Minutes*

Senate Committee on Faculty Affairs
Tuesday, March 29, 2010
2:30 – 4:30
238A Morrill Hall

Present: George Sheets (chair), Ben Bornsztein, Arlene Carney, Carol Carrier, Dann Chapman, Vladimir Cherkassky, Richard Cline, Randy Croce, Kathryn Hanna, Frank Kulacki, Theodor Litman, Karen Miksch, Geoffrey Sirc, Pamela Stenhjem, James Wojtaszek

Absent: Jason Shaw, Roderick Squires

Guests: Gavin Watt (Chair, Benefits Advisory Committee); Professor Gary Balas; Nan Wilhelmson (Human Resources)

Other: Jackie Singer (Employee Benefits)

[In these minutes: (1) possible changes to health benefits; (2) instructional intellectual property; (3) changes in the P&A non-renewal policy]

1. Possible Changes to Health Benefits

Professor Sheets convened the meeting at 2:30 and welcomed Mr. Watt to discuss possible changes in health benefits for University employees.

Mr. Watt distributed copies of a set of slides titled "UPlan Health Coverage: Questions for Discussion." He explained that given the budget challenges for the University in the next biennium, the administration has asked everyone to cut back. The President asked the Administrative Working Group (the "board of directors" for the UPlan that advises the President) and the Benefits Advisory Committee (BAC) to respond to the budget challenge and to model a 5% cut in UPlan expenditures. Given the nature of medical care, it is unlikely they can get the 5% out of the system, Mr. Watt said—the University has taken a number of steps in recent years to carve dollars out of the system, and he said he believes they have cut as much "fat" that they can.

Professor Sheets clarified that the UPlan is the health benefits plan that covers all University employees. It is, Mr. Watt said. The BAC represents all employee groups—faculty, P&A staff, civil service staff, bargaining unit employees—and also has several ex-officio members from inside the University who bring expertise to the table.

Mr. Watt reported that the President asked the Administrative Working Group (the members of which are Vice President Carrier, Mr. Chapman, Vice President Friedman, and three members of BAC, him, and Professors Fred Morrison and Richard McGehee) to consider where a 5% cut might be made. It is inevitable that the cut will come out of employees' pockets, Mr. Watt said, and it is a cost shift.

* 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.

Why are changes necessary? To assure that the University complies with HealthCare Reform legislation, to assure that the University budget can handle the significant increases in its health care costs, and to enhance the focus on health and wellness as one way to help control future costs. Why now? The administration has begun the consultation with the BAC and other on-campus organizations now so they have more time for input, the issues are complex and require ongoing discussion with the BAC and others in the University community, and to acknowledge that 2012 is a bargaining year, and the University's medical/wellness plans are also out on a regularly scheduled Request for Proposals (RFP).

As a result of these circumstances, BAC has posed four questions about changes to the UPlan.

The first question is:

If the University is unable to fully cover increasing health care costs, how should we respond?
A. With across the board increases in the employee share of the premium cost?
B. With substantially higher co-pays or co-insurance?
C. With a combination?

A sample of the comments they have received: 55% say A; 30% say B; 15% say Other; "Across-the-board premium increases are more equitable"; "I vote for higher co-pays. People who use the services should pay for them"; and "I'd go with either or both. However, from a public health perspective, which makes more sense?"

The general sense, Mr. Watt said, is that this is insurance, so let's spread the cost among ourselves, and increases should be weighted on the premium side. One suggestion has been to increase the dental premium to try to offset increases in co-pays for office visits. While an increase in the current $11 co-pay to something on the order of $15 may not seem like a lot, and it is not for people who visit the doctor two or three times per year, they hear from employees who need repeated visits, for example, for physical therapy or chemo, that the co-pays mount up fast and add to the financial burden of chronic conditions. So BAC is trying to balance between premium and co-pay increases.

The second question is:

> If we impose higher employee premiums, should we cap the amount that an employee must pay for coverage as a percentage of salary, in order to avoid substantial federal financial penalties that would be imposed on the University beginning in 2014?

