

Minutes*

SENATE COMMITTEE ON FACULTY AFFAIRS
Thursday, January 28, 1993
3:15-5:00 p.m.
238 Morrill Hall, Regents Room

Present: Carl Adams (chair), Daniel Canafax, Mary Dempsey, Ann Erickson, Roger Feldman, Richard Goldstein, Steve Laursen, Richard McGehee, Diane Mulvihill, Michael Sadowsky, George Seltzer, Bernard Selzler, W. Donald Spring, Michael Wade

Absent: Carol Carrier, Ann Fallon, Audrey Grosch, Morris Kleiner, Robert Martin, Roger Paschke, Judith Younger

Guests: Mark Brenner, Associate Dean, Graduate School

Chair's Report

Professor Carl Adams convened the meeting at 3:15 p.m. and reported that the revised Faculty Compensation Policy, as modified by SCFA, will be presented to the Faculty Senate for action at its February 18 meeting. The amended policy provides faculty with the "opportunity" for participation in the salary determination process but does not "mandate" participation as the original policy did. In order to ensure discussion of this substantive change, SCFA will present the following amendment:

[delete footnote 2 and add after ...increases are determined] The process determined through consultation must ensure that faculty participate in the judgements regarding compensation changes as a committee of the whole or through a salary committee consisting in whole or in part of elected members.

COMMENT:

As noted in the printed docket, SCFA decided to bring the above amendment to the Faculty Senate for the purpose of ensuring discussion of an issue that was specifically raised in the original Faculty Senate discussion of the policy.

Minutes

The January 14 minutes were approved.

*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.

Academic Integrity Committee

Professor Adams welcomed Associate Dean Brenner to the meeting to discuss two important topics: 1) composition, charge, and plans of the newly-established Academic Integrity Committee (AIC) and 2) proposed changes to the Academic Misconduct Policy. The AIC, Dean Brenner said, has been charged with reviewing all University policies that relate to academic integrity; the most prominent of which is the Academic Misconduct Policy. Dean Brenner reviewed the membership of the AIC, which was administratively appointed, and said the committee is anxious to work closely with the faculty governance structure. In fact, he anticipates SCFA will grow tired of seeing his smiling face. As the committee began its work in early January, Dean Brenner said, it became clear that its agenda needs to go beyond research issues. Besides the Misconduct Policy, the AIC will be looking at the Patent Policy, the Consulting Policy, and the Conflict-of-Interest Policy, all of which will require SCFA input. A number of questions have arisen that need addressing. For example, what is meant by one day in seven in the Consulting Policy? And what must be disclosed to administration by an individual who says s/he is consulting? There is strong feeling by some University administrators, Dean Brenner said, that they would like to see the consulting agreements, in some cases to protect the faculty member and in other cases to protect the intellectual property of the University. There is no interest by the administration, he said, to know what the financial arrangements are. Some institutions, he said, are considering establishing counseling offices to assist faculty in preparing consulting agreements that are fair to the individual and that protect the institution as well.

Several SCFA members questioned the composition of the AIC and expressed dismay that faculty governance was not included in the selection process, especially in view of the committee's charge to address policy issues that are at the very core of faculty activities. The committee, it was noted, lacks recognized researchers and should include members who are nationally and internationally renowned for their scholarship and research. It was further noted, the committee lacks representation from CLA, other than a student, the Law School, the coordinate campuses, and other important areas, and appears to be heavily composed of University staff.

When asked about the committee's charge, Dean Brenner responded that its primary responsibility is to look at policies such as those mentioned above and other related policies that involve relations with outside entities. The AIC is also concerned with data practices--not the Minnesota Data Practices Act, but the issue of ownership of research data. There is currently a statement in the Academic Misconduct Policy that data that is derived from sponsored research is the property of the University, Dean Brenner said, and beyond that it is silent. There needs to be clarity and discussion on this issue. SCFA asked that the AIC charge be documented and shared with appropriate faculty governance committees.

The AIC and the administration, committee members agreed, must recognize there are issues that various governance groups are responsible for and there is a great deal of sensitivity to making sure that those willing to do the work realize that groups such as SCFA and FCC are going to feel strongly about being involved in developing the kinds of policies that fall under the umbrella of the Academic Integrity Committee.

One member cited similar concern regarding the administration's initiative in the area of internal consulting and wondered who will be involved in discussing the Internal Consulting Policy--will private practice plans be on the table for discussion, for example?

Dean Brenner said he appreciated SCFA's comments and assured committee members that it is the intent of the AIC to work in full cooperation with the faculty governance structure.

[Professor Adams documented SCFA's comments and concerns regarding this issue in a letter to Dean Brenner, dated February 4, 1993.]

