Minutes[*]

Senate Consultative Committee
Thursday, May 4, 1995
12:30 - 2:00
Room 238 Morrill Hall

Present: John Adams (chair), Carl Adams, Joel Bergstrom, Thomas Burk, Sheila Corcoran-Perry, Lester Drewes, Virginia Gray, James Gremmels, Kenneth Heller, Roberta Humphreys, Robert Jones, Corey Kopacek, Geoffrey Maruyama, Donald Ness, Chad Reichwald, Rabun Taylor, Barbara Thompson

Regrets: Harvey Peterson, Rachel Rabaey, Michael Steffes

Absent: Brandon Lujan, Tim Stanislawski

Guests: Drs. Darwin Hendel and Jane Whiteside (Academic Affairs), Patricia Mullen (EEO), Professor Richard Poppele (Sexual Harassment Board)

Others: Martha Kvanbeck (University Senate), Maureen Smith (University Relations)

[In these minutes: Critical measures; Senate and Assembly dockets; sexual harassment policy

1. Critical Measures

       Professor Adams convened the meeting at 12:30 and welcomed Drs. Hendel and Whiteside to the meeting to discuss the current status of the next phase of development of critical measures.

       Dr. Hendel thanked the Committee for the opportunity to speak to it. He recalled that he and Dr. Whiteside have been working extensively with Senate committees on the measures, as well as with cross-committee groups on specific measures. He then reviewed the status of and schedule for the second set of measures [which include: the student experience; post-graduation experience; scholarship, research, and artistic accomplishment; overall satisfaction of Minnesota citizens; faculty and staff experience; facilities infrastructure; and resource development]. One major change is the removal of technology from the "research infrastructure" measure and establishment of technology as a separate measure. There are several elements to a technology measure, including research equipment, instructional equipment, communications, computers, and telecommunications, as well as the technology people need to be effective and efficient.

       Dr. Hendel also reported that the measure "contributions to compelling state needs" has been postponed to the third phase of measurement development, inasmuch as the other third phase measures are also more externally-oriented.

The entire process has included focusing separate attention on those areas which, from the very beginning, faculty and staff indicated were important. There is also a great deal of inter-relatedness among the measures. Their work with the phase two measures is quite different from that with the first phase; in the latter case, they were working with data that already existed within the University. That is not true for the second phase measures.

As part of their work, they are trying to connect the critical measures with other efforts (e.g., the Compensation Working Group and the Twin Cities classroom study) and other committee work. They are trying to reflect the difficulties that have arisen in grappling with these areas.

One Committee member asked that the changes in the measures since the Committee last saw them be highlighted.

--   In the student experience measure, as a result of work with the Senate Committee on Educational Policy, there is much more emphasis on student satisfaction and those elements of the experience that it is KNOWN contribute to a positive experience. For example, the measure emphasizes contact with faculty, interactions with other students, participation in special programs, and so on.

--   In research and scholarship, there is clearer articulation of what needs to be included in the listing and more thought about how the information would be collected.

--   On faculty and staff experience, comments from Senate committees have suggested attending to subcategories, and also that the measure be renamed.

--   On facilities infrastructure, it has been suggested that simply using the dollar amounts needed to repair them or bring them up to standards was not appropriate. The next version will include dollar measures but also code compliance and the classroom study report information.

One Committee member asked about a reality check. There is a compensation goal, a measure relative to the top 30 list from CHANGE magazine, and a performance goal. When the administration says it accepts the Senate recommendation on the Compensation Working Group report, does that mean the performance level is automatically known with respect to compensation? That is their assumption, Dr. Whiteside responded, although much of this is still preliminary. Ultimately the measure will track the Compensation Working Group recommendations. (The civil service and union staff compensation measures need additional work, and will not be included in the materials presented to the Regents this summer.)

Is there another decision-making process that will verify that assumption, it was then asked? Or has than been done? Where is the decision point about the choice of performance levels? Dr. Whiteside said there is not a clear answer. It would be desirable to have a process or group or point in time that would decide on performance levels. Dr. Hendel said his hunch is that this would vary with the measure; the locus at which the performance goal is selected will be different for each. Whether the institution will accept them is another question. The related question, it was then said, is where consultation takes place; thought should be given to this decision-making question. They also know that in this second group of measures, there will be a lot of blank spaces in terms of baseline data and the performance goals.

