

Minutes*

SENATE COMMITTEE ON FACULTY AFFAIRS
Thursday, February 2, 1995
3:15 - 5:00 p.m.
238 Morrill Hall

- Present: Richard McGehee (acting chair), Carole Bland, Rose Brewer, Carol Chomsky, Ann Erickson, Judith Gaston, Kinley Larnitz, Ken Roering, Michael Sadowsky, Bernard Selzler, James Stone, Yang Wang
- Regrets: Daniel Canafax, Mary Dempsey, Daniel Feeney, Roger Paschke, Anne Sales, W. Donald Spring
- Absent: Carol Carrier, Willard Manning, Diane Mulvihill, George Seltzer
- Guest: John Adams (FCC Chair), Mark Brenner (Acting V. P. for Research & Dean of the Graduate School), Kathy James (on behalf of Anne Sales - GAPSA), Pat Mullin & Anne Truax (Equal Opportunity and Affirmative Action Office), Richard Poppele (Sexual Harassment Board Chair)

[Within these minutes: Discussions on the proposed Conflict of Commitment Policy and the proposed new Sexual Harassment Policy.]

1. ANNOUNCEMENTS

Professor McGehee told the committee that they would not be taking action on any items at this meeting. He then proceeded to inform the committee about the following items:

- SCFA has been scheduled for two special meetings: 1) Dr. Jane Whiteside and Dr. Darwin Hendel will discuss with SCFA the second set of critical measures (Tuesday, February 7, 2:00 p.m., 300 Morrill Hall), 2) President Hasselmo and Acting V. P. Brenner to discuss the tenure issues under the new provost structure (Tuesday, March 7, 3:00-5:00 p.m., 300 Morrill Hall).
- SCFA can expect to be addressing the reorganization of Academic Affairs within the near future. Committee members should have already received information regarding this issue.
- The Academic Freedom Policy will be coming before the committee for action.
- Discussions of the upcoming closure of I-94 near the University are to be on an upcoming agenda.

The committee members were given the rules relating to the Nepotism Policy for comparison to the new Sexual Harassment Policy.

2. CONTINUED DISCUSSION OF THE CONFLICT OF COMMITMENT POLICY
Mark Brenner

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The committee informally discussed the following items related to the draft of the Conflict of Commitment Policy:

- The number of days that faculty can use for consulting
- The number of CEE classes a regular faculty members can teach

Professor Brenner told the committee that they had correctly interpreted the following features of the draft policy during their previous discussion:

- Academic employees are not required to obtain prior approval for consulting work amounting to less than 10 days within a "term of appointment"
- Academic employees are not to exceed 39 days of consulting for "B" appointments, or 48 days for "A" appointments

Dr. Brenner told the committee that Professor Fred Morrison (Law) had made some additional recommendations to these stipulations.

The committee proceeded to present a number of questions to Dr. Brenner:

Q Do academic employees need to get prior approval for teaching a four credit extension class since this will require twelve days of work outside one's contracted responsibilities?

A The principle that this policy proposes is that when an academic employee is away from her/his professional responsibilities above some threshold, she/he must seek prior approval. CEE teaching automatically requires that faculty acquire prior approval.

Q Do faculty need to seek prior approval for consulting activities as a result of teaching a CEE class?

A The policy will need to state that teaching CEE classes do not count toward the 10 day threshold. A footnote should be added to the document stating that "approved overload teaching does not count toward these 10 days."

Q How does this policy apply to non-credit teaching?

A Faculty with the Carlson School of Management have expressed concern that CEE will lose the assistance of many faculty if overload teaching begins the clock running on consulting limitations. A general principle in section 18 proposes that faculty should be allowed to negotiate with their department head regarding how much overload teaching is reasonable. However, teaching externally should be considered as external consulting.

Q The Executive Development Center in the Carlson School of Management offers non-credit classes in which faculty are requested to teach. How does the policy apply to this situation?

