

Minutes

SENATE COMMITTEE ON FACULTY AFFAIRS
Thursday, May 4, 1995
238 Morrill Hall
3:15 - 5:00 p.m.

- Present: Daniel Feeney (chair), Carole Bland, Carol Carrier, Daniel Canafax, Carol Chomsky, Matthew Curry, Judith Gaston, Kinley Larntz, Richard McGehee, Diane Mulvihill, Michael Sadowsky, Anne Sales, W. Donald Spring, James Stone
- Regrets: Rose Brewer, Mary Dempsey, Ann Erickson, Roger Paschke, George Seltzer, Yang Wang
- Absent: Willard Manning, Ken Roering, Bernard Selzler
- Guests: Mark Brenner, Dan Farber, Ettore Infante

[In these minutes: discussion on tenure with Sr. Vice President Infante and discussion of the proposed Professional Commitment Policy.]

1. CHAIR'S REPORT

Professor Feeney informed the committee about the following items:

- a. Sexual Harassment Policy - The Sexual Harassment Board seriously considered SCFA's recommendations, and drafted another version of the policy. This policy was distributed to the committee members.
- b. Retirement Subcommittee Letter: Dr. Feeney thanked Professor Kinley Larntz for his contributions to the latest updates on the pre-1963 retirees supplementation. Professor Feeney provided background on the issue with the committee. The recommendations were expected to be presented to the President's Executive Council on the following Monday.
- c. Commission on Women: In response to a request from Professor John Adams (FCC Chair), Professor Feeney asked the SCFA members to reply on the Commission. This request was sent to a broader audience without Professor Feeney's knowledge, creating an overwhelming response of support for the Commission. Dr. Feeney said that the Commission's programs and achievements are commendable. Comments from the committee included:

- *Information should have been requested regarding concrete examples
- *There are members of the Commission other than faculty who should have been requested for information.
- *The question was raised in a problematic way. Therefore, a response should be made.
- *The sense of this discussion should be made to John Adams.
- *More information should have been collected before an inquiry was made.
- *This was not communicated to the Commission exacerbated the situation.
- *Professor Feeney responded appropriately to the situation.

Professor Feeney said that he would draft a letter to respond to the initial inquiry, forward it to the SCFA members for editorial comment, and then submit it to FCC. A committee member recommended that the letter be shared with the Commission and over the same network that responded to the initial inquiry.

d. Job Description for Director of Affirmative Action: The job description for this position states that the Director will report to the Sr. V. P. of Academic Affairs rather than the President, and that the line of authority would also follow this route. Professor Feeney said that FCC is considering whether this shift dilutes the authority of the position. He encouraged SCFA to consider the question as well. Assoc. V. P. Carrier added that the new description calls for a dual reporting to the Sr. V. P. and the President on policy issues, while daily reporting would be to the Sr. V. P.

Responses by Sr. V. P. Infante:

Q Why was this new job description proposed?

A Sr. V. P. Infante told the committee that this change was being made because many of the offices reporting to the President were not receiving the attention they deserved.

Q Is there any way SCFA could respond to the concern that the position is being diminished?

A The Office of the Auditors reports to the Chairman of the Board of the Committee on Audits regarding policy matters, but on a daily basis reports to the Sr. V. P. for Finance and Operations. This is done to provide recruiting, management, and budgeting of the office, not to diminish its power.

A committee member recommended that this issue should be discussed within Kiosk.

2. DISCUSSION OF TENURE ISSUES WITH SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS, E. F. INFANTE

Professor Feeney welcomed Sr. V. P. Infante to the meeting who in turn introduced Professor Dan Farber (Law) who is assisting Academic Affairs (25% time) in issues of equal opportunity and tenure. Senior V. P. Infante told the committee that in the next year changes in the tenure code will need to occur as a result of the Professional Commitment Policy. Professor Feeney explained to the committee that the main issues of concern was that tenure awards are to be recommended by the provosts/chancellors rather than the Sr. V. P. of Academic Affairs.

Sr. V. P. Infante told the committee that he was uncomfortable with the content of the April 27 letter by Professor Dempsey regarding the tenure issue. He explained that the law is clear at this point. The recommendations presented by Professor Dempsey distract from this clarity. Professor Chomsky (Law) said that there could be problematic language in the following sentence: "The Vice President and the Tenure Committee may propose formal interpretations of these regulations consistent with there terms."

Points offered by SCFA:

*The Tenure Subcommittee of SCFA is interested in maintaining the use of the Sr. V. P. for Academic Affairs in tenure decisions for the next year while faculty input on the matter is collected. Since the restructuring had already occurred, this would not be possible

*If this proposed language could be called a temporary one-year amendment, the legal problems could be avoided.

Dr. Infante is concerned that this language could create a number of cases in the following academic year that would go to court. Professor Farber agreed that calling the language "an interpretation" could be problematic.

Q Would you be comfortable with a temporary one-year amendment?

A That would be fine as long as it says exactly who is responsible for what.

