

Minutes*

Senate Committee on Faculty Affairs
Tuesday, April 10, 2007
2:30 - 4:15
238A Morrill Hall

Present: Geoffrey Sirc (chair), Carol Carrier, Dann Chapman, Vladimir Cherkassky, Tom Clayton, A. Saari Csallany, Janet Ericksen, Erin George, Kathryn Hanna, Morris Kleiner, Theodor Litman, Steven McLoon, John Novak, Luis Ramos-Garcia, Larry Wallace, Timothy Wiedmann

Absent: Arlene Carney, Kelly Risbey, Roderick Squires, Oriol Valls, Virginia Zuiker

Guests: Professors Carol Chomsky & John Sullivan (Faculty Consultative Committee)

Others: Jackie Singer (Director of Retirement Benefits); Nan Wilhelmson (Office of Human Resources)

[In these minutes: (1) updates; (2) respectful workplace policy; (3) anonymity of external review letters for promotion and tenure files; (4) CAPA tuition benefits proposal; (5) two items of new business (passwords and staff auditing courses)]

1. Updates

Professor Sirc convened the meeting at 2:35 and gave three updates.

-- The Committee should tie up the issue of child care by the end of the year. Claire Walter-Marchetti, Director of the Office of University Women, prepared a report on child care on the Twin Cities campus.

-- The Committee proposed a statement to the Governor about his budget recommendation on salaries; at the request of the Faculty Senate, the Faculty Consultative Committee expanded the letter to address the budget recommendation in general. Professor Chomsky sent a letter and the statement; she received back a rather pro-forma constituent sort of letter.

-- When the Committee discussed the new report on student evaluation of teaching, not everyone had the chance to speak because time ran out. The Committee voted to approve a pilot study, but there are still individuals who want to tweak the report results. The results of the pilot study will come back to the Committee in the fall, at which time those who still have concerns or questions will have the opportunity to voice them.

2. Respectful Workplace Policy

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

Professor Sirc next recalled that he had received an email message from a department head asking if the University had a "respectful workplace" policy. It does not except that the language of the Code of Conduct (which is Regents' policy) can be read as requiring a respectful workplace (some departments have used that language to deal with disrespectful employees; the Code can be found at http://www1.umn.edu/regents/policies/academic/Code_of_Conduct.html).

Vice President Carrier reported that she had checked with her Big Ten colleagues; she distributed a handout with information about the policies (or lack thereof, the response that was more prevalent) at the other schools. Most of the institutions use their code of conduct to achieve a respectful workplace, Dr. Carrier said. The second and third subdivisions of Section III of the Regents' policy (the language most pertinent to a respectful workplace) read as follows:

"The University holds itself and community members to the following standards of conduct:

"Subd. 2. Be Fair and Respectful to Others. The University is committed to tolerance, diversity, and respect for differences. When dealing with others, community members are expected to:

be respectful, fair, and civil;
speak candidly and truthfully;
avoid all forms of harassment, illegal discrimination, threats, or violence;
provide equal access to programs, facilities, and employment; and
promote conflict resolution.

"Subd. 3. Manage Responsibly. The University entrusts community members who supervise or instruct employees or students with significant responsibility. Managers, supervisors, instructors, and advisors are expected to:

ensure access to and delivery of proper training and guidance on applicable workplace and educational rules,
policies, and procedures, including this Code;
ensure compliance with applicable laws, policies, and workplace rules;
review performance conscientiously and impartially;
foster intellectual growth and professional development; and
promote a healthy, innovative, and productive atmosphere that encourages dialogue and is responsive to concerns."

These provisions will be distributed in various ways to employees, Dr. Carrier said. Mr. Schumacher, who is responsible for compliance matters, envisions them in a booklet or brochure made available to everyone as one way to get the word out.

Dr. Carrier told the Committee that her office has held about 250 workshops on this topic in the last three years. The Employee Assistance Program has been asked by colleges and departments to put on the workshops, sometimes because of an incident or a lack of civility. She distributed the list of topics covered in the workshops. There have also been guidelines on respectful work behaviors developed in various units around the University.

