

Minutes\*

**SENATE FACULTY AFFAIRS COMMITTEE (SCFA)**  
**Thursday, September 18, 1997**  
**3:00-5:00**  
**229 Nolte Center**

PRESENT: Kent Bales (Chair), Josef Altholz, Gary Balas, Carol Carrier, Carol Chomsky, Mary Dempsey, Robert Fahnhorst, Judy Gaston, Eville Gorham, Roland Guyotte, Al Linck, Richard McGehee, Anne Pick, Richard Purple, Geoffrey Sirc, Caroline Turner, Delane Welsch

ABSENT: None

REGRETS: Richard Goldstein

GUESTS: Katie DeBoer, Martha Kvanbeck, Kris Lockhart

**1. Introductions and Chair's Report**

The committee members introduced themselves and Professor Bales began his report.

He met with Associate Vice President Lawrenz about the Intellectual Property Policy and discussed questions raised by the committee last spring. She will be coming to the October 30 meeting to discuss the revised draft policy. He alerted the committee that the policy contains two parts, the first being the policy and the second being the procedures. The first part is a fairly short Regental policy and essentially states that as employees of the University, faculty will share the income gained from intellectual property with the University. The second part lists exemptions for traditional academic work as well as defines that term. Professor Bales only reviewed the draft briefly but aside from the first two pages was pleased with what he had seen.

A committee member noted that this is a fairly major issue even if it appears to be off-putting. The committee member added that there is a person on the governor's staff assigned to this issue that says there are two sides to the issue: liability and financial benefits.

Professor Bales said that there is a place in the procedures section that allows the University to remove itself from situations that expose it to liability. He also noted that the policy would be distributed to the committee two weeks before the meeting which Associate Vice President Lawrenz is scheduled to come.

The next issue mentioned was indemnification. Professor Bales passed out a summary of the Board of Regents policy on indemnification and defense of employees. Carol Chomsky, Carol Carrier, and Dan Feeney met with Mark Rotenberg from the Office of the General Counsel last spring to discuss six issues and were pleased with the discussion. Professor Bales thought it was fairly clear that if the faculty is in the right, the University is happy to defend them. However, if the faculty is in the wrong,

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then the University is less willing to do so. An additional matter arose over the summer that had to do with departmental insurance. Essentially, the issue has to do with the University having an insurance policy for legal liability which covers collegiate size units and departments. The \$10,000 deductible for departments is now being changed to \$50,000. Professor Feeney put the matter very clearly in a letter to Dr. Rotenberg last spring and noted the possible problems with the change. An answer to these questions has yet to be given and Professor Bales suspects that has to do with Dr. Rotenberg not being certain of the answers.

Professor Chomsky noted that another communication she remembered receiving had to do with the history of enforcing the policy in respect to the number of requests received. A summary of those figures were forwarded to her. She thought it would be a good idea for Dr. Rotenberg to come to a meeting to discuss the issues covered at the informal meeting with Dr. Carrier, Dan Feeney, and herself because it would set some ground work and bring everyone up to speed on the issue given the new composition of the committee.

A committee member then noted that there is currently a claim within the University that goes beyond this issue and has to do with the actual wording of the Regents policy. The wording that caused some concern was "reasonable legal fees." A professor had been accused of misappropriating money from an NIH grant and was prosecuted both internally and externally. The University advanced money to him to cover his outside legal fees but hasn't determined if he will have to pay that amount back. He has also won all of his actions both internally and externally, but should the amount of his legal fees be considered reasonable?

Another committee member said the full document was distributed to the committee last spring. Professor Chomsky added that it would be beneficial to have that made available instead of just the summary.

Professor Bales then asked the committee how long a discussion should be with Dr. Rotenberg. Professor Chomsky said prepatory discussion would be necessary and then some additional time to have a question and answer session afterwards. At least an hour would be necessary and if more time is needed he can be scheduled for another time as well.

