

[In these minutes: 1. Discussion of Academic Appointments, 2. Discussion of the Faculty Retirees Bill of Rights, 3. Discussion of the Intellectual Property Policy]

FACULTY AFFAIRS COMMITTEE (SCFA)

MINUTES

THURSDAY, MAY 6, 1999

3:00 - 5:00

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

PRESENT: Kent Bales (Chair), Josef Altholz, Gary Balas, Avner Ben-Ner, Carole Bland, Carol Chomsky, Robert Fahnhorst, Andrea Hinding, Janet Holdsworth, Robert Jones, Cleon Melsa, Marcia Pankake, Richard Purple.

REGRETS: Roland Guyotte, Geoffrey Sirc.

ABSENT: Gerry Baldrige, Carol Carrier, John Fossum, James Perry, Anne Pick, Harlan Smith, Georgina Stephens, Caroline Turner, Tom Walsh.

GUESTS: Vice President Christine Maziar.

Professor Kent Bales called the meeting to order at 3:10 p.m. and announced that Professor Richard Goldstein has accepted the position of committee chair for 1999-00.

1. DISCUSSION OF ACADEMIC APPOINTMENTS

Professor Kent Bales reported that a joint task force will be formed. Members will include faculty, central administration, and deans. The task force will work throughout the summer and have a report ready later in the year. This report would then be brought back to the Senate committees and the Faculty Senate for approval.

A committee member commented that since the task force composition has not been finalized, priority should be given to the faculty who have served on the Academic Appointments Subcommittee.

Professor Bales said that Non-Tenure Track Faculty (NTTF) are composed of a wide range of people. The hope of the Subcommittee was that there would be a transparent transition once changes were made. For the professional schools, there would be little difference. Any changes would be to positively effect part-time professionals in the core units of the University. For all units, adjunct would remain basically the same. For the Medical School, most non-regular

faculty, who the Subcommittee originally thought would be a problem, are not on the University payroll. Some are federal government employees, while others are employed by hospitals both public and private.

A member raised the issue of titles, which is what most of these people want to keep. Medical professionals in the county do faculty-like work, but receive their salary from another source. Perhaps individuals who meet faculty criteria could be allowed to go through the promotion process, without receiving tenure, and thereby receive the title of professor.

The committee then discussed extension personnel who now hold the title of professor. Since these people do not meet most of the faculty requirements, they would lose their titles. Most people will not like this since it attracts prestige and is a tie to the University. It is a possibility that people who already hold these titles might be grandfathered in.

2. DISCUSSION OF FACULTY RETIREES BILL OF RIGHTS

Professor Josef Altholz said that he recently met with Vice Provost Robert Jones and Vice President Carol Carrier to discuss this document, specifically the emeritus title since it refers to a retirement age which is no longer mandatory. The emeritus title will be changed to refer to a minimum age or minimum years of service, provided that the faculty leaves under honorable circumstances. The Faculty Retirement Subcommittee will work this summer on modifying the Regents' Policy to expand coverage. The new policy will also include sections for those in the current Bill of Rights, as well as a preamble.

Q: Why can a retired faculty keep their parking permit, when there is such a shortage of parking for newly-hired faculty? Could the departments or Parking and Transportation pay for parking?

A: Emeritus faculty still do work for the departments, and therefore wish to retain their permits. Paying for emeritus parking would be a burden that the departments would not want to cover. If Parking and Transportation paid this expense, the rate structure would be changed to pass the costs along to every permit holder. It is very possible that many faculty will not want to keep their permits with the constant increases in rates.

3. DISCUSSION OF INTELLECTUAL PROPERTY

Professor Carol Chomsky discussed the revised version of the policy by saying that most changes occurred in the Ownership section, and many were stylistic in nature. She also thanked Katie De Boer for her help with the revisions.

The first change to report is in Section 4, subsection 2.a.1. in regards to student work. The Architecture department asked a question at the Senate meeting regarding the professor's right to photograph the work for future use, while the student maintains control of the work itself. A provision has been included to allow a statement to be placed in the course syllabus notifying students of this requirement, without having them sign a form. The syllabus language does not have to be precise, but just incorporate this principle. This statement can also be used in any other course.

Following various questions that were raised, section 4, subdivision 2.c has been added to include provisions for individual outside consulting agreements, which includes a reference to the Regents' Policy on Outside Consulting, Service Activities, and Other Work.

