcommittee); Professor Richard McGehee (Health Plan Task Force)

[In these minutes: post-tenure reviews; tenure letter from Illinois; parking priority for probationary faculty; IP charges; health care; faculty emeriti procedures]

1. Tenure Subcommittee Activities

Professor Goldstein convened the meeting at 3:07 and turned to Professor Mary Dempsey, chair of the Tenure Subcommittee, for a report on its activities.

Professor Dempsey noted the report she had provided to the Committee and reviewed its contents. She, Vice President Carol Carrier, and Vice Provost Robert Jones serve as a three-person committee reviewing all post-tenure documents submitted by departments to the Provost's office for approval. Most units have submitted the documents; some required additional revisions and the necessary changes have been made. She guessed that perhaps 85% are complete.

The Provost's office is also requesting data from all departments that conducted post-tenure reviews last spring; ALL units will be required to conduct such reviews during 2000-2001. There is a simple way for departments to conduct post-tenure reviews, Professor Dempsey observed: they can be done in conjunction with merit compensation reviews.

To whom are reports made, asked Professor Goldstein? To the Tenure Subcommittee? Or just to the deans? Professor Dempsey said she did not know but would find out. Professor Goldstein said the Tenure Subcommittee should want a report, not with all the details but that every unit went through the process. (The Committee has taken the position that the Tenure Subcommittee should review department plans with respect to non-tenure-track faculty, so it is appropriate that the Subcommittee also review these data on post-tenure reviews.) The numbers should be available from Vice Provost Jones, he said. Professor Purdy added that data on the number of reviews conducted and the number that were negative

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should be reported as well. Some individuals could be judged to need a more extensive review, Professor Goldstein pointed out, but the result could be positive or negative. It will take a couple of years before there are good data from the reviews, he said.

Professor Bland inquired if there is a way to track the number of faculty who have annual reviews. There is a need to know the number of faculty reviewed so there is a denominator. The denominator should be the number of regular full-time tenured faculty, Dr. Jones commented, but while they wanted post-tenure reviews every year as part of the annual review, the guidelines allow post-tenure reviews to be conducted every two or three years, so the denominator will change each year, depending on what departments are doing. Even in a department conducting post-tenure reviews in conjunction with annual reviews, Professor Altholz said, if nothing jumps out during the annual review, that WILL be the review.

A finding of unsatisfactory performance is required both by the faculty as a whole and elected committee as well as the department chair, Dr. Jones added. It cannot be only the department chair who reaches such a conclusion.

Dr. Jones then told the Committee that the President has insisted that the impact of post-tenure review must be tracked: the number who go through the process, the number who go through satisfactorily, the number of unsatisfactory reviews, the number of individuals who are recommended for a professional development program, the outcome of the programs, and so on. His office is putting a tracking mechanism in place, he said, and will bring the proposal to this Committee for review within the next month or so. Both the President and the Regents take the process seriously, he said, and want to know the impact. Dr. Jones said he did not anticipate a lengthy survey to departments to track the impact of post-tenure review, perhaps seven or eight questions. Professor Goldstein said he assumed every tenured faculty member would go through the process.

There are two points commonly reported by those institutions that conduct post-tenure reviews, Dr. Jones said: (1) 92-95% of the faculty perform satisfactorily, and (2) there is a small cohort of faculty who retire rather than go through the process.

This is the first year of the formal process, Professor Altholz noted, so that outcomes will not be known for a year. Dr. Jones agreed but said the President wants to know what happened with those reviews that have occurred because some departments began the process last year. The deans are responsible for collecting the information and providing it to the Provost.

Professor Dempsey reported next that the Tenure Subcommittee is also reviewing the [tenure code Section] 7.12 statements, which set forth the criteria for tenure and promotion in a department. All departments are supposed to have 7.12 statements and are to provide them to probationary faculty. All of the statements were supposed to be done by early October but some are not. One important point about the statements, she noted: a new interpretation of the tenure code provides that a faculty member may choose to meet either the old or the new 7.12 statement requirements. Faculty members have one year from the time the new statement is approved to make a choice, Dr. Jones added, so it is important to get all the statements approved. In order to expedite the process in the future, he added, his office will ask departments to provide a version that contains underlining and strike-outs; up to now, they have had to compare the old and new statements word by word. In some cases, he said, the older 7.12 statements were better.

What will happen if a unit does not comply with the requirements of the post-tenure review policy, Professor Feeney asked? The Academic Health Center units "are all over the map" in terms of conducting merit reviews, he said, and the governance system will publicize this problem in order to achieve compliance and to make faculty aware. If a unit does nothing, will the University remove the administrator? Dr. Jones said that the reviews must be conducted but that no one has decided what to do if they are not. The President has determined, however, that something will happen.