Now that the process is in mid-stream, it would be helpful to stand back and ask what is being learned about the whole enterprise, one Committee member reflected. They are learning how interrelated it all is, Dr. Whiteside responded. There will be 19 measures; their interrelationship will be clear when they have all been developed. One hopes the end result will be a much more integrated picture of what this means for the institution, rather than three columns of measures.

They are also learning that this is a way to think about the University that is new to the institution, Dr. Hendel added. The process has both drawbacks and advantages, but at least at the institutional level, they are into something that has not been done before. A lot of the activity in some of the areas is already underway across the institution at the departmental and collegiate levels (such as examining research and scholarship and artistic accomplishment). The University has not had a good way to build on individual accomplishments, so it can end up with meaningful institutional information. They have also learned that this is a very complicated process; at one level, everything is related to everything else, but at the same time, but to say that says that nothing can be done. There is considerable support for what they are doing, although there is concern and skepticism, but there is realization that this is a new era in higher education. Finally, the process of asking questions about measurement is forcing the University to be clearer about what it wants to accomplish. That doesn't come as a surprise; it is evident that in some measurement areas, especially those that are externally focused, there is need for discussion about what the University's goals are.

A comment that has come up at a number of meetings, Dr. Whiteside told the Committee, is that in talking about these measures, one is talking about values, and what the institution will say is important enough to be measured and to be held accountable for. It has been interesting to observe how that realization has occurred, and people are starting to see the path being outlined by the measures. They have become more involved in the discussions, and have prepared thoughtful comments on the measures. It has been reassuring to see the seriousness with which people have taken the measures.

Every classification system implies some theoretical framework, observed one Committee member. When people's noses are rubbed in the effort, they are forced to make explicit something they thought was implicit, or force differences of opinion about what is important to be confronted. People often carry different ideas in their head; they often don't surface until they must make a decision. Where have been the points of disagreement? The 18 measures we started with seemed reasonable at the outset; when looked into, and when labels were changed and questions elaborated, were there snags?

One snag is that once there is a set of measures, Dr. Hendel replied, the reality is that the University will not be able to get better on all 18 or 19 of them. For some it will be an accomplishment if the University can stay where it is; in others, decreasing less than expected would be progress. It is their sense, he said, that they have to be realistic. Faculty and staff are very productive, very stressed; the University may not do as good a job of communicating internally what it has accomplished as it does externally. There are clearly limits; the University cannot continue to improve on all measures. At some point priorities will have to be selected.

How have the discussions intersected with the provosts, asked one Committee member? Their positions were created after the process began, but they will have to assume responsibility for making sure the University stays on track. That consultation has started, Dr. Hendel, and will take place in the

context of institutional strategic planning at the various levels. In developing the measures, they have worked with the three coordinate campuses, but have not done so with the provostal areas. Ideally, however, they will be involved, and by the time the University moves forward on the third group of measures they will recognize the new organization.

There are two questions involved. First is the extent to which the provosts have participated in development of the institutional measures; the second is in what way will the measures cascade down to the provosts. They have begun to work on the second question, Dr. Whiteside; it will be very useful to work with provosts and provostal groups of deans. If one harks back to the planning/budget/evaluation instructions that went to the colleges last fall, there was a section missing; that was Module 7, the evaluation section. They are in the last steps of preparing the instructions for evaluation; in many ways, the reports that result from this part of the planning/budgeting/evaluation cycle will be the more concrete connection between the institutional measures and what happens in the colleges. There is work yet to be done, but the provosts will play a very important role in the evaluation cycle, and they may be asked to address issues above the level of individual colleges.

There has been phase one, phase two, and phase three. Phase one was basically completed before the provosts were appointed; phase two came during the process of appointing them; the provosts will be in place for phase three. The work on phase three measures will be different, and closely connected to the provostal areas.

