

JUNE 8, 1995

The fifth meeting of the Faculty Senate for 1994-95 was convened in 25 Law Center, Minneapolis campus, on Thursday, June 8, 1995, at 2:00 p.m. Checking or signing the roll as present were 94 voting faculty members, 3 ex officio members, and 2 nonmembers. Professor Sheila Corcoran Perry, Faculty Senate Vice Chair, presided.

I. FACULTY CONSULTATIVE COMMITTEE
FACULTY AFFAIRS COMMITTEE/TENURE SUBCOMMITTEE
Regulations Concerning Faculty Tenure
Action

MOTION:

That the Faculty Senate concurs with the following interpretations of the Regulations Concerning Faculty Tenure presented by the Faculty Consultative Committee, the Faculty Affairs Committee, and the Tenure Subcommittee:

Proposed Interpretations to the Regulations Concerning Faculty Tenure

I. Interpretation of Sections 3-9: Promotion and Tenure Decisions
Permitted by Provosts and Chancellors during 1995-96

To accommodate current restructuring of the central administration, final review and related aspects of the promotion and tenure process may occur at the level of provosts and chancellors during the 1995-96 academic year. Provosts and chancellors will receive consultation regarding proper procedures from the Dean of the Graduate School.

COMMENT: The Tenure Subcommittee of the Senate Committee on Faculty Affairs was recently requested by the administration to propose amendments to the Regulations Concerning Faculty Tenure (Tenure Regulations) to accommodate current restructuring of central administration. The immediate desire of the administration is that final recommendations for promotion and tenure occur at the level of provosts and chancellors, rather than centrally by the senior vice president for academic affairs (the present procedure). While considering appropriate amendments to the Tenure Regulations, the Tenure Subcommittee concluded that changing aspects of the Tenure Regulations pertaining to promotion and tenure will impact on other aspects of the Regulations (e.g. fiscal emergencies, termination for cause), which are now responsibilities of central administration. Reassigning these administrative responsibilities described in the Tenure Regulations from central administration to provosts and chancellors could have major effects on the academic affairs and freedom of faculty. Without appropriate regulations in place, a lack of system-wide consistency may occur with the undesirable possibility that future faculty will be employed in one of six different universities.

In order to allow time for broad consultation with faculty and administrators and the preparation of carefully considered amendments to the Tenure Regulations, the Tenure Subcommittee proposes the above Interpretation to the Regulations. This Interpretation permits promotion and tenure decisions to occur at the level of the provosts and chancellors for the coming academic year. During this time the Tenure Subcommittee requests all faculty to consider the implications for their units or departments of the requested changes in the Regulations. We welcome your comments and suggestions

regarding the development of necessary new procedures and the revision of specific sections of the Tenure Regulations.

II. Interpretation of Sections 14 and 15: Working Days

The word "days" is interpreted to imply working days, not calendar days.

COMMENT: The use of the word "days" in the Tenure Regulations is unclear and is now defined as working days.

III. Interpretation of Amendments to Sections 14.1 and 14.2: Timely Responses in Cases of Unrequested Leave of Absence, Termination, or Suspension

The timelines for responses by either the involved faculty member or the administrator(s) may be extended by agreement of the parties to the proceeding or for extraordinary circumstances. An agreement of the parties to extend the time limit shall be in writing, signed by both parties or their representatives. If the parties do not agree, either party may apply to the chair of the Senate Judicial Committee for an extension of the time in which to take the steps required in this section. If the faculty member has failed to act within the time limits prescribed in these sections, the responsible administrator may request the chair of the Senate Judicial Committee to set a specific date by which the faculty member must take action; if the faculty member fails to do so, the petition for review will be dismissed without further proceedings and the requested disciplinary action (or any lesser sanction) may be taken. If the responsible administrator has failed to act within the time limits prescribed in these sections, the faculty member may request the chair of the Senate Judicial Committee to set a specific date by which the administrator must take action; if the administrator fails to do so, the proceedings shall be dismissed and further action can be taken only by reinitiating the entire proceedings.

COMMENT: At the Faculty Senate meeting of May 19, 1994, amendments to the Tenure Regulations providing for a timely response by administrators to reports of Preliminary Proceedings and for sending notices of Formal Actions (Sections 14.1 and 14.2) were approved. The Tenure Regulations currently provide for a timely response by a faculty member to a formal notice of actions to be taken by the administration following the report of a Preliminary Proceeding (Section 14.1). The amendments approved by the Faculty Senate in May 1994 were not presented to the Regents for formal approval. The administration considers the time limits to be difficult to follow under unusual circumstances; for example, when an outside legal counsel for a faculty member has limited availability or when a faculty member on a 9-month appointment wishes to suspend the proceedings during the summer.

FOR INFORMATION:

Following are the amendments approved by the Faculty Senate May 19, 1994:

1. To amend Section 14.1 of the Regulations Concerning Faculty Tenure, as follows: (additions are in CAPS; deletions are in [brackets])

Section 14.1 Preliminary Proceedings

Only a dean

. . . .

