

Minutes\*

**Senate Committee on Faculty Affairs**  
**Tuesday, March 5, 2002**  
**3:07 – 5:00**  
**238A Morrill Hall**

Present: Richard Goldstein (chair), Josef Altholz, Carole Bland, Carol Carrier, Daniel Feeney, Roland Guyotte, Darwin Hendel, Nan Kalke, Cleon Melsa, Wade Savage, Tom Walsh, Carol Wells, Timothy Wiedmann

Absent: Kent Bales, William Garrard, Roberta Humphreys, Robert Jones, Harry Savage, George Seltzer

Guests: none

[In these minutes: (1) statement on privacy; (2) report on highly-research-productive departments; (3) reviews of administrators, waiting periods, phased retirement; (4) faculty legal liability; (5) student conduct/student evaluations of teaching]

**1. Privacy Statement**

Professor Goldstein convened the meeting at 3:10 and turned to Professor Walsh to discuss again the question of privacy. Professor Walsh distributed a draft statement which, he cautioned, had not been reviewed by anyone in the administration or the Office of the General Counsel.

Professor Walsh highlighted several of the statements in his draft.

"The Committee feels obligated to warn faculty of a large legal gap in faculty privacy protection that neither the Committee nor the Administration can fix. The gap arises from the State of Minnesota Data Practices Act, which applies to the University as a statewide public system under government oversight.

"In the view of the Committee, the Data Practices Act, at <http://www.revisor.leg.state.mn.us/stats/13/>, in essence removes almost all privacy protections for faculty.

"Outside requests for information go to the General Counsel's Office. In the view of the Committee, this places the General Counsel in the position of fulfilling an external information request--effectively forced by law to act as agent for an interested outside party.

"It is the General Counsel's Office that decides what will be withheld from the outside requester as not pursuant to the request. It is not up to the individual faculty member to decide

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this. You will also not be free to decide how much time you can devote to fulfilling the information request.

"It is clear that this can place both an affected faculty member and the General Counsel's Office in a difficult position. Requested information may be private by any reasonable judgment but still have to be disclosed. If the General Counsel's Office, in reviewing data, finds indications of illegal activity or of improper research conduct, it must follow this up independent of the outside request. An outside requester can use disclosed data to infer that additional data is being withheld or that improper activities are taking place. The General Counsel's Office must follow up. It is clear that this opens the door to both legitimate requests as well as harassment by outside parties. From all appearances to the Committee, this harassment can even be of a personal character and may involve inferences or allegations based on disclosed data that can be used to force further disclosures.

"Harassment of researchers by interested outside parties appears to already have taken place, although on the surface the actions were merely requests for information, allowed under the Act."

Can someone look at your computer files? Professor Walsh said someone requesting information cannot look at everything; they must request files through the Office of the General Counsel.

Professor Goldstein said he wanted to be sure that the statements in the draft are correct, so it should be reviewed by the appropriate offices. He also wondered if, by sending out such a statement widely, the Committee will not give people ideas, and perhaps unduly alarm the faculty. Professor Walsh agreed that it might be sufficient to notify faculty that they might be required to turn over all of their files to the General Counsel.

Professor Goldstein asked if Professor Walsh had any data on the number of requests for information that the General Counsel handles. Professor Walsh said he did not; he wanted first to prepare a draft and then obtain information about cases, descriptions, and an enumeration of the items that ARE private data. Have there been that many cases, Professor Goldstein wondered, and if not, will the Committee concern generate more of them?

Professor Feeney said the issue comes up about every five years, and at one point the General Counsel's office was going to prepare a guide to the Data Practices Act and what it means for the faculty. That would be a way to defuse concerns about faculty over-reacting or giving people ideas. He maintained, however, that the people with ideas about how to abuse the law already have those ideas. But the faculty may be laboring under false impressions about their privacy, so it is important to inform them about the provisions of the law.

