

2008-09 UNIVERSITY OF MINNESOTA

APRIL 2, 2009

**FACULTY SENATE MINUTES: No. 5
STUDENT SENATE MINUTES: No. 4**

The fifth meeting of the Faculty Senate was convened in 25 Mondale Hall, Minneapolis campus, on Thursday, April 2, 2009, at 2:35 p.m. Coordinate campuses were linked by phone. Checking or signing the roll as present were 118 faculty/faculty-like academic professional members. President Bruininks presided.

**1. ADMINISTRATIVE RESPONSES TO SENATE ACTIONS
Information**

Faculty Senate

Border Searches of Electronic Materials

Approved by the: Faculty Senate February 5, 2009

Approved by the: Administration March 26, 2009*

Approved by the: Board of Regents – no action required

*University Relations has sent the statement to the Minnesota Congressional Delegation.

**2. CLERK OF THE SENATE REPORT
Faculty Consultative Committee Election Results
Information for the Faculty Senate**

FOR INFORMATION:

In the recent election to fill Twin Cities vacancies on the Faculty Consultative Committee, Professors Christopher Cramer, Jan McCulloch, and Kathryn VandenBosch were elected to three-year terms (July 1, 2009 through June 30, 2012).

**STUART GOLDSTEIN, CLERK
UNIVERSITY SENATE**

**3. FACULTY CONSULTATIVE COMMITTEE
Statement on the Graduate School
Information for the Faculty Senate**

FOR INFORMATION:

The Faculty Consultative Committee intends to bring to the April 30 Faculty Senate meeting for discussion the report from the committee chaired by Dean Crouch and appointed to take up issues associated with the Graduate School and restructuring graduate education (if there is a report ready at that time).

**EMILY HOOVER, CHAIR
FACULTY CONSULTATIVE COMMITTEE**

4. RESEARCH COMMITTEE
Statement on the Graduate School
Information for the Faculty Senate

Statement on The Graduate School

On 23 March 2009 the Senate Research Committee (SRC) meeting discussed the impact of the proposed closure of the Graduate School on the research mission of the University of Minnesota.

First and foremost, the SRC hopes the administration will reconsider its efforts to close the Graduate School.

At the very least, the SRC believes that closure of the Graduate School, and delegation of its responsibilities to other University units, would be unwise until critical issues, as described below, are resolved by faculty, through their governance system, working with the administration.

Objectivity, independence, and an emphasis on quality are required to best guide decisions related to research, program development and assessment, graduate student selection, and the awarding of graduate fellowships. These criteria have been hallmarks of the Graduate School over the decades. The SRC is concerned that any loss of these characteristics will negatively impact research quality at the University, particularly in the following key areas currently organized by the Graduate School. Regardless of which administrative units these functions are transferred to in the event of a reorganization of the Graduate School, it is imperative that these operational principles are preserved.

A. Faculty Grants

The Graduate School is able to support faculty research based on merit and productivity alone and without interference from general planning, current initiatives, or other direction from the University's administrative direction or the prevailing state political winds. The Graduate School's impartiality, independence, and commitment to excellence are critical to the health of the University's research mission and continued academic freedom.

If there were no Graduate School the question would be how one supports faculty research based solely on merit. One can imagine that the movement of this function to a unit without the same perspective could result in a process compromised by programmatic planning or strategic initiatives specific to that unit and excluding from the decision-making process its campus-wide impact. It is easy to say this would not happen, but an environment where funding is always limited creates a situation where compromise is likely to happen. In other words, how could a firewall be implemented which would guarantee that intramural faculty grants would be awarded based on merit alone?

B. Interdisciplinary Initiatives

Fostering of interdisciplinary research has become a common goal at many universities around the country including Minnesota. Certainly the funding of interdisciplinary initiatives cannot be completely independent of programmatic planning but there must be some part which seeks out those which are innovative or hold ground breaking potential for support truly independent of strategic initiatives, programmatic planning, or other considerations. Given this need, essentially the same question regarding faculty grants is again applicable: How could a firewall be implemented which would guarantee the amount of funding and that the awards were based on merit.

C. Policy and Reviews

Assessment of quality is a major responsibility of University faculty and includes student grades, faculty hires, and tenure decisions. On a broader scale, quality assessment must occur for centers and graduate programs, but is only meaningful if conducted in an independent and unbiased fashion. During review processes, the critical elements are the selection of the review committee members and their charge; the Graduate School is an independent and impartial organizer of such committees. This process requires a significant effort by the organizer. The review process of centers must continue with the quality of the review and the integrity of the process as performed by the Graduate School.

D. Graduate Fellowships

The Graduate School awards fellowships based on the quality of the candidate, without concerns about programmatic planning or equal distribution among units. In the Graduate School's absence, the amount of funding in this critical area must be maintained and a firewall implemented to guarantee the disbursement of funds based solely on quality.

E. Postdoctoral Affairs

The postdoctoral scholars play a key role in the research quality of the University and the University of Minnesota has been one of the very best institutions in the United States in terms of working environment for postdocs. A major reason for this high rating is that the University has, in the Graduate School, one of the few offices of postdoctoral affairs that addresses on a regular basis equitable working conditions, pay, and the social aspects of the postdoctoral experience. Studies at other institutions have shown that without campus-wide efforts, local concerns often result in tolerance of inadequate pay, benefits, and poor mentoring. In early 2009 the National Science Foundation began to require that effective postdoctoral mentoring be addressed in all proposals where they will conduct aspects of the project. It is critical to University faculty that they continue to benefit from the organized mentoring activities of a campus-wide office that can coordinate activities difficult or impossible to do as a 'one-off' activity by individual PIs or by smaller academic units.

The SRC discussion also revealed faculty confusion about the stated reasons for closing the graduate school and the process outlined to reorganize this academic unit. Cost saving was the main reason given. The SRC members believe, however, that the cost savings may largely come from unfunded mandates for colleges and departments to perform many of the functions currently performed by the Graduate School. Given how stretched units are, it is clear that this is not a viable solution. While at the same time sacrificing all that the Graduate School brings to the University, pushing those costs and services to the colleges and departments will also further depress their capacity to enhance the research standing of the University. Other less drastic alternatives for cost savings that do not require closing the Graduate School should have been put before the faculty before this option was mandated and should still be carefully considered.