Both the administrator and the faculty member may submit their views, in person or in writing, to the body making the recommendation, but neither of them may participate in the deliberation or vote. The body making the recommendation makes a written report to the administrator WITHIN 40 DAYS OF SUBMISSION OF THE ISSUE TO IT, indicating the number of votes for and against the proposed action and the reasons articulated. [After considering] WITHIN 15 DAYS AFTER RECEIVING the report, the administrator makes a written recommendation to the vice president. The recommendation must include a copy of the report of the panel or of the tenured faculty, as the case may be. A copy of the report must be sent to the faculty member.

2. To amend Section 14.2 of the Regulations Concerning Faculty Tenure, as follows: (additions are in CAPS; deletions are in [bracketes])

Section 14.2 Formal Action

After receiving the administrator's recommendation, and giving the faculty member an opportunity to comment, the vice president will decide whether to proceed. If the vice president [decides] DOES not [to] proceed WITHIN 40 DAYS, the charges are dropped and the faculty member and the academic unit are so notified in writing. If the vice president decides to proceed with formal action, the vice president must give written notice to the faculty member

If the faculty member does not request a hearing within 30 days, the President may take the action proposed in the vice president's notice, without further right to a hearing.

JOHN ADAMS, Chair
Faculty Consultative Committee

DANIEL FEENEY, Chair
Faculty Affairs Committee

MARY DEMPSEY, Chair
Tenure Subcommittee

DISCUSSION:

Professor Mary Dempsey, chair of the Senate Committee on Faculty Affairs Tenure Subcommittee, presented the three proposed interpretations to the Regulations Concerning Faculty Tenure. Because the interpretations had been presented at the previous meeting (May 18) for discussion, she only briefly summarized them. Their primary purpose, she said, is to provide clarification to the Tenure Regulations. As interpretations they do not need official approval by the Faculty Senate, however, the Tenure Subcommittee, Faculty Consultative Committee, and Faculty Affairs Committee agreed that Faculty Senate review and endorsement is desirable.

The first interpretation allows promotion and tenure decisions to be made at the provost and chancellor level during the 1995-96 academic year in order to allow time for broad consultation with faculty and administrators before formal amendments to the Tenure Regulations are proposed. Currently, the

senior vice president for academic affairs has final authority on these matters. The interpretation further calls for provosts and chancellors to receive consultation regarding proper procedures from the Dean of the Graduate School. It is the intent of the Faculty Affairs Committee to broaden the membership of the Tenure Subcommittee to address this issue during 1995-96 and to prepare the appropriate amendments for Faculty Senate consideration.

The second interpretation simply clarifies the term "days," said Professor Dempsey, because the current language is unclear. The Tenure Subcommittee agreed "days" should be interpreted as "working days," to be consistent with the grievance procedures and other University documents.

The third interpretation addresses concerns raised by the administration relating to amendments approved by the Faculty Senate on May 19, 1994, and forwarded to the administration for consideration. The amendments (to Sections 14.1 and 14.2 of the Tenure Regulations) addressed the issue of timely responses in cases of unrequested leave of absence, termination, or suspension. At present, the amendments stand unapproved by the administration and the Board of Regents. (Refer to the Comment and Information section of Interpretation III.)

With little discussion, all three interpretations were approved on a voice vote by a strong majority of members present and voting.

APPROVED

II. FACULTY CONSULTATIVE COMMITTEE
FACULTY AFFAIRS COMMITTEE
Professional Commitment Policy
Action

MOTION:

To approved the following Policy on Professional Commitment:

POLICY ON PROFESSIONAL COMMITMENT
(June 7, 1995 Draft)

1 STATEMENT OF GENERAL POLICY

1.1 All ACADEMIC EMPLOYEES[1,2] are expected to fully and professionally meet the obligations of their appointments as addressed under the Workload, Conflict of Interest and Academic Freedom and Responsibility policies of the University. Their primary responsibilities within the University are teaching and learning, scholarship (including research and artistic creation), service to the University and to the wider community, and/or administration in support of these activities. Because of their special capabilities, academic employees are often sought to provide professional expertise for activities beyond the responsibilities of their academic appointment. The University encourages EXTRA WORK because it is often complementary and synergistic with academic employees' primary University responsibilities if it does not interfere with their University duties. This policy attempts to clarify what is considered reasonable extra work, and establishes mechanisms for assuring the accountability of the University and its academic employees with respect to extra work. The dual purpose is to protect employees from criticism for participating in approved extra work and to give the University a means of addressing

instances where employees engage in activities that go beyond acceptable bounds. Since opinions may differ as to what is acceptable, academic employees should discuss questions about extra work with their DEPARTMENT HEADS. This policy supersedes and replaces all prior policies on this subject except for Private Practice Plans adopted by the Board of Regents.

2 PROFESSIONAL COMMITMENT

2.1 A full-time academic employee's primary commitment is to University teaching, research, outreach, and/or administrative responsibilities, and where applicable to University patient care. Since demands for the talent and expertise of academic employees may on occasion affect their responsibilities to the University, guidelines are needed to define these responsibilities. In general, extra work is in accordance with this policy unless it:

- 1) interferes with an academic employee's ability to carry out his/her responsibilities to the University;
- 2) competes inappropriately within the area of the academic employee's field of appointment with the services or missions of the University; or
- 3) misuses resources or facilities of the University.

