

Minutes*

**Senate Committee on Faculty Affairs
Tuesday, September 28, 2010
2:30 – 4:15
238A Morrill Hall**

Present: George Sheets (chair), Ben Bornsztejn, Marilyn Bruin, Arlene Carney, Dann Chapman, Randy Croce, Kathryn Hanna, Frank Kulacki, Theodor Litman, Karen Miksch, Geoffrey Sirc, Roderick Squires, Pamela Stenhjem, James Wojtaszek

Absent: Carol Carrier, Vladimir Cherkassky, Richard Cline, Valerie Khominich, Jason Shaw

Guests: Gavin Watt (chair, Benefits Advisory Committee)

[In these minutes: (1) implications of changes in federal health-care law for University employees/UPlan; (2) reorganization policy; (3) amendment to the Code of Conduct; (4) template for letters of offer to faculty]

1. Implications of Changes in Federal Health-Care Law for University Employees/UPlan

Professor Sheets convened the meeting at 2:30 and welcomed Gavin Watt, chair of the Benefits Advisory Committee, to talk about how the new federal health-care law affects the University's health care benefits (the UPlan).

Mr. Watt began by saying that the University is fortunate to have Professors Fred Morrison and Stephen Schondelmeyer. Professor Morrison is an expert on the new federal law; Professor Schondelmeyer is a pharmacy economist who has helped keep the University's costs down (pharmacy expenditures represent about 25% of what the University spends on health care).

Mr. Watt referred next to a set of slides that Professor Morrison had prepared about a very complex law and noted that there is much more to come in the health-care arena. The law was a cut-and-paste job and not all the pieces fit together well, but he said that personally he hopes the law is not gutted because it represents the directions in which the country should go. The U.S. has the best medical care in the world but not the best health care; it is about 15th in the world in ratings of its health-care system, people in the U.S. die younger, and more babies die than elsewhere.

[Note: The main points of the discussion from the slides were recounted in the discussion with the Faculty Consultative Committee on September 23, 2010. The same points will not be repeated here. The FCC minutes can be found at http://conservancy.umn.edu/bitstream/94343/1/10_09_23FCC.pdf. Additional points made in this discussion at this meeting are noted.

-- The University provided coverage to dependents up to age 26 before the law required doing so; there were a lot more than they expected, which suggests there are a lot of young people not covered by insurance.

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

-- What is needed is pressure on costs; the United States pays about \$7000 per capita for health care; other developed countries pay about half that and get better health care.

-- The University currently spends about \$200 million annually on health care; by 2018, at 8% inflation (the current inflation rate in health-care costs), the cost will be about \$300 million per year. What can be done to push those costs down? The key is to squeeze that 8% down to 2-3%. The system will go back to Accountable Care Organizations and Health Homes (what were HMOs). Along with the RFPs for the UPlan 2012-2017, the University will ask providers how they intend to manage costs.

-- Mr. Watt noted the scattergram with clinics plotted on cost and quality, with some having lower costs and higher quality and others with higher costs and lower quality (the clinics were not identified; the information is proprietary). Professor Kulacki asked if the University might quarantine some clinics that are not in the right quadrant. They will consider that possibility, Mr. Chapman said; first, however, they will inform the clinics what they have observed and try to help them improve. Professor Kulacki asked if University employees are distributed across all the clinics; Mr. Watt said they are not and the data used to rate the clinics did not come only from University employees.

Professor Squires asked how the information would be used as a heuristic device. The University will favor the clinics in the upper left quadrant (lower cost, higher quality) in some way, Mr. Watt said. Mr. Chapman said that employees would be provided incentives. The question is how to educate faculty and staff to make cost-effective use of health care, Professor Kulacki said. Eventually the employee will pay the price for going to a high-cost clinic, Mr. Watt said. Professor Kulacki said there needs to be a path by which employees can make decisions that does not burden them and require analyses of clinics. Mr. Watt suggested that people can Google Minnesota Community Measurement, which provides quality measures for clinics (but not costs). He said people are lucky to live in Minnesota, which is ahead of the curve on much in health care.

-- The University is studying whether spending on wellness is cost-effective.