The next topic Professor Bales discussed in his report was the health care memorandum distributed to the committee via e-mail. He called upon Professor McGehee to cover this issue with the committee.

Professor McGehee began by reminding the committee that Medica Premier has been dropped as one of the health care options this past June. Robert Fahnhorst was asked to notify faculty and staff as soon as possible about this change, which he did, but, as predicted, the importance of the change didn't hit home until this fall. The issues raised by many are very similar to those raised in 1990 when Aware Gold was lost. Over 30% of University employees will have to choose a new plan. Many of these people will have to find new doctors. For those who will go to the state health plan, there will e tremendous increase in monthly payments. Duluth employees will be hit even harder because the low-price health plan was the state plan and is now the state health plan select. If they remain at what they had before this change takes place, they will see a \$200 increase per month. Also, Health Partners has dropped some of the University health providers. This means some of those using Health Partners will also have to find new physicians.

One of the major issues resurfacing has to do with faculty who travel and for whom the only health benefits available are emergency services because their policy covers them only here. The difference this time is that there is more of a realization among the faculty that this is not a small change that will go away soon. Instead, this is an industry trend.

Because there are so many issues and such an interest, there are many people interested in joining the Health Care Subcommittee. In addition, the AAUP has also formed a health plan committee and the Academic Health Center Provostal Faculty Consultative Committee (AHC FCC) has also discussed this issue and would like to find a short-term solution for those people losing their physicians. The decision recently made was to form a joint subcommittee between SCFA, AAUP, and the AHC FCC. Short and long term solutions will try to be considered. Professor McGehee will be in charge of the long term solutions and Professor David Hamilton, chair of the AHC FCC, will consider the short term solutions.

A committee member asked if there was an explanation as to why to these things have happened. Mr. Fahnhorst gave a brief description as to how health plan coverage is decided for the state. In late April or early May the state, who negotiates the medical plans for the University, meets with the various medical plans. The medical plans present their bids and premium increases or decreases for the upcoming year. The requirements, mandates, and laws are also reviewed. It was his understanding that this year when Medica sent its information forward, Medica Premier was eliminated completely. The state was completely unaware this was going to occur. At that point, Medica Premier was questioned about its elimination of the Premier plan. Because Medica will lose \$10-\$14 million this year alone on this policy, they no longer want to offer it. The state looked at other alternatives. One of those was to take Medica Primary and start expanding the outstate network for that product. The state also looked at their own product to determine the effects on that if Medica Premier was no longer available. It was determined that their premium would have to be raised in order to cover all of those choosing their plan once they lose the Medica Premier option. The change was not planned on the part of the state or the University. He also noted that the industry in general is starting to see increases and that the University and state have been lucky over the past few years because they have been able to control some of the increases. On a positive note, he mentioned that some plans will see a decrease in premiums.

The committee member asked why Health Partners dropped the University physicians. Mr. Fahnhorst believed the Family Practice Clinic discontinued its contract with Health Partners. At a recent meeting of the state, the Department of Employee Relations said they were currently in negotiations regarding this issue. There is a possibility it won't be dropped after all, but at this particular time, there is no contract in place. Professor Purple added that this will be a phase-out process, but available at least through this year, although no new members would be accepted through this plan.

Mr. Fahnhorst also noted that at Duluth the premiums are equal to those on the Twin Cities Campus. However, they've been subsidized over the last few years and that subsidy is no longer available. He also mentioned that faculty living out of the area don't have decent coverage if they're under the age of 65 years, but they still have a 70/30 level of reimbursement.

Professor Bales asked how the health insurance changes have affected the coordinate campuses. Professor Guyotte stated that Morris was presented Medica Premier last year as its low-cost provider. However, the campus will suffer because of lack of availability and options. Professor Bales asked Professor Guyotte to forward anyone he could think of who would be interested in serving on the health care subcommittee.