3 PROFESSIONAL ACTIVITIES CONSIDERED PART OF AN ACADEMIC EMPLOYEE'S WORKLOAD

3.1 Professional activities such as the examples listed below (a-f) can be integral parts of an academic employee's University responsibilities and are not considered against the time limitation for extra work (see Section 4). Care should be taken to assure that such activities fit with agreed-upon teaching, research, outreach, and administrative responsibilities. These activities, when they occur, should be part of each academic employee's annual workload plan.

- a) Serving as editorial officer or having other duties for a learned journal
- b) Serving on panels for academic, governmental, or not-for-profit entities
- c) Serving on a board of directors or advisory committee of a scholarly or professional organization
- d) Serving as an officer of a scholarly or professional organization
- e) Attending professional meetings or professional development programs
- f) Giving occasional public presentations or participating in colloquia

4 TIME LIMITATION FOR EXTRA WORK

4.1 The extra work of a full-time academic employee must not exceed an average of one day per seven-day week for the TERM OF APPOINTMENT. For those with "B" appointments, this amounts to a maximum of 39 days in the term of appointment; for those with "A" appointments, this amounts to a maximum of 48 days in the 11 months of active service. A day will be considered approximately 8-10 hours of extra work and preparation time regardless of when or where this occurs during the seven-day week. Preparation time and travel time devoted to extra work are counted toward the time limit.

4.2 Time limitations for extra work apply only to contractual time.

For example, academic employees with 100% appointments comply with the time limitations as specified in Section 4.1. Academic employees holding appointments of 67% to 99% have time limitations adjusted in proportion to their appointments, e.g., for someone with an 80% appointment, extra work must not exceed an average of 80% of one day per seven-day per week for the term of appointment. Academic employees holding appointments of less than 67% time may engage in extra work ONLY during their noncontractual time. Reporting requirements apply to all academic employees with appointments of 67% time or more. Activities carried out as part of an academic employee's participation within a Regents approved private practice plan are not counted toward the time limitations defined in this section.

5 LIMITATION ON ACTIVITIES THAT MAY COMPETE WITH THE UNIVERSITY

5.1 Extra work often elicits greater visibility and recognition for the University. However, it may also compete with the missions of the University. Extra work that is within the area of the academic employee's field of appointment should not draw students, clients, or patients, or substantial resources from University offerings and facilities, and the academic employee's connection with the University should not be exploited for the purposes of another institution or BUSINESS. Activities carried out as part of an academic employee's responsibilities within a Regents approved private practice plan are not competitive with the University. To minimize the potential for competition, academic units are encouraged to develop and obtain Regents' approval of private practice plans.

5.2 All academic employees holding appointments of 67% time or more and planning to participate in extra work or business activities that have the potential to compete with the missions of the University must obtain written approval before engaging in the activity unless specified under the terms of their appointment.

6 EXTRA WORK COMMITMENTS THAT DO NOT REQUIRE PRIOR APPROVAL

6.1 External and Internal Consulting

Engaging in external or internal consulting insofar as the activities comply with Sections 4 and 5.

7 EXTRA WORK OR BUSINESS COMMITMENTS THAT REQUIRE PRIOR APPROVAL

All of the activities listed in this section (7.1 - 7.5) are endeavors that may or may not be approved depending upon the specific circumstances. Academic employees should discuss the proposed activity with their department heads. Participation in these activities requires prior approval and is subject to the limitations set forth in Sections 4 and 5.

7.1 Board Memberships

- * Serving as a corporate officer or on a board of directors of a business.

7.2 Competing Business Activities

- * Being employed by or consulting for a business related to his/her professional responsibilities that competes or has the potential to compete with services provided by the University

that are part of the employee's University responsibilities.

7.3 Research Activities

- * Applying for, receiving, and conducting any sponsored research activities for another organization that ordinarily would be conducted under the auspices of the University.

7.4 Instructional Activities

All instructional activities outside the agreed-upon workload and related to the academic employee's appointment require prior approval of the department head. Department heads will determine the amount of extra work time to be calculated for extra teaching, whether external or internal, credit or non-credit. As a guideline, 8-10 hours of instructional activities (including preparation, instruction, evaluation, and consultation) will be considered equivalent to one day of extra work (see Section 4); however, the ratio may be adjusted upon agreement with the department head.

- * Teaching concurrently for another higher educational institution during the term of appointment.
- * Teaching non-credit courses or performing other non-credit instructional activities for non-University entities during the term of appointment.
- * Teaching for Continuing Education and Extension for extra compensation during the term of appointment.
- * Performing other teaching or teaching-related activities for the unit in which an academic employee holds an appointment or for another unit within the University for extra compensation during the term of appointment.

