

Minutes\*

**SENATE COMMITTEE ON FACULTY AFFAIRS**

**Thursday, January 19, 1995**

**3:15 - 5:00 p.m.**

**238 Morrill Hall**

Present: Daniel Feeney (chair), Daniel Canafax, Mary Dempsey, Ann Erickson, Kinley Larntz, Richard McGehee, Dianne Mulvihill, Anne Sales, Bernard Selzler

Regrets: Carole Bland, Rose Brewer, Carol Carrier, Carol Chomsky, Judith Gaston, Roger Paschke, Ken Roering, Michael Sadowsky, W. Donald Spring, Yang Wang

Absent: Willard Manning, James Stone, George Seltzer

Guest: Carl Adams, Dan Houser, David Ward

**1. APPROVAL OF THE AGENDA**

Professor Feeney asked that the agenda be amended to include a report from the subcommittee examining the Minnesota Data Practices Act. The committee expressed no objections to this addition.

**2. CHAIR'S REPORT**

Meeting with the President: Dr. Feeney said that he had calculated committee member responses to his e-mail survey regarding how (or if) SCFA should meet with the President and express a faculty morale problem. He said that the leading options was option #3:

The idea is premature. The committee needs a firm agenda before approaching administration. In other words, SCFA should approach this type of meeting by working from a list of specific items where the administration's actions were perceived to be contrary to faculty values.

The upcoming tenure discussion between SCFA and the President may be a venue to express some of these concerns. Professor Feeney also expressed that the presence of this discussion in the SCFA minutes makes the University community sensitive to issues of faculty morale.

Faculty/Staff Newspaper: The subcommittee recently met with many University publication personnel. It was decided that a mock-up of the newspaper will be developed. A questionnaire was also distributed to get a broader opinion on the proposed content of the newspaper.

Tenure Meeting with the President and Acting V. P. for Research, Mark Brenner: The University Senate Office is in the process of attempting to arrange a special meeting between SCFA, the President, and Dr. Brenner to discuss tenure decisions under the new three provost, Twin Cities structure as well as the changes system wide.

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

**Critical Measures:** A special SCFA meeting has been scheduled so that the committee can address the latest critical measures with Dr. Jane Whiteside and Dr. Darwin Hendel. The tentative date for this meeting is February 7.

**Chair's Schedule:** Professor Feeney said that he would be unable to attend the SCFA meetings on February 2 and March 2. Professor Richard McGehee will chair the February 2 meeting. Professor W. Donald Spring will chair the March 2 meeting.

**Academic Freedom Policy:** This policy is in the process of being revised. SCFA will be addressing this in an upcoming meeting. Background material was provided for the committee members including the University's Academic Freedom Policies from 1938, 1963, and 1971; and the Academic Freedom Policy from Cornell University (This example was written with the philosophy that a brief policy can be interpreted in cooperation with the institution's tenure policy, etc.) Issues related to "indemnification" will be covered by a Regents' policy specifically addressing this matter. The chair said that he would review the Regents' Indemnification Policy to make sure that what would be deleted from the Academic Freedom Policy would be properly covered.

**Conflict of Commitment/Interest:** The University Senate Office is in the process of scheduling Professor Brenner to come before the committee again regarding the Conflict of Commitment Policy. Professor Feeney also said that the committee would need to look at the Conflict of Interest Policy. The University's policy must be in conformity to the National Institute of Health's (NIH) policy. This is necessary so that the University can remain eligible for NIH funding. The minor revisions need to be completed by June 1995. The chair hopes to deal with this issue in one meeting.