2. Tenure Letter from Illinois

Professor Goldstein drew the attention of Committee members to the letter sent by the University of Illinois Provost to faculty members who have been recommended for tenure; the letter, provided by Vice Provost Craig Swan, identifies the responsibilities and privileges of faculty members with tenure and requires that the recipient sign the letter, indicating he or she has read it, before the recommendation is submitted to the Board of Trustees. Should the Committee recommend that a similar letter be sent by Dr. Bruininks?

At present there is a letter of congratulations sent, Dr. Jones said, that speaks to the strength of the individual's portfolio; the Illinois letter speaks more to the privileges and obligations of tenure. It also, Professor Altholz observed, links the University to AAUP documents because, if the Illinois example is followed, it includes copies of the AAUP statement on Academic Freedom and other documents.

The idea is that the letter points out the responsibilities and obligations of faculty members, Professor Goldstein said. If the Committee approves the idea, he said he would take it to FCC and, if approved there, to Dr. Bruininks. Dr. Bruininks can decide what policies to append to any letter.

Dr. Mason suggested that someone contact the University of Illinois about the letter; there may a history behind it that is not evident. Professor Bland agreed and said she thought the letter smacked of laying the groundwork for an academic misconduct charge. Professor Miller also agreed and said there did not need to be another letter; it would just be another piece of bureaucracy and an unnecessary sending back and forth of pieces of paper. It feels, Dr. Mason said, like Illinois got caught at something.

Dr. Jones said that the message of the letter could be incorporated in the existing letter used by the University and that Vice Provost Swan, in forwarding it to the Committee, saw it as a positive statement to the faculty member. Professor Bland retorted that she did not and that she would first take it to her lawyer to ask if she should sign it.

Professor Goldstein said he did not object to changing the letter; what he saw as most important is the emphasis on the privileges and the responsibilities. Professor Bland said she did like the attachments, because many faculty members may never see AAUP documents.

3. Parking Priorities

Professor Goldstein now distributed copies of an excerpt from current parking policies which sets out priorities for contract parking, a policy he said he did not know existed until he asked about it. He said he has no major objection to the provisions of the policy other than one change which he would recommend.

Section 11 of the policies reads as follows, in part:

"Any request for a waiting list exemption should be made in writing to the Director of Parking and Transportation Services. The general exemption guidelines for bypassing the waiting list for a permanent contract are listed below:

. . . .

II. Associate and Assistant Deans, Directors, Tenured faculty, and continuous appointment Professional and Administrative employees are given priority on the waiting list, except in the following facilities [a list follows]."

His only suggestion, Professor Goldstein said, is that tenure-track faculty should be added to the list of people who are given priority for contract parking. Tenure-track faculty members should not be obligated to park across the river from their office or lab, he said. Professor Feeney strongly agreed and said it was ridiculous to recruit faculty to the University and then tell them they cannot get priority for parking. Parking should not have a stranglehold on where faculty park, he said.

Dr. Mason observed that there are very few continuous appointment P&A staff; she guessed that there might be 80 or so. Many of them are in the libraries. Another problem, she pointed out, is that the system treats the Minneapolis campus as one so that if one moves from the West Bank to the East Bank there is almost no possibility of moving one's parking spot without going back on the waiting list.

This change would not guarantee anyone an ideal parking spot, Professor Goldstein pointed out, but it would provide new faculty with priority in a facility close to where they work. If he were being hired by another university, Professor Alholz said, he would make it a condition of taking the job that he received a parking spot. Smart candidates do that, Professor Goldstein agreed.

There are several inaccuracies in the facilities mentioned, Professor Bland pointed out, including references to ramps that do not exist any more. Professor Goldstein said he did not want to get into details such as that; his central point was to get tenure-track faculty on the priority list.

Professor Feeney asked that information about how long people must be on the waiting list be provided to the Committee.

Professor Alholz noted that retirees have a one-year right to a contract parking spot; after that, it is renewed annually by a request from the dean. Professor Goldstein said he did not believe this was a problem for individuals, although Parking has complained about assignment of spots to retired faculty. He said he has suggested that retirees could share spaces and the sharing could be administered by the department, but that solution has not been adopted.

The Committee voted without dissent to recommend the change in parking policies recommended by Professor Goldstein. He said he would bring the item to the Faculty Consultative Committee. It was also suggested that Mr. Baker, Director of Parking and Transportation, and Ms. Robinson, Associate Vice President for Auxiliary Services, be invited to attend a Committee meeting to discuss parking policy.

4. Charges for IP Addresses

Professor Wells, who was unable to be at the meeting, had provided a memo outlining the issues and problems she sees with billing departments for IP addresses for faculty. On recommendation of Professor Goldstein, the Committee agreed without debate to refer the issue to the Committees on Finance and Planning and on Information Technology.

5. Report from the Health Plan Task Force

Professor Goldstein now welcomed Professor McGehee to make yet another report on the health care issue.