If there are additional reasons, beyond cost savings, for closing the Graduate School, then these reasons should be made clear. If any of these additional reasons relate to research, the SRC would be pleased to assist the administration in considering academically-viable solutions that maintain, without adverse consequences, our research activities.

Adopted unanimously (by those voting, 17 out of 20 possible votes) March 25, 2009

**DAN DAHLBERG, CHAIR
RESEARCH COMMITTEE**

5. TRIBUTE TO DECEASED MEMBERS OF THE UNIVERSITY COMMUNITY

FACULTY/ACADEMIC PROFESSIONALS/STAFF

Catherine A. Bennett
Professor
Education – University of Minnesota Duluth
1924 – 2009

Ivan D. Frantz
Professor
Medicine
1916 – 2009

Anna Masellis
Assistant Professor
Medicine
1964 – 2008

6. INTRODUCTIONS

Dean Trevor Ames, College of Veterinary Medicine

Professor Hoover introduced Trevor Ames, Dean of the College of Veterinary Medicine.

7. FACULTY CONSULTATIVE COMMITTEE REPORT

Professor Emily Hoover, Chair of the Faculty Consultative Committee (FCC), said that FCC has continued its discussion on the topic of graduate education with individuals and groups across the University. She thanked Dean Crouch's task force for its forums to collect feedback. The task force report will be brought to the April 30 Faculty Senate meeting for discussion. She asked senators to talk with their colleagues to get rich feedback on the report.

FCC also continues to consult with the President and Provost to convey the sentiment of the University community on graduate education and other topics of importance to faculty. Some of the conversations have been confidential, but many have been in the FCC minutes. She encouraged senators to read these minutes.

This continued consultation has resulted in a broader charge to the task force chaired by Dean Crouch. Additionally, she drew senators' attention to the statement from the Research Committee that appeared earlier on the agenda. If senators have specific comments, they can be directed to Professor Dahlberg or Professor Hoover.

At its March 26 meeting, the FCC had the pleasure of hosting Dr. Patricia Simmons, Chair of the Board of Regents, who joined the committee to discuss the Regents' work plan. Chair Simmons stated that the Regents take their role seriously as they are accountable to the people of Minnesota for ensuring that the University succeeds and fulfills its mission, and does so responsibly. This is accomplished through policy creation, exercising fiduciary responsibility, and providing advice and counsel.

The Regents' work plan focuses on four critical areas for the next two years: thinking long-term, oversight and accountability, Board excellence, and strategic relationships and communications. She asked senators to read the complete plan on the Regents website.

In closing, she looked forward to continuing dialogue on issues relating to teaching, research, and outreach for the University. As always, FCC appreciates receiving concerns and comments.

8. FACULTY LEGISLATIVE LIAISON UPDATE

Professor Martin Sampson, a Faculty Legislative Liaison, said that this year the two items for the University are the capital investment budget and the biennial budget. The Senate recommended \$35 million for HEAPR and \$24 million for the Bell Museum. The House will vote early next week and is recommending \$20 million in HEAPR funds and no funding for the Bell Museum. This troubles the University for two reasons – one, the Bell Museum needs new facilities, and two, the College of Design cannot consolidate onto one campus until the current Bell Museum building is vacated. The hope is that the conference committee recommends more generous funding for HEAPR and includes funding for the Bell Museum.

In regard to the biennial budget, the news is partial. The Governor has issued a budget that involves a substantial cut to the University, assuaged somewhat by stimulus funding which will then disappear by the following biennium. This leaves a larger cut in another two years. The House Higher Education Committee will be releasing its decision soon, with the Senate Committee's decision due next week. At that time, information will be distributed to faculty.

9. ELECTION OF FACULTY SENATE OFFICERS Action by the Faculty Senate

The chair of the Faculty Senate and the Faculty Consultative Committee recommend the following officers for 2009-10:

Clerk – Professor Stuart Goldstein
Parliamentarian – Professor Kristin Hickman
Faculty Senate Vice Chair – Professor Carol Chomsky

**EMILY HOOVER, CHAIR
FACULTY CONSULTATIVE COMMITTEE**

DISCUSSION:

With no discussion, a vote was taken and the motion was approved.

APPROVED

10. EDUCATIONAL POLICY COMMITTEE 2013-14 Crookston and Duluth Calendars Information for the Faculty Senate

Crookston 2013-14

Fall Semester 2013 (75 class days)

August 27

Tuesday

Classes begin

September 2	Monday	Labor Day holiday
October 11	Friday	In-service (no classes)
November 28-29	Thurs.-Fri.	Thanksgiving holiday
December 13	Friday	Last day of instruction
December 16-19	Mon.-Thurs.	Final examinations
December 19	Thursday	End of the term

Spring Semester 2014 (74 class days)

January 13	Monday	Classes begin
January 20	Monday	MLK holiday
March 17-21	Mon.-Fri.	Spring Break
April 18	Friday	Floating holiday (no classes)
May 5	Monday	Last day of instruction
May 6-9	Tues.-Fri.	Final examinations
May 9	Friday	End of the term
May 10	Saturday	Commencement

May Session 2014 (14 class days)

May 12	Monday	May session begins
May 26	Monday	Memorial Day holiday
May 30	Friday	May session ends

Summer Session 2014 (39 class days)

June 9	Monday	Classes begin
July 4	Friday	Independence Day holiday
August 1	Friday	8-wk summer session ends

Duluth 2013-14

Fall Semester 2013 (72 class days)

September 2	Monday	Labor Day holiday
September 3	Tuesday	Classes begin
November 28-29	Thurs.-Fri.	Thanksgiving holiday
December 13	Friday	Last day of instruction
December 16-20	Mon.-Fri.	Final examinations
December 20	Friday	End of the term

Spring Semester 2014 (74 class days)

January 20	Monday	MLK holiday
January 21	Tuesday	Classes begin
March 17-21	Mon.-Fri.	Spring Break
May 9	Friday	Last day of instruction
May 12-16	Mon.-Fri.	Final examinations
May 15	Thursday	Grad Commencement
May 16	Friday	End of the term
May 17	Saturday	Undergrad Commencement

May Session 2014 (13 class days)

May 19	Monday	May session begins
May 26	Monday	Memorial Day holiday
June 6	Friday	Final examinations; End of May session

Summer Session 2014 (38 class days)

June 9	Monday	Classes begin
July 4	Friday	Independence Day holiday
August 1	Friday	Final examinations; End of Summer Session

**CATHRINE WAMBACH, CHAIR
EDUCATIONAL POLICY COMMITTEE**

**11. EDUCATIONAL POLICY COMMITTEE
2013-14 Morris and Twin Cities Calendars
Action by the Faculty Senate**

MOTION:

To approve the 2013-14 Morris and Twin Cities calendars.