### **3. REPORT FROM THE MINNESOTA DATA PRACTICES ACT** SUBCOMMITTEE - Dr. Bernard Selzler

Professor Selzler said that the subcommittee met with Dennis Cabral (Academic Affairs), Associate Vice President Carol Carrier, Florence Funk (Institute for International Studies and Programs), Tracy Smith (General Counsel), Judy Sweitzer (General Counsel). The subcommittee found what they were originally charged to find out regarding the privacy of, and access to personnel files. Dr. Selzler said that there is a form which faculty members are supposed to be using each time she/he writes a student letter of recommendation. This form releases the faculty member from any liability from what is written in the recommendation. Several members said that they had never seen such a form. One committee member asked whether this should be occurring for tenure recommendation letters.

General Counsel will be working on developing a handout to serve as a reference to University faculty on this issue. Dr. Selzler added that the subcommittee needs authorization from SCFA to continue meeting with Assoc. V. P. Carrier to determine the relationship between faculty reviews of key administrators and the Act. Further discussion included:

- People may use the Act to keep information concealed which should be disclosed. A true example was offered where a University employee would not disclose the content of a research proposal using the Act as justification. The chair asked that this issue be considered by the subcommittee
- Professor Selzler said that any document that includes a person's name allows her/him access to the material

-- The subcommittee to this point had only considered personnel issues

SCFA agreed to allow the subcommittee to examine the relationship between the Data Practices Act and its relevance to administrative review.

**4. CONTINUED DISCUSSION OF POSSIBLY RE-ESTABLISHING THE FACULTY  
ADVOCATE'S OFFICE**

Professor David Ward, Chair of the Senate Judicial Committee

Professor Feeney introduced Professor Ward to the committee and briefly reviewed that SCFA had met with Professor Mario Bognanno (President's Office) and Mr. Nick Barbatsis (University Grievance Office) and discussed this matter. It was decided at the former meeting that the committee should also speak with Professor Ward regarding the potential need for faculty advocates.

Professor Ward said that the Judicial Committee seldom deals with "denial of tenure" cases "as is evident in the (news)papers." The nine current cases are mostly "termination for cause." Those cases may involve tenure denial for issues beyond the traditional lack of scholarly activity. Most faculty members who come before the Judicial Committee do so accompanied by a lawyer. Therefore, the committee has its own independent source of legal counsel (not the University's General Counsel). Those faculty members who go before the committee without legal counsel may be at a significant disadvantage if they turn to the "usual" faculty resources (i.e., faculty advocates). Dr. Ward said that he questions whether a faculty member not trained in law would be the best source of advice for a faculty member dealing with issues that are not simply matters of scholarly publications. The committee is currently dealing with a case where the faculty member is not able to sufficiently defend himself. The committee is questioning to what extent it should intercede.

The Judicial Committee is concerned about the absence of well trained legal counsel for the faculty. The committee was surprised to learn that the Faculty Advocates List is no longer in existence. Therefore, the Judicial Committee sees value in having a list of those faculty (legally trained and not) who would be willing to assist those peers who are in need of such assistance. Dr. Ward emphasized that it would usually be best if the faculty advocate did have legal training.

Discussion:

Q If the faculty member comes in without a lawyer, does the committee withdraw its legal counsel?

A In such a case the respondent must refrain from soliciting legal counsel. Nevertheless, the Judicial Committee always retains its legal counsel because it must remain current with ramifications of what it may do.

Q Who pays for the committee's attorney? Who supervises this individual?

A There is a separate budget under the University Provost's Office which includes a court reporter and an attorney. The attorney is supervised by the chair of the Judicial Committee. Detailed billings are submitted from the legal counselor to the Judicial Committee chair who reviews the documents for accuracy. The clerk in the General Counsel's Office issues the checks to the attorney.

Q Was not the Grievance Policy suppose to keep cases out of the public courts?

A The only cases which come before the Judicial Committee are those where a faculty member has received a termination notice from the University. Other cases are supposed to go through the Grievance Office (and onward if need be). Some faculty expect immediate review by the Judicial Committee. Therefore, some education on the University's grievance procedures may be needed.

Q How does the Judicial Committee remain unbiased, especially since it is comprised of faculty members?