The committee made the following comments:

- E-mail messages were received from faculty concerned about out-of-area health care coverage.
- Special arrangements will have to be made to accommodate faculty on sabbatical after the semester conversion.
- The Faculty Consultative Committee was very sympathetic to this issue when it was raised at their meeting.
- A survey conducted by the state in conjunction with the Buyers' Coalition will be available within the next three weeks.
- President Yudof is aware of the concerns about losing Medica Premier and will have Dr. Carrier look into the matter.

Professor Bales asked the committee to think about how many of these topics should be covered by subcommittees or task forces.

The next topic Professor Bales covered in his report was the Sexual Harassment/Consensual Relationships Policy. He asked Dr. Carrier, the designated spokesperson for the administration, to discuss the view of the administration on this policy as well as describe the new program her office is developing.

Dr. Carrier began by presenting the new orientation program for all new faculty and staff. It will be offered once a month and will last for two to three hours each session. There are a few reasons why this program is being developed. First, the common complaint among new employees is that there is no direction once they start at the University. The goals of this project is to inform new employees of policies and practices and to produce community spirit. The presentation will include major and critical policies that everyone needs to be aware of as well as covering relevant retirement programs. A series of information booths will also be made available after the presentation. Shuttle buses will pick up those attending the orientation sessions at different locations around campus. She asked everyone to pass the word around about this new program.

A question was raised as to whether or not there was such a thing as a faculty handbook. Dr. Carrier said there is a new resource guide being pulled together and an employee resource guide will be distributed at the orientation sessions. This will also be made available to other employees. A committee member suggested the resource guide could be used as a recruiting device as well. Dr. Carrier also mentioned that there will be a Web companion to the orientation.

Dr. Carrier began the discussion on the Sexual Harassment/Consensual Relationships Policy by giving a brief overview of its history. The past two years have been spent looking at the possibility of creating a policy on the prevention of sexual harassment as well as a policy on consenting relationships that would eventually become Regents' policies. Currently, there is an administrative policy on sexual harassment. Kris Lockhart from the Equal Opportunity Office and Pat Frazier from the Sexual Harassment Board have worked with many committees to identify policy statements that would capture the essence of the University's values involving these matters. A draft policy was approved by the Faculty Senate last May. It was then sent on to the Administration, at which time President Hasselmo raised some concerns. He was not prepared at that time to endorse the policy so he produced another version of the policy that would come closer to his views on the issues. He then notified the Senate Office that he was planning to separate the policy into two separate parts.

The Sexual Harassment portion would be forwarded to the Board of Regents for action and the Consensual Relationships portion would be forwarded back to the Senate for further deliberation. In response, the Senate asked that the entire document come back for reconsideration.

Dr. Carrier then said that President Yudof is not quite certain where he stands on this issue yet. He has reviewed the Senate document as well as President Hasselmo's response but he still has some concerns that need further discussions. The Board of Regents has also sent forth clarification as to what they would like to see covered in the policy. Dr. Carrier felt reviewing the issues President Yudof has raised as well as setting a strategy will be the next step in this process.

A committee member wasn't aware this policy was ever going to be a Regents' policy. She wanted to know when this was determined. Martha Kvanbeck, Clerk of the Senate, explained the process of policy approval in response. Normally, policies approved by the Senate are forwarded to the President and when appropriate, to the Board of Regents for action. It was her understanding early in the process that it was the desire of the Administration and Regents that the policy be a Regental policy. Dr. Carrier noted that the Administration thought this to be true as well.

Katie DeBoer from the Regents Office gave a further explanation as clarification. Oftentimes Regents policies come out of Senate committees. The Regents could decide on their own that they need a certain policy in place and design their own policy. Senate policies can be created and approved by the Senate and not brought forth to the Board. However, to gain a more official status, they are brought forth for Regental approval. No matter what, though, no policy can be approved that is in direct conflict with a Regents' policy.

Martha Kvanbeck noted that the Senate Constitution states that if the Senate approves a policy and the President is not in agreement with it, the question may be appealed to the Senate for reconsideration. If the Senate and President cannot reach agreement, the question may then be appealed to the Regents by either party.

