

From: "Kevin Gormley" <Kevin.J.Gormles-1@tc.umn.edu>  
 Date: Wed, 2 Apr 97 10:54:07 -0600  
 To: feene001@gold.tc.umn.edu,  
 corye001@gold.tc.umn.edu,  
 r-fahn@vml.spcs.umn.edu,  
 nschema@gold.tc.umn.edu,  
 altho001@gold.tc.umn.edu,  
 balas@aem.umn.edu,  
 choms001@gold.tc.umn.edu,  
 dempsey@brain.biochem.umn.edu,  
 jgaston@mail.cee.umn.edu,  
 rjgumn@mailbox.mail.umn.edu,  
 guyottrl@CAA.MRS.UMN.EDU,  
 mcgehee@geom.umn.edu,  
 mille004@gold.tc.umn.edu,  
 myers006@gold.tc.umn.edu,  
 annepick@gold.tc.umn.edu,  
 purpl001@gold.tc.umn.edu,  
 bselzler@mail.crk.umn.edu,  
 Kevin Gormley Gormles <Kevin.J.Gormles-1@tc.umn.edu>,  
 kvanbeck@mailbox.mail.umn.edu,  
 isenberg@mailbox.mail.umn.edu,  
 morri001@gold.tc.umn.edu,  
 carrier@mailbox.mail.umn.edu,  
 /pn=nancy.livingston/dd.fax=228-5500/@fax.tc.umn.edu,  
 murthy@mailbox.mail.umn.edu,  
 ufa@mnhepo.hep.umn.edu,  
 fcc@unet.unet.umn.edu,  
 merwi001@gold.tc.umn.edu,  
 olau0003@gold.tc.umn.edu,  
 Student Committee on Committees <conc@tc.umn.edu>,  
 senate@mailbox.mail.umn.edu,  
 kosek@geom.umn.edu,  
 farbe001@gold.tc.umn.edu  
 Subject: SCFA 3/13/97 Minutes

## MINUTES

## SENATE COMMITTEE ON FACULTY AFFAIRS

Thursday, March 13, 1997  
 140 Nolte Center  
 3:00 - 5:00 p.m.

[These minutes reflect discussion and debate at a committee of the University of Minnesota Senate or Twin Cities 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.]

Present: Daniel Feeney (chair), Josef Altholz, Gary Balas, Carol Chomsky, Mary Dempsey, Robert Fahnhorst, Judith Gaston, Rolland Guyotte, Richard McGehee, Anne Pick, Naomi Scheman, Bernard Selzler

Regrets: Carol Carrier, Richard Goldstein, Carol Miller, Samuel Myers, Richard Purple

Absent: Cheryl Coryea, Kevin O'Laughlin

Guests: Mark Brenner (Dean, Graduate School), Francis Larenz (Graduate School)

Others: n/a

## 1. CHAIRUS REPORT

Tenure: Professor Daniel Feeney explained that the Committee of Eight is working with the University administration to determine the next step on the

tenure issue.

Modem Use Fee: Professors Feeney and McGehee met with the Senate Committee on Computing and Information Systems (SCCIS) earlier in the afternoon. Professor Feeney said that there appears to be some communication problems between OIT (Office of Information Technology) and administration. Sr. V.P. Marvin Marshak told the Board of Regents that there would be a trial period (monitoring, but not assessing the fee) beginning in January 1997. OIT claimed that the trial period occurred during the Fall 1996.

Based on IMG (Incentives for Managed Growth), Professor Feeney asked members of SCCIS how much money this fee would generate for OIT. SCCIS said that this fee will generate between \$11 - 13, 000 per month while OIT is experiencing a deficit of approximately \$100,000 per month for the modem services. The group decided to draft a joint letter from SCFA and SCCIS to the Executive Council asking what the future plan for this scheme is. Professor McGehee commented that faculty contributions the \$13,000 collected would only be about \$1,000 per month. A committee member said that this could have a massive negative impact for a small amount of money: ROIT is undeterred from implementing this program. The committee proceeded to discuss the policy and potential alternatives (i.e., automatic disconnect). To this point the recommendation of SCCIS have been ignored, noted another committee member.