A Historically, the committee has voted 50/50 on cases which were strictly dealing with awarding tenure. On more recent "termination for cause" cases, some of which involve felony convictions, the committee has voted for the complainant (faculty member) in only one third of the cases. These cases involve more than professional conduct.

Q Can a faculty member have an advocate and a legal representative?

A Just like legal counsel, the quality of faculty advocate varies widely. A qualified faculty advocate would be beneficial if legal representation was also needed.

SCFA and guests continued discussing the various options available: namely, should SCFA seek to re-establish the Faculty Advocate Office? Professor Carl Adams said that while the grievance policy was being developed, there was discussion regarding developing a grievance office for students and faculty. The President said that the University could not fund an office which was antagonistic to its position (i.e., making a claim against the University). The students resolved this issue by using student fees to support such an office. The discussion of doing this for the faculty and civil servants simply disappeared. Other points included in this discussion were:

- Every complainant is given a set of Judicial Committee rules which state that a list of faculty advocates is available if they should so want the assistance. These rules are currently under revision
- In most cases the complainant does need a lawyer
- Professor Adams said that a fund to provide legal representation would be acceptable if the amount one could use was limited
- In what situations should the faculty limit how a complainant may utilize the proposed funding or peer advocates? Would the availability of such a fund promote over use of this type of conflict resolution?
- The list of advocates should be available to help faculty determine whether they have a legitimate complaint. The presence of a defense fund complicates this matter severely

Professor Ward recommended that an advocate would be suitable for giving preliminary advice, outside of any formal review proceedings. He also said that it would be best if the Judicial Committee remained uninvolved in the selection of legal representation. Faculty members may find out which lawyers have been more successful by reviewing the cases over the last several years. Dr. Ward specifically said that a complainant should have legal representation for "termination for cause" and gender/racial discrimination cases.

Professor Feeney thanked Dr. Ward for discussing the matter with SCFA. The chair said that SCFA should consider this content in conjunction with the previous meeting (between Professor Mario

Bognanno, Mr. Nick Barbatsis and SCFA) and schedule a later meeting to determine a final action. This will also allow the minutes to be circulated so that the University community may consider this issue before the any decision is made. Professor Mary Dempsey (Chair of the Tenure Subcommittee) will be presenting the revision of the Judicial Committee's Rules at which time this issue could possibly be readdressed.

## **5. DOCUMENT REVIEW - REPORT OF THE COMPENSATION WORKING GROUP**

Professor Carl Adams (chair)

Professor Adams introduced Mr. Dan Houser (Doctoral Student in Economics) who has been performing some of the economic analysis for the report. Dr. Adams told the committee that he would review the overall structure of the document:

### I Introduction

This section includes a statement on the original charge and the members of the group.

### II Background

This sections tries to identify some of the issues and background regarding why this issue needs to be addressed. Identified are some major issues: 1) How much money should be set aside for wages and fringe benefits for faculty and academic support staff? The answer states that this amount should reflect the University's desire to compete and remain as one of the 20-25 major research universities. 2) Salary Distribution Issues: This issue includes concerns of "flexibility, temporary augmentation, near market issues, and salary compression." The report addresses distribution issues suggesting that there is a significant advantage to have flexibility in "temporary individual augmentations and group incentives (wages, salaries, etc.)." 3) Inter-unit Wage Variance: Professor Adams defined this practically by saying that people in Music may not be on the same scale as those in Management. The document states that each department should be within the compensation range of peer institutions as it corresponds to the University's strategy (e.g., the University may emphasize certain disciplines and therefore wish to be more competitive in those than others).