Professor Bales reported to the committee that he had recently received a memorandum from Professor Frazier suggesting the policy passed by the Senate remain a Senate policy and tested for three years. However, he was under the assumption that both President Hasselmo and President Yudof would like this matter to become more firmly affixed. Therefore, a policy statement that can be passed along to the Board of Regents should be produced immediately. He also mentioned that the draft he had been working on will be put on hold until further notice.

The next item Professor Bales reported on was the Faculty Consultation Task Force. He called upon Mary Dempsey, chair of that group, for an update. Professor Dempsey began by asking committee members to forward any input they may have to her or other committee members. Administrators, faculty leaders, and various committees, including SCFA, will be interviewed, but all view points would be helpful to have. She then noted that the group came into existence because of the change in structure within the central administration.

Professor Dempsey then commented on the Post Tenure Review process. She thought it was fairly straightforward in the code what a unit or department should do. However, if giving guidelines would be more helpful, that would be done by the Tenure Subcommittee. These guidelines are already available in the compensation policy, though. Therefore, a department can use the guidelines they use for

promotion on tenure but they have to take into account that people have progressed in their career since being granted tenure and require different criteria for adequate post-tenure reviews.

Dr. Carrier asked if and when units can expect guidelines. Should they go ahead and create their own or wait for them to be distributed? Professor Dempsey said the Senate guaranteed more guidelines would be made available.

Professor Chomsky, also a member of the Tenure subcommittee, recalled that the committee should develop procedures for the more serious level of the post tenure review process.

Professor Dempsey also reported that Professor Bloomfield, chair of the Faculty Consultative Committee (FCC), had faculty forums on his agenda to explain these guidelines, but they will have to be sorted out before any of them take place.

Professor Bales moved on to a discussion about issues the committee as a whole should cover and issues the subcommittees should handle. This was done in order for committee members to make informed choices about which subcommittee they would like to take part.

A committee member thought it would be helpful to get a copy of issues to be covered that were presented at the last meeting of the past spring. It would help avoid overlap as well as making sure everything is covered.

A committee member asked if the topic of retirees' status was included on the list of issues to be covered. Professor Bales said it was and would like the subcommittee on benefits to discuss that as well as how to improve sabbatical benefits.

The committee member said the retirees' status issue has nothing to do with economic benefits, but rather, what facilities are provided, the issuance of the emeritus title, volunteering and representing the University, and other related items that are non-economic in nature. Professor Bales believed a policy should be created because the current practice varies among departments.

Ms. Kvanbeck recalled to the committee that Professor Carl Adams chaired a committee that developed a report dealing with issues similar to those being raised here. She suggested this might be a good starting point for the subcommittee.

Another item to be discussed by the committee this year has to do with monitoring semester planning so it does not commit faculty to calendars they do not find to be most productive. The Senate Educational Policy Committee (SCEP) already has a subcommittee working on this issue. It would only seem appropriate to have a SCFA member be part of that committee and then act as the liaison between the two groups. Anyone interested should contact Professor Bales.

Professor Bales has not been able to look into the matter of summer school contracts and the class cancellation problem. He said that a second letter had been sent to Dr. Bruininks on the summer school class cancellation issue, but the administration had not sent a response back to the committee.

The final issue reported from last year has to do with the relationship between tenured faculty, term faculty, and academic professional. SCEP also has a subcommittee looking into this matter.

Professor Bales thought it would be best to have a joint committee between SCEP and SCFA, headed by the FCC.

Professor Chomsky informed the committee that the tasks have not been completed by the ad hoc subcommittee on administrative reviews. The committee itself has completed its work, but a final draft of the privacy information sheet has not been circulated. A report about the administrative review policy was given last spring by Dr. Carrier so everything else relating to this issue is complete.