Morris 2013-14

Fall Semester 2013 (73 class days)

August 28	Wednesday	Classes begin
September 2	Monday	Labor Day holiday
October 21-22	Mon.-Tues.	Fall Break (no classes)
November 28-29	Thurs.-Fri.	Thanksgiving holiday
December 13	Friday	Last day of instruction
December 14	Saturday	Study day
December 16-19	Mon.-Thurs.	Final examinations

Spring Semester 2014 (74 class days)

January 20	Monday	MLK holiday
January 21	Tuesday	Classes begin
March 17-21	Mon.-Fri.	Spring Break
May 9	Friday	Last day of instruction
May 10	Saturday	Study day
May 12-15	Mon.-Thurs.	Final examinations
May 17	Saturday	Commencement

May Session 2014 (14 class days)

May 19	Monday	May session begins
May 26	Monday	Memorial Day holiday
June 6	Friday	May session ends

Summer Session 2014

May 27-June 30	Summer session I (24 class days)	
May 26	Monday	Memorial Day holiday
June 30-August 1	Summer session II (24 class days)	
July 4	Friday	Independence Day holiday

Twin Cities 2013-14

Fall Semester 2013 (70 class days)

September 2	Monday	Labor Day holiday
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September 3	Tuesday	Classes begin
November 28-29	Thurs.-Fri.	Thanksgiving holiday
December 11	Wednesday	Last day of instruction
December 12	Thursday	Study day
December 13-14, 16-19	Fri.-Sat., Mon.-Thurs.	Final examinations
December 15	Sunday	Study day
December 19	Thursday	End of the term

Spring Semester 2014 (74 class days)

January 20	Monday	MLK holiday
January 21	Tuesday	Classes begin
March 17-21	Mon.-Fri.	Spring Break
May 9	Friday	Last day of instruction
May 10-11	Sat.-Sun.	Study days
May 12-17	Mon.-Sat.	Final examinations
May 17	Saturday	End of the term

May Session 2014 (14 class days)

May 27	Tuesday	May session begins
June 13	Friday	May session ends

Summer Session 2014 (39 class days)

June 16	Monday	Classes begin
July 4	Friday	Independence Day holiday
August 8	Friday	8-wk summer session ends

**CATHRINE WAMBACH, CHAIR
EDUCATIONAL POLICY COMMITTEE**

DISCUSSION:

Q: Does the committee discuss the non-uniformity between the fall and spring instruction days?

A: The Educational Policy Committee (SCEP) has not discussed this topic lately, but tries to have as many instruction days as possible fall semester, while still providing two study days for students.

A senator asked that a separate vote be taken on both the Morris and Twin Cities calendar since Morris faculty would prefer to start the semesters on Monday.

Professor Wambach agreed to defer the vote on the Morris calendar for more discussion by the campus.

With no further discussion, a vote was taken and the Twin Cities calendar was approved.

APPROVED

**12. EDUCATIONAL POLICY COMMITTEE
Revised Educational Policies
Action by the Faculty Senate**

MOTION:

That the Faculty Senate adopts the proposed educational policies and repeals all previous policies that deal with these matters.

An electronic copy of these educational policies will be emailed to senators in advance and paper copies will be available at the meeting. [They are also available on the web at: http://www1.umn.edu/usenate/usen/090402scep_policy_list.pdf and http://www1.umn.edu/usenate/usen/090402scep_policies.pdf]

**CATHERINE WAMBACH, CHAIR
EDUCATIONAL POLICY COMMITTEE**

DISCUSSION:

Professor Wambach, Chair of the Educational Policy Committee (SCEP), said that these policies were reviewed at the last two meetings and additional amendments were made. The policies are now ready to be approved, however SCEP knows that additional modifications and possible new policies will be needed in the future.

A senator thanked Professor Wambach and her committee for the hard work on these policies.

Senators gave a round of applause.

With no further discussion, a vote was taken and the motion was approved.

APPROVED

**13. ACADEMIC FREEDOM AND TENURE COMMITTEE
Amendment to Board of Regents Academic Freedom and Responsibility Policy
Action by the Faculty Senate**

MOTION:

To amend the Board of Regents Policy: Academic Freedom and Responsibility as follows (language to be deleted is ~~struck out~~; language to be added is underlined):

ACADEMIC FREEDOM AND RESPONSIBILITY

SECTION I. GUIDING PRINCIPLES

The Board of Regents (Board) of the University of Minnesota (University) reaffirms the principles of academic freedom and responsibility. These are rooted in the belief that the mind is ennobled by the pursuit of understanding and the search for truth, and the state well served when instruction is available to all at an institution dedicated to the advancement of learning. These principles are also refreshed by the recollection that there is *commune vinculum omnibus artibus*, a common bond through all the arts.

SECTION II. ACADEMIC FREEDOM

Academic freedom is the freedom to discuss all relevant matters in the classroom, to explore all avenues of scholarship, research, and creative expression, and to speak or write without institutional discipline or restraint on matters of public concern as well as on matters related to

professional duties and the functioning of the University. ~~as a public citizen without institutional discipline or restraint.~~

SECTION III. ACADEMIC RESPONSIBILITY

Academic responsibility implies the faithful performance of ~~academic~~ professional duties and obligations, the recognition of the demands of the scholarly enterprise, and the candor to make it clear that when one is speaking on matters of public interest, one ~~the individual~~ is not speaking for the institution ~~in matters of public interest.~~

COMMENT:

1. Introduction

The amendment the Committee has proposed to Section II is designed to protect faculty and staff members who participate in the governance system and who may express views critical of institutional proposals or actions. Nothing in the amendment or the policy exempts or excuses those covered by it from faithful performance of their professional duties and obligations, as reflected in Section III.