Professor Sirc asked the Committee if these provisions were too gestural and too remote to adequately communicate what is fair and respectful.

Professor Kleiner recalled that about ten years ago, during the tenure debate, there was proposed tenure code language providing that discipline could be imposed on faculty who did not have a "proper attitude of industry and cooperation." How is this language different from that, he asked? This is an official University statement that overrides any others, Dr. Carrier said. Professor Sirc said the proposed tenure code provision was punitive, a veiled threat; if there have been 250 workshops, however, clearly there is a need to address respectful workplace issues. He repeated his question: is the Code of Conduct language different from that which sparked controversy?

Asked, Dr. Carrier said the issues that prompt a request for a workshop can include long-standing dissension that creates discomfort in the department, bullying behavior, groups who feel their work is not respected or that they have no voice—there are a lot of different reasons that provoke a department to seek help.

Professor Wiedmann said he did not know what respect is. He gave it to his parents because they were the ones in authority. He said he understood civility, fairness, and so on, but not respect. Professor Hanna concurred; she said she could not define it but she knew it when she sees it. A policy would be an attempt to legislate culture, which might not be possible beyond the language of the Code of Conduct. After additional discussion, the Committee concluded it did not wish to pursue development of a separate respectful-workplace policy.

Professor Sirc thanked Dr. Carrier for assembling the information from the other Big Ten schools.

3. Anonymity of External Reviews for Promotion and Tenure Files

Professor Sirc welcomed Professors Chomsky and Sullivan to discuss the issue of the anonymity of external reviewers. He recalled that the Faculty Culture Task Force recommended the University seek an exemption from state law in order to protect the anonymity of external reviewers in promotion and tenure cases. When the Committee discussed the issue in the past, the sentiment was against anonymity and in favor of accountability on the part of external reviewers. The Faculty Consultative Committee, however, feels that anonymity should be guaranteed, so it was agreed this Committee would revisit the issue.

Professor McLoon asked for a clarification: Is this only about letters in promotion packets? There are internal performance reviews, about which one might have a different view.

It is the external review letters, Professor Sullivan said. He brings to the discussion experience as a department chair and journal editor for over 20 years, and experience with both open and closed external review letters. He distributed copies of two responses to requests for external review letters. In one case, the individual declined because "even extremely positive letters can be fodder for 'reading between the lines' when all letters are open to the candidate." The person said he made it a personal policy not to respond to requests for letters from "open file" institutions. The other individual who refused wrote that "I don't see how I can write an honest evaluation letter. I've known xxx since xxx was in grad school and I'm sure I will continue to see xxx at meetings. If I knew I'd be writing a positive letter it wouldn't be so bad (even then it would be hard to be completely honest) but since I'm pretty sure my

evaluation will be negative I don't see how I can write the letter if xxx will be reading it." These responses are consistent with his experience as a journal editor, Professor Sullivan said.

The goal of an external review is to come up with an accurate assessment of the quality of work of a candidate, of the candidate's strengths and weaknesses. There is a danger of bias in such reviews, which can arise because of a sampling error. If people are systematically excluded from the pool of reviewers, or systematically exclude themselves from the pool—like these two individuals—the rest of the profession will be more positive about the candidate. One can get a bias either against or in favor of the candidate; the latter can be guarded against by excluding co-authors, mentors, friends. In his department they try to avoid bias by having both the junior and senior faculty develop lists of potential external reviewers; they then discuss the lists. There are safeguards in the system no matter which one is used. If it is an open-letter system, potential negative reviewers bow out and even positive letters are attacked because it is said the letter does not say what the author meant. Or, it could be that if letters are redacted, they would be more negative. They try to weed out those reviewers ahead of time. If there is a bias in the current system, departments could be making mistakes that are not in the best interest of the institution (which is trying to get better) because they make judgments on the basis of letters that are contrary to the national views of the discipline. There is also the possibility of a bias to nastiness in anonymous letters.

His sense, he concluded, is that there is greater danger to the University in what it does now than there would be to making a change.

