

Minutes*

**Senate Consultative Committee
Thursday, January 8, 1998
10:00 - 11:00
Room 626 Campus Club**

- Present: Victor Bloomfield (chair), Kent Bales, Carole Bland, Gary Davis, Mary Dempsey, Gary Gardner, Virginia Gray, David Hamilton, Russell Hobbie, M. Janice Hogan, Laura Coffin Koch, Michael Korth, Fred Morrison, Kevin Nicholson, Martin O'Hely, Harvey Peterson, Laura Taken, Matthew Tirrell
- Absent: Heather Aagesen, Jesse Berglund, Ryan Falk, Eddie Kalombo, Leonard Kuhi, Jason Mattson, Amy Mertl, Deanne Nordberg
- Guests: Pat Frazier (Chair, Sexual Harassment Board)
- Others: Martha Kvanbeck (University Senate); Maureen Smith (University Relations)

[In these minutes: Policy on Nepotism and Consensual or Romantic Sexual Relationships]

1. Policy on Nepotism and Consensual or Romantic Sexual Relationships

Professor Bloomfield convened the meeting at 10:10 and welcomed Professor Pat Frazier to the meeting to discuss the revised draft policy on consensual or romantic sexual relationships. He recalled that the policy, including language covering sexual harassment, had been approved by the Senate last spring, but that the administration had concluded that part of the policy covering consensual relationships needed additional work. The Committee on Faculty Affairs and the Sexual Harassment Board (SHB) developed revisions and would like the document to go to the Senate in February.

Professor Frazier reviewed the evolution of the policy. The initial sexual harassment policy was adopted by the Senate in 1984; in 1994, the Regents indicated they wished to have a policy. The SHB concluded changes were needed, especially with respect to consensual relationships; the present policy simply states that such relationships are unwise. The SHB consulted widely on the issue, developed a policy, which the Senate approved but President Hasselmo's administration did not. The newly-revised draft seems to be one the current administration finds acceptable.

Asked what the concerns of the Hasselmo administration had been, Professor Frazier said they had the sense the policy was trying to prohibit relationships, which was a misunderstanding; the intent was to avoid conflicts of interest. Professor Gray recalled that the administration had also felt that the provisions of the policy approved by the Senate made administrators "sex police," a responsibility they did not want. Professor Frazier said the administration now understands it will not be in that position. Another

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concern, Professor Morrison reported, was that the (active, affirmative requirements of the) enforcement language of the sexual harassment portion of the policy would be construed as also applicable to the consensual relationships part of the policy; that was not intended. In the latter instances, the administration is to play a less aggressive role.

The point of the policy, Professor Bales explained, is not to prohibit anything, but rather to identify what must be arranged if consensual relationships exist. It sets the kind of work-arounds that be established, and on record in the EEO or other appropriate office, to avoid conflicts of interest.

Professor Bloomfield reported that he had objected, on behalf of faculty governance, to action by the administration severing the Senate policy into pieces dealing with sexual harassment and with nepotism and consensual relationships; the administration has agreed to return the entire policy to the Senate for action. Professor Frazier noted, however, that the nepotism policy had been combined with this one (since they both deal with relationships, and there was not a clear distinction between "committed" relationships--family, marital, long-term--and "uncommitted" relationships, even if the dynamics of such relationships can be quite different). She emphasized, again, that the point was to avoid conflicts of interest; she inquired if there were sentiment for having this policy separate from that governing sexual harassment. The Committee expressed no opinion on the matter.

Professor Bloomfield said there are two big changes. First, as Professor Frazier noted, it combines nepotism with consensual relationships; that seems sensible. Second, it changes the tone from the previous version; rather than prohibiting things, it provides ways to make them work. He told Professor Frazier that while the SHB may have received strong endorsement of a policy that moved toward prohibition of such relationships, that approach riled a lot of people, and might well have failed on the floor of the Senate.