On the facilities infrastructure measure, one Committee member commented, one can assume it will be important because the notion of infrastructure will command a lot of attention in the near future. The measures, however, are all translated into dollars; it says nothing about functionality or quality. The University will know how much it spends but not what it hopes to get out of them; it will not know if the last 90% of the dollars spent will be for the last 2% of the improvement. Have they considered this? The next version will be different, Dr. Hendel said; it will include deferred renewal, the percentage of classrooms that meet standards of functionality and use, and the third will look at the percentage of buildings that meet code and access standards. One piece they have not addressed is the issue of maintenance. Facilities Management uses a number of measures to track aspects of physical facilities, but none of them has been translated into an institutional measure; perhaps they should, and it could be added later if the process suggests it required.

Another element that ideally would be included in the future, but cannot be in it now, Dr. Whiteside said, is a study of research space parallel to the recently-completed classroom study. When done, that work will also be a part of this measure.

Where does the subject of physical, environmental atmosphere come in, asked one Committee member? There is talk about classrooms and research lab suitability, but "just walk across the Mall. It's a mess. Walk across the bridge. It's a mess. We have a superhighway passing through the middle of our campus, with all the noise and stink associated with that. This makes a difference." Some campus environments are worse and some are better. What do we call this attribute? "Each day I leave the parking ramp, walk down an alley to my building, then up a fire escape, and down a dark and narrow hallway into my closet-sized office; by the time I get to work, I'm depressed. Modern factories and warehouses are better laid out and appointed." Where does this sort of thing fit in? It plays a role. It isn't just that some buildings are old; they just aren't nice buildings, whatever that means. Many of the

classrooms are just awful, but that's taken account of in the measures. But fixing the interior spaces, labs, study spaces, and classrooms, is on a different scale than the environment. The label "facilities infrastructure" itself sounds like heating pipes and steps.

This is the issue of the subjective experience of the environment, Dr. Whiteside, and presumably something that could be picked up in a student survey as well as a faculty/staff survey. There is talk about a new master plan for the campus, it was said, which is fine, but experience with master planning suggests that many in the business haven't a clue how the place will be used by those who live and work there. Master planning often focuses on design issues rather than use issues, and it is troublesome. Downtown Minneapolis has anonymous streets that make people feel like they're walking on a movie set for some anti-utopian world--but the design won awards.

Will these measures will be linked to funding by the legislature? Who will collect and report and evaluate the data? Will faculty be expected to fill out questionnaires with a sense of accuracy and thoughtfulness, or will they just do it to get it done--how reliable will the data be? On the measures for faculty and staff, there is language about the extent to which they receive training to perform as expected in their jobs, in order to advance the University's mission. What does that mean? When faculty are hired, they start teaching and doing research; will they be trained to do research? How does one measure it?

Dr. Whiteside responded first to the third question. This measure assumes and expects that Human Resources will develop a more complete plan for the kinds of expertise, skills, and training that faculty and staff at all levels need to have. The University does not have this now. No one is suggesting that the faculty be trained in research, from an institutional point of view. There is training available for faculty on teaching, and is seen as effective even though done on a limited basis. Professor Adams, she said, has written eloquently of the need for everyone who works at the University to have a better understanding of the institution and where it is going. If one looks outside the faculty, the idea of skill development may be more clear. The comments they have received range from training in the use of computers to training of supervisors. Some conversation has focused on succession planning. This covers a lot of different activities; this measure assumes those efforts will continue.

The faculty's view of what would be appropriate for training and development would be travel money to go to conferences, said one Committee member. It is not anything Human Resources would have a workshop on. Sabbatical policy falls into this same realm, said another Committee member; support for professional development for mid-career faculty is a serious issue. One can read this measure as including these items. If it is for somebody in the shops who needs to learn new techniques, that is another thing. At the AFSCME hearings, people made presentations about this point: they want to move up in their job and take on more responsibilities, but the opportunities are not there. Alternatively, they are pushed into a job they are not ready to do, and problems develop.

About the linkage between the measures and funding, Dr. Hendel said, the University has gotten some mileage out of its work on critical measures; depending on what comes out of the conference committee work, there may be language that provides some additional funding for the University if it improves its performance on these measures. Whether that will happen is hard to predict.