Professor Chomsky said that the information they have is necessarily anecdotal because no one has done a study. One problem with letters in "open file" states, noted by one of Professor Sullivan's correspondents, is that people read even very positive letters negatively. Another is that external reviews are discounted because they are seen as not as honest as individuals on campus will be (even though the on-campus reviewers' names are on the letters). FCC members received comments from department chairs that it is very difficult to get external reviewers; more and more people are turning down the requests, so it can be a small pool to start with.

The concern was raised in the Faculty Culture Task Force, Professor Chomsky noted, and reflected what the task force members heard from faculty around the University. The issue is not the content of the letters, it is the names.

They have come to this Committee because FCC (which includes some department chairs), have discussed the difficulties of getting external review letters. FCC talked with the Provost about getting a change and have been advised that the University will have to seek a change in state law. The Provost said the University will not do so unless there is a faculty consensus that the change should be sought.

Professor Chomsky related that she emailed to the CIC faculty leaders to ask about institutional policies on external review letters; she had four responses thus far. There is a range; one institution has a policy like Minnesota's, with no names hidden. At another, the individual can have access if he or she requests the letters. At another they are not available except as required by law (e.g., a subpoena). At another, the candidate may see the letter but the names are redacted.

Professor McLoon said he was strongly opposed to allowing external reviewer anonymity. He said one cannot compare promotion and tenure letters with journal article reviews; the journal editor

knows who the reviews came from and that is an important part of the evaluation of the review. Where faculty must vote on a tenure candidate, they need to know who wrote the external reviews so they can judge them accordingly. Could the reviews be available to the department, just not the candidate, Professor Sullivan inquired? That would be acceptable, Professor McLoon said, and candidates could sign a statement waiving the right to look at letters. Professor Chomsky and others suggested that may not be possible under Minnesota law.

The promotion and tenure process is very different, Professor McLoon continued. In reviewing a journal article, there are pluses and minuses and the question is whether there are enough pluses to warrant publication. In promotion and tenure, candidates are guilty until proven innocent; he looks for what is so good about a person that he or she warrants promotion or tenure. They are looking for the positive; it is the strength of the individual that drives the process. His two rules about writing letters, Professor McLoon related, is never to say anything bad and never to lie—so sometimes he will decline to write a letter. Not everyone makes judgments that way, Professor Sullivan responded. His colleagues want professional judgment about the strengths of the candidate's work.

Professor Kleiner said he supports redacting the names of external reviewers under the right circumstances. One question that should be asked of reviewers: "Would you recommend the candidate for tenure at your university?" There can be wide diversity of specializations in departments, with faculty distant from one another's fields, and external letters are important, especially from the top people in the field. It is essential to have honest letters from those people if the University is to increase the quality of its faculty.

Professor Wiedmann said he was against the proposal to allow anonymous external reviewers; even if there is a promise to keep the letters confidential, he wouldn't believe it; he believes the letter could become public at any time. What's the point of promising anonymity that may not be honored? Professor Sullivan said it would be possible to do an experiment: tell some reviewers the letter will be read by the candidate and tell some reviewers the letter will not be read by the candidate. His guess, he said, is that there would be a difference in the letters.

Professor Ramos-Garcia said that one can get positive letters from the top people in the field and people still try to read between the lines and vote to deny tenure on their reading of the letters. Even if one votes in favor of the candidate, the dean will deny tenure. There can be serious problems in "reading between the lines." Is that an artifact of the open letter law, Professor Sirc asked? Professor Ramos-Garcia thought it is. With weak candidates, one must read between the lines, and the recommendation can also depend on department politics. He noted that they also receive letters from outside the United States; there is a cultural difference, with some putting negative factors first in a letter.

One piece of information he would like to see, Professor Kleiner said, is the percentage of probationary faculty who are granted tenure at Minnesota and the other CIC institutions and institutions the University aspires to be like. If there is a significant difference (e.g., Minnesota tenures 90%, others 60%), there is a potential problem. He would like to see the evidence. Vice President Carrier said she has heard Vice Provost Carney talk about those numbers; the percentages are very close. But it is necessary to look at the percentage who start at Minnesota and get tenure at Minnesota; the numbers are not indicative of anything.