Professor Chomsky thought another pending item involved semester conversion. The first part is the calendar issue already mentioned and this committee is just waiting for a report from Peter Zetterberg about how it will be implemented. The other part has to do with quarter leave and how it will change under the semester system. It should be decided responsibly soon because the semester conversion committee is eager to receive guidance.

Professor Bales said the next step would be to determine how the committee should handle each of these issues.

A committee member asked if a list of topics as well as a query for interest could be forwarded to members. Professor Bales said that would be made available by the next meeting. He also noted that organization of the subcommittees will be an agenda item at that meeting.

## **2. Sexual Harassment and Consensual Relationships Policy**

Professor Bales thought it best to start with how to proceed with this policy. If it were to remain a Senate policy, it would simplify matters, but it would not be responsive to administrative requests for settling the issue. Therefore, the committee should bring this issue to a conclusion. A new draft could be developed in the same way as last year. However, since that was not successful, a change in procedure would be wise. He suggested there be a small drafting committee consisting of Patricia Frazier, an administrative representative, and two committee members.

A committee member asked if the committee should continue working on the policy if the new president is not certain where he stands on the issue. Professor Bales felt he knew the nature of President Yudof's concerns since some were outlined in an issue of Brief. Seeing for the first time the document approved by the Senate, Professor Bales had found layers within the policy that involved different assumptions and goals. In the draft he created, when he tried to fill gaps to make clear what the main purpose of the document might be, he discovered he was not even sure what the purpose of the President's draft was. It became apparent the words written were much more clear to the drafters of the documents than for an outsider reading them. However, he felt the gaps can be talked through by answering some simple questions and specifying the goals as clearly as possible. The group doing this should be as small as possible so time is not spent trying to redefine the goals, though. He noted that he would find it difficult to get through the year without clarifying these policies and getting them on record. The committee should be finished with these documents by the end of the quarter so there is enough time for the Regents to take action on them.

Dr. Carrier explained to the committee the questions raised by the administration in regards to the policy. The first question had to do with the goal of the policy, which would be to eliminate any cases of conflict of interest. However it's not clear if the right vehicle has been found to do so and there might be a number of places to look to for alternative solutions. For instance, there is the Senate policy

recommending prohibition of relationships between a faculty member and his/her current student. President Yudof would like to know if there are other vehicles to accomplish this goal that are less intrusive. In the policy proposed by President Hasselmo the suggestion was that cases of conflict of interest not be tolerated. However, it doesn't state who should determine when there is a conflict of interest.

A committee member noted that the Senate version of the policy makes the supervisor of the individual with higher status an active player because it has to be reported to them. However, that is not found in the policy proposed by President Hasselmo. Dr. Carrier said the Hasselmo version leaves it to the individual in the relationship to decide how to eliminate the conflict of interest.

Other related issues that should be addressed are third party complaints and who determines the existence of a consenting relationship. The boundaries of sanctions will also need to be determined.

A committee member stated that the Sexual Harassment Board and the Equal Employment Opportunity Office has already taken these issues into consideration and addressed them in the policy they brought forward. He then asked for Kris Lockhart from the Equal Employment Opportunity office to tell the committee her thoughts on the issue.

She began by stating she was involved with this issue because of questions she has received in her professional role as well as the experience gained from the cases filed. As an individual, she understood there would be questions about the policy with a new administration coming in. The questions that were raised by Dr. Carrier are not new and they have been worked through already.

Unfortunately, the administration has not had an opportunity to hear all of those discussions. She let the committee know that she would make herself available to meet with the administration and with any group wishing to discuss this issue to provide insight in respect to the implementation questions.

A committee member asked if the policy would cover relationships between University employees and consultants from outside firms. Dr. Carrier said it would not.

A committee member asked if under Senate policy would it be forbidden for a spouse to supervise a spouse's doctorate. This is forbidden under the Nepotism policy.

Katie DeBoer noted that there are relationships that would fall under both policies. The Nepotism policy covers any committed relationships and if the relationship is sexual the Consensual Relationships policy would be relevant.

### **3. Adjourn**