The Committee recognizes that freedom to speak about the affairs of the University without institutional discipline or restraint does not extend to those who hold senior administrative positions. The Committee understands that the Board of Regents and the President have the right to expect that senior officers and others in key administrative positions (for example, at the level of dean or above) and their immediate staff will support the University's mission and the policies, procedures, goals, and programs established and announced by the Board of Regents and the President, and will not publicly undermine them. This includes, for example, statements before the legislature, to the media, etc.

2. Background

The Senate Committee on Academic Freedom and Tenure has taken note of what it considers to be an ominous development in case law in the United States and recommends an amendment to the Regents policy, Academic Freedom and Responsibility. The Committee wishes to make it clear that the amendment it has proposed is intended to preserve the status quo, in response to a trend in federal court cases that may restrict the subjects of discourse in the University. The amendment does not abridge any authority or freedom of action that is already the prerogative of the Board of Regents or of members of the University administration.

In the case of *Garcetti et al. v. Ceballos* (2006), the U. S. Supreme Court ruled that an employee (in this case, a district attorney) who wrote a memo about his employer is not protected by the First Amendment. The Court wrote that "the First Amendment does not prohibit managerial discipline based on an employee's expressions made pursuant to official responsibilities. . . . [T]he controlling factor is that Ceballos' expressions were made pursuant to his official duties. That consideration distinguishes this case from those in which the First Amendment provides protection against discipline. Ceballos wrote his disposition memo because that is part of what he was employed to do. He did not act as a citizen by writing it. The fact that his duties sometimes required him to speak or write does not mean that his supervisors were prohibited from evaluating his performance. Restricting speech that owes its existence to a public employee's professional responsibilities does not infringe any liberties the employee might have enjoyed as a private citizen." The Court went on to note that "[t]here is some argument that expression related to academic scholarship or classroom instruction implicates additional constitutional interests that are not fully accounted for by this Court's customary employee-speech jurisprudence. We need not, and for that reason do not, decide whether the analysis we

conduct today would apply in the same manner to a case involving speech related to scholarship or teaching."

Justice Souter dissented in the *Garcetti* case and wrote that "I have to hope that today's majority does not mean to imperil First Amendment protection of academic freedom in public colleges and universities, whose teachers necessarily speak and write "pursuant to official duties." See *Grutter v. Bollinger*, 539 U. S. 306, 329 (2003) ("We have long recognized that, given the important purpose of public education and the expansive freedoms of speech and thought associated with the university environment, universities occupy a special niche in our constitutional tradition"); *Keyishian v. Board of Regents of Univ. of State of N. Y.*, 385 U. S. 589, 603 (1967) ("Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. 'The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools'" (quoting *Shelton v. Tucker*, 364 U. S. 479, 487 (1960))); *Sweezy v. New Hampshire*, 354 U. S. 234, 250 (1957) (a governmental enquiry into the contents of a scholar's lectures at a state university "unquestionably was an invasion of [his] liberties in the areas of academic freedom and political expression—areas in which government should be extremely reticent to tread").

Public-employee First-Amendment law, up until the *Garcetti* case, was governed by the Court's decision in *Pickering v. Board of Education* (1968), which held that a school board could not dismiss a teacher who wrote a letter to a newspaper complaining about the board's decisions on several matters, including the allocation of funds. The Court held that the teacher was speaking on a matter of public concern, so her speech was protected by the First Amendment.

Although the Supreme Court did not decide how the *Garcetti* ruling applies to colleges and universities, one federal district court in California and one federal appeals court have applied the *Garcetti* rule in academic settings. In *Hong v. Grant* (2007), a faculty member at the University of California-Irvine criticized several hiring and promotion decisions within his department and voiced concern about the department's reliance on part-time lecturers to teach lower-division classes. He was subsequently denied a merit salary increase, placed on a remediation plan, and assigned extra teaching duties. He sued, claiming the actions were taken in retaliation for his criticisms. The District Court cited the *Garcetti* case in dismissing the faculty member's lawsuit. (The *Hong* case is on appeal.)

In *Renken v. Gregory* (2008), a professor at the University of Wisconsin-Milwaukee complained about the way the University was using, and proposing to use, University matching funds in a project to enhance the education of engineering undergraduates by adding laboratory components to classes, and he refused to sign a letter detailing use of matching funds that he said would be improper under NSF regulations. The University decided to return the grant to NSF. Renken sued, claiming that the University had reduced his pay and terminated the NSF grant in retaliation for his criticisms. The District Court granted the University's motion for summary judgment, concluding that Renken's complaints about the grant funding were made as part of his official duties, rather than as a citizen, and therefore were not protected by the First Amendment. The Court of Appeals affirmed the ruling, concurring that administration of an educational grant fell within the scope of Renken's duties of "teaching, researching, and public service" and his speech was therefore not protected by the First Amendment. Neither *Hong* nor *Renken* considered the merits of the faculty member's claim, since they found there were no substantive rights to be protected.

The Academic Freedom and Tenure Committee is concerned about the implications of these cases. While the caveat in the *Garcetti* opinion ("We need not, and for that reason do not, decide whether the analysis we conduct today would apply in the same manner to a case involving

speech related to scholarship or teaching") might be reassuring, we are concerned that it refers only to scholarship and teaching. What of a faculty or staff member who speaks up at a meeting of a Senate committee, at a department meeting, or at a meeting of the Faculty or University Senate, to object to actions by a department, a college, or the University? If such speech is "made pursuant to official responsibilities," as the *Garcetti* case provides, then it is NOT protected by the courts as coming under the First Amendment; whether it would be protected in the courts by the traditions of academic freedom to which Justice Souter referred is an open question. Moreover, the *Renken* case applied the *Garcetti* analysis to a matter that *was* related to scholarship and teaching.

As Professor Neil Hamilton from St. Thomas University pointed out in a visit with the Committee, the *Garcetti* case, if it were applied to higher education, would present a paradox for faculty. On the one hand, the faculty and staff believe in and are committed to the consultative processes of the governance system in the University (as are the senior officers and the members of the Board of Regents, as they have assured the faculty repeatedly in the past decade). On the other hand, if consultation is part of their "official duties" as understood by the courts, then speech uttered in the course of consultation could put someone at risk of discipline if an administrator took issue with it.