Professor Sullivan said one could compare universities that operate in states with open-letter laws with those that interpret the law differently and with those that redact names, and one could control for quality. The dean of CLA in the 1970s said he believed the University granted tenure to a higher percentage of candidates than did peer institutions, but that may have changed.

If there is need to change the law, Professor Hanna asked, is this a high priority for the University? It would be worth it if the University has a bad tenure process and does not get the highest-quality people it could because of the open letters, Professor Wiedmann said, and it should be fixed. He sees it as important to improving quality, Professor Sullivan said.

Apropos reading between the lines, Professor Chomsky said, when reviewers know that letters will be seen, the tendency is to be not so positive (rather than negative); the letters say nice things, but leave other things unsaid. One has the sense that the law exacerbates the problems and forces people to read between the lines to find negatives in faintly positive letters.

Cannot letters be followed up with telephone calls asking what the letter-writer meant, Professor Litman inquired? The calls must be documented and part of the file as well, Professor Chomsky explained; a telephone call does not avoid disclosure.

Professor McLoon repeated that he was totally against anonymous external reviewers. He said he wants letters with a signature. The way around this would be to go to the federal government system: the reviewers' names and the reviewers are separated, and the list of reviewers includes everyone who was asked; one does not know who responded and who did not. He said he disliked that system as well. He said if he's voting on a tenure candidate, he wants to know whose opinions he is relying on. It doesn't matter at the college or university level, he said, but it does at the department. Professor Kleiner said the department knows but not the candidate.

Asked how FCC felt about some of the practices that buffer the letters from candidates, Professor Chomsky said they have not discussed them. FCC wanted to support the change but then heard about the discussion at this Committee, so took the matter no further.

There are likely differences across fields, Professor Clayton said. The more subjective the field, the less one can rely on the letters. The only way to get the substantial truth is to allow anonymity, but that also allows a certainly amount of malice. One must go with open letters, he concluded, and if there are enough positive letters, those can negate the negative letters. This will mean the loss of some reviewers, he agreed, but it will also mean the positive reviewers will be kept in the pool, which is what is wanted. Professor Csallany later commented that there may be differences between fields; in some disciplines there might be more antagonism between people with different views than there would be in the sciences. She said she was not sure anonymous external reviews in the sciences were as necessary.

Professor Chomsky suggested as a next step that they try to determine whether there is enough of a problem around the institution to do anything. She said it would be helpful to determine the view of faculty from outside these two committees. Professor Kleiner said he would like to see evidence that the University is dramatically different from other institutions. One potential problem if the letters are confidential is that the process might be compromised in the eyes of the candidate. The ultimate test question, Professor Clayton said, agreeing with Professor Kleiner, is "if we don't tenure the candidate, would you?"

Professor Sirc suggested the question merits more discussion with more evidence and a broader range of possibilities. Professor McLoon inquired what information would be obtained. Professor Chomsky suggested that it would not be polling but an examination of the nature of the schools with different systems, their experience with them, and what information they receive when letters are confidential versus when they are not. It would also be possible to question department heads to learn if they are encountering difficulties; some chairs have told FCC they find it increasingly difficult to get external letters. Professor McLoon said one must be cautious about that conclusion; he turns down many requests for such letters.

Professor Wallace said that what concerns him is that reviewers are asked to write letters, and then when the letters are read here, people say "that can't be true, the author meant something else" and they end up putting words in the mouth of the external reviewer. That problem will not be overcome with any law; the person at the table may not want to see the candidate promoted.

The Committee voted 11-1 in favor of additional study. Professor Chomsky said these need to be faculty-to-faculty conversations, from FCC and SCFA to departments.

The external letters are just a small portion of the overall evaluation, Professor Kleiner pointed out; there should also be six or seven years of teaching, articles, grants, citations, etc.; the letters have an effect at the margin and will put the candidate in one pool or the other, but departments have a lot of data on individuals. With the tenure code changes calling for an increased reliance on scholarship and a national or international reputation, Professor Chomsky surmised, there may be a greater reliance on outside letters.

