

SENATE COMMITTEE ON SOCIAL CONCERNS
MINUTES OF MEETING
OCTOBER 3, 2005

[In these minutes: Review Charge, Review Board of Regents' Openness in Research Policy, Brainstorm Agenda Items for the Year]

[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 represent the views of, nor are they binding on, the Senate, the Administration or the Board of Regents.]

PRESENT: Ken Heller, chair, Joseph Marchesani, Jennifer Oliphant, Richard Lidstad, Elizabeth Richardson, Benton Schnabel, Greg Schooler, Julie Sweitzer, Katherine Fennelly, David Fox, Catherine Jordan, Julie Pelletier, Mani Subramani, Mira Reinberg, Samuel Stone

REGRETS: Todd Tratz, Peter Hiniker, Sandy Ulsaker Wiese, Amelious Whyte

OTHER: Julie Carvel, Jewish Community Relations Council

GUEST: Professor Gary Balas

I). Professor Heller called the meeting to order and welcomed all those present. By way of introduction, he then requested members go around the room and introduce themselves.

II). Professor Heller asked members if they had an opportunity to review the charge prior to today's meeting, and, if so, whether there were any questions about the role of the committee. A member suggested, to eliminate the redundancy in the first two sentences of the charge, that the following change be made: "The Social Concerns Committee is primarily concerned with the interrelationship between the University and the broader social community. ~~It is concerned,~~ and with the nature and extent of the University's response to social concerns." Another member noted a split infinitive in item "c" under Duties and Responsibilities. A decision was made to not vote on any changes today, but to wait until the next meeting so that others could have an opportunity to come forward with both grammatical and substantive changes to the charge.

III). Professor Heller welcomed Professor Gary Balas, FCC (Faculty Consultative Committee) member and Chair of the Senate Research Subcommittee on Openness in Research to today's meeting. Professor Balas noted that he is here today to provide information on the Openness in Research Policy, which is being brought before the Board of Regents this month for information, and, then will be voted on at the Board's November meeting. Additionally, he indicated that he would discuss the administrative procedures that supplement the policy.

Professor Balas began by providing the committee with background information on the proposed policy change. He stated that the basic intent of the Regents' policy is threefold: 1). to require openness in all research that is conducted at the University, 2). to provide for inclusiveness, and, 3). once research is complete, that it be made public.

Over the past ten years or so there have been about four to five requests for exemptions from the Regents' policy on research secrecy. A majority of these requests came from funding associated with the Department of Defense. Although there are a variety of different types of exemptions, many of the requests that the University has received seek to restrict publication of the data, limit who can work on a given research project or attempt to postpone publication of data.

Professor Balas noted that under the old policy, requests for exemptions followed a consultative process where they were brought before the Senate Research Committee (SRC), the FCC, and the Faculty Senate for an opinion. Ultimately, however, it was the president who had the final say in whether an exemption would be granted.

Within the last few years, a decision was made to explore creating a more systematic policy for processing research exemption requests. As a result, a subcommittee was formed to look into this matter. After conducting an in depth review of the current process, the subcommittee issued a report recommending procedures be established to clarify mechanisms for granting exemptions and to determine exemption criteria. The subcommittee, comprised of five faculty members, a P&A representative, a graduate student, and administrators, continued to meet and revised the old Regents' policy and developed procedures and guidelines for administering the policy.

Professor Balas turned members' attention to the Board of Regents' Openness in Research Policy before them. He noted that the policy was renamed from Research Secrecy to Openness in Research. This change is intended to reflect the actual goal of the policy, which is to provide for more openness in research and to limit the number of exemptions that are processed.

He also noted that under "Section II. EXCLUSIONS" that the policy was modified to clarify and strengthen the language around clinical trials. The language was modified to make clear that clinical trials (which are a form of research) are NOT exempt from the provisions barring secrecy in research. Any external sale would not be covered by this policy while any grant or contract would be covered.

Members reviewed the policy, section by section. Questions/comments from members relative to the policy included:

- Faculty serving as consultants are not covered under this policy, correct? Yes, stated Professor Balas. Faculty who are hired for their expertise as consultants to work on another organization's intellectual property, are not covered under the policy.