The importance of the issue has been recognized by the AAUP, which has filed a friend-of-the-court brief in the appeal of *Hong v. Grant* and has established a panel of prominent First Amendment scholars to seek new ways to defend academic freedom at public colleges. The concerns of the AAUP, of constitutional scholars, and of faculty leaders were discussed in a recent article by Peter Schmidt in *The Chronicle of Higher Education (Professors' Freedoms Under Assault in the Courts, February 27, 2009)*.

The Committee is thus recommending to the Faculty Senate, the Council of Academic Professionals and Administrators, and the Board of Regents that the University preclude the possibility that internal discussions and debates about institutional policy and decisions could subject an employee to discipline. If everyone who participates in a committee or Senate discussion must worry about facing sanctions as a result of what he or she said, the consultative governance system that has served the University well could wither away. The proposed amendment would put the institution on record as protecting speech made about the functioning of the University. As noted by Provost Sullivan in the *Chronicle* article cited above, a "very important part of our universities—particularly our public universities—should be transparency,' which is lacking where employees do not feel free to speak their minds."

The Faculty Consultative Committee voted unanimously to endorse the recommendation from the Academic Freedom and Tenure Committee.

TOM CLAYTON, CHAIR
ACADEMIC FREEDOM AND TENURE COMMITTEE

DISCUSSION:

Professor Clayton, Chair of the Academic Freedom and Tenure Committee (AF&T), said that this is an important policy change, and does not come a minute too soon. The comment provides up-to-date details on this topic. The policy, as it currently stands, would leave University faculty wide-open to recent court rulings. However, the institutions of higher education are the one bastion of rationality that can be counted on, and without the protection of academic freedom, this role will not remain.

A senator said that he appreciates these additional words and the full partnership with the Board of Regents in an active role with the AF&T. He appreciates that there is currently an enlightened Board of Regents, which bodes well for the University.

A senator approved of the language, but asked that when it moves towards implementation, more specificity be provided to guide faculty when writing a letter on a public concern, using his University profession as a way to buttress his legitimacy in the letter.

In response, Professor Carol Chomsky stated letter submissions will ask for a person's profession and affiliation for identification purposes. The University has a separate policy on speaking on matters of public concerns, however, it is always wise to add a footnote that the profession and affiliation is for identification purposes only.

A senator said that it was fascinating when Mark Rotenberg, the General Counsel, spoke to the Faculty Consultative Committee (FCC), since he provided a tutorial on academic freedom, noting that it is more expansive than previously understood.

With no further discussion, a vote was taken and the motion was approved.

APPROVED

14. RESOLUTIONS REGARDING THE GRADUATE SCHOOL Discussion by the Faculty Senate

MOTION 1:

To approve the following resolution:

WHEREAS: The University of Minnesota's Policy on Reorganization requires that the Senate "be involved in any organizational or structural decision affecting an academic unit" (Preamble); further, that "the campus assembly (or analogous body) of an affected campus or collegiate unit shall review and make recommendations on ... [the] elimination of existing collegiate units" (I); further, that "When the president contemplates (a) the establishment or elimination of senior administrative position(s) of high rank, or (b) a major reorganization of the central administration, he or she shall present a proposal to the Senate Consultative Committee ... for information and discussion," and likewise when the provost contemplates such reorganization for a campus (III.2);

WHEREAS: The proposal announced by the Provost to abolish the Graduate School was taken without any consultation or involvement of the University Senate, or any part or committee thereof, in violation of University policy;

BE IT RESOLVED: That the Faculty Senate of the University of Minnesota rejects the proposal to dissolve the Graduate School as illegitimate and demands that any proposal to dissolve or otherwise to restructure the Graduate School be subject to the University of Minnesota Policy on Reorganization.

MOTION 2:

To approve the following resolution:

WHEREAS: The restructuring of graduate education as announced in this proposal is fundamentally flawed, notably in the following respects: it models graduate education on undergraduate education, although the two differ significantly in substance and in purpose; it divides MA and PhD training under distinct administrative regimes, although in many disciplines the two are inherently linked; it removes control from those most empowered to ensure that attention to diversity remains integral to the graduate admissions and fellowship process, subsuming diversity issues in a central Office for Equity and Diversity; it devolves substantial administrative burdens onto colleges and departments, resulting in significant multiplication of effort; and it removes control from colleges to the provost's office, while assigning accountability to colleges, thus disconnecting the funding and control of graduate education from the education itself; therefore, restructuring in the manner proposed risks serious adverse consequences affecting the quality as well as the management of graduate programs at the University;

BE IT RESOLVED: That the Faculty Senate of the University of Minnesota rejects the proposal to dissolve the Graduate School as ill-considered, and requests that, should the President wish to pursue the matter, he submit his proposal for review by the Faculty Senate, the Student Senate, and their appropriate committees, in accord with University policy.

ANNA CLARK, SENATOR

HARVEY SARLES, SENATOR

DISCUSSION:

Professor Carol Chomsky, Faculty Senate Vice Chair, asked Professor Anna Clark to introduce these motions, which are being presented for discussion.

Professor Clark said that these motions were developed by several faculty. The first motion deals with procedural violations; the second motion deals with the substantial reorganization of the Graduate School and buttresses the statement from the Research Committee on ensuring quality. Graduate education is different from undergraduate education, so a parallel structure should not be required. The proposed change also removes the attention to diversity that the Graduate School is able to focus on through an office within the college. She noted that these motions do not state that there should not be a reorganization, but that the University should look at similar institutions for ideas and that policies should be followed. In the end, any changes need to uphold the quality and research mission of the University.

A senator noted that these motions seem reasonable and asked for an argument against them.

Another senator said that he raised a concern that the initial process was not the way expected by most faculty from the administration, and this concern has been heard. In difficult financial times, the University needs to look at all programs and units, especially, at the senior administrative level, to evaluate costs and where expenses can be cut. He has great confidence in the members of the task force that are independently evaluating the Graduate School and making determinations on how to move forward. He is reserving judgment until their report is issued.

A senator then said that the group referred to by the previous senator is the implementation task force. The task force's role is changing, as he knows from being a member of the Graduate School Executive Committee, and its charge is still emerging. It has the potential to be as described by the last senator, but its charge right now is to implement the dissolution of the Graduate School. He would prefer that this task force be allowed to make recommendations on

whether or not the February 9 memo details the future structure, or have discretion to make categorically different recommendations.

Professor Emily Hoover, Chair of the Faculty Consultative Committee (FCC), stated that the task force is being provided a new name and its charge is a moving target. She supports the work of the task force and feels that faculty can have influence in the next step in the process, which is input on the task force report.