7.5 International Projects Administered by the University

- * Participating in certain University-sponsored international activities. Such activities may be treated in one of four ways, based on arrangements between the academic employee and the department head.
 - (1) The activity may be inloaded as part of the agreed-upon workload.
 - (2) When participation in a University-sponsored international activity is done as part of the normal workload but involves special responsibilities, an academic employee may receive a salary augmentation and the time committed does not affect the time limitations described in Section 4.1.
 - (3) When the activity involves special (difficult) work environments, approval may be sought to have the activity considered and compensated as extra work subject to the time limitations described in Section 4.1, or
 - (4) When the activity involves special (difficult) work environments, it may be compensated with funds deposited into a departmental account to be used to subsidize the faculty or

academic staff member's travel, research program, or other professional development. Academic employees on nine-month appointments may, as an alternative, use the compensation available for such an activity to fund a summer appointment, assuming they intend to work during the summer period.

8 HOLDING PUBLIC OFFICE OR PUBLIC SERVICE POSITIONS

8.1 Academic employees share with their fellow citizens the right to campaign for and to hold public office without their employer's prior approval. The purpose of this section of the policy is to balance public service of University academic employees with the University's primary obligations to maintain its teaching programs and foster research and creative activity. At the same time, it seeks to encourage public service, including the holding of public office and, in any case, not to interfere with academic employees' right to participate freely in the political process. It is desirable, however, that any academic employee contemplating candidacy for elective political office or appointment to public office where the duties of a campaign or the holding of the office would interfere with the fulfillment of University responsibilities, consult in advance with the appropriate collegiate and administrative units of the University. Consultation should focus on the question of whether or not temporary suspension of some portion of the academic employee's responsibilities can be accommodated without seriously impairing the function of the department or unit involved.

8.2 When an academic employee is appointed to or elected to public office, e.g., to the state legislature, requiring absence from University duties for continuous periods of time of one year or less, it is anticipated that leave of absence procedures or other appropriate arrangements such as a special contract or a reduced teaching load with a commensurate adjustment in salary, for the year or portions thereof, will be invoked. The academic employee must provide to the unit administrator as much notice as possible to insure that ample time will be provided the unit to replace or otherwise arrange to meet the absent academic employee's responsibilities. Prior written approval by the Senior Academic Vice President is required for any full or partial leave of absence.

8.3 When an academic employee is appointed/reappointed to or elected to public office requiring continuous full-time service for a specified period of more than two years, it is expected that the Senior Vice President will determine if the leave is appropriate. In the case of appointments for an indeterminate period of time, full or partial leaves of absence may be negotiated annually; if requests for leave extend beyond reasonable limits, resignation may be expected.

8.4 For certain academic employees, the distinction between involvement in community activities as a citizen and involvement in such activities as a professional is difficult to determine. If community activities are citizen-related rather than professional activities, they may be exempt from the prior approval and reporting requirements of this policy.

9 IMPLEMENTATION - PROFESSIONAL COMMITMENT

9.1 Successful implementation of this policy assumes a shared responsibility by all academic employees and the administration of the University. Once proposed activities have been administratively approved, University administration has the responsibility to vigorously

defend the activity so long as the academic employee complies with the administrative recommendations for the extra work, other University policies, and the law.

REPORTING REQUIREMENTS

PRIOR APPROVAL

9.2 Prior written approval of the department head must be obtained annually for those activities specified as requiring such approval. The academic employee contemplating such activity must initiate the request for approval. If the academic employee seeking approval for an extra work activity is a department head or other administrator, the request must be submitted to the academic employee's immediate supervisor.

9.3 The request form for approval must include the following information: name of academic employee; name of entity for which activity will be performed; type of activity involved; whether it is to be performed on or off campus; period of time during which such activity is to be performed; estimated amount and distribution of time, in days or fractions thereof, to be spent on the activity; whether or not this activity will be compensated (a "compensated" activity is one for which honoraria, fees, or other benefits over and above expenses are received; reimbursement for expenses is not to be construed as compensation); and signature and date. The department head may require the academic employee to submit additional information about the activity as it relates to compliance with this policy. This requirement for additional information may be appealed to the next level of administrator.

9.4 The request for approval must be submitted to the department head. The department head must respond in writing to the request to participate in extra work activities within 10 working days of receiving a request. An activity may be limited or denied approval if it competes with University missions or interferes with workload agreements. A specific written explanation of any limitation or denial must be provided to the academic employee. An academic employee may appeal the department head's action to the appropriate dean or vice chancellor for academic affairs. That administrator's decision may be appealed to the appropriate provost or chancellor if the academic employee believes the action violates this policy or constitutes an abuse of discretion. The provost or chancellor will have final authority in this matter.

10 ANNUAL REPORTING

10.1 All academic employees with appointments of 67% time or more must report to their department head on an annual basis those activities (specified in Section 4 as requiring such reporting) that occurred during the previous year.

10.2 Annual reports will be filed in the academic employee's departmental office or Academic Record File, and will be kept for at least five years. Copies of these annual reports will be forwarded to the dean or vice chancellor for academic affairs. The department head will include a written statement of denied requests and the reasons therefor.

10.3 The dean or vice chancellor will submit these annual reports and the statement about denials to the appropriate provost or chancellor and to the Senior Vice President for Academic Affairs. The dean or vice chancellor will include a written statement of the denied requests and

the reasons therefor.