Professor Sirc thanked Professors Chomsky and Sullivan for their remarks.

4. CAPA Tuition Benefits Proposal

Professor Sirc asked Committee members to comment on the tuition benefits proposal developed by the Council of Academic and Professional Administrators (CAPA). The statement and proposal is as follows:

"The Council of Academic Professionals and Administrators (CAPA) notes the passage by the University Senate of a Statement in favor of Tuition Benefits for Dependents of University Employees at its November meeting (attached).

"CAPA also notes that the University Administration declined a similarly worded resolution earlier this fall.

"Based upon statements made by many individual employees, CAPA believes that implementation of tuition support for dependents of University employees would result in increased employee morale, and that this support would be a useful tool for employee recruitment and retention.

"Therefore, CAPA supports continued discussion of how such a principle might be implemented, and proposes the following principles as a basis for finding a solution:

1. The support should apply to all employee groups.
2. The support should accrue to each employee equally.
3. The support should be limited to create an incentive for dependents of University employees to pursue other financial aid programs as well.
4. Individual Colleges/Units shall be held harmless for tuition support, from a revenue standpoint.

"CAPA also suggests that the following ideas be considered as methods that are consistent with these principles:

"Make the current Regents scholarship transferable from the employee to the tuition costs incurred by their dependants. This is similar to the tuition support available to MnSCU employees, and employees of seven of the Big Ten universities.

"Cap the maximum support at a specific dollar amount or percentage short of 100% tuition coverage; and/or

"Offer as a scholarship to admitted dependents of University employees that maintain a certain GPA, and/or other performance measures, each semester."

Ms. George, a CAPA representative on the Committee, reported that CAPA discussed and put forward this proposal after the SCFA resolution went to the Faculty Senate. They were looking for ideas to continue the dialogue on this issue, so identified the four principles and thought about what benefit is already in place. They suggest passing the Regents' Scholarship option to dependents if not used by the employee.

Professor Kleiner said his question all along has been "what benefits most help the University? What will help retain faculty during their most productive years?" He thanked CAPA for the proposal.

Is the idea to gather more ideas, Professor Wiedmann asked? It is, Dr. Carrier said. From the Committee? Not necessarily, Dr. Carrier said; from any source would be fine. They will look at the tax implications of the proposal for employees, she added.

Professor Wiedmann said that the most important thing about this benefit is this: right now he does his work, and his research, but does not especially care if the University is in the top three or not. With this benefit, he would be doing his work for his kids and would remember the University for providing this for his family.

The Committee concluded it would not, at this point, endorse the CAPA proposal (although it welcomed the proposal warmly), and would simply await the accumulation of proposals and ideas. It accepted the CAPA proposal as the kind of ideas that should be discussed. Ms. George said CAPA would appreciate it if SCFA members would also keep thinking about ideas and keep the process going.

Vice President Carrier pointed out that a lot of staff use the Regents' Scholarship to obtain their degrees, so would not have it available for their dependents.

Does the University have money to pay for this, Professor Ramos-Garcia asked? That is why it is an issue of tradeoffs, Dr. Carrier said; is this a high priority, or should there be other things that rank higher?

5. New Business (Two Items)

Professor McLoon said there is need to control the University's password situation. It is acceptable to require that the password be changed every year, but in the rules provided to employees, the example is not a legal password. There are far more problems with passwords on post-it notes than with 40-character passwords. He related that he called the Office of Information Technology to find out about the mistake and was told that they could not put the rule for passwords on the web, for security reasons.

Professor Hanna asked that the Committee revisit the rule that bars employees from using the Regents' Scholarship from auditing a course. That sends the wrong message, she said; faculty and staff might want to audit a course in a way that would benefit the University. She has no need of any more credits, she said, but she could see auditing a course to help her in her job. If she just sits in the course, the instructor receives no credit for her presence.

Professor Sirc adjourned the meeting at 4:10.

-- Gary Engstrand

University of Minnesota