Professor McGehee distributed a one-page set of preliminary recommendations, said they are somewhat vague and will need word-smithing, and that this will be on the docket of the October 19 Faculty Senate meeting.

The first recommendation calls for the creation of a standing Employee Benefits Advisory Committee "to monitor the benefits packages available to employees and to advise the University administration. The committee membership should include representatives of all affected groups." Such a group will be needed whether or not the University separates from the state, Professor McGehee said, because the state has indicated its willingness to let the University make decisions separate from the state plan.

Would this committee also deal with the retirement plan, Professor Goldstein inquired? It should probably deal with health care, long-term care, and related issues, but not the retirement plans, Professor Goldstein said. The language about what the committee would deal with should be made clearer, Professor Goldstein suggested.

Recommendation 2 said "the University administration should continue the recently initiated negotiations with the State Department of Employee Relations (DOER) to acquire a management flexibility that has not been available through the state up to now. The flexibility should include:

- Direct negotiations between the University and DOER
- The ability to modify plan design and employer contribution strategy of the state plan
- The ability to offer additional plans and benefits
- The ability to determine eligibility
- The option to have a separate risk pool.

Professor McGehee said the Task Force had received a letter from the new DOER commissioner agreeing to all of these points and felt quite positive about it.

The Committee discussed the issue of graduate assistants being included and the concerns that the GAs had expressed. Professor McGehee noted that the Task Force does not recommend whether GAs should be included in any University plan, only that it be an option. This is a topic the Employee Benefits Advisory Committee could wrestle with.

There are warning signs in all of this, however, Professor McGehee reported. The state cannot agree to allow the University to offer the state plan to domestic partners. DOER said it would not be possible for the University to make the decision and take the heat. So DOER was asked if the University could have a separate risk pool, if it had no impact on the rest of the state, and offer its plan to domestic partners. DOER said it would need legislative approval. Professor McGehee said he inquired: if that option needed legislative approval, would not all of the other elements also need legislative approval? DOER agreed that they would. There is more risk in this: the University and DOER can negotiate but any agreements must be approved by the legislature. His interpretation, however, is that the University would not need legislative action to offer competing plans.

So there are two procedural red flags in this, Professor McGehee summarized: First, the University can negotiate with DOER (which the Task Force recommends) but the legislature could overturn the agreements, and (2) a new Governor and new Commissioner could in the future conclude these arrangements were not a good idea and ask the legislature to change them.

But the University can split from the state health plan, Professor Goldstein asked? The law provides the University can choose to join or not, Professor McGehee said. Is the Task Force saying the University should not separate, Professor Goldstein then asked? The Task Force will recommend continued negotiation with the state as well as University pursuit of a benefits plan separate from that of the state. Professor Goldstein said he thought one recommendation from the Task Force would be to separate; if it is not going to recommend that, it should say so. Professor McGehee said the Task Force was reluctant to say that. The University must decide by the end of December, 2000, Professor Goldstein pointed out; is the Task Force saying it should not separate at that time? Professor McGehee said the University should continue to pursue separation during 2001--it should continue to negotiate with the state and send out Requests for Proposals at the same time. The December 31 deadline for separating from the state is firm, he affirmed, but a decision to stay with the state this year does not bar separation in 2003.

Professor Bland said the faculty will want to know why the Task Force is not recommending separation when the situation with the legislature is so unpredictable. Why not obtain the information about alternative plans that the University could run itself? Some feel that way, Professor McGehee agreed, but more would not agree. The Task Force has data and the University could have plans that this Committee would like. AFSCME, however, would not like the plans, and the views of Civil Service employees is not known.

AFSCME represents about 20% of the University's employees covered by the health plan and it was known from the beginning that they would oppose separation, Professor Goldstein said; at the same time, they would presumably not want to resist additional options for their members. More options means higher costs, Professor McGehee pointed out; the plan is cheaper if there is only one option. It seems to the Task Force, after three years of work, that if the ultimate goal is to separate from the state and get away from the problems of the state plan, these recommendations are a good first step.

It would be helpful if the Task Force provides information about why it is making the recommendations it is, Professor Bland said. Professor McGehee responded that the report will include a section on findings. Much of this, he observed, is politics; it is more politically possible to stay than not to stay, so the Task Force is recommending doing what is possible. The alternative it is recommending includes the safety net of the state plan while trying additional plans without the difficulties of separating.

The new DOER Commissioner has bent over backwards to accommodate the University, although his agreements require legislative approval, and the University will be in a better situation to obtain solid bids from other providers if it stays with the state plan.

If these recommendations are approved by the Senate and the administration, Professor Goldstein asked, will employees have additional choices next spring? Professor McGehee said the University could look in January at the modifications it wants to make, issue an RFP for competing plans, and make them available in January, 2002.