A The University wants faculty to seek opportunities which enrich their professional positions at the University while they fulfill the requirements of their contract. Dr. Brenner returned the questions asking if the University should we inload these responsibilities.

Q Why is there both a statement on seeking prior approval for 10 days consultation and the 39 day limitation (for "B" appointments)?

A This facilitates communication between the faculty member and her/his department head regarding the consultation work in which a faculty member is about to engage. This is especially important in coordination with approved overload teaching.

Q Will this policy create an opportunity for department head to deny activities unjustifiably?

A Section 7 proposes that "employees must comply with the time limitation[s] specified within this policy." This implies that consulting activities are more than a privilege. Several SCFA members agreed that consulting is a right and not a privilege.

Q What is driving this policy?

A The current consulting policy is too vague, and allows for faculty to engage in activities which compete with University interests. For example, there are no current restriction regarding running a grant funded research at another location, or teaching at another academic institution.

Q How will the new policy prevent abuse?

A The final policy will allow University administration to hold department head accountable for the implementation of this rule.

Professor John Adams added that the University is attempting to develop a policy which applies to the entire institution rather than sporadic departments. Professor Brenner asked the committee to share their opinions regarding extra teaching options. SCFA members said that:

- The idea of having each CEE credit correspond to 3 days of consultation (as proposed in section 18) will deter faculty involvement because this is an overestimation of the required time per credit.
- A range, rather than a specific number, may offer more flexibility for negotiating how the level CEE teaching corresponds to a faculty member's primary responsibilities. This could be applied to overload teaching internally and externally dependent on the preparation which would be needed for the course.
- Graduate and Teaching Assistants are not bound by this policy, although instructor under the employee category of P&A are.

SCFA member suggestions:

- The grammar in section 4 needs to be correct.
- Section 7.2 should be changed to read that only academic employees "over 50% time" be held accountable to this policy. There are many instructors teaching at 50% time EXACTLY who would be affected by this policy.
- The policy should simply exist in an expansion of 1.2 stating:
 - 1) One cannot do things which interfere with one's job,
 - 2) One cannot inappropriately use resources, and,
 - 3) One cannot offer services which interfere with University services, and
 - 4) One cannot consult over 39 days.

- The remainder of the material within the proposed policy could be added as addenda.
- The proposed policy has many negative qualifiers.

- The policy gives too much room for department heads to arbitrarily disapprove of faculty consultation.
- This policy appears to be addressing three problems:
 - 1) Some academic employees are teaching too much through CEE and overload,
 - 2) Some take too much time away from the University to profit in private enterprises,
 - 3) Some are establishing competing practices.

Therefore, the policy should state that a balance needs to be reached between these actions and the contracted responsibilities of faculty members.

A faculty member asked Dr. Brenner to determine if the proposed Conflict of Commitment Policy would supersede the Medical School Practice Plan Policy which currently limits all consulting activities (in the Medical School). Dr. Brenner recommendation that sections 8-12 should remain in the policy as they appear in the existing policy. Many committee members agreed with this point. Professor Brenner expressed that he is hoping to have the policy go before the University Senate for information in April and again in May for action. He concluded by saying that he appreciated the committees comments as he seeks to develop consensus on the document's content.

3. DISCUSSION OF THE PROPOSED REVISION OF THE SEXUAL HARASSMENT POLICY

Professor Richard Poppele (Sexual Harassment Board Chair), Patricia Mullin & Anne Truax (Equal Opportunity and Affirmative Action Office - OEO)

Dr. Poppele introduced himself and asked Ms. Mullin to describe the history and administration of the existing policy. She told the committee that the University installed its first campus wide Sexual Harassment Policy in 1981 for a three year trial period. In May of 1984 the University Senate approved the current policy (also accepted by the administration in 1984). This policy has been problematic in handling relationships between employees and their bosses or students and their instructor/advisors. The definition of sexual harassment as it exists in the current University policy is difficult to administer or determine if adjudication is necessary. She added that the state and federal definitions have been most effective in dealing with this problem.