## 2. APPROVAL OF MINUTES

The February 6, 1997 minutes were approved.

## 3. FACULTY INDEMNIFICATION

Professor Feeney summarized the large amount of material presented to the committee. There is concern that the University may \*not\* defend those faculty members who are legally attacked by outside parties as a result of their work related activities. One of the options that the University could pursue is an indemnification insurance policy to cover each faculty member, not only the institution. The committee moved on to consider the legal debate surrounding the issue at hand, especially the relevance of the University's need to defend faculty directed research. One member said that the University could offer indemnification insurance to faculty members as a fringe benefit. Professor Feeney said that the AHC-FCC (Academic Health Center - Faculty Consultative Committee) may be providing this information for the University faculty.

The indemnification policies provided by other Big 10 universities demonstrate a range of ways to handle the matter. Some simply say that work related activities to faculty are covered (i.e., Michigan State University). Others say that faculty have access to university attorneys if the faculty subordinate their interests to the will of the university lawyers.

The committee members discussed how they should progress with this issues: meet with General Counsel, Nick Barbatsis (University Grievance Officer), faculty involved in indemnification cases, etc.

Professor Carol Chomsky offered to summarize and interpret the Big 10 policies. She also agreed to ask Professor Fred Morrison to join the next SCFA meeting if he felt that he could contribute to the conversation. Professor Feeney agreed to draft a memo to the General Counsel, requesting information on when the University has and has not indemnified faculty. The committee decided to develop a list of its concern at the next meeting, and meet with the General Counsel at a subsequent meeting.

## 4. ACADEMIC MISCONDUCT POLICY

Dean Mark Brenner distributed a latest draft of the policy and explained the process that was being used to review the document. He said that the federal Office of Research Integrity (ORI) is conducting audits of research related policies of those institutions receiving the largest amounts of grants. Since the cease and desist order was lifted, a review of the Academic Misconduct Policy can begin. Furthermore, ORI has required that the University revise its

policy or use the one that it has written (which protects that plaintiff but not the defendant).

Dr. Brenner went before the FCC to address some immediate changes that needed to be made (because the FCC can act on behalf of the Faculty Senate for emergency, interim approval of policy issues). One of the changes provides the Dean of the Graduate School authority to oversee the policy, not Academic Affairs. Dr. Brenner presented the items approved by the FCC to the Board of Regents. The Regents said that only those items that immediately needed to be addressed because of ORI requirements should be changed. All other items should go through the usual faculty governance process to which Dr. Brenner agreed. Permanent changes to the policy will be conducted through the customary governance procedures.

Dr. Brenner proceeded to walk the committee through the proposed changes to the policy. He said that FCC was particularly concerned with Section VI, Subd. 4, as it relates to protection federal funds, but not for the PI (i.e., the University must take action to protect the funds if an investigator is indicted). In response to a committee member's question, Professor Larenz said that the protection regarding health hazards are addressed later in the policy.

Other comments and recommendation from the discussion:

- \* Section VI, Subd. 4 could say, R...may take interim administrative action if necessary or if deemed appropriate to protect the funds.S
- \* In such a case, the University would look for another PI, not forfeited the grant.
- \* The University has to be in the position to step in and take administrative action if federal funds are being placed at risk. With all these grants, the University is liable because it is the primary awardee of the grant. The institution is expected to have reasonable oversight for such funds.
- \* The changes cannot go to the floor of the Faculty Senate before SCFA is comfortable with the proposed changes.
- \* Section X, Subd. 2 has been changed from saying R...and make diligent efforts to protect the positions and reputations of those, who in good faith, make allegations of academic misconductS to R...and take reasonable steps to protect that positions....S
- \* Regarding confidentiality, Section XIII, Subd. 3 is lifted directly from the federal regulations.
- \* The use of the term Rsenior administratorS will be removed universally from the document because of its specific reference to provosts in the University community. This was not the intent of the original form of the policy. The recommended term is Rresponsible administrator.S