The internal question that needs to be addressed is the link between performance and funding. The measures are not all of the same type; some have clear connections to funding while others do not. This

task will be connected with the development of Responsibility Center Management, which is evolving.

In terms of the collection of information, the systems were largely in place in the institution for collection of data for the first five measures. That is not the case for the second set of measures. The Office of Planning and Analysis in Academic Affairs is bringing together several offices and individuals; questions are now being raised about the staff resources available for critical measures and other activities.

One Committee member asked about the extent the classroom study identified the percent of classrooms meeting physical and functional standards for learning, and extent to which the measures would consider areas for studying. Dr. Hendel said the study looked at both the learning and the teaching elements of classrooms. The second question has not been addressed. There are a lot of University environments central to teaching and learning that are not classified as classrooms; they need to attend to those spaces as well. The classroom study may have been the beginning of a series of studies that look at different types of spaces at the University.

Training is a bad word, said one Committee member, apropos comments about what the faculty need.

The student experience measures are still bothersome, said another Committee member; there is still no measure of student-student interaction in an academic context, which is much more important than involvement in campus life. Those are fine, but student-student interaction in academic pursuits is not there, while the research demonstrates that such interactions are crucial. In the distinctive features of a university education, one thing missing is having instructors who are different--who have an international perspective. They are an important part of a university and should be identified as a strength; they should be part of the critical measures. Finally, with respect to student learning, achievement, and performance, the measures punt. They agree there are important things students should learn, but they also don't propose to measure.

On the development goals, there are creative ways to do this. One unit has brought in young Ph.D. candidates to work with older faculty, which helps both groups. These are good exchanges and could be supported further.

Professor Adams thanked Drs. Hendel and Whiteside for joining the Committee.

2. Senate and Assembly Dockets

Professor Adams drew the attention of Committee members first to the docket materials for the Twin Cities Campus Assembly.

One Committee member suggested that President Hasselmo, because of his position as President of the National Association of State Universities and Land Grant Colleges, might be able to take play a role with respect to changes in ROTC. It may be that the President can report on this issue at the Senate meeting.

It was agreed to switch items on the docket in order to be sure there would be a sufficient number

of Senators present to vote on it.

One Committee member inquired if the Committee could assume that a policy statement presented for the docket had been appropriately vetted by legal counsel; it appeared that the policy in question (on sexual violence) had been. The policy was not drafted by the Student Affairs Committee; it came through the Office of the Vice President for Student Affairs.

The docket was unanimously approved.

Professor Adams then reported that the revision of the Regents' diversity policy would be presented for information to the members of the Senate. The President had appointed a working group to review the existing seven statements and to consolidate them into one coherent statement. The consolidated statement will be provided to the Senate. He said he believed the Senate did not need to act on it; no Committee member objected.

3. Sexual Harassment Policy

Professor Adams next welcomed Professor Poppele and Ms. Mullen to the meeting to discuss the sexual harassment policy. The issue, he recalled, came before the Committee at its last meeting, and needs further discussion; it reflects the concern of the Sexual Harassment Board about the University's attention to and policies governing sexual harassment. The discussion of the proposed policy change elicited a wide range of views, as well as a question about the wisdom of taking the change to the Senate in light of the divided opinion both on the Committee and in other places. It was thought that additional discussion would be better.

When he last appeared before the Committee, Professor Poppele explained, he had not intended to present a fait accompli that should have been forwarded to the Senate. They proposed policy, a policy they acknowledge is controversial in part. They wanted a thorough airing before the University community. He said he was hoping to discuss the positive feedback from the Committee on Faculty Affairs dealing with specific concerns.

The Sexual Harassment Board was asked to look at the issue with an eye to streamlining policy and identifying what had occurred in the ten years the policy had been in place. It appeared to be working reasonably well, except in one area: sexual relationships between people at the University where there was a power relationship as well. These relationships had constituted a large percentage of the cases that had come before them, and they are the ones most difficult to resolve. The solution they proposed may have seemed drastic, but it was a means to discuss the issue.