Dr. Poppele proceeded to present a comparison between the proposed policy and the existing one. He said that the introduction of the proposed policy states that 1) this rule applies to all people at the University (not just faculty and students), and that 2) the regulation is established to comply with the Minnesota Human Rights Act. The second section defines sexual harassment almost word-for-word from the Minnesota statute. He said that section three is also a paraphrase of the statute stating the legal obligations of the law. Section four, titled "Relationships of a sexual nature" explicitly states that sexual relations between superiors and subordinates of any kind at the University are forbidden. The current policy only implies this, hence, the difficulty in determining offenses.

Professor Poppele referred the committee to a report produced by the Sexual Harassment Board (January 1995) which explained the rationale behind the proposed policy. The first point is that the current policy is ambiguous. It condemns improper relationships but then only discourages them. Therefore, the policy has been difficult to administer since its installation in 1984. 18% of the cases processed as formal complaints by EEO have involved consensual relationships.

The Board asked two questions as it addressed constructing a new policy:

1. Is a new policy necessary? They affirmed the need because cases involving consensual relationships tend to be expensive for the parties involved and for the University.
2. The second question was - Is a firmer University position on this matter an invasion of privacy?

The Board resolved that the issue of professional ethics warrants that these types of relationships be forbidden. These relationships create an inherent conflict of interest. Also, the Board of Regents Nepotism Policy says that no University employee can be involved with the supervisory decisions (including hiring) regard one they are "related to through blood, marriage or other committed relationships...." This proposed policy addresses this inversely by stating that one cannot create this type of situation.

Points outlined from the discussion:

- Penalties are not stated within the policy. Such decisions would be decided by OEO and if necessary the Provost.
- A ban of faculty/student relationships is clear. Nonetheless, the employer/employee domain seems to be stepping excessively into the "private domain."

The group discussed under what grounds can University employees be forbidden from romantic/committed relationships. They clarified that two people associated with the University cannot begin a romantic relationship if one is somehow in authority over the other. Dr. Poppele said that if two individuals begin a relationship, they should progress in the open and adhere to the Nepotism Policy rather than progress in a clandestine manner where the potential for abuse is greatest.

Questions addressed to Dr. Poppele by SCFA:

Q If these types of relationships are forbidden, is it possible for a third party to bring forward a complaint?

A Yes. If this became University policy then any person could choose to report a breach.

Q If two individuals are involved in a relationship where one occasionally assumes supervisory roles (i.e., an assistant professor deciding on the tenure of an associate professor), can the "superior" simply abstain from such activity, avoid the conflict of interest, and not have to formally disclose the relationship?

A If this is the policy then disclosure would be necessary because the relationship is what is banned more than the conflict of interest.

Additional points from the discussion:

- Committed relationships fall under the Nepotism Policy, properly dealing with any conflict of interest.
- The Supreme Court (State or Federal? - Poppele) recently decided that such relationships should be forbidden. Such a relationship report by a third person would need to consider the opinion of the couple reported before making any determination.

- Simply dating would be forbidden under this new policy
- The intent of this policy is to set clear limits to protect both parties.
- This policy is clear as it applies to faculty/student relationships. Nevertheless, as it applies to the broader University community, the intrusion seems to lose some of its validity.

Additional questions posed to Dr. Poppele by SCFA:

- Q Can you provide examples of businesses which have this type of policy?
- A The University of Wisconsin-Madison has required for about a year that all University personnel report any sexual relationships which could present a conflict of interest. The University of Iowa bans relationships between faculty and students for approximately one year.

SCFA: This type of policy gives third parties the opportunity to report violations which can only be seen from an outsiders perspective.

- Q The second to last sentence in Section 1 states that "it is viewed as a violations...." What does the "it" refer to?
- A The courts have decided that sexual harassment is a violations of the Civil Rights Act and the Minnesota Human Rights Act.

The meeting adjourned at 5:00 p.m.

-- Kevin Gormley

University of Minnesota