

## MINUTES

### SENATE FACULTY AFFAIRS COMMITTEE (SCFA)

Thursday, January 7, 1999

3:00-5:00 p.m.

229 Nolte Center

- Present: Kent Bales (Chair), Gary Balas, Carole Bland, Carol Carrier, Robert Fahnhorst, John Fossum, Janet Holdsworth, Cleon Melsa, Marcia Pankake, Anne Pick, Geoffrey Sirc, Thomas Walsh
- Regrets: Josef Altholz, Gerry Baldrige, Carol Chomsky, Roland Guyotte, Caroline Turner
- Absent: Avner Ben-Ner, James Perry, Richard Purple
- Guests: Nancy Hoyt (General Counsel's Office), Vice President Christine Maziar, Julie Sweitzer (Equal Opportunity and Affirmative Action Office)
- Others: Vice Provost Robert Jones, C. Robert Morris, Julie Sweitzer

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.

[Meeting topics: Update on the Office of Equal Opportunity and Affirmative Action Office, salaries and benefit cost withholding issues with semester conversion, discussion of intellectual property]

#### 1. MINUTES

The November 19 minutes were approved as presented.

#### 2. CHAIR'S REPORT

- It is the expectation of the Joint Committee on Academic Appointments to bring a recommendation to the Faculty Senate in April.
- Two policies from the Research Committee will be on SCFA's next agenda: 1) Policy on Principal Investigator Eligibility on Sponsored Projects and 2) Education in the Responsible Conduct of Research and Grants Management.
- The Administration has designated Vice President Carrier and Vice Provost Robert Jones to work with SCFA on the Retirees' Bill of Rights and the committee should expect a response by spring quarter.
- A small group of faculty, including the chairs of several Senate committees, is working on a web site for faculty and the development of a faculty handbook. This is being done in conjunction with the administration which is working on a similar concept called One Stop for Students. The student web site is expected to be implemented during spring quarter and, hopefully, the faculty site during summer or fall 1999. Similar sites will be developed for civil service and P&A employees and perhaps graduate students.

#### 3. SUBCOMMITTEE REPORTS

Professor Balas reported that the Benefits Subcommittee approved an amendment to the administrative procedures for the Faculty Development Leave Policy, which in turn was approved by the Faculty Consultative Committee acting on behalf of the Faculty Senate. The amendment deletes the phrase that credit is not accrued during approved leaves when a person holds an appointment to a University-

sponsored research program for more than half-time. The Faculty Senate, Council of Deans, and administration all expressed confusion over the language and supported its deletion.

#### **4. DISCUSSION WITH JULIE SWEITZER, ACTING DIRECTOR, EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION (EO/AA Office)**

Director Sweitzer said she has asked to meet with a variety of University groups to ensure that communications remain open between her office and University employees. In the year she has served as Interim Director, several changes have been made in the office structure and operation. One involves bringing the staff back to its previous level of three equal opportunity consultants whose primary responsibilities include dispute resolution. Materials have been updated and a new brochure has been distributed to all employees. Unfortunately, the newly approved Sexual Harassment and Nepotism and Consensual Sexual and Romantic Relationships policies were not approved prior to printing and thus are not included in the pamphlet. The brochure provides general information on affirmative action and equal opportunity, including the listing of internal and external resources. Her office has also increased its training efforts, with much of the training tailored to individual departmental needs. Because the EO/AA Office is seeing an increase in race discrimination cases, it is also increasing its training in this area.

Complaints vary in that some can be resolved informally and others require full investigations. There has been a slight increase in the number of complaints over the past few years and more involve complaints of sexual harassment. While the number of complaints in this area has increased, more are brought to EO/AA at an earlier stage.

One person asked whether the EO/AA Office handles non-discrimination cases and Director Sweitzer replied that if the nature of the issue is known at the outset, case is referred out as appropriate (e.g. Senate Judicial Committee, University Grievance Office, Student Judicial Office). However, in some instances, issues do not surface until the office has begun its investigation.

Hearing no further questions, Professor Bales thanked Director Sweitzer for meeting with the committee.

#### **5. SALARIES AND BENEFIT COST WITHHOLDING ISSUES WITH SEMESTER CONVERSION**

Professor Fossum drew members attention to a letter he sent Professor Bales on this issue. The shift from quarters to semesters in calendar 1999 has important one-time payroll implications, he said. Benefits will remain the same but they will be apportioned over a greater number of days, resulting in faculty being over-withheld on benefits. Unless Payroll reprograms how benefits, parking, and other deductions are calculated, he has determined that faculty will overpay during calendar 1999 by 6.23%. To correct this, a small deduction must be taken for the last portion of the year since health care costs are determined on a calendar year basis, not an academic year.