Professor Poppele distributed a handout containing the response of the Sexual Harassment Board to the SCFA comments, an alternative proposal for language dealing with sexual relationships, and excerpts from similar policies at Iowa and Wisconsin. The alternative language separates the issue into two parts. One deals with professional ethics and deals specifically with relationships where one has a "teaching, supervisory, mentoring, or advising role with respect to the other"; in this case, sexual relationships are expressly forbidden. For other kinds of working or professional relationships, "where one is in any similar position to have an immediate negative effect on the other person's career, work, or academic progress," the language is essentially the same as the current policy; sexual relationships are strongly

discouraged. This is another way the issue could be approached, he concluded; they are not proposing it as an alternate solution.

He then reviewed the language from Iowa and Wisconsin. Instead of trying to raise University awareness of the nature of the problem by proposing hard rules, it might be better to raise consciousness by statements such as those adopted by Iowa and Wisconsin.

Professor Poppele agreed that the Wisconsin statement is not significantly different from current University policy. The reason he brought these statements, he said, is because there are two ways to look at the issue. One is from the point of view of professionalism; the other is the more pragmatic view of conflict of interest.

He told the Committee he was NOT saying the Board would have been unhappy with either of the statements; the Board has focused on the fact that there is a problem that needs to be addressed. They have proposed one way of addressing it, by a policy change. Any way that visibility can be brought to the problem, and that would contribute to a solution, would be welcomed. What they want to see in the long run is a change in behavior.

Ms. Mullen added that there is one additional difference in practice at Wisconsin: they ask the parties involved to report such relationships.

Why is there a need for a sexual harassment policy; isn't the idea harassment, period? To focus on sexual harassment is retrograde, an old-fashioned idea that there is some inherent disparity between males and females, said one Committee member. This is about power, getting people to do things they would not otherwise do; viewing it that way would avoid the problem with romantic situations and would treat all kinds of such conflicts in a level way.

Professor Poppele said that from a pragmatic point of view, Minnesota statutes single out sexual harassment specifically and hold institutions responsible for recognizing it and dealing with it.

One Committee member then noted that policy proposals frequently come before the Committee that seem to duplicate existing law. It isn't clear why that happens, when there is a state or federal law that applies; what is the special character of a university that invites this kind of treatment? Ms. Mullen replied that in this particular case, Minnesota law requires institutions to have sexual harassment policies. That is then understandable, it was said, but the University does not have to have a rule that says one should not steal, because there are laws on theft on the books.

In addition, Ms. Mullen commented, when the University is defending a case, the first thing a person will ask is whether the institution has a policy that is known to all.

In terms of a unique policy on sexual harassment, she said, sexual harassment has to do with sexual activity, which makes it different from everything else on the planet. It has to do with sex, with coerced sex. That makes a difference. There are a lot of people interested in workplace abuse policies, but the prospect of getting a handle on it is very daunting. Defining sexual harassment has not been easy, but there is case law and common knowledge; defining workplace abuse or other kinds of harassment gets into First Amendment disputes, into confusion, and she said she would not be inclined to tackle the

problem.

Those problems exist in any event, it was said, and are what people objecting to; "can you tell me I can't have a date with my student? We're both over 21 and it's a consenting relationship, we've known each other for ten years, etc." Why is this sexual harassment? It doesn't have to be, Ms. Mullen responded. It may be that the faculty decide that the ethics of the profession say that's a poor idea, no matter what it is called.

The main reason the Board is focusing on it, Professor Poppele added, is because it has turned out to be a problem. If the experience of the last ten years were different, he would not be in front of the Committee talking about it. To the reply that this is not a sexual HARASSMENT problem, Ms. Mullen said it can be defined that way if one adds the concept that by its nature, there is no way to truly have consent. That is pretty philosophical.

Does the University's constitutional autonomy come into play? Must the University follow the state law, or is it being recommended? Another reason to have the policy is that people could argue the University is technically not covered by the state law. Ms. Mullen said she believed the legislature had an understanding with the University that it would conform; absent that agreement, they would adopt a specific law for the University. This is covered by federal regulation as well, she pointed out, so the autonomy question is moot.

The case of the professor dating the student does presents special problems, observed one Committee member, because the other students in the class can argue that the one student has an unfair advantage. That is a unique situation that presents problems.