Academic Misconduct Policy

Turning next to the proposed changes in the Academic Misconduct Policy, Dean Brenner told committee members that the revised policy was approved by the Faculty Senate in May 1992 and by the Board of Regents in January 1993. During discussion of the document by the Regents and others, a number of questions were raised and it became clear that while the policy was approved, additional revision and refinement of the language was necessary. One problem that surfaced during those discussions was how cases involving individuals coming up for promotion and/or tenure should be handled under the Academic Misconduct Policy. Is it in the individual's best interest to stop the promotion and/or tenure process during the investigation process or should the process continue? The AIC believes it is important to have a well-defined protocol that protects both the complainant and respondent. The respondent should be able to go through the promotion and/or tenure process without a cloud over his/her head, Dean Brenner said. The administration, he added, has some concern about allowing the P&T process to continue, especially in situations where the respondent is ultimately found guilty. The objective then is to provide an opportunity to stop or freeze the process. The questions are when should this be done and who has the right to freeze it?

Dean Brenner directed the committee's attention to draft language that he prepared after consultation with Professor Mario Bognanno, chair of the Faculty Consultative Committee, and Professor Adams. The proposed language reads:

If an allegation of misconduct is made against an individual being considered for promotion or tenure, the promotion and tenure process may be stopped upon the request of the respondent any time after the formal allegation is made and during the inquiry stage. If the misconduct case has proceeded to the investigation stage, the promotion and tenure process may be stopped upon the mutual consent of the senior administrator, the dean of the unit (when the dean is not the senior administrator), and the respondent. In instances where the misconduct case has proceeded to the hearing stage (post-investigation), the promotion and tenure process automatically is stopped until the case is resolved. For an individual found not guilty of misconduct, and whose promotion is affirmed, the promotion may be backdated to the appropriate time.

This language would allow the respondent early in the case (during the allegation and inquiry stages) to stop the promotion or tenure process; mutual consent by both the respondent and administrator would be necessary during the investigation phase; and the process would be automatically stopped in cases that proceed to the hearing stage. Dean Brenner asked SCFA whether it agreed with the concept of stopping the process and if so, what language is appropriate.

In response to an inquiry about the number of misconduct cases per year, Dean Brenner said that since November of 1989 when the first Misconduct Policy was adopted, approximately 5-7 allegations are placed each year, 4-5 of which go to inquiry, and 3-4 to investigation. Dean Brenner could think of only two

cases involving an individual going through the promotion or tenure process. Examples of misconduct, he said, are plagiarism, misappropriation of others ideas--others are specified in the policy.

One member noted the difficulty in keeping misconduct allegations confidential and said it would be difficult for members of a department to make fair judgments on a colleague's promotion or tenure knowing of the pending allegations.

Allegations can be brought by colleagues, graduate students, staff members, etc., and in some cases have been brought for malicious reasons. If it is found that retaliation was the complainant's motivation, s/he can be penalized under the policy. On the other hand, the policy also protects the complainant who has acted in good faith in reporting or providing information about suspected or alleged misconduct.

Before turning to the amended language, SCFA agreed that stopping the P&T process is appropriate in situations in which the respondent in a misconduct case is being considered for promotion or tenure.

The committee then turned its attention to the draft language. One member suggested that using the phrase "not guilty" in the proposed wording implies guilt and suggested substituting alternative language. Dean Brenner appreciated the suggestion and will amend the language.

Considerable debate centered on who should be allowed to stop the process during the different stages, particularly during the investigation and hearing stages. It was generally agreed that the respondent should have the prerogative to stop the process in the early stages. Some argued the respondent should be allowed to stop the process at any time, and others felt either party should be allowed to stop the process at any stage. Should the administration be allowed to stop the process at all, queried one member?

If the administration is not allowed to stop the P&T process at some point, Dean Brenner said, they could be put in the awkward position of promoting or awarding tenure to someone shortly before they are found guilty of academic misconduct, since allegations of misconduct cannot be considered in P&T decisions. This could be avoided if the administration was allowed to stop the P&T process in the later stages of a misconduct case.

One SCFA member noted that the "hearing stage," which is referred to in the amended language, is not clearly identified in other parts of the document and suggested that a clarification be made or the amended language be changed.

Referring to the last sentence in the proposed language that backdates promotion to the appropriate time in instances where an individual is found not guilty of misconduct and promotion is affirmed, one person argued that similar language should be added for situations where an individual is found guilty of misconduct and whose promotion is affirmed. There are many levels of misconduct, he argued, and some penalties are as minor as a verbal reprimand. Promotion should also be backdated in these kinds of instances. The committee agreed with this recommendation.

The final consensus was that only the respondent should be allowed to stop the process during the allegation and inquiry stages, and that either the respondent or administrator may stop the process during the investigation and hearing stages. At no time should the process be stopped

automatically. At the time an individual's P&T process is stopped, his/her file will be sealed and no alterations of it will be allowed.

Dean Brenner thanked the committee for its constructive recommendations and will bring amended language to SCFA for further review.

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

-- Martha Kvanbeck

University of Minnesota