10.4 The Senior Vice President for Academic Affairs will maintain these records and will make this information public in manners consistent with University procedures, giving proper attention to rights of privacy of individual academic employees.

10.5 The Senior Vice President for Academic Affairs annually will present to the Board of Regents aggregate summaries of extra work with the certification that all requests have been examined and found to conform to Regents' and appropriate administrative policies relating to extra work.

11 PROCEDURES FOR MONITORING

11.1 If the University has reason to believe that an academic employee is engaged in extra work (even if consistent with Section 4) to such an extent that it compromises his/her ability to carry out University responsibilities, appropriate University officials may ask the academic employee to document his/her outside activities and to show that his/her University duties are being fully met.

11.2 The appropriate provost or chancellor, in cooperation with the appropriate dean, will periodically review a random sample of individual and unit reports in order to evaluate the approval and reporting systems, and will make recommendations regarding the effectiveness of this policy to the president.

12 COMPLIANCE

12.1 The University expects that academic employees will comply fully and promptly with all the requirements of this policy. Breaches of this policy include, but are not limited to, failing to secure prior written approval for those activities that require it, intentionally filing an incomplete, erroneous, or misleading request for approval or annual report, failing to obtain department head's written approval to participate in service activities as part of the workload, or failing to provide additional information as required by the approving authority. A violation of this policy may be the basis for discipline of an academic employee. If sanctions are necessary, they will be imposed in accordance with the Regulations Concerning Faculty Tenure, the Academic Professional and Administrative Staff Policies and Procedures, or the UEA contract for UMD academic employees. The potential sanctions may include, but are not limited to the following:

- * Letter of admonition;
- * Restricting or denying the academic employee's participation in extra work;
- * Reduction of pay or percentage of appointment;
- * Suspension;
- * Nonrenewal of appointment;
- * Dismissal.

13 APPENDIX A - OPERATING DEFINITIONS

13.1 ACADEMIC EMPLOYEE means any person possessing either a full-time (any employee holding an appointment of at least 67 percent time) or part-time academic or staff appointment at the University and includes all persons with the following class numbers: Academic Administrative 93xx; Faculty 94xx; Minnesota Extension Service 96xx; and Academic

Professionals 97xx.

13.2 BUSINESS means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other nongovernmental legal entity organized for profit, not-for-profit, or charitable purposes.

13.3 DEPARTMENT HEAD is used as a generic term for the immediate administrator, which is normally the department head, department chair, division head, director, principal administrator, or dean.

13.4 EXTRA WORK includes all paid activities that are not part of workload responsibilities. Not included are income-producing hobby/recreational activities or managing personal investments (e.g., stocks, mutual funds but not a business) unless they interfere with carrying out normal University responsibilities.

13.5 TERM OF APPOINTMENT is the contract period for academic employees during the University calendar year (July 1 to June 30). For those with academic year appointments ("B appointment"), this is a nine-month appointment (39 weeks with no vacation period). Academic employees with "A" appointments have an eleven-month appointment (48 weeks plus 22 vacation days in a calendar year).

JOHN ADAMS, Chair
Faculty Consultative Committee

DANIEL FEENEY, Chair
Faculty Affairs Committee

- 1 Words appearing in capital letters on first use are defined in Appendix A.
- 2 Academic employees at UMD covered by contract with the University Education Association shall comply with this policy except to the extent that provisions of the contract specifically modify the application of or supersede this policy.

DISCUSSION:

Professor John Adams introduced the Policy on Professional Commitment and said Dr. Mark Brenner was available to respond to comments and/or questions. The floor was immediately opened for discussion.

One senator came forward and proposed the following amendments:

Amendment 1: To amend the first sentence in section 1.1 to read: "All academic employees are expected to fully and professionally to meet the obligations of their appointments as addressed under the Workload, Conflict of Interest and Academic Freedom and Responsibility policies of the University.

Amendment 1 was accepted as a friendly amendment.

Amendment 2: To amend Section 7.3 by adding the following sentence at the end of the paragraph: "This does not apply to

secondary participation in collaborative research."

One senator noted that all of Section 7 and most of Section 6 relate to special cases, either for non-prior approval or for prior approval, and it is not clear what the general principle is concerning what requires prior approval and what does not. It appears, said another senator, that the reason for the confusion and the request for a change reflects to a large extent the contextual variety across the University. For example, in his department Section 7.2 and 7.3 are hard to distinguish and certainly there would be great concern if faculty began to operate as individual contractors and research collaborators with firms which are also in the research business. With that said, he wondered how Section 7.3, as amended, would affect someone working as a consultant (e.g., someone working as a private consultant for a research firm that is doing research similar to the University or one of its units.)

With no further discussion, amendment 2 was approved.

At this time, Senator JW Halley distributed the following remarks and alternative proposal:

"The efforts of Vice President Brenner and others to write a 'commitment' policy for faculty are not leading to a satisfactory document and threaten serious damage to the university. For background, I refer to the draft policies and also to the minutes of the June 1, 1995, debate of the Faculty Consultative Committee. I have some comments and then a proposed further (and much shorter) draft.