A SCFA member added that an interpretation does not need to be passed by the University Senate while an amendment does. The discussion that would ensue may disable passage of such an amendment.

Q Is it the issue of making decisions on the tenure cases that is most important in this restructuring process?

A Procedures have been different for the Duluth campus. Here the V. P. of Academic Affairs simply reports the decisions of the Duluth campus chancellor because of the presence of a faculty union there. Second, the V. P. was the chief academic officer. Now there are three such officers. There are approximately 200 cases per year each of which takes three hours to review. Therefore, the responsibility of reviewing the cases was divided between Associate Vice President Carrier, the Graduate School, and the V. P. for Academic Affairs. It is embarrassing that the Provost did not review every file. Having three provosts on the Twin Cities campus is an improvement placing a higher level of responsibility and accountability than in the former structure. Some have expressed concern over the potential deviation from uniformity in this new structure. This is a very large university to expect uniformity. Tenure issues from the different campus will vary because of varying missions.

Q We are in a period of rapid change. This leaves faculty with concern about the future of tenure. What do you perceive to be the future position of the University regarding tenure?

A I can only express my opinion. The concept of tenure is all important because of the nature of work done at the University especially with respect to long term research efforts. This does not mean that everyone needs to be tenured. We need to maintain the presence of tenure at the University (80% of the faculty are tenured). We should be considered a producer of faculty for other institutions. I think that the total number of tenured faculty should be between 55-60%. We may have to introduce more flexibility in the tenure code. The code should list the principles first and then guidelines.

Q What can we do to make the Tenure Code workable, legal, and unchangeable? Can we offer an interpretation, stating that the V. P. may delegate review of tenure cases.

A We must acknowledge that the restructuring has taken place, and that the responsibility has been transferred to the new provosts.

Assoc. V. P. Carrier said that she thought the suggestion to offer an interpretation could work. She added that if the code is to be changed, faculty should be informed by July 1.

Professor Feeney asked for the group to consider the role of the Dean of the Graduate School to the provosts. Some faculty in the Health Sciences are concerned that they may be held to a very different type of tenure code/interpretation.

V. P. Infante's response to the role of the Dean of the Graduate School (and Vice President for Research):

- *The fundamental decisions on tenure are made at the unit level.
- *There are different standards for different units.
- *The Dean helps to look across the institution to ensure that common procedures and standards are maintained for tenure.
- *Hopefully, each provost will ask the Dean to assist in reviewing their tenure cases.

Interim Dean Mark Brenner said that Graduate School looked at and provided comments on every file under review by the Provost of the Academic Health Center. This is to occur with all tenure cases. Committee members recommended that Graduate School review of tenure cases should be required for the Twin Cities and Duluth campuses.

In response to a faculty member comment, V. P. Infante said that the Administration did disseminate information about the restructuring plan before it was implemented. He added that the Administration failed to engage in a discussion on the matter. Another member said that the faculty are concerned about how the University is going to decide who is going to be a tenured faculty member and who is not? Additional Concerns are:

- *What are those percentages going to be?
- *The faculty understand that the V. P. and the President support tenure, but only for a few people.

Dr. Infante added that some departments and colleges may benefit more from the teaching of practitioners than tenured faculty (e.g., Carlson School of Management). Dr. Feeney thanked V. P. Infante for discussing the matter with the committee.

3. DISCUSSION OF THE PROPOSED PROFESSIONAL COMMITMENT POLICY

Professor Feeney called Interim Dean of the Graduate School and V. P. for Research, Mark Brenner to join the meeting. The latest version of the policy was faxed to SCFA dated May 3. Dr. Brenner handed out a corrected version of lines 130-132 to the committee.

Dr. Brenner briefed SCFA on how the policy had been developing since he last spoke with the group. He said that extra professional activities are appropriate, worthwhile, and beneficial to the employee and the institution. The document is prepared to go before the Faculty Senate on two weeks from this meeting. Professor Carl Adams drafted an alternative policy which Interim V. P. Brenner proceeded to address. The draft from the Academic Integrity Committee states that faculty must report activities in advance while Professor Adams' only requires reporting professional activity at the end of the

year. Dr. Brenner said that FCC did not speak out against the original draft after reviewing Professor Adams's.

Committee members expressed their concerns and comments about the policy as follows:

- *How the policy will be interpreted and implemented per department. Some departments could become too restrictive.
- *The document does not require faculty involvement to interpret its application on a departmental level.

Dr. Brenner asked the committee to provide an alternative that does not create a large bureaucracy but uses the current administrative structure.

- *The document should explicitly state that there should be "negotiations and discussions between the faculty members and administrators involved so that equitable and compliant solutions can be worked out."
- *Several committee members requested to see Professor Adams's policy.
- *The guidelines are helpful. The policy should state that each faculty member must submit a statement of their consulting at the end of the year, sign it, and submit it claiming that they followed the guidelines. Earlier disclosure could be required by the department head for any reason.