There are those who want to give people, for whom choice is important, the option of choices if they are willing to pay for them, Professor McGehee related. Others do not agree with that approach and believe everyone should stick together in order to obtain better benefits and to avoid the "death spiral" for some providers through risk adjustment or differential University contributions to the health plan depending on who the employee chooses. The latter is very difficult for the employer to maintain, however, and because healthy people choose the cheapest plan, differential contributions are seen as subsidization of the sick by the healthy.

The two principal recommendations are to establish the committee, Professor McGehee reiterated and continue negotiations with the state while also pursuing other options. The health care market is changing rapidly and employers are under tremendous pressure to reduce contributions. This is an ongoing process, he said.

Does the University really know what it could do on its own, Professor Bland asked? It is not a typical employer, it has a health care arm of its own and different employees; will it be able to find out what it would cost to operate its own plan? It does not have a higher-risk group, Professor McGehee noted. Does that mean it can figure out what it will cost to have its own plan, Professor Bland then asked? Not unless it actually does it, Professor McGehee said. It is known that if the University separated and offered one plan it could save 20%. The Task Force, however, does not see that as a desirable option.

What about the medical savings accounts and defined contribution plans; could those be options next year, Professor Goldstein asked? They would be possible, Professor McGehee said; they are controversial but some feel they are the wave of the future. In addition, Preferred Provider Organizations are coming back as a way to move both costs and choice to the employee. So they let one have the cake and eat it, too, Professor Goldstein commented; they reduce costs to the employer and increase choice for employees. Professor McGehee concurred but pointed out that medical savings accounts, at present, are shaky for both legal and political reasons. If the University stays with the state, it can also offer these options and see if people like them.

Would the employee benefits advisory committee have the same mix of members as the Task Force, Professor Goldstein asked? One decision that will have to be made is whether it should be a Senate committee (some of which do have representatives from groups other than faculty and students). In the models that exist, Professor McGehee said, the committees tend to be appointed by the administration. The Task Force wants all affected groups represented; even creating the committee is complicated, he said, because it gets mixed up with collective bargaining law. The Task Force will be silent on the nature of the committee; this Committee, however, could make a recommendation, he observed.

It was agreed that Professor McGehee would return to the Committee once again, before the November Senate meeting. The recommendations will also be brought to the Faculty Consultative Committee.

Professor Goldstein once again thanked Professor McGehee for his work and expressed great appreciation for all the effort that he and the Task Force have put in.

6. Faculty Emeriti Policy Procedures

Professor Goldstein turned to Dr. Jones to ask about the status of the procedures that go with the Faculty Emeriti Policy. Dr. Jones said that a few changes were made, at the suggestion of Professors Altholz and Goldstein, and that the revised procedures will be approved by Executive Vice President Bruininks today or very soon thereafter. The POLICY was approved by the Board of Regents without discussion in July.

The Committee briefly discussed the issue of parking for emeriti faculty. It was noted that the Regents' policy on emeriti faculty would presumably take precedence over parking policies approved administratively; it was suggested that the possible conflict between the two should be brought to Mr. Baker's attention.

The new procedures should be on the web as soon as they are approved, Dr. Jones said.

It was suggested that the Chronicle of Higher Education should be notified of the policy and procedures because many institutions have been interested in them. Dr. Jones agreed.

There was one issue that met resistance, Dr. Jones related; the inclusion of emeriti faculty in the grievance process almost made the policy dead on arrival with the deans. This has remained a point of contention between the faculty and administration and Professor Morrison is appointing a group to try to reconcile the differences. Dr. Jones reported that the only way to get the deans to approve the policy was by taking emeritus faculty out of the grievance process--and they will be upset if that provision is changed. Professor Morrison proposed informal dispute resolution, to which the administration agreed, as did the deans. The deans are concerned about cost and the possibility of trivial items being brought to the grievance process that would take up a lot of time. The University has accomplished a great deal with this policy and procedures, he said; it goes far beyond what other institutions have done. He said he hoped they would not be tainted by a dispute over dispute resolution.

Professor Goldstein said he was not concerned about using an informal dispute resolution procedure but that others believed these emeritus faculty had put in many years at the University and should have access to the grievance process. Dr. Jones repeated his hope that the policy and procedures would not get bogged down in the dispute resolution issue; he also explained that the General Counsel's office had advised the administration that the University would be inviting trouble if it began treating non-employees like employees.

Once the procedures have been approved, Professor Altholz suggested, it will be necessary to get the word out to deans, department heads, and emeritus faculty. The policy should also be provided at pre-

retirement seminars, Professor Goldstein added. Dr. Jones agreed and said, in response to a question, that the policy and procedures will cover those who have already retired.

Professor Goldstein thanked Dr. Jones for his report and adjourned the meeting at 5:00.

-- Gary Engstrand

University of Minnesota