Asked how the policies work at the other two schools, Professor Poppele reported that after posing the issue as an ethics question, Iowa then prohibited relationships. Ms. Mullen said their sexual harassment officer believes the policy has been workable.

One Committee member said he had no objection to the Iowa or Wisconsin language presented, because it does not prohibit behavior; it simply tells people they are being unethical or that there is a conflict of interest. Professor Poppele said that is an alternative way to deal with the problem. The problem is knowing if it would work that way, since there is also a proscription. Professor Poppele said the University has to consider its own experience. It has a policy very similar to Iowa and Wisconsin language; a lot of the people who get involved in these cases see nothing wrong with the behavior. So it has perhaps not been impressed upon people that this is unethical; by presenting it as an ethical statement, that might carry more force than the statement that it is not a good idea.

This policy goes beyond faculty, one Committee member noted. It would be supportable for faculty as a set of professional ethics, but probably not apply to other groups at the University. The logic of including others, Dr. Poppele said, is that there are power differentials; but there are power differentials all over, it was rejoined, and while the culture may exist for a code for faculty, it does not in other cases. Another Committee member argued that there are too many gray areas to differentiate between faculty and staff.

One Committee member asked about a relationship that lasted for 10 years, where one might be the

supervisor of another; then what result? It appeared the nepotism rule would probably govern.

Another Committee member inquired what private corporations do in this area. Neither Professor Poppele nor Ms. Mullen had anything except anecdotal evidence; corporations do not say very much on the subject, Ms. Mullen said. Some corporations have written policies, some have unwritten policies; if a problem develops, they may move people from one department to another.

One Committee member repeated the question that had been raised at the earlier discussion. In one situation the relationships are expressly forbidden, but committed relationships are permissible; what isn't clear is how one gets from the former to the latter. This implies the University will look the other way on the intermediate relationships, on the way to being "committed"; it also seems to assume old-fashioned "courting" behavior.

The policy also seems not to affect faculty-to-faculty relationships, a full professor dating an assistant professor and coercion entering into the relationship. That is not a "teaching, supervisory, mentoring, or advising" relationship. That is not necessarily sexual harassment, Professor Poppele said, but is covered by other policies; the nepotism policy certainly implies, even if it doesn't say it, that people involved with one another do not participate in promotion decisions or other professional decisions. The nepotism policy, he said in response to a query, includes more than marriages; it includes any consenting relationship.

The way these happen, it was said, is that no one knows about the relationship, it goes sour, and then the higher ranking person is said to be out to get the lower level person. Nepotism implicitly assumes there was an open relationship.

Professor Poppele said there are two issues: One, the concern about two people in the same department who are in a close, openly acknowledged relationship. The other case is a "secret" relationship that breaks up and leads to a sexual harassment claim; this becomes a matter of sexual harassment almost by definition of state law. He suggested that what is needed, perhaps more than anything else, is to make people aware of the consequences of that kind of behavior. No matter the nature of the relationship, there is always that problem looming. His hope that raising consciousness through some kind of ethics standard would make people more aware of consequences.

One Committee member expressed support for the alternative language but also for a policy prohibiting sexual relationships with undergraduates, "because undergraduates are the only people at the University who will not be on the top of the power relationship." People have talked about pragmatism in establishing the policy, but there is nothing pragmatic about sexual harassment or sexual relationships when one considers the power relationship; making people aware of this will not help the person on the low end of the power relationship. The person with more power will be more aware of the consequences, because their career will suffer if things go wrong; the person with less power will not necessarily realize that, because they may suffer emotionally. There has to be a policy prohibiting relationships with undergraduates.

Professor Poppele said they would appreciate knowing of any additional concerns that Committee members had, and that he would like advice on whether or not they should develop an ethical statement to be presented to the Senate. It might be best to wait on the policy, he suggested, with the turnover in Ms.

Mullen's position. There appeared to be agreement that this is what should occur.

      Professor Adams thanked Professor Poppele and Ms. Mullen for joining the meeting, and adjourned the meeting at 2:00.

                                                  -- Gary Engstrand

University of Minnesota