

Minutes*

**Faculty Consultative Committee
September 24, 1992**

Present: Mario Bognanno (chair), John Adams, Amos Deinard, Judith Garrard, Paul Holm, Karen Seashore Louis, Toni McNaron, Irwin Rubenstein, James VanAlstine

Guest: President Nils Hasselmo

Professor Bognanno convened the meeting at 11:00, welcomed President Hasselmo, and explained that the sole purpose of the meeting was to discuss with the President the recent series of articles in the newspapers about the University's relationships with industry. There is a concern, Professor Bognanno commented, that the image of the University, as a public institution, needs to be protected; if that image is demeaned, then public views of the activities of the University are also thereby demeaned. Two questions have been raised: first, does the press have a reasonable basis on which to make the allegations so public, and to almost decide the outcome; and second, are there system responses underway to stop the confusion, or changes that the administration and the Committee should consider?

The President began by observing that new relationships between higher education and industry have evolved over the past few decades, relationships which are putting stress on the institution and its mechanisms for the management of certain activities. The environment requires those relationships, however; there are over 2500 principal investigators on the campus managing 5000 projects. Many are activities funded by the federal government, and generally, the President said, the University manages those projects well.

The relationships with the private sector are different, because in some cases the faculty member has a direct financial interest in the activity--so these can be more sensitive relationships. The University has mostly stayed ahead of the complexities, the President said.

Of the three cases that have received attention recently, each is different and each goes back several years; they are in the newspapers now because the paper is scrutinizing the issue of "mission versus money." In a way, the President reflected, he is surprised that there have not been more cases, with all of the complexities and the sheer number of projects involved. This really isn't bad--although it also isn't good enough. The three cases:

In one, a faculty member had an equity position in a commercial activity that arose from his research. The University reviewed the activity with care, followed its own procedures, and made justified judgments. Others might say the University should have come to a different conclusion, but that is a different question. University procedures were effective, the President declared; the warnings and pitfalls were recognized and a decision was made, a decision that was not unreasonable--even though a knowledgeable person might reach a different conclusion.

In the second case, accusations were reviewed by the University and it took action; there was a

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negotiated settlement whereby the University was reimbursed and the faculty member put on probationary status. Again, one can question if the University should have negotiated a settlement, but with the procedure involved for disciplinary action, settlement was not an unreasonable decision. Most important, the project was stopped and action was taken; it is a technicality whether or not the individual was "disciplined" because of the settlement.

In the third case, that of ALG, the President said he is not sure why the drug has not been manufactured by a pharmaceutical company. He said he has relied on the judgment of those closer to the facts that it was necessary for the University to produce it, and that there was sloppy paperwork involved. The University identified the problem in an audit a couple of years ago but the follow-up was not what it should have been.

As one looks at the details of these cases, one might quarrel with the judgment, but there has been no scandal and appropriate procedures have been followed. No matter how they happened, however, the President said, they are still seen as scandals.

The President also told the Committee he believed the newspaper coverage had been biased. The University went to great length to make people available to the reporters, but the articles showed little effect of the interviews. The University has not tried to explain away the problems, but to put them in perspective.

What should the University do? President Hasselmo said he resists the notion that there should be a special investigation every time someone runs an article; that would be demoralizing to the people at the University and would even further undermine the University's credibility. He has also emphasized that the University engages in a continuous review of its policies and procedures and, to some extent, learns by the case method: new relationships lead to new complexities which require addressing (such as the academic misconduct policy).

In addition to managing the possible conflicts, the University also needs to return to the basics in these matters, the President suggested, in terms of its own values. Maybe lines should be drawn: even if there is no conflict of interest, the appearance of it, or the potential for it, are so great that certain projects should be rejected.

Relationships with the media are generally good, the President told the Committee; there are a number of hard-working professionals who do a good job providing information and the context for it. Some, however, come with a predetermined agenda on what will be found, and these articles about the University's relationships with the private sector are symptomatic of that latter approach. In response to an inquiry, the President said there have been many positive articles about the University in the press; they, however, tend to be "feature" articles, whereas the negative articles tend to be "news." It also helps, he observed, when a reporter works with the University over the longer-term; those individuals are more likely to report accurately and put issues in context--and most reporters do try to do this.

One question that arises, the President told the Committee, is whether or not the University has an obligation to investigate every time it is accused of something in the media. The University's agenda cannot be driven by the media, he said; the University must actively pursue its own agenda to maintain its integrity. He also said that he did not believe the University was being "set up" for attacks on its

scientific integrity.

The relationships with the private sector have benefited the University enormously, the President pointed out. Private fund-raising exceeded its goal by \$10 million last year. Further, with declining public investment in higher education, the University may have to rely more on private sources. The State funding for the University is now less than 30% of its budget; without that other 70%, this wouldn't be much of an institution, the President observed.

The basic principles remain clear, the President said; the integrity and openness of the research enterprise cannot be undermined.

Even though he is not fond of some of the reporters, one Committee member commented, the recent articles do raise major questions about University relationships with private industry--relationships that have grown and which will continue to grow. It would behoove the University to have a dialogue on the issues with the press, the legislature, the faculty, and the administration. The University is grappling with a difficult issue and we need to educate one another on it, it was said.