The changes noted above are those that are necessary to meet the ORI requirements (and protect federal funds to the University). \*A motion was approved in favor the changes noted above with no dissenting or abstaining votes.\*

Dr. Brenner proceeded to present some possibilities of changing the policy by separating policy and procedures, as has become the trend for Regents policies. First the University will need to define academic misconduct. Dr. Brenner distributed a set of definitions. The University's current definition is particularly problematic in its use of the word RfraudulentS for panels reviewing academic misconduct cases. Also noted were definitions from NIH and NSF. Dr. Brenner noted the definition from the University of Michigan which he and FCC find appealing in spite of its length. Several committee members noted that, if used, the definition should note how one can be assessed academic misconduct for one or more of the points of violation (not all).

The groups also discussed the need to clarify indemnification. Dr. Brenner said that the General Counsel knows about the faculty concerns regarding indemnification and the interest in possibly pursuing insurance coverage. Professor Feeney explained that SCFA is in the process of collecting data on the issue to prepare for a well informed discussion. Dr. Brenner said that the University indemnifies faculty who are legally pursued by an outside party as a

result of their normal work activities. If the academic employee addressed by an internal action, the matter would be handled according to the Academic Misconduct Policy, not indemnification. One faculty member noted that a case could arise where an outside party sues both the faculty member and the University. In such a case the University could settle at the expense of the faculty member. Therefore, Dr. Brenner said, the University community needs to determine who really is the faculty's advocate during [such a] period?

Dr. Brenner said that he also hopes to bring a policy on intellectual property before SCFA in the Spring Quarter.

Regarding tenure, Professor Feeney asked who would be reviewing tenure cases. Dr. Brenner said that there was concern among faculty that files were being reviewed by an Associate Dean of the Graduate School who happens to be based on another campus. By means of telephone conferencing and trips to the Twin-Cities campus, this person participates in reviewing files with Dr. Brenner.

Professor Mary Dempsey said that some members of the Tenure Subcommittee were concerned to hear that Sr. V.P. Marvin Marshak is interested in having community members involved in the review process as well. Dr. Brenner assured SCFA that the Graduate School is responsible to assure quality across the University by reviewing all the files. It was recommended that the Tenure Subcommittee draft an interpretation outlining that the Dean of the Graduate School will be involved in reviewing all the tenure review files to assure a consistent quality across the University. Dr. Brenner said that he would be willing to share a letter he sent to the provosts noting that inconsistencies had existed in the way that the different provosts were reviewing tenure files. Furthermore, President-Elect Mark Yudof has assured Dr. Brenner that he will retain the combined position of V.P. for Research and Dean of the Graduate School.

## 5. NEW BUSINESS

Professor Carol Chomsky summarized a recent meeting with President-Elect Yudof regarding the future status of the provostal system. She inferred from the discussion that Dr. Yudof is likely to utilize two provosts: one for the AHC, and one for the rest of the University. It is unclear at this point how Dr. Yudof will provide more power for deans in this structure. The faculty communicated that the provost structure had provided an opportunity for them to speak to someone who had a voice within the administration. The group also expressed deep concern of how money is becoming the key driving factor on campus. Dr. Yudof appeared surprised at how little the faculty and deans were listened to in the process of constructing the University budget, said Professor Chomsky. Structure is not going to solve this type of problem regarding the institutional culture and how the administration makes decisions. The groups proceeded to discuss the letter that initiated the meeting with Dr. Yudof, and why some faculty did not support the letter.

Kevin Gormley  
University Senate  
427 Morrill Hall  
University of Minnesota  
Minneapolis, MN 55455

Phone: (612) 626-8743  
Fax: (612) 626-1600  
Email: gorml003@tc.umn.edu