A senator spoke in favor of both motions, noting a conversation with Dean Crouch and task force members yesterday. Dean Crouch was asked about a possible recommendation from the task force, which would be to hire an interim dean to make changes, but leaving the Graduate School intact. If this was the recommendation, would the Provost accept the report. His response was that he would not answer a hypothetical question.

Another senator stated that, as a member of the task force, he agrees that the charge of the task force continues to change. He said that the task force has a diverse makeup, and while he cannot speak for them, he believes that the chair is doing a good job of gathering information. Independent of the way that the decision was publicized, this is opportune time to look at graduate education at the University and to determine what can be done better. This is the view he is taking as a member of the task force. He is hoping that the University community generally agrees with the report and can generate a broader discussion. He hopes that the President and Provost will listen closely when the report is discussed.

A senator then said that these motions underscore the discomfort that is at the heart of this situation in that many people feel that the principles of self-governance have been violated since there was not thorough consultation. He stated that the University's Policy on Reorganization is very clear and should not be suspended, except by a vote of the faculty. The reason for a sense of ambiguity is that many people feel that a reorganization of the Graduate School might yield benefits for the campus as a whole, but not without thorough and proper consultation. The reaction from department chairs in CLA was negative because they were not informed in advance of the public announcement, even though they met the day before with the Provost.

A senator then spoke in favor of both motions since this topic is important to the health of the University and faculty governance. He is concerned since the Graduate School decision comes on the heels of the decision regarding the Medical School deanship, also without faculty consultation. Together, these signal a change in leadership style from resonance to leadership with dissonance, and is counter to faculty governance which is at the foundation of academia. He would advocate that the process be halted and started again with faculty input from the beginning.

A senator stated that today's comments are a result of a process not being followed the way that faculty expected it to be. However, with proper consultation from the faculty, this proposal might be good. For this reason he objects to the use of some of the words in the motions, such as 'illegitimate' and 'ill-considered.'

Another senator then said that concern with procedural matters are not without weight, since these breaches led to a task force being asked to implement a decision already made by the administration, instead of being involved in what the decision would be. Faculty continue to be concerned about the procedure in which this matter emerged and how future issues will be handled.

A senator then spoke in defense of the task force. The faculty on this committee will not be a rubber stamp for the administration. The task force is talking with people across the University, and the President and Provost have discussed this item with the FCC, probably more time than

they would have liked. Other faculty governance committees have also been involved in these conversations. Although he does not agree with the original process, now faculty governance is involved.

Professor Clark said that she is willing to modify the resolutions. However, symptomatic of a larger problem is that it is unfortunate that this occurred at a time of economic crisis and has created antagonism between faculty and administrators that will carry over to other issues. She hoped that the administration would engage in a process of reconciliation, since without faculty consultation, faculty do not see themselves as partners in finding solutions.

A senator then noted the Graduate School could be very different next year, even without this process, simply because of the budgetary impact. This is an important time to have an informed and careful discussion about improving graduate education and its support. What troubles him about these resolutions is that it would slow down this process. He would be happier to let the task force continue, and just vote on a motion to change the title of the task force.

Another senator spoke said that the Policy on Reorganization does not say anything about forming what amounts to a blue-ribbon committee, but it talks about faculty who engaged in self-governance and consultation in an on-going process. The words in this policy do matter. Throughout the University's history there have been discussions on how these decisions are made, especially in times of economic crisis. New rules should not be created during these times. He urged that the process be slowed.

A senator noted that the problem with the task force is that it was charged by the Provost and reports back to him and not the faculty. A change of name will not change this reporting line.

Another senator said that the report will inform the President and the Provost, and at that time they will seek advice from the Senate Consultative Committee as stated in the Policy.

A senator reminded senators that while consultation is asked for in the policy, the Faculty Senate does not need to approve these changes as they are administrative decisions.

A senator restated that FCC is asking for patience with the current process, as it has been more involved in this process than people realize. The FCC is a good representative group of the faculty and takes its role seriously. Today's discussion is mixing issues of content with process. What graduate education should look like is the charge of the task force, and he does not want to presume what the conclusions will be. He agrees that while the process did not begin well, it is currently operating well and within standard protocol. Because there is good faculty governance at the University, FCC immediately stepped in and was able to put the process back-on-track.

A senator said that quotes from the Policy on Reorganization refer to administrative reorganization, but a reasonable response from the Graduate School is that they are an academic unit.

A student was yielded time to comment on the motions. She stated that these decisions need to happen within the entire community. Shared governance is not just faculty and administration, but also involves students. This group should also be considered as these discussions continue, and be a partner in decisions.

In closing, Professor Chomsky stated that the President and Provost have heard the discussion today, and in other venues.

15. PRESIDENT'S REPORT

President Bruininks stated that while he does agree with most of the language in the previous motions, he thanked the Faculty Senate for bringing it forward for discussion. He agreed that these financial challenges cannot be weathered separately, but together as a community. There were some misunderstanding on how this process was to unfold, but he has listened to the comments and he took responsibility for this decision.

It has always been the intention for the task force to look at a range of options for rethinking graduate and professional education, perhaps with some implications for reorganization. It was never contemplated that this task force would work in a vacuum, but would work in a transparent way with public deliberations and engagement of the academic community. Its report would be widely available for a 20-30 day period. Once alternatives were made clear, ample consultation would be had with the University community.

He noted, however, that it is within the purview of the President to organize the administration. When the Medical School dean decision was made, discussions were held, and will continue for another 6-9 months. Some issues are within his purview, and make him accountable by Regental delegations of authority. How academic programs are reorganized within the Medical School will heavily involve the faculty.

He has been a member of the Graduate School faculty for 38 years and 90 percent of his work with students has been in graduate and professional education. He cares deeply about this topic and is one of the most important aspects of the University's mission and responsibility. Therefore it does not surprise him that the proposal created a high level of interest, concern, and consternation.

President Bruininks has taken academic units through many budget challenges, but this is by far the most severe. There is not a single academic or support unit that will not feel the impact of these budget reductions in these next few years. This is why Professor Clark's comment is so timely and important. It would be easy to be adversarial, but everyone needs to be reminded that the University is a community. Academia is an institution that can debate controversial issues and then find a way to compose differences and move on in a united fashion.