"1. The reasons for this discussion at this time are obviously political and arise as a result of the publicity surrounding the Zahavy case, in which behavior which was not expressly forbidden aroused widespread disapproval inside and outside the university.

"2. The attempts to forbid faculty from competing with university services are clearly inappropriate and appear to constitute an attempt by the university to establish monopolies. The authors have denied that this was their intent but the revisions continue to be objectionable in these terms. For example, it is now said that if the university has invested in the development of certain expertise, then a faculty member may not use it for profitable advantage outside the university. But the university often offers services at extremely inefficient rates, for example by charging 'overheads' which are vastly in excess of real costs of offering the service. (These overheads are hidden subsidies for some very worthwhile activities but also for some gross inefficiencies in administration and maintenance.) The university may claim that these absurd overheads constitute 'investment' and refuse to allow the faculty member to proceed. The result is that the public is denied a service at a reasonable rate because of a monopolistic rule by the university.

"3. A general problem with this rule-making exercise is the attempt to anticipate all contingencies. This is the classical error of Roman law. The Anglo-Saxon tradition, as I understand it, has been precisely to avoid this by stating general principles and leaving details to a judicial process. This seems an admirable approach for the present case, which Professor Adams has attempted to follow, while possibly falling into some other problems.

"4. For the immediate future and in view of these points and the total lack of consensus on the Faculty Consultative Committee, the (Faculty) Senate should reject the draft policy (at the June 8, 1995 Faculty

Senate meeting).

"5. I offer the following possible alternative for discussion:

Faculty members are expected, as a minimum, and during the months of their fulltime appointment, to be productive according to the standards of their field and department (as established by comparison with peer departments) at a level consistent with 40 hours per week from a typical faculty member in those peer departments. This is a minimum requirement. As long as this minimum requirement is met, other business and professional activities by faculty are not restricted. If such activities make use of equipment or copyrighted materials developed by the university or by the faculty member as a part of his university obligations then the university must be compensated for such use at market rates. Enforcement of this policy shall be the responsibility of department heads and chairs in the first instance, with the possibility of appeal to the next administrative level (usually the dean) and for a final appeal to the Judicial Committee.

"The rationale for this is as follows:

- a. The policy requires a level of productivity, not of time spent. A few people may be able to meet the minimum in a couple of days, though this is not encouraged. By explicitly stating a number of equivalent hours, we deal in part with the political problem at the legislature.
- b. By referring to the standards of peer departments, we avoid the problem of trying to write all the diversity of the university into the rule in any sensible way. The standards of peer departments can be established with reasonable objectivity, and thus can form a basis for judgement and judicial proceedings when these become necessary.
- c. The unfairness of using materials developed with university investment for private profit is handled in a straightforward business way. If the university invested inefficiently in the development, then it will not recover its costs at market rates, but there is no reason that it should. The mechanisms should not encourage inefficiency."

Senator Halley then moved to substitute his alternative policy for the proposed policy prepared by the Academic Integrity Committee (AIC) and referred to as the "AIC proposal" in this summary. A motion to suspend the rules to consider Senator Halley's alternative proposal was required because it had not been received at least 48 hours in advance of the meeting. Said motion was approved. Senator Halley's motion was then seconded and the floor was opened for discussion of the alternative policy, referred to as the "Halley proposal."

Senator Halley said the main objective of his proposal was to enunciate a principle and not to try to meet every contingency that may arise at the University. He reviewed his rationale, as outlined above, and the major differences between the two proposals. In his there is no reference to time limitations, just a requirement of productivity. There is no reference to competition because he believes it is inappropriate for the University to attempt to establish monopolies. This is not in the public interest, he said. He concluded by saying he would be willing to amend his proposal by including reporting requirements because it is appropriate that the University know what its faculty are doing.

One senator favoring the Halley proposal said he found the section dealing with prior approval in the AIC proposal particularly disturbing. For example, if someone wants to teach an extra course through Continuing Education and Extension he/she would have to obtain prior approval under the AIC proposal. The AIC document appears to treat faculty like children, he said, and encouraged support of the Halley proposal.

The chair of the Senate Judicial Committee expressed concern about the suggestion in the Halley proposal that final appeals be directed to the Judicial Committee. "What is the basis in the Tenure Regulations for having appeals go to that committee in the area outlined?" he asked. Senator Halley responded that he did not have a particular rationale for this and was open to suggestions. At the present time, said the Judicial Committee chair, the basis for appeal to the Judicial Committee includes such areas as promotion and tenure and termination for cause. He suggested this section be amended.

Another person expressed concern that the Halley proposal appears to make it alright for faculty to work at other places beside the University and that it seems that an individual should work to the best of his/her ability for the institution if that is his/her primary job. Senator Halley responded that his alternative policy was intended to be "a trigger for actions against bad actors and that those individuals need a minimum requirement established, which his policy does."

A member of the Academic Integrity Committee said the notion of what a professional means has been of primary concern to the committee. It really began with the Workload Policy which addressed the kinds of activities faculty should be participating in and not how many hours per week they should spend doing them. The AIC proposal was intended to include faculty involved in scholarship recognizing that as part of their workload.