-- The University is not likely to pay the federal tax and farm out health care because it sees health care as a significant and excellent benefit that is family friendly.

Professor Sheets asked whether the University will acquire data on wellness plans. It will, Mr. Watt said. He went on to explain that during the last RFP process, the University carved out the pharmacy benefit because studies by the School of Public Health demonstrated the University could control costs better by doing so (up to that time, pharmacy benefits had been managed by the health plans). The wellness and disease-management plans were also carved out. The University has data on both, it knows what it is spending, and there is clearly a positive ROI for disease management. The ROI is not so clear on wellness. Professor Sheets said he has heard some colleagues express the view that that wellness programs are a waste of money, so disseminating data to the contrary may help to promote support for wellness initiatives. Mr. Chapman said they will do analyses with academic rigor wherever they can, but that is more difficult to do with things that help morale (e.g., they will never be able to track a payback on the money spent on the farmer's market but they believe it is a benefit).

Professor Kulacki asked what is next for faculty and staff. What will they hear next and how will it be communicated? There needs to be a well-considered process as the University considers what to do

with its health-care plans. There has been discussion about this, Mr. Chapman said, but they are still not sure what will happen next. They are trying to stay in front of the situation but the details are slow in coming. It appears that the federal legislation, with a lot of implementation points, was dropped on the regulatory agencies, which are scrambling to get information out when they can. It is difficult to be specific in terms of what can be communicated, Mr. Chapman said, and they are coming to Senate committees, the deans, and CAPA. They are keeping in mind the need to communicate. Mr. Watt observed that people sure knew that they could insure their 25-year-olds!

Professor Kulacki noted that there will be open enrollment in November. The new law will not affect that at all except in the cap on the flexible-spending accounts, Mr. Chapman said. There could be a change in providers beginning in 2012, he said, which is part of the RFP process. But there will not be rapid changes along the way; this is a big boat turning slowly and the changes will be well-communicated. They are open to suggestions about how to make changes. This Committee could consider advising Employee Benefits, Mr. Watt suggested.

Professor Sheets thanked Mr. Watt for joining the meeting to inform it about the health-care changes.

2. Reorganization Policy

Professor Sheets asked Committee members to look at the Policy on Reorganization, which was revised by the Faculty Consultative Committee and provided to this Committee for comment. The primary reason for the revisions was because of the way the changes in the Graduate School were announced. The intent is to clarify and make explicit what was previously implicit in the policy.

Professor Hanna asked if this policy was in place when General College was closed; Professor Sheets said he did not know. If there is a proposal to close a campus or college, will it be received by the governance body of that unit, Professor Hanna asked? That is what the policy calls for, Professor Sheets observed.

Professor Kulacki asked what the policy says about the decision authority. That is not in this policy, Professor Sheets responded; this policy only requires that there be adequate consultation. Professor Kulacki objected that the policy could make decisions a two-year process because college governance bodies may only meet twice per year; does the policy take out of a dean's hands the need to move quickly? The prerogative of the faculty to consult should not be removed but there needs to be more than glib language about consultation. He also suggested that language calling for consultation on centers or other programs with faculty members extends the time required for administrative decisions.

The intent of the policy, which makes sense, Professor Sheets said, is that it contemplates the possibility of academic units being eliminated. The policy does not hobble the process but ensures that the faculty will be consulted. Professor Kulacki said he brought up the point about more consultation because of the "times we're in." That is the entire point, Professor Sheets responded; the "times we're in" call for the University to take action, but the policy says it should do so with a deliberative, careful process.

Professor Kulacki asked if there is constitutional language in the colleges. There is not, Vice Provost Carney said. The tenure code refers to units and their discontinuation. Professor Miksch noted

that section 12.1 of the tenure code speaks about programmatic change, but it is not as specific as this policy. The code does not specify who the responsible officers are, she said in response to a question from Professor Kulacki. Dr. Carney said the tenure code throughout refers to the Provost as the chief academic officer but nothing explicitly says who makes programmatic changes.

Professor Kulacki argued that with the times the University faces, it would be right to have the decision locus added to the policy. Eliminating a program can end careers. Vice Provost Carney pointed out that programmatic change does not mean faculty members would lose their tenured positions. Tenure is in the University; section 12 talks about what happens when there is programmatic change and guides in reassignment, and the intent is not random placement. Professor Hanna said she has done research on the process and for the most part it worked well.