In the last several years, the Provost has invested almost \$37 million in graduate and professional education, mostly through fellowships. When the budget cuts were announced, he sent a message exempting student support from any reduction, which means that these reductions need to follow more heavily on administrative costs.

He is hoping that the task force report is filled with interesting options. However, if the report simply states that all administrative overhead should be protected, this will create many problems for him. A goal of this process is to deliver graduate and professional education more cost-effectively while increasing the quality of service to students, faculty, and staff. Functions that need to remain at the all-University level will remain there. However, while it is difficult to compare costs, other institutions of higher ranking have fewer costs. He stated that Graduate School staff have served the University well and he expects to try to preserve jobs and talent.

He thanked senators for a stimulating, provocative, and thoughtful discussion, while assuring faculty that there will not a violation in spirit, principle, or practice of the values of self-governance.

President Bruininks then turned to the University's difficult budget situation. The Governor's initial recommended a \$160 biennial cut, which was modified to \$124 million. This is a \$200 million problem in 2012. The challenge will be to get to 2012 without there being a huge drop in funding.

The federal stimulus funds are fabulous, but are one-time funding. Its priorities are to preserve and create jobs, ameliorate tuition increases, and inject funds for capital renewal projects, such as science equipment, labs, and classrooms. The challenge will be how to weather these two years. He assured senators that these discussions and decisions will be public, and he welcomes questions and comments.

The Regents Scholarship proposal has generated as much interest as the Graduate School. A final proposal will be made in a few weeks. With changes in the federal tax laws, the changing profile of the program, the number of employees involved, and the 10 percent cost increase each year, a reasonable co-pay is appropriate. However, he has heard from employees and is suggesting a change to the proposal. He will suggest a 10 percent co-pay for employees pursuing a first degree and then a 25 percent co-pay for any further academic coursework. This proposal will achieve the same results while protecting low-income employees pursuing their first degree, which is the spirit of the original proposal.

16. QUESTIONS TO THE PRESIDENT

NONE

17. FACULTY SENATE OLD BUSINESS

NONE

18. FACULTY SENATE NEW BUSINESS

NONE

19. FACULTY SENATE ADJOURNMENT

The Faculty Senate was adjourned at 4:04 p.m.

**Rebecca Hippert
Abstractor**

2008-09 UNIVERSITY OF MINNESOTA

APRIL 2, 2009

STUDENT SENATE MINUTES: No. 4

The fourth meeting of the Student Senate for 2008-09 was convened in Studio C, Rarig Center, Minneapolis campus, on Thursday, April 2, 2009, at 11:31 a.m. Coordinate campuses were linked by telephone. Checking or signing the roll as present were 33 student members. Chair Ryan Kennedy presided.

1. CIVIL SERVICE COMMITTEE UPDATE

There was no report.

2. STUDENT SENATE/ STUDENT SENATE CONSULTATIVE COMMITTEE CHAIR REPORT

Ryan Kennedy, Chair of the Student Senate/Student Senate Consultative Committee (SSCC), said that the Twin Cities campus elections are next week. If a current senator did not sign-up for next year, he or she can still be re-elected if he or she secures enough write-in votes. If senators have friends who are interested, please talk to them about the Senate and how to be elected. Any unfilled seats will be filled by the Nominating Subcommittee next year.

He said that discussion have begun on intercampus coordination and the future of student governance. Also, the legislation that was supported at the March meeting, on Opportunity Minnesota, has been moving through committees and there is a lobby day for it next Tuesday at 9 am.

3. ASSEMBLY/ASSOCIATION UPDATES

Crookston – Marshall Johnson said that CSA approved a resolution limiting executive decisions when CSA is in session. During spring break, the Agriculture and Natural Resources programs were merged, an athletic program was cut, and a proposal is still being considered that would require all students to have a meal plan. While they understand that budget decisions need to be made, the resolution asks for proper consulting with students and faculty before decisions are made. CSA is also working on a campus-wide recycling initiative for all campus clubs and organizations. The incentive is a 30-50 percent increase in funds allotted by CSA, without raising student service fees. Lastly, elections will be held on April 15-16 with new officers sworn in on April 23.

Duluth – Katie Best said that UMDSA's election will be held next week. They are also working on compiling the results from the smoking survey and an alcohol protocol to accompany the policy.

Morris – Kathy Julik-Heine said that MCSA recently approved its constitution. Elections will be on-line on April 22. Negotiations are also taking place regarding technology fee allocations. MCSA is also creating a policy on partisan candidates entering the residence halls during elections. A campus assembly meeting is scheduled for next Tuesday.

Graduate and Professional Student Assembly – Jeffrey Anderson reported that GAPSA’s family bowling night was a huge success with a large turnout. Elections for president will take place next week, although the current president is running unopposed. The remaining positions will be elected on April 22. Graduate and professional student appreciation week is later this month. Lastly, work is being done on the annual GAPSA conference.

Minnesota Student Association - Mark Lewandowski noted that MSA’s elections are April 6-8. Other projects include the free tax preparation program, the Lend a Hand, Hear the Band program on April 16, a student concern forum this last Tuesday, and alcohol-free tailgating options.

4. RESOLUTION ON ALL-CAMPUS VOTE FOR STUDENT FEE INCREASES Action

Whereas, The student services fees process is run by University of Minnesota students on a fees committee, which makes recommendations. There are many opportunities for student groups to appeal throughout this process.

Whereas, Our All-Campus Elections are not representative of the student body, indicated by only 1,800 students voting in the 2008 All-Campus Election. There are 28,000 undergraduate students at the University. The bill would force any student service fees increases to go through this process.

Whereas, The All-Campus Election Commission is itself an underfunded organization, and would not receive additional funding to educate students about where the fees are going and why they are recommending an increase.

Whereas, Student Groups requesting student service fee appropriations would be delayed in their budgeting process due to the timing of All-Campus Elections (early April) in comparison to the deadlines of our current student services fees process.

Resolved That the Minnesota Student Association actively lobby against the passage of Senate Bill #1055, House File #1252 and work to educate legislators on our current fees process at the University of Minnesota.