Dr. Brenner said that he is concerned about faculty who may be requested to teach a class at a nearby university or college that competes with a University course. If reporting is conducted after the fact, the breach has already been completed. He asked SCFA what items should be listed that need prior approval.

- *Many of the P&A staff are involved in teaching at other academic institutions in ways that are unrelated to their job at the University. Should they be denied the ability to pursue this interest which they are not able to exercise at the University?
- *The definition of who is covered by the policy being those who hold 50% or larger appointments was not changed to "greater than 50%."

Dr. Brenner said that this last point is to be changed in the version that goes before the Faculty Senate. He also pointed out that the second sentence in section 4.1 has been added stating:

If the University has reason to believe that an ACADEMIC EMPLOYEE is engaged in BUSINESS activities to such an extent that it compromises his/her ability to carry out University responsibilities, appropriate University official may ask the Academic Employee to document his/her outside activities and to show that his/her University duties are being fully met.

Dr. Brenner explained that there are a number of University faculty members who are practicing lawyers, but not involved in the Law School. They are not required to report such activity. Nevertheless, this statement allows University officials to ask the question.

Q There is an attorney who is working as an advisor in a University academic unit. Does this policy limit this person from teaching a course at William Mitchell that competes with one in our Law School?

A The way the policy has been written, if she is not in the Law School, we do not have the right to get involved as long as it does not interfere with her position at the University. We become concerned if this person is providing services at another institution that competes with her appointment at the University.

Q If we have a professional come to the University to teach two classes in a quarter, are nearing the 50% time threshold. We also find people who teach a course elsewhere to offer it at the University. Do they have to submit to this policy?

A No. It is not intended at all. People in this position should be free to offer a certain course at a number of institutions if they wish because they are not attached to any of these institutions. There should be a certain amount of consulting that faculty should be able to do without reporting. These faculty members could easily report at the beginning of the year approximately how many days they are likely to consult.

Q These issues seem to be more of conflict of interest than commitment. Maybe the issues would be clarified if they were included in the Conflict of Interest Policy.

A Some institutions have chosen to have integrated policies to overcome this challenge. We are not planning to do this. We are planning to make some minor changes to the Conflict of Interest Policy. These issues do not clearly fit under conflict of interest.

Q Is this draft of the policy scheduled to go before the Academic Staff Advisory Committee before it goes to the Faculty Senate for information?

A The answer is probably not.

Professor Feeney explained that the policy will go before the Senate on May 18. There is no guarantee that the policy will be voted on at the special Senate meeting on June 8. There were some serious concerns expressed by FCC that the policy could fail if it was pushed through too quickly. Dr. Brenner said that he did not sense that the issue was contentious enough to slow down its progress.

Committee members offered the following points:

*An executive summary should be attached to the front of this document to ease its use.

*Having the definitions earlier in the document may tend to ease use of the policy.

*I would prefer that this document only require that I report my activity at the end of the year. I am not comfortable with requiring prior approval

Dr. Brenner responded saying that he is having to respond to many different groups with document including the Central Administration as well as collegiate, department, and unit administrators. He asked SCFA if they would support language stating that "faculty are encouraged to discuss with their department head the appropriateness of any of these activities if they have any questions." Several SCFA members said that they agreed with this language. One committee member added that language should be added allowing department heads to ask faculty members if they have any questions of their external activities.

Assoc. V. P. Carrier asked the committee what the University should do if there isn't a mechanism for prior approval, what do we do in situations where faculty are not adequately performing their normal workload and report at the end of the year an excessive number of days consulting? Are we taking away leverage from department heads to deal with this type of problem? Dr. Brenner said that Professor Adams's draft stated "Unless specifically withheld, the University extends the privilege of engaging in extra work to all academic employees. Under this privilege, all academic employees, beyond those addressed in the individual workload plan, should be limited to an average of one day per seven." He is suggesting that the term "privilege" is reinserted into the document. Dr. Brenner said that he interpreted this to mean that faculty members could proceed through the first year reporting at the end of the year. If they acted improperly, the "privilege" could be taken away. The committee agreed emphatically with this interpretation.

Additional Points from SCFA:

- *Requiring prior approval to catch these few is inappropriate.
- *The language in section 4.1 regarding Limitation on Business Activities (listed earlier in these minutes) should be used consulting activities as well. A faculty member should have the right to be involved in other activities if they do not interfere with the quality of his/her job at the University.

Dr. Brenner responded by providing an example of how a very bright individual may be able to perform what is required in a small amount of time. "We expect each person to work to their potential."

Dr. Brenner asked SCFA if they preferred section 7.5 Instructional Activities, to be listed in summary form or in detail. Several added that she liked the detail because it provided guidelines. Dr. Brenner added that the latest version of the policy is always available of the ORTTA bulletin board.

4. MISCELLANEOUS

The April 6, 1995 minutes will be addressed at the next SCFA meeting.

The Tenure Subcommittee will continue reviewing the Tenure Code in light of the administrative restructuring of the University.

--Kevin Gormley

University of Minnesota