Faculty need to realize that they are not free agents, said one senator, but work for the University and that rules are necessary in order for the University to function and thrive. The University must also ensure that departments and units are well led and managed in order to avoid the kinds of problems the institution has faced in recent years. He supported the AIC proposal.

Several senators commended Professor Halley for coming forward with very straightforward and simple principles and praised the way his proposal addresses productivity and expectations. However, they did not feel certain aspects of his proposal were workable (e.g. establishing standards of peer departments with reasonable objectivity).

Another senator spoke about faculty morale which he said is continuing to decline. Some of that has to do with compensation, he said, but also the growing feeling that there is a general decline in faculty status compared to administrators. Faculty are constantly being asked to justify themselves to those in administrative positions at the same time they are being asked to

encumber themselves with more obligations. Why isn't there a section outlining the obligations and duties of the administration, including their duties and obligations in supporting the faculty?

In response to an inquiry concerning whether the Halley proposal included academic staff, Professor Halley said it did not. There was an expectation that the academic staff would develop a separate policy.

At this time, there was a call for the question and the motion to substitute Professor Halley's alternative proposal for the AIC proposal was approved 45 to 31.

Senator Halley then proposed the following amendment to his document:

To add the following sentence, as follows: (new language is in CAPS) ". . . As long as this minimum requirement is met, other business and professional activities by faculty are not restricted. IF SUCH ACTIVITIES RESULT IN INCOME OF MORE THAN 5 PERCENT OF UNIVERSITY DERIVED INCOME, THEN THEY SHOULD BE FULLY REPORTED. . . . "

Senator Halley clarified that he intended this to include all activities over an entire year and not each individual activity.

Another senator said he failed to see the importance of specifying an amount if faculty are allowed to do outside work or consulting. If an amount is specified it could create problems, including negotiations of raises at the end of a year. He also wondered how the percentage was determined.

Other members expressed concern about endorsing a document of such importance that has taken form too quickly. Rules and regulations that come before the University are not there to only punish people, said one senator, but are there in order to give guidance to faculty and administrators. It would seem prudent, he said, to return the document to committee for further review and refinement.

Another senator, who had also served for two years as the representative of the U of M Faculty Association at the legislature, said he believes it is important for the faculty to come to agreement on a policy soon in order to avoid having one imposed on them, perhaps by external sources. He agreed that neither of the proposals was ready for endorsement at this time, but urged expediency.

At this time the motion to amend the Halley document as proposed above failed, and a friendly amendment to add the phrase: ". . . , when it has jurisdiction" at the of the document was accepted. The time allocated for discussion of this item was also extended by 5 minutes.

In the remaining time more questions and concerns were raised about the (Halley) proposed policy and several more senators encouraged returning the document to committee for further consideration. One senator said as a department chair he needed more specific guidelines than what the Halley policy offered. Another senator said the document should also address the issue of commitment, both on the part of the University to its faculty and the faculty to the University and suggested this be included.

A motion to return the document to committee was then

overwhelmingly approved.

III. OLD BUSINESS

Professor John Adams, chair of the Faculty Consultative Committee (FCC), expressed appreciation to the senators for their active participation in the discussion on professional commitment. He said further comments may be submitted to either Dean Brenner or the FCC. It is his hope, he said, that a document can be developed soon that meets the approval of the Faculty Senate and the University Administration and Board of Regents. He too expressed concern about the possibility of a policy being imposed on the faculty if they do not take the initiative on this issue.

IV. NEW BUSINESS

NONE

V. ADJOURNMENT

The meeting was adjourned at 3:45 p.m.

Martha Kvanbeck
Abstractor

APPENDIX A ATTENDANCE OF MEMBERS, 1994-95

The Faculty Senate met 5 times during 1994-95.

(fm=forfeiture of membership for nonattendance)

	Attended	Notified Clerk of Nonattendance or Alternate Attended
FACULTY		
Akehurst, F. Ronald	5	0
Altholz, Josef	4	0
Anderson, Eugene	3	2
Anderson, John	4	1
Arth, Janet (apptd. 12/94)	3	2
Bache, Robert	3	0
Ballou, Mercedes	5	0
Bar-Cohen, Avram	4	1
Bashiri, Iraq	5	0
Beatty, John	3	0
Bebeau, Muriel	3	1
Beebe, David	2	1
Befort, Stephen (apptd. 11/94)	1	3
Bell, John	2	2