Professor Hendel recalled that the Data Practices Act has been under review for several years; he asked Professor Walsh if he had any sense how close to the end that review was. Professor Walsh said he did not. The act appears, however, to contain a series of qualifications that some groups have gotten written into the law. Professor Hendel said his understanding is that the law is a collection of exceptions and the review is an attempt to make the statute more comprehensive and philosophically sound. Professor Walsh said he doubted the revisions would have much effect unless the University itself were granted an exception.

Professor Altholz said that in his work as a grievance officer, those involved in the process came to conclude that the Data Practices Act was totally unhelpful, because both sides of a case could cite different provisions to reach opposite conclusions.

It was agreed that Professor Walsh's draft should be circulated to a number of administrative offices as well as to the Senate Research Committee and the Faculty Consultative Committee for comment. Any final statement should be on the web, Dr. Carrier suggested. Professor Goldstein suggested that he and Professors Altholz and Walsh collect responses and prepare a statement for final action at the next meeting of the Committee. The document would be a statement of the Committee's views on University policy, given the state law. It was also agreed that the statement should go to the Faculty Consultative Committee and eventually to the Senate.

Professor Altholz said he would also like to see, as a separate policy statement, a declaration that the General Counsel would not INITIATE investigations. That would lead to the odd result that the General Counsel would have less power than the average citizen to make requests for information, Professor Wells observed. But it would put the General Counsel in a less adversarial relationship with the faculty, Professor Walsh pointed out; right now the office is pushed into an adversarial relationship by the law. Professor Wiedmann said he did not think such a statement is necessary; the General Counsel will not look for things to do and any faculty member being targeted would already be the subject of suspicion. Professor Feeney said he disagreed; if the University had the wrong administration, such searches could be used as a crowbar on faculty it did not like.

Such a declaration would not eliminate the proviso that the General Counsel would investigate cases of suspected criminal activity, Professor Savage observed. It is clear that if the General Counsel is aware of criminal activity, it MUST act, Professor Walsh said. The question is whether the General Counsel's Office will turn up "out of the blue" and ask for files. It could, Professor Savage said; there was a time at universities when administrations did so. And it can affect both teaching and research, Professor Altholz, because someone can come after a faculty member because of what they are saying the classroom as well as for their research. The most recent example of that, Professor Savage said, is the actions taken against faculty because of statements made after the events of last September 11.

## **2. Faculty Development Working Group**

Professor Goldstein turned next to Professor Bland for an update from the Faculty Development Working Group.

Professor Bland recalled for the Committee that the working group had been charged by Professor Goldstein and Vice Provost Jones to look at faculty productivity and vitality. The working group narrowed its charge to examining ways to facilitate faculty research productivity because there are already units and initiatives that help faculty increase their teaching effectiveness. There is less support for increasing research effectiveness.

One way they decided to approach this question was to look at the practices in highly-research-productive departments. They also surveyed faculty members who left the University about what affected their satisfaction level (and it turned out that the most significant factors were at the department level).

IN terms of research practices, there will be a report describing what the highly-productive departments do in fifteen different areas.

Professor Bland reviewed with the Committee a tentative table of contents for the report as well as a draft of one of the chapters. The report will be designed to provide departments with concrete strategies to increase research productivity, with ideas for implementing "common" strategies, with an overview of research on characteristics associated with research productivity, and a "framework for thinking about and attending to the many variables" that have an impact on research productivity. The final report is not ready because a couple of the chapters have not been written and final permission to use some of the quotes has not been obtained; Professor Bland said she hopes the final report will be ready by June.

The primary audience for the report is department heads. Professor Goldstein said he expected that many faculty will want to read it--if for no other reason than to find out what department heads said about research productivity. Professor Bland agreed that the findings rely heavily on what the department heads told the working group in interviews.

In top departments, is one of the motivations to be productive to help society, Professor Goldstein asked? It is, Professor Bland said. Professor Wells wondered if that was not something people said because they knew they might be quoted by name, and if they might have said something different in other circumstances. Not all department heads cited helping society, Professor Bland said; some also identified aligning with college priorities or doing what funding agencies require. The units that were most clear about the social good motivation were those part of the traditional land-grant mission.