Professor Sheets observed that the tenure regulations look at the situation from the position of protecting tenured and tenure-track faculty. This policy does not purport to change any institutional authority and it is not within the scope of this discussion to identify where authority properly resides or how it is justified. This policy says that consultation is important, meaningful, and valuable and speaks with specificity to what bodies should be consulted. It does not change the authority of any responsible University officer.

Professor Hanna said that clarifying the language on consultation is a good change in the policy.

Vice Provost Carney noted that there needs to be a change in the language so that it covers University-wide centers that are not housed in a college. They are regularly evaluated and there could be a recommendation to close a center. It may not always be the upper administration that makes the decision; it could come as the result of an external review.

Mr. Croce asked if an academic unit had to have faculty in it. There are academic units that are made up entirely of P&A staff. An academic unit is the least common denominator, Dr. Carney said, such as the Humphrey Institute; the academic unit is key in the tenure code and procedures and it presupposes something like a department- or college-equivalent. If a center or unit is composed exclusively of P&A staff, she was not sure it would be called an academic unit. Professor Miksch noted that the preamble to the policy refers to faculty, staff, and students, so all would be consulted.

Professor Sheets said that if there is confusion about whether a unit is an academic unit, that still exists and the policy does not clarify it. From the standpoint of promotion and tenure, Dr. Carney said, an academic unit is one that has a 7.12 statement (which does not mean everyone in the unit is eligible for tenure and promotion). Mr. Croce reiterated his concern that units with an academic mission but that do not have tenured faculty be covered by the policy. Professor Sheets said that they would be, with the broad language of the preamble. He agreed, however, that the term "academic unit" needed better definition.

3. Amendment to the Code of Conduct

Professor Sheets asked Professor Miksch to explain the proposed change to the Board of Regents' Code of Conduct that is being brought forward by the Academic Freedom and Tenure Committee.

Professor Miksch said that the Board of Regents voted in June, 2009, to change the policy on Academic Freedom and Responsibility, but that vote did not automatically change the language in the Code of Conduct that draws on the Academic Freedom and Responsibility policy. So part of the amendment cleans that up. The proposal also assumes there will be a change in the AF&R policy as recommended to the Faculty Senate later this week, to move the phrase "without institutional discipline or restraint" from one part of the definition of academic freedom to another in order to clarify it.

The other change is to remove "seek and state the truth" and substitute "seek truth," because the Academic Freedom and Tenure Committee heard from a number of faculty that "the truth" is the problem—that's what disciplines argue about. Professor Squires inquired why "truth" is in there at all; Professor Sheets agreed that he was more comfortable without the article preceding "truth." One can argue about whether one has "the truth" but it is less easy to do so about seeking truth. The language about truth, he responded to Professor Squires, means academic misconduct and publishing something false is not covered by the policy. And there may be multiple truths in the humanities, he observed.

The Committee agreed to recommend to the Academic Freedom and Tenure Committee that in the following clause, part of defining academic responsibilities, "and the candor to make it clear that when one is speaking on matters of public interest, one is not speaking for the institution," the words "the candor" should be deleted because it does not follow the structure of the rest of the sentence.

The Committee voted unanimously in favor of the changes and otherwise of the amendments proposed.

4. Template for Letters of Offer to Faculty

Professor Sheets recalled from the discussion at the previous meeting the recommendation that there be a reference to section 5.5 of the tenure code allowing extensions of the probationary period in letters of offer to faculty members; Dr. Carney, he noted, had invited a Committee recommendation on whether there should be common elements in all offer letters. That question is also on the agenda of the Academic Freedom and Tenure Committee, Professor Miksch reported. Professor Hanna suggested that perhaps a small group could be asked to meet with Vice Provost Carney and draft recommendations that could be brought back to both Committees, and she agreed to serve on such a group.

It was agreed that Professor Miksch would talk with the Academic Freedom and Tenure Committee about someone to serve on the group.

Professor Sheets adjourned the meeting at 4:05.

-- Gary Engstrand