The President affirmed that Anne Petersen proposed, long before the recent brouhaha, a national assessment of policies governing relationships with industry, university positions, and an examination of what works and what doesn't, and she suggested a conference at the University. He said he has encouraged this approach; the issues are almost always on the agenda for the AAU meetings. The conference has been scheduled, with some of the significant actors scheduled to attend; the President said he hopes the public and the press will participate. What he tried to say in his recent op-ed piece is that these questions must be put in context, rather than be raised by disjointed accusations of misconduct.

Among the issues that Dr. Petersen will consider, along with the General Counsel, is conflict of interest. The President said he has asked her to consider establishing a special faculty committee to "birddog" these issues; complicated questions of relationships with the private sector would be brought to the panel for its judgment. It was suggested that either the Science and Scholarly Advisory Board (established by the policy on academic misconduct) or the Senate Research Committee might fill this role. Dr. Petersen will raise this subject when she meets with the Committee in October, but the President said he was wary of establishing new mechanisms that would make further demands on faculty time--although the subject may be important enough to warrant such a step.

It may be that the University is not approaching these questions in the right way, one Committee member suggested. What bothers the public, it was said, is the venality that seems to be demonstrated. For many years, the public accepted the idea that certain members of professions were protected in their jobs, in return for modest pay (e.g., faculty and tenure). With the rise of unions and faculty salaries which are competitive in the marketplace, the public is uncomfortable with the notion of job protection AND higher salaries. Now faculty members are paid at market rates and they also get to do whatever they want to--and it may be that even the University is not sure this is legitimate. The University has not answered the question that the public wants to pose, even though it is not sure how to ask it.

Relatedly, the independence of institutions (universities, churches, and the like) has eroded in recent years; in the public understanding, there should NOT be autonomous public enterprises which are not called to task. The University wants it both ways. The job, in a world of five-minute attention spans,

is to recognize the public concern. The "awful balance" is to obtain the money necessary to do the job that the State, in 20 years, will have expected the University to do. The day-to-day issues are not so important--things do happen when there are 2500 principal investigators. The University needs to think long-term and must educate the State on its long-term business.

The President agreed that there are deeper issues involved. A recent presentation to the deans' retreat, he related, emphasized how important it is for institutions to learn to manage their assets and for them to be extremely careful in the deployment of public funds. The University must also encourage entrepreneurship in the faculty; it has been successful because of that entrepreneurship. Where are its boundaries, however? The University may need to set stricter limits on what lines of research it will follow; it should not be assumed that just because a grant can be obtained that it is good.

The President agreed one runs into questions of academic freedom, but that is basically the freedom to express unpopular opinions, not to do what one pleases at the institution where one works. To what extent can an institution set directives on teaching and research, and to what extent must academic freedom be the byword? Could, the President asked, these considerations be incorporated in the faculty workload principles?

One faculty member pointed out that these discussions had been raised by the task force that developed the faculty workload principles; limits along these lines are not included in the report. The question of whether or not a faculty member can do research on anything he or she wants to, however--even if totally unrelated to the mission of the unit--does need to be raised.

Moreover, it was said, higher education has a tendency to circle the wagons when criticized and tell the world that "we're the experts; trust us." While the University needed to develop the academic misconduct policy itself, for instance, but for issues such conflicts of interest raised by relationships with industry the University is not the only source of expertise. If we ignore the public concern, the University could end being TOLD what to do. There must be a way to carefully bring in the public to help make decisions.

The President agreed that community representation might appropriately be a part of any group established to review these questions. One concern raised by another Committee member, however, was the different roles played by the University and by private industry, for example. He would be uncomfortable, he said, if industry began to dictate the results of research. Public representatives, however, could also inform the community about the values of the University and the role it plays in society as an independent agency in pursuit of the truth.

Other Committee members expressed support for the idea of community representation in the discussion and review process for complex questions of University relationships with the private sector. One function that could be performed, it was suggested, was that experienced and knowledgeable people--at least from outside a unit, if not from outside the University--could either give a unit a clean bill of health or identify a problem. As a public institution, it was said, the University must be able to assure the legislature that it is accountable and that it has left no stone unturned in its attempts to retain its integrity--even if that means dismissing tenured faculty. What a unit cannot do it trust its colleagues and friends to say "everything is OK." The University must go out of its way to bring in outsiders. This need not be used for every squabble in a department, it was added, but when questions reach a certain

threshold--such as FDA inquiry, or relationships with drug companies--then it could be invoked. In such instances, the strictly internal inquiry is insufficient; the President must set aside the views of internal advisors--who may not have looked as critically as necessary--and engage a special investigation.

The President generally concurred. The external perspective is needed, as is peer review. While reluctant to throw an investigation at every question, when people work hard to make the right decisions, peer review is a way of life in higher education, and it may be appropriate to use it for ethical questions as well as with scholarly issues. It may be useful to institutionalize such reviews in order to obtain the benefits of dispassionate consideration. Committee members agreed.

It has been suggested by one faculty member, Professor Bognanno reported, that in the Spring Senate docket there be an itemized report of investigations, similar to the report of the Sexual Harassment Board. This would permit people to know that the problems are being attended to and that the University is being accountable.

Further discussion touched on the extent to which the administration is keeping the legislature apprised of events (it is, regularly) and the vigorousness with which the University is pursuing problems (it is, the President said, and it cannot afford anything less than honest and straightforward reports, even if damaging). In terms of managing assets, it was said, two of the University's major ones are the faculty and a perception of integrity. The President agreed, and urged the Committee to press hard if it sees problems.

The Committee adjourned at 12:10.

-- Gary Engstrand

University of Minnesota