Who was interviewed, Professor Savage asked? The deans were asked to identify three highly-research-productive departments in the college; the heads of those units were then interviewed, Professor Bland explained.

Professor Savage related that he and Professor Altholz had talked about the two cultures at the University (there are probably more), prompted by learning that some departments require faculty to bring in external research funding in order to get tenure and be promoted. In their departments, faculty bring in few dollars (because there are few dollars that can be obtained). There are probably several subcultures at the University, he told Professor Bland, and what works in one may not work in another.

Professor Bland said that they interviewed department heads in a lot of departments where faculty are not expected to bring in external research funding. The report will have major themes, some of which will be applicable in one subculture but not another. But most of the themes will apply to all departments because these departments focused on many of the same areas to facilitate research productivity, such as recruitment and reward systems, she said. Where these departments differed the most was on the emphasis placed on obtaining external research funds and amount of internally-funded time provided to faculty to do research. She agreed that there are differences, but added that departments can also learn from the differences.

Professor Bland reported that there were a few surprises in the findings, beyond what would have been expected, given the literature.

- Highly-research-productive departments emphasize quality teaching (the working group did not ask anything about teaching). The unit heads said they had to have the very best researchers but also people who were very good teachers, and that they would not put money into a researcher who was not also a good teacher.
- Collaboration is very important; departments give it a lot of weight and do a lot to facilitate it. Some go as far as giving more weight to jointly-published materials. Some units make joint or cross-unit appointments at time of initial hire, to emphasize collaboration.
- People place a high value on climate/culture. It is not that faculty have to be all alike, but in departments with a productive culture, people work together.
- They started the interviews with the department heads with a global question about the factors that make a unit research-productive; the factors mentioned most frequently were:
  - recruitment (how done and how well it is done)
  - having clear goals about where the unit will be research leaders
  - a positive culture
  - mentoring
  - collaboration

Were there differences across colleges, Professor Savage asked? Professor Bland said they had not looked at the data that way but they will. In some departments the faculty are lonely, Professor Savage said, and have little collaboration. This work is important, he said, because some departments are too solitary, unsupportive, and not encouraging for people, especially new faculty. It is very important that departments see other models. Professor Bland agreed.

Do the highly-productive departments use an external metric, Professor Walsh asked? They do track their national rankings, Professor Bland said. The highest-ranked departments have mentoring programs--but they all do them differently. Mentoring is more systematic in larger departments, more informal in smaller ones. Some are very vigorous about this--they have lunch together and teach courses together.

How much consciousness is there of the rankings, Professor Altholz asked? Do they set out to do better? Some are quite explicit about doing so, Professor Bland said. Deans can be serious about rankings, Professor Altholz said; he said he did not know if departments are. The department leadership certainly can be, Professor Goldstein said. Departments that recruit "from below" (that is, young scholars) will be at a disadvantage in national rankings, Professor Altholz observed.

In terms of recruitment, Professor Bland said, highly-productive departments that want to be world leaders look for driven, obsessive, passionate researchers. An example of this from another study is a recent survey of faculty in the University's Medical School. On a scale of 1-5 (with 5 being most driven), the average for departments is 4. If departments are divided between the highly-productive and the moderately-productive, the highly-productive departments have many more faculty who rank as a 5. They are driven.

Did they learn anything about how these units embrace new people, such as women or faculty of color, Dr. Carrier asked? The interview asked about diversity by evaluating diversity in research, Professor Bland said, rather than diversity in terms of ethnicity or gender. However, several departments discussed their strategies to promote the research productivity of diverse faculty (e.g., gender and ethnicity). This information has not yet been summarized so she could not provide an answer.

This information about highly-productive departments could be very useful to Ph.D. students who are CHOOSING departments, Professor Hendel observed. This could make them quite savvy, Professor Bland agreed.

Professor Goldstein noted, apropos the results of surveys of faculty who left the University, that it was interesting to see that a major factor they were unhappy about was the lack of a tuition reimbursement policy.