In Section 4, subdivision 3, the University retains the right to delay publication of materials if the University is in the process of obtaining a patent for the intellectual property. This provision would pertain to any type of external dissemination, including publishing and presentations at a seminar.

Section 4, subdivision 4, has removed the cross-reference to the Educational Materials Policy and has instead incorporated the needed language into this policy. It states that the University has the right to use educational materials that are created for courses through joint ventures at the University.

In regards to generated income, the Regents wanted it made clear that money collected from the formula for the Office of the Vice President of Research would be used to pay University expenditures on the project and to fund additional research, but not overhead for the Technology Office or rolled into the general funds for the Office of the Vice President of Research.

The following additional changes were then noted:

- 8% allocated to the college goes to the college that directly supported the faculty member doing the research, not colleges who have extended a courtesy title to the faculty.
- It is not the policy intent for faculty to disclose all intellectual property to the University. Instead, disclosure should occur when intellectual property is at a marketable stage.
- The procedures will be written by the same working group in the Fall. The policy effective date will be once the procedures are completed.
- Federal regulations require the assignment of a title to all intellectual property.
- Compliance section was streamlined to refer to applicable University policies.
- Agreement contains no substance but simply asks faculty for acknowledgement of reading and understanding policy. Signature by faculty is required by federal regulations.
- The Educational Materials and Patent and Technology Transfer policies will be superseded by this once approved.

The floor was then opened for questions.

Q: Who owns intellectual property funded under an NIH grant?

A: The University owns the intellectual property and the revenue is distributed according to the formula in the policy.

Q: What if a faculty member develops a vaccine and then wants to donate the vaccine?

A: The University would own the vaccine. Instead of donating the vaccine, it would be more efficient to donate the revenue stream.

Q: Why is software considered an invention and not an artistic creation?

A: If software is for information dissemination, such as a book on CD-ROM, it is included in the definition of academic work product. Software that is more tool-like in nature and performs a computation or controls a piece of equipment, carries more of an invention character. Academic tradition dictates how work is classified, although matter and content is what is important, not the mode of dissemination.

Q: Who controls the marketing on jointly created materials?

A: The individual creators control the marketing. The University can only use it internally.

Q: Are there federal penalties for refusal to sign the agreement?

A: Yes, but they would be placed on the University, not the individual, in terms of decreased funding grants.

Q: What if a faculty member signs the agreement without understanding the policy?

A: They still agree to terms whether or not they understand them.

Q: In Section 5, subdivision 2, the term used is 'supervisor.' This is not a customary term in academics. Why was it used?

A: Not all work may be derived from academic research of scholarly activities. Some work may be assigned to faculty, and for this reason the term 'supervisor' was used.

Q: Who collects the revenue if a faculty member receives a grant to write a book?

A: The revenue would go to the faculty since it is a work product of a contract.

The committee then commended Professor Chomsky and Vice President Maziar on the work that had been done on this policy. A motion for approval of the policy was made and seconded. A vote was taken and the motion was approved unanimously.

4. NEW BUSINESS

The committee mentioned the following topics for discussion at a future meeting:

- Summer School course cancellation
- Two year waiting period for retirement benefits
- Waiting period for health insurance
- Probationary faculty in departments who do not have colleagues within that department being allowed to find a mentor in another department

Professor Carol Chomsky informed the committee that a change in the Judicial Committee Rules of Procedure will be on the May 20 Faculty Senate docket. The language states that the

respondent can not be represented by an attorney at the hearings unless the complainant is also represented by an attorney. This change was approved by the Tenure Subcommittee and the Judicial Committee, and is waiting for approval from Executive Vice President and Provost Bruininks.

Robert Fahnhorst provided an update on the Health Plan Task Force (HPTF). In November, the HPTF sent a letter to the state outlining 6 recommendations, one of which being the 28 day waiting period, that it would like to have considered for the upcoming year. The state has been looking into these recommendations and contacting the health plans to see what the impact would be on premiums. Once this information is collected, the state will be able to better assess the feasibility of the requests.

HPTF has also recommended to central administration the need for funding a study regarding the possibility of separating from the state. This would require hiring a consulting firm for 12 - 18 months. The Executive Council will discuss funding such an initiative. The committee has not recommend separation, but only a more detailed look into the possibilities. The earliest date for separation would be January 2001. It is possible that some employees might want to remain with the state while others would separate with the University. A study might also exert the needed pressure on the state to take a closer look at the University recommendations.

Professor Bales then thanked everyone for attending and adjourned the meeting at 4:56 p.m.

Rebecca Hippert
University Senate