### III The Salary Performance Relationship

This sections deals with the relationship between the level of compensation and the performance of faculty members. It also addresses whether the University may require greater performance for better wages. This part of the report includes:

Problems Associated with Defining Compensation  
Problems Associated with Defining Compensation Policy  
Problems Associated with Defining Performance

Professor Adams said that the Literature Review indicates that:

- Those units which had higher compensation scales get better productivity and performance
- Better compensation gives the institution the right to expect better performance

The Analysis of the Performance/Compensation Relationship contains an review of several data sets relating to academic institutions. These data suggest that those institutions which pay better have better performance. Better performance was defined by the grants and Ph.D.s which a faculty member generated. The "Feller/Geiger Data" set, which uses NFS research funding as the performance variable, also indicates that pay and performance are significantly related. Professor Adams said that while none of these studies are definitive, they do match up with one's intuition that these two factors should relate.

#### IV Institutional Aggregate Salary Position

The document lists the salary position of the University within a peer group of 26 institutions which are likely to remain as the top research universities (13 public, 13 private). The University needs to determine what percentile it wishes to be at for the purpose of being competitive (median, above the median, etc.). Only the University of Washington has developed a policy explicitly stating the peer set and aggregate percentile at which it wants to be situated: the 75th percentile. The University of Minnesota is approximately \$7,000-8,000 below the 50th percentile of these institutions for faculty compensation, and approximately \$10,000 for the 75th percentile. (There is no comparative data available for academic staff.) The University could possibly need to supply an additional \$45 million (without considering fringe benefits) to bring the its 3,000 faculty and academic staff to the 75th percentile. The potential areas for finding these funds could be:

- Increased state subsidy - Only inflationary increases are expected from this source
- Increased tuition (rate or enrollment) - Unless an institution increases the students' perception of the quality of education, increased rates may decrease the enrollment. Modifying enrollment has not been fully explored in the document to date
- Increased contributions to overhead through expanded research and service revenue - The University ranking from federally sponsored research has declined. The institution could make certain infrastructure investments which would enable faculty to attract more grants
- Increased efficiency which free existing expenditures for other sources - The University could make appropriate programmatic reductions. Professor Adams presented a possible situation where some faculty could be given more teaching and others more research responsibilities providing for better teaching and better research
- Eliminate activities which result in a net addition to available resources - The University could also seek to increase its funding through donations

Timing on Implementation: The University does not need to enact a complete revision in one single step.

#### V Individual and Group Incentives

This aspect of the document highlights 1) "temporary individual augmentation for various types of responsibilities," 2) "group incentives both in salaries and fringe benefits," and 3) "that the University creates incentives for benefit enhancement (grants) or cost reductions."

The report will also includes appendices:

A-1) Salary compression

A-2) Comparison per U of M department of faculty wages compared to Big 10 weighted mean wages - Professor Adams said that better information would come from comparing University wages to those of the top 20-25 research universities

B) The University Augmentation Policy

C) Peer Institutions Policy Positions - Most institutions do not have any policy similar to the one at the University of Washington (listed above)

Discussion:

Q Would the compensation adjustments be applied primarily to new hires?

A The University currently operates in a reactive mode to maintain its competitive edge rather than aggressively seek anticipatory protection for retention. There are some clear indications in related literature that a better paid faculty in general will be more productive.

Q What is the relationship between the Conflict of Commitment/Interest Policies, the faculty's efforts to enhance University funds, and the intent of the Compensation Work Group Report?

A Some at the University wants the institution to be a world class research institution (iconoclastic) while others want the be more entrepreneurial, gearing toward practical research. Professor Adams said that he perceives that the University will need to be more pragmatic so that it may receive the funding needed.

Professor Adams requested for further comments from SCFA members. The final document will be going before FCC and Senior Vice President Ettore Infante in the near future.

**6. APPROVAL OF THE MINUTES**

The committee approved the January 5, 1995 minutes.

The chair reminded the members that Professor Richard McGehee will chair the February 2 meeting. The subcommittees will be on the agenda in one of the upcoming meetings.

The meeting was adjourned at 5:00 p.m.

-- Kevin Gormley

University of Minnesota