Mr. Watt explained the basis for this question. In 2014, employees would be entitled to opt out of UPlan and receive a voucher if (1) employee share of cost of plan exceeds 8% of total household income AND (2) the employee's household income is less than 400% of federal poverty level (single: $42,520; family of 4: $88,000). For each voucher issued, the University would pay about – Single: $5,519 Family: $11,177. Healthy individuals could be among those who opt out. To avoid the risk of vouchers, the University could ensure that no employees have health plan rates that exceed (1) 8% of University income, and (2) 8% of household income. The cost of doing so would likely be less than the cost of vouchers, lower paid employees would be advantaged, AND the risk of healthy people leaving plan could be eliminated.

A sample of the comments received: 8% say "No"; 89% say "Yes"; "Well duh! Avoid the penalty!"; "I don't like the idea of capping based on salary. That doesn't really seem fair"; and "I believe we should cap the amount based on a percentage of salary."

The third question is:

> Should we substantially reduce the premiums or co-pays for employees who either (a) have satisfactory biometrics, or (b) are making real progress in improving their biometric results through health improvement activities?

Mr. Watt reported on what other employers, including some universities, are considering: Changing from encouraging wellness to "expecting" wellness or "expecting" progress on wellness goals, changing from cash-based incentives to incentives more closely linked to the medical plan, through premium differentials and co-pay differentials, and changing from "participation"-based measures for incentives to "outcomes"-based measures for incentives.

Mr. Watt explained how such a plan might be designed. In year 1, employees could earn points from a list of activities that are geared to:

- -- Maintain Health
- -- Manage Health
- -- Improve Health

In year 2, employees with points at target level or above could receive:

- -- Lower premiums OR
- -- Lower co-pays or co-insurance

In year 3, points could be earned for maintaining or improving biometrics, with option to:

- -- Provide documentation that biometrics cannot be improved
- -- Complete programs that show employee is striving to improve their measures

A sample of comments received: 46% say "No"; 47% say "Yes"; it penalizes conditions beyond the member's control; people who are taking care of their health should be rewarded; and complex management; appeals!

Wellness has been a key part of the UPlan for about six years, Mr. Watt noted, and it encourages employees to be well. Like any campaign, it must be changed around, and the current conventional wisdom is that the University has gotten its bang for the buck out of the plan and now must do more. Their straw poll showed employees split evenly in their views—half think this is a good idea, half think it is terrible, in part because it appears to penalize the sick. That is not the intent, Mr. Watt assured the Committee, and there are opportunities to accrue points and get one's premium reduced even if sick.

The fourth question is:

> Should we offer, as an option, a network that consists only of providers who provide above-average quality of care at below average costs? Such a network might not be available in all locations.

What this means, Mr. Watt explained, is that UPlan and University researchers have been reviewing clinics or clinic systems for cost of care and quality of care. It is evident from this research that (1) high cost does not equal high quality, (2) a group of lower cost, higher quality clinics could be identified, (3) quality of care can also vary by clinic and by condition being treated, and (4) most often patients want to know which clinics provide the best care at the best price.

The comments thus far: 31% say "No"; 58% say "Yes"; "cost, quality -- how defined?"; "why isn't this the standard?"; "not fair to those who can't get to it"; and "I am well engaged with my provider; why switch?"

Were the answer to question #4 to be affirmative, Mr. Watt said, it would be a return to 1992 (when managed-care organizations were adopted). There would "Accountable Care Organizations" and "Health Homes" and would move from the model of provider revenue based on the current fee for service model to a model that bases revenue on the health of the population. Many people think this sounds like a good idea, but Mr. Watt said he is not sure the market is ready for it, so at this point it may be moot.

There are numbers on the table about health-benefits costs for next year, Mr. Watt reported, and they have been discussed with BAC and the Administrative Working Group, but they are not yet ready for release.