Dr. Carrier asked that the working group conduct this survey, Professor Bland said, in the case of faculty who left for another academic institution (but not for those who, for example, left the University for the private sector). Some wanted this information, Dr. Carrier said, while others saw it as airing dirty laundry. If she were running a unit, she commented, she would want to know what those who left thought. Professor Feeney asked what was wrong with collecting the information; the University has its head in the sand if it does NOT collect it. Others on the Committee agreed; the question, Professor Goldstein said, is how to use the information.

Would it help to have Senate support for the effort, Professor Bland asked Dr. Carrier? She said it would. The question is what the Committee or the administration wants to do on climate or satisfaction or productivity issues, she said. Professor Bland said she would have something written for the next meeting.

Professor Goldstein thanked Professor Bland for her report.

### **3. Other Committee Business**

Professor Goldstein noted a letter to the deans that would be going out in his name asks for information about reviews of department heads and college administrators. The Faculty Consultative Committee asked the Committee to look into this issue, to be sure reviews are done fairly and regularly.

The question about eliminating the 30-day waiting period for health care is waiting, Dr. Carrier said in response to a question from Professor Goldstein. Professor Goldstein said he could not understand why. He said he would not mind if the administration said "no, it can't make the change," but the Committee should have reasons. There are three items pending:

- the waiting period for health care
- the two-year waiting period for the faculty retirement plan for new faculty
- tuition remission for dependents of University staff (this may carry a cost, but it should not be ignored).

How long can a phased retirement agreement last? The maximum is five years; what is the minimum, Professor Goldstein asked? One year, Dr. Carrier said, although it is not explicitly in the

policy. That is the practice they follow, and will continue to do so; they do not want people to have a two-hour phased retirement in order that the individual can obtain the health care benefits.

#### **4. Faculty Legal Liability**

Professor Goldstein distributed copies of a message from Professor Feeney, who had raised questions about faculty legal liability (as, for example, when a faculty member uses his or her own car to pick up job candidates at the airport: the University's position, reportedly, is that any liability from an accident rests with the faculty member, not the University). As a result of this University position, Professor Feeney said, in a recent dean search the college arranged for University vehicles to be used for transporting candidates. His concern, he said, is that people are putting themselves in harm's way by using their own cars. People trying to be collegial are putting themselves in jeopardy.

The Committee also discussed whether individuals who rent cars while traveling on University business should take out extra insurance. The University will not cover someone driving a rented car on University business--the University is not renting the car, the individual is.

If a person takes candidates or visitors to seminars or dinner, it is their problem if there is an accident. Most people do not have enough insurance coverage for a catastrophic accident, Professor Feeney said; where would that leave a faculty member in case of an accident? This kind of activity on behalf of the University should be covered, Professor Goldstein said, and if they use their own vehicles for University business, the University should cover them.

Dr. Carrier said she would speak with people in Purchasing and the General Counsel's office and see if they could not attend the next meeting of the Committee.

Professor Savage said he thought the University would reasonably be very reluctant to cover someone driving their own vehicle. Professor Feeney said the University would have to decide something; either it should fund an umbrella policy for people doing the University's work or there should be cars provided. What would the difference in cost be? In any event, Dr. Carrier agreed, people should know about the risk if they use their own vehicle.

#### **5. Student Conduct**

Professor Goldstein distributed copies of the Student Conduct Code and recalled the earlier discussion about harassment of female faculty members, either in the classroom or through student evaluations. He said he has heard too many stories not to be concerned. Does the EEO office hear these kinds of concerns, he asked? It does, Dr. Carrier said.

The language of the code did not seem to speak much, or very strongly, to the issue of harassment of faculty. The code does note that the University's sexual harassment policy covers students as well, but that policy language is not in the code. Professor Walsh said he found this very confusing; it appears from the language that copying a University key elicits a penalty under the code provisions while harassing faculty does not.

It was agreed that the Committee would look at the sexual harassment policy. One Committee member noted that sometimes people receive pornographic emails that have a @umn.edu address. If one

asks about the source, one is told that nothing can be done about it and that such emails cannot be blocked.

The Committee agreed to revisit this issue.

Professor Goldstein adjourned the meeting at 5:00.

-- Gary Engstrand

University of Minnesota