- Does the Office of the General Counsel review faculty consultation agreements? No, but faculty on a yearly basis must disclose the nature of their consulting arrangements and whether there are any conflicts of interest.
- How will exemptions be processed under the new policy? Professor Balas noted that a Principle Investigator (PI) or SPA would be required to complete a form indicating that they have attempted, to the best of their ability, to remove all exemption clauses from a given contract without success. Then, the Openness Research Subcommittee would review the exemption request and make a recommendation to the Senate Research Committee who in turn would make a recommendation (granted, granted with conditions, or denied), to the Vice President for Research. The Vice President for Research then makes the final exemption decision, although the president retains the authority to override this decision.
- Does the Openness in Research Policy allow for researchers to work with classified information? The University has no mechanism whatsoever to handle classified data and this is not an avenue the University is interested in pursuing. Oftentimes research that is termed "sensitive" seeks an exemption.
- Does Section IV, Subd. 1. preclude classified research from being conducted at the University? Yes, stated Professor Balas, the University does not have the facilities to handle classified information.
- What does "full and prompt" mean under Section IV, Subd. 2. Open Dissemination of Results? Ninety days or less is the typical timeframe that researchers negotiate in terms of disclosing their results. The subcommittee intentionally did not specify a timeframe in order to give the researcher some flexibility in their negotiations. However, requests for disclosure beyond 90 days automatically trigger an exemption request.
- Did the subcommittee look at the NIH guidelines in terms of the timeframe they use for disclosure of results? Professor Balas noted that the subcommittee briefly discussed this, but, because the NIH guidelines are somewhat unsettled, the subcommittee did not spend a great deal of time looking into this.
- How long does the exemption process take? According to Professor Balas this varies greatly from request to request. The new administrative procedure has a provision, which specifically addresses this question. In the procedure it states that the University will be allowed a minimum of 10 business days to process exemption requests if requested by the faculty member.
- Explain the rationale for including Section IV, Subd. 3., which addresses retroactive restrictions on research results in the policy. Professor Balas stated that all DOE contracts include language, which stipulates that if research is in anyway associated with nuclear device research, the government has the right to retroactively classify the data; therefore, the need to include this provision in the policy.
- What is meant by "If the University elects not to publish research results," (Section V, Subd.5.) since the University does not publish research results as a University? According to Professor Balas it means that the University reserves the right, on behalf of the faculty, to not require faculty to publish their results e.g. a faculty member decides that research does not warrant publication.

- Section VI., the prohibition against the use of the University name, is a very strong statement. Professor Balas agreed, and added, that in his opinion, the University name as a brand should not be used for advertising purposes, especially when it has to do with research results.

After reviewing the Board of Regents' Openness in Research Policy, members unanimously passed a motion to endorse the revised policy.

In light of the fact members did not have all the documents needed to give proper consideration to the new guidelines/procedures for administering the policy, discussion on this topic was held over until the November 7th meeting. Professor Balas volunteered to send these documents to Renee Dempsey, Senate staff, for distribution via email to committee members for their review. Professor Balas suggested the committee invite Vice President of Research Tim Mulcahy to its November meeting to provide information on the new guidelines/procedures and to answer any additional questions members may have regarding the Board's policy. Professor Heller requested Renee Dempsey invite Vice President Mulcahy to the November 7th Social Concerns meeting.

IV). Next, the committee spent time discussing possible items for its agenda for the 2005 – 2006 academic year. The following items were mentioned:

- Delve further into the Law School's position as well as the University's position relative to the Solomon Act, which is in direct violation to the University's policy to recruit a diverse student body. Should the Social Concerns Committee take a position on this issue? Ms. Dempsey was asked to schedule someone to address this topic at the committee's November meeting if possible.
- Explore the University's purchasing practices e.g. MINNCOR – purchasing office equipment manufactured by inmates. Are inmates being paid fair wages? Does purchasing office equipment manufactured by inmates adversely impacting small businesses across the state? On a related note, is the University adhering to its guidelines for working with minority contractors. Invite Purchasing Director Karen Triplett or another representative from the Purchasing Department to provide information on the University's purchasing practices.
- Continue looking into the feasibility of having the administration appoint a committee, similar to the Institutional Review Board (IRB), to evaluate the social impact of research that is being conducted at the University. Such a committee could help researchers think through the social ramifications of their research and possible alternatives to their research design. Professor Heller noted that this idea is the bi-product of problems associated with the University's involvement in the Mount Graham project. Professor Fox volunteered to attempt to make headway on this front during the year.

V). Hearing no further business, Professor Heller adjourned the meeting.

Renee Dempsey
University Senate