The Committee of Selection has reviewed the proposals received from medical vendors in response to the Request for Proposals, Mr. Watt said; the University issues an RFP every six years, and the last time there was a big change when the University went with HealthPartners and Medica—it has used those two plans for the last six years. They have heard from a number of vendors in response to the RFP this time; the final decisions will be announced on April 7. Effective for January 1, 2012, Professor Hanna clarified.

The University's business amounts to about $220 million per year (the projected average over the next six years), so it is a $1.3-billion piece of business, Mr. Watt observed. It has 18,000 "benefits-eligible" employees (including RIO and other 'non-active' participants) who represent about 35,000 lives. While the University is not the biggest dog in the business, it is "a pretty good-sized dog," he said.

They have looked at other Big Ten schools and learned that the University's program is quite comparable to those at its peers. But there is a threat, Mr. Watt warned: There is a Minnesota House bill that would fundamentally change how the State provides health care insurance to its employees. The State would provide only a high-deductible plan for which employees would pay the entire premium; the State would contribute a lump-sum payment to a health savings account (HSA). At present State and MnSCU employees contribute 0% for employee-only coverage and 15% for family coverage, but do have a deductible. At the University, the institution pays 90% of the premium and (for the employee-only coverage) the employee pays 10%; for family coverage, the institution pays 85% of the premium and the employee pays 15%. Although comparing health insurance plans is like comparing cell phone plans, the University and the State currently offer a comparable benefit. The University's plan is as good as it gets, Mr. Watt commented, so it's a fat target when viewed in isolation. But benefits are an important portion of the University's total compensation package. Any reduction in the University's contribution is a reduction in compensation.

The proposed legislation would not apply to University employees, Professor Sheets commented. That is correct, Mr. Watt said, and employees should thank the Health Plan Task Force and Professor

Richard McGehee for calling for and leading the separation of the University's health plans from those of the State.

Professor Sheets asked how the $220 million per year relates to the University's self-insuring itself. The $220 million is an average across the next six years, Mr. Chapman said, and is the true total cost of care for employees in the health plan—it includes the employer and employee contributions plus employee out-of-pocket expenses. The University covers a larger portion of the base plan (which about 70% of employees choose), and overall the University covers about 80% of the total plan costs. Employees pay a larger percent if they use medical services more or if they choose to buy up to a higher-cost plan.

Professor Sheets asked if they had any more information about the cost-effectiveness of the wellness services the University is purchasing. They have done a thorough analysis of the return on the investment for the last three years, Mr. Chapman said. Professors Jean Abrahamson and John Nyman in the School of Public Health have been analyzing, reporting, and publishing the data. They have discovered that they have a very solid number for the disease-management portion of the wellness program: The returns from that portion alone are enough to pay the entire cost of the program, including expenses for elements of the program for which a return is difficult to calculate (e.g., the farmer's market). It also appears that the fitness-rewards program (partial reimbursement for fitness-club membership costs) also has a positive return on investment. This is very pleasing to learn, Mr. Chapman said; in the past, they best they could hope was that there was a 1:1 return. It appears that the UPlan has successfully motivated a lot of people to join a fitness club who had never belonged to one before. That is a big difference—and a big movement to reduce health risks. Moreover, Vice President Carrier added, because there were extraordinary institutional resources to bring to bear on the question (i.e., University faculty expertise), they believe the study results are much more robust than what would be provided by a company justifying its program. These are more conservative results, prepared to meet publication standards, so they are quite confident about them. (Professor Sheets and Mr. Chapman had a brief discussion about how one does return-on-investment studies of fitness.)

Professor Sheets asked if the data from the studies are sufficiently precise that one could use them to craft a sliding scale in order to lower health costs, and thus the premiums that the individuals would have to pay.