Two other ramifications involving the change to semesters are 1) the taxing of the additional earnings at the top marginal tax rate a faculty member experiences and 2) terminal benefits for those hired under the quarter system and ending on the semester system.

Bob Fahnhorst responded that premiums for benefits are based on the calendar year. There are 26 pay periods each year and a certain dollar amount is taken during each of those pay periods. If someone is not paid during the summer, funds are escrowed to cover the summer months. In the change to semesters the escrowed funds will be smaller because of the shorter summer period in 1999. Thus, he does not anticipate the problem Professor Fossum raised. If an individual terminates at the end of the 2000 academic year, benefits would be paid through June 4 as opposed to mid-June on the quarter system. The employee could continue coverage beyond June 4 at his/her own expense.

Vice President Carrier added that she has forwarded Professor Fossum's memo to payroll for review.

## **6. INTELLECTUAL PROPERTY**

Professor Bales welcomed Vice President Maziar to the meeting for a discussion on intellectual property. In consultation with the Faculty Consultative Committee Vice President Maziar said the administration has agreed to withdraw the current draft of the policy and has established a small working group to redraft it. The working group includes representatives from the Faculty Affairs and Research Committees. The working group will first discuss what it believes should be the objectives for the policy before crafting any specific language. Nancy Hoyt from the General Counsel's Office will also work with the committee.

The first meeting of the working group was held on December 31. At that time, it discussed the issues it would like the policy to address. It is not the intention to have a policy full of prescriptions and proscriptions but one that is readily understood by those it applies to and preserves the interests and traditions of the faculty.

An inquiry was made concerning whether a faculty member can take a course s/he has designed at the U of M and teach it at another institution other than the U of M. Vice President Maziar replied that it is not the intention of the administration to extend University claims to course materials produced by a faculty member. The exception would be in the case where an explicit agreement had been entered into. Professor Morris referred to a comment made at an earlier SCFA meeting in which it was suggested that the policy would be more easily understood and accepted if it said faculty shall be the sole owners of all intellectual property and then list the exceptions under which the University would have claim to ownership.

Can you clarify why it would be permissible for a faculty member to take his/her intellectual property to teach at another institution and earn consulting dollars, but it would not be permissible to take that same intellectual property into a clinic? Vice President Maziar replied that she does not see this as an intellectual property issue, but potentially a conflict of interest or conflict of commitment question. For example, if an emerging executive master's program became a real revenue generator for some college and was competing with another institution for a finite market of students, it could perhaps be determined that it is a conflict with the University's interests in having a faculty member provide service at the other institution. Professor Pick responded that that might be treading in a very dangerous area.

Acknowledging it as a minority opinion, one person said she believes it may be inappropriate for a faculty member to teach his/her course at a competing institution. Others didn't agree. The problem is where do you draw the line? Would it be inappropriate to teach at another Twin Cities institution but not at an outstate university as a visiting professor? Several cautioned about embarking down that road. Vice President Maziar reiterated that while this is an important issue for faculty to address, she does not believe it is an intellectual property issue.

If, for example, a person develops software that s/he would like to be publicly available or eventually make into a commercial product, how would that fit into the intellectual property scenario? Vice President Maziar replied that if the work is funded by the federal government, the University is required to seek disclosure of that technology, protect the intellectual property, and commercialize it. The federal government requires this not so much to generate an income stream for universities, but to protect the discoveries from commercial entities. The same rules apply to researchers in the federal laboratories. With non-federally funded research the answer isn't quite as clear and it should be addressed and reflected in a policy.

Vice President Maziar said the Working Group will need to create language for the policy that conveys the idea that the University will not assert ownership rights in areas such as those just discussed, and ensures the preservation of the ownership of those traditional academic work products, such as courses and course materials, monographs, etc.

Professor Pankake added that she would like to see a policy that states ideals rather than be a legalistic document and suggested it be brought together with other appropriate policies, such as Conflict of Interest and Consulting.

Vice President Maziar brought to SCFA's attention a 1960's policy on educational materials that does not appear to be widely known. That policy asserts claims on the intellectual property of faculty that she thinks they would find much more onerous than even the draft Intellectual Property Policy. It claims that if you use certain University resources in the development of materials for a course, the University then owns those materials. In Vice President Maziar's opinion this is a very inappropriate position for the institution to take, particularly in a time when faculty are being encouraged to adopt new instructional technologies and become involved in distance education.

When asked what she envisioned as intellectual property, Vice President Maziar said certainly anything developed under a sponsored research contract or grant and work products that are contracted for by the University (e.g. if a person is assigned to develop software on a project).

In closing, Vice President Maziar said the Working Group hopes to have a draft policy ready by the end of winter quarter. A suggestion was then made that the committee include graduate student and P&A representation.

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

--Martha Kvanbeck