Committee members then raised a number of points that Professor Frazier said would be considered as the final draft was prepared. They included:

- What about the case where a relationship between two individuals preceded the student-faculty relationship? (For example, a faculty member has a son or daughter enrolled in his or her course?)
- Does the policy apply to University employees vis-a-vis students with whom they work, but for whom they may not have employment or academic responsibilities (e.g., dorm staff)? If the employees could affect the academic status of the student, then they would be covered by the policy (e.g., impose sanctions).
- What about spousal hires, where the faculty member being recruited by the University "influences" the hiring of his/her spouse? The policy is NOT intended to prevent spousal hiring, and should be explicit on that point. The influence is not determinative, it was said.
- What about where spouses/significant others collaborate on grants?
- Are there boundaries on this policy? What about a complaint that order of author listing, on a multi-author publication, was influenced by a relationship, and that one senior author put a spouse second, inappropriately? The policy would cover this example (although the academic misconduct

policy might also apply); at the same time, a department head will not necessarily have the expertise to decide which individuals should be lead authors on a publication, and would not get involved unless a claim were filed. (Professor Morrison said the burden of proof changes. Academic misconduct would come into play if the author order were CLEARLY wrong, not just arguably wrong; the presumption is that the order is right, and there would be a heavy burden, under academic misconduct, on the complainant to show that the order was incorrect; under this policy, the burden would be less.) FCC agreed that language should NOT be written covering this kind of example.

- The notion of influencing someone's academic progress applies to faculty as well as students.
- A question about whether the procedures contained in the draft "must" or "should" be used by administrators provoked a lengthy discussion (the draft says administrators "should" follow them). The central issue was whether or not a responsible administrator/supervisor had to know about a consensual relationship: there were arguments that an individual could NOT BE a responsible administrator/supervisor if he/she did not know about a relationship between two individuals in the unit; there were also arguments that the supervisor might be untrustworthy or that there could be legitimate reasons why the two individuals would not want the administrator/supervisor to know (e.g., two faculty members become involved, but don't want everyone to know it). Some would argue, however, that in the latter case, the department chair MUST know; others maintained that reporting to the EEO office, with an expectation that confidentiality would be maintained, would be an acceptable alternative. Yet another alternative (which no one endorsed) would be giving the EEO office enforcement authority. If a work-around of some kind were necessary, then the administrator/supervisor would HAVE to know about the relationship, it was agreed.

There are two models of administration, Professor Morrison reflected: one, a line model, with the dean and head responsible for what goes on, and two, a staff model, where the staff is responsible for categories of information. President Yudof clearly favors the line model, but there are reasons to use the EEO office for this kind of issue, because the University faces it a lot. There are cases where administrators/supervisors are untrustworthy, or where there is a good reason to withhold the information. He suggested "should" be retained, and proposed alternate language to Professor Frazier.

The policy is predicated on the way the EEO office now operates, Professor Bales observed, so that confidentiality can be preserved. It was the view of SCFA that unless it is important someone NOT be notified of a consensual relationship, and there is compelling reason for confidentiality, EEO would notify the administrator/supervisor. But the policy does not say EEO MUST notify anyone. It is troubling that the EEO office would make the decision, after a confidential discussion; how would it obtain information?

- What process will be used to amend the procedures part of the document (which will not be adopted by the Board of Regents)? At present, the administration probably assumes it can change the procedures at will.

Professor Bloomfield thanked Professor Frazier for joining the meeting, and said the Committee would expect to see a revision in time for it to be placed on the docket of the February Senate meeting.

2. Governance

Professor Bloomfield then noted, for the student members, that the faculty have completed work on a report on consultation mechanisms. He suggested that students may wish to have parallel changes, and that it would be appropriate to bring both faculty and student changes to the February Assembly meeting. Mr. Nicholson said the students were aiming for that as well, following a little more work on what they wish to recommend.

Professor Bloomfield then adjourned the meeting at 11:00.

-- Gary Engstrand

University of Minnesota