**RYAN KENNEDY, CHAIR
STUDENT SENATE CONSULTATIVE COMMITTEE**

DISCUSSION:

Ryan Kennedy, Chair of the Student Senate/Student Senate Consultative Committee (SSCC), presented the resolution, noting that it was approved by the Minnesota Student Association on Tuesday. The resolution responds to a bill presented to the legislature this year that would require all colleges to put all non-educational or health-related student service fee increases to an all campus student vote. The status of this bill is that it is dead for this session since it has not received any hearings, however, it could come back next session. Therefore the Legislative Certificate Program students are asking that this resolution still be approved to show student support against this action.

A senator said that at the Twin Cities, student fee committee members are already elected by the students, so this might satisfy the requirement. However, he objects to the second ‘whereas’ clause since it says that the Student Senate is not a representative body just because students do not vote.

Q: Who are the authors of this resolution?

A: The authors are Marty Chorzempa, Alex Tenenbaum, and Megan Callahan, three Legislative Certificate Program advocates.

Q: Who are the authors of the legislative bill?

A: For the Senate it was Senator Geoff Michel; for the House it was Representative Sarah Anderson. There was a co-author on each bill.

Q: At Crookston, student service fee increases are sent to the Crookston Student Association (CSA) for a vote, and all students are able to vote at these meetings. Would this satisfy the requirements of the bill?

A: He is not sure if a CSA meeting would count as an all-student election.

A senator then stated that the Twin Cities Student Service Fees hold open hearings, at which time students can voice an opinion.

Ryan Kennedy did not think that these hearings would count under the bill since students cannot vote at this time.

A senator then noted that the second 'whereas' clause only pertains to the Twin Cities campus. She then stated that the state should not tell institutions how to run their fees processes.

A senator proposed a friendly amendment that the second 'whereas' clause be removed.

This was accepted as a friendly amendment.

A senator then proposed a friendly amendment that the 'resolved' clause be amended to read, "Resolved That the Student Senate actively supports the legislative advocates actions..."

This was accepted as a friendly amendment.

Q: Since this resolution was written from the perspective of the Twin Cities campus, do the remaining clauses still represent the processes for the coordinate campuses?

A: Yes, except for the use of the term 'All-Campus Election Commission.'

Q: Would an all-campus election on student fees override a decision by the chancellor?

A: He is not sure, but he would assume yes since the bill provides the final say to the student vote.

A senator said that since all Crookston students can currently vote on the fee increase, he would ask that the first 'whereas' clause be expanded to cover more than just appeals from student groups.

A senator then proposed a friendly amendment that the first 'whereas' clause be amended to read, "There are many opportunities for students and student groups to appeal and/or participate throughout this process."

This was accepted as a friendly amendment.

With no further discussion a vote was taken and the motion was approved as amended.

APPROVED

5. COORDINATION OF STUDENT GOVERNANCE

Discussion

Ryan Kennedy, Chair of the Student Senate/Student Senate Consultative Committee (SSCC), said that he would like to have an open discussion on coordinating student governance between the campuses in terms of operating, interactions, and communication, both between the groups and with the legislature.

A senator said that electronic information, such as an all-campus email, is necessary to reach students especially in the professional programs.

A senator then stated that a similar discussion was held at Morris, and one suggestion was an annual or biannual leadership summit to discuss goals and provide more transparency.

Ryan Kennedy said that this weekend and again in May, the student body presidents will be meeting to discuss issues, where the organizations are going, and how to provide transition to next year's leadership.

A senator then noted that there are issues with leaders as well as members in each of the student groups. At this time there are only a handful of students who are very knowledgeable on the issues. A discussion needs to be held on getting the collective knowledge of each organization. He also suggested reaching out to Senate committee members so that they are more knowledgeable about the remainder of the student governance system.

Another senator then suggested creating a blog to share information.

A senator said that one goal is to have more students involved in the processes taking place on each campus.

Ryan Kennedy said that another goal is to increase coordination and communication among those students already involved.

A senator then said that Crookston, after a survey of students, now sends minutes, updates, and a preview of upcoming issues via email to its students each week. The aim is to make the emails attractive so students will read them.

Another senator said that the Minnesota Student Association (MSA) is only allowed two direct emails to students each year, after approval by the Provost, therefore Crookston's approach will not work for MSA. This limits MSA's ability to reach students, and points to the larger issue of the administration not respecting MSA.

A senator said that a regular student email could be constructed like *Brief*, a weekly publication for faculty and staff that covers each campus. However, the problem with email is that many people delete more than they read. He would favor a blog or central repository to post issues and decisions. Students could then be directed to this one address.

Another senator said that there are several threads in this discussion. One is increasing transparency and communication between student governance across the campuses. A second is

patching the relationship between student governance and the administration. The third is increasing student governance's transparency when it communicates with the larger student body. He would advocate for working on the second thread since it seems like the administrative relationship is a bigger issue in making student governance effective and respected.

A senator commented that the administrative relationship at a small campus is close due to proximity, but strained. At a small campus, the administration needs to be more involved since it is much easier to rally the entire student body around an issue. Sometimes it is not that students do not want to participate, but they feel that there is no point in expressing their opinion when the administration does not listen.

Another senator said that one issue is also that, throughout the system, students do not know who to contact for information. An increased and open dialogue is needed, along with personal visits to get to know people and establish contacts on another campus.

Q: Have Senate meetings been held at the coordinate campuses in the past?

A: No.

A senator said that retreats are held for other levels of governance, so he would recommend this for student governance as well.

Another senator said in the short-term he would asked that an email list of senators be compiled for sharing information among the members.

A senator said that work could be done with the University's technical people to use what is currently available. This is the way that the University, as a whole, is moving.

Another senator said that one issue will be getting other students and administrators to know about and look at a site that discusses student governance. He asked senators to look at different technology options to see what would work best.

A senator then said that the information cannot be too centralized so that upkeep is needed on multiple sites. A balance needs to be reached.

6. OLD BUSINESS

NONE

7. NEW BUSINESS

Q: Why was the University Senate meeting for today cancelled?

A: There was only one item of business, so the Business and Rules Committee made the decision to cancel the meeting.

A senator asked that the discussion on student governance be continued at the next meeting.

Another senator then reminded the Student Senate of its protocol on Senate Mentors. He asked that this item be placed on the April 30 meeting agenda and that continuing senators consider serving in this capacity.

8. ADJOURNMENT

The meeting was adjourned at 12:44 pm.

Rebecca Hippert
Abstractor