Ben-Ner, Avner	5	0
Biesboer, David	3	1
Bloomer, Joseph	1	0
Bohn, Dorothy (resigned 12/94)	1	0
Bolman, Morton	0	4
Borchardt, Edith	2	3
Bouchard, Thomas	3	0
Brady, Linda	4	1
Brown, David	1	3
Brustein, William	5	0
Buchwald, Henry	4	0
Burke, Barbara	3	1
Busta, Francis	1	3
Burns, Kenneth (apptd. 11/94)	2	0
Carr, Peter (resigned 10/94)	0	0
Collins, W. Andrew	3	2
Connett, John	4	0
Copeland, Rita	0	4
Corcoran-Perry, Sheila	5	0
Cummings, Larry	2	1
Davidson, Jane	3	1
Davidson, Kris	5	0
Deinard, Amos	3	2
DeLong, Marilyn	3	2
Dempsey, Mary	5	4
Drewes, Lester	3	0
Dunn, David	0	3
Dunnigan, Timothy	4	0
Durgan, Beverly (resigned 1/95)	0	1
Dworkin, Martin	4	1
Eagon, John	2	0
Epley, Richard	3	2
Fall, Bruce	5	0
Ferrieri, Patricia	1	3
Filipovich, Alexandra (apptd. 12/94)	0	5
Fogelman, Edwin	4	0
Francis, Gary	1	3
Frank, David	4	0
Galaskiewicz, Joseph	4	0
Gardner, Gary (resigned 2/95)	1	0
Gaston, Judith	5	0
Giebink, Scott	0	3
Goldstein, Richard	2	3
Graham, Peter	3	1
Gross, Cynthia	3	1
Halley, J. Woods	3	1
Hancher, Michael	4	0
Hatch, Jay T.	2	1
Hawley, Louise	2	3
Hogan, M. Janice	5	0
Hostetter, Margaret	0	5
Hudleston, Peter	4	1
Jernberg, James	5	0
Johnson, Thomas	5	0
Kane, Mary Jo	2	3
Kane, Robert	1	3
Kaplan, Edward	0	4
Karni, Karen	3	0
Kautz, Barbara	4	1
Kelly, Richard	4	1

Kennedy, William	2	1
King, Jean	1	2
Kittleson, David	3	1
Klee, Carol	4	1
Krislov, Samuel	5	0
Kuhi, Leonard	5	0
Kumar, K.S.P.	5	0
Lange, Dale	4	0
Leppert, Richard	5	0
LeRoy, Stephan	4	0
Lewis, Marsha	2	2
Lodge, Timothy	2	2
Lulich, Jody	3	1
Lubet, Alex	4	1
Mackenzie, Thomas	1	2
Malandra, William	3	0
Mariash, Cary (apptd. 12/94)	3	1
Martin, Judith	5	0
Mason, H.E.	1	3
Maxwell, Robert	1	2
McEvoy, Mary	1	4
McKeever, Patrick	3	1
McMurray, Peter	4	1
Melsa, Cleon	3	2
Meyers, Susan (resigned 10/94)	0	0
Miller, Willard	5	0
Moon, Roger	4	0
Morris, C. Robert (apptd. 11/94)	4	1
Mullins, Lynnette	1	2
Murthy, V. R.	3	1
Nantell, Timothy	3	0
Nagaraja, Kakambi	4	1
Nellis, Jennifred	4	0
Nelson, David	2	1
Noetzel, David (apptd. 11/94)	3	0
Nolting, Earl	5	0
Nystrom, Gene	4	0
Orf, James	4	1
Perry, Cheryl	4	0
Perry, James	4	1
Peterson, Gail	4	0
Polla, Dennis	2	2
Pusey, Anne	4	0
Ragsdale, David	4	1
Reyes, Angelita (resigned 3/95)	0	1
Rhame, Frank	2	0
Rhodus, Nelson	4	0
Robbins, Kathryn	4	1
Robinson, Elaine	2	2
Rose, Susan	4	0
Rose, Thomas	5	0
Satkowski, Leon	2	3
Schlein, Stuart	4	1
Schwarzenberg, Sarah (resigned 11/94)	0	1
Sell, George	4	0
Seybold, Virginia	3	0
Shocker, Allan	3	0
Shulman, Yechiel	2	2
Shumway, Sara	1	2
Simmons, Michael	4	1

Sirc, Geoffrey	4	1
Sivanandan, V.	4	1
Skurla, James	5	0
Snover, Dale	1	1
Sparber, Sheldon	3	1
Speidel, Thomas	5	0
Stein, Marvin	3	2
Swan, Craig	4	0
Swanson, Bert	4	0
Takemori, Akira (resigned 6/94)	0	0
Tillotson, Richard	2	1
Tracy, James	3	0
Wagner, Philip	4	1
Wangensteen, Douglas	2	2
Walter, Kenneth	5	0
Ward, David	5	0
Weckwerth, Vernon	5	0
Welsch, Gerald (resigned 1/95)	0	0
White, Michael	3	1
Wiedmann, Timothy	5	0
Williams, Oliver	3	1
Wolf, Susan (apptd. 11/94)	4	1
Wood, Frank	5	0
Zaimont, Judith	3	1
Zita, Jacquelyn	4	0

FACULTY CONSULTATIVE COMMITTEE

Adams, Carl	1	0
Adams, John	5	0
Burk, Thomas	0	0
Evans, Sara (Winter Quarter)	1	0
Gremmels, James	5	0
Humphreys, Roberta	2	1
Jones, Robert	1	0
Maruyama, Geoffrey	4	1
Peterson, Harvey	4	1
Steffes, Michael	1	3
Weiss, Gerhard (Fall and Spring)	4	0