They asked that question and ran into a firestorm, Mr. Chapman said. The reaction to the suggestion that with a certain BMI or adequate control of diabetes would mean a reduction in the employee's premium was heated. He said the context is that what they really want to achieve, with a wellness program, is incentives for good behavior. If one is healthy, and stays healthy, and can demonstrate it (with activity and a good BMI, not anything unusual), then that person should be rewarded by the wellness program. But that is a small part of the population, and "the rest of us have room for improvement." The wellness program is designed to increase participation in activities that improve health. They are not creating a situation where one must pass a test to have coverage or to receive a lower premium—the point is to reward people who participate in wellness activities and provide incentives for doing so. For someone with a chronic illness, it may be that the best that can be hoped for is that the person follows the doctor's orders and takes the medicine they are supposed to take—so that behavior would be rewarded.

In response to Professor Sheets' question, Mr. Chapman said, he did not believe the data can be so finely tuned that the University could establish premium tiers—nor does he think the University would want to use the information that way, because then it would become a punitive program.

One reason for the firestorm might be that the program does not pay attention to genetic properties of certain populations, Professor Bornsztein said, a group that will have higher costs through no fault of its own. The biggest return on investment from the wellness program is the management of chronic conditions, Mr. Watt said, and it almost easier to be rewarded for that as long as one participates in a disease management. One hole in the U.S. health-care system is that chronic conditions are not well-managed.

Mr. Chapman commented that conventional wisdom is that about 42-43% of health-care costs are driven by conditions over which people have at least partial control. Some people are healthy and some are not, through no fault of their own. The common thread for the healthy and the unhealthy person alike is "I must take responsibility for my health and my health care, it's no one else's responsibility." The employer may provide tools but ultimately it is up to the individual. For example, "I have to make time in my day for exercise. I have to be responsible for taking medications I'm supposed to take." The cultural message in this country, however, is that "it's not your fault, you're a victim." People do not want to hear they must change something in their lives, they want a pill. That mentality is what they are struggling against, Mr. Chapman said, and there has to be a sea change. One of the great stories to tell is the weight-loss program the University offers (e.g., it reimburses costs for Weight Watchers): A lot of people are stepping up and taking that responsibility.

Professor Hanna noted that the federal health-care law will be in effect during the next six-year period; she asked if the University is looking at medical vendors to see how well they have planned for that change. They are, Mr. Chapman said. She also asked how the 8% cap in the federal law matches to salaries.

One core component of the RFP is that the University is looking for the right partners during a critical transition time in health care, Mr. Chapman explained. They want leaders who can anticipate what needs to be done and who can work with Accountable Care Organizations and Health Homes.

In terms of salaries, it varies, Mr. Chapman said. The impact of the federal limit (400% of the federal poverty level) varies with the tier and number covered. On the low end, for a single employee, no one would hit the limit (that would be about a $12,000 salary). In the fourth tier, it would be about a $50,000 salary. The University would have to address the problem by 2014, but the administration has asked that the solution be adopted for next year to help lower-paid employees deal with the changes coming in the shift in costs.

Professor Sirc asked if anyone has explored incentives for living near campus. If one can work walking or biking to work into one's life, that's easier than going to a club. They have thought about that, Mr. Chapman said. In the near future there will be meter stations where bikes with transponders will be recorded if one rides to work. It would be possible to award points for doing so. They also talked about, when using points, the possibility of including a "you make it up" option, as some organizations do. If one runs a marathon or does speed walking and there is some way to report it, that could also earn point. Mr. Watt said they have heard the complaint that the Fitness Rewards program requires health club membership but there are no rewards available for self-directed activity .e.g. biking, running.

Professor Bornsztein asked what the projected increase would be for the new contract—will the cost be $220 million? They do not have the number yet, Mr. Chapman said; they are in the process of negotiating with finalists. They will look at what to project as they receive trend data from local and national consultants. They have always squeezed down costs when they go out to the market to renew the contracts. What is scary about health care, Mr. Watt added, is that year over year, there is 7.5% inflation, and everyone is trying to "bend that curve" so the number drops.

The one thing employees can count on, Mr. Watt concluded, is that there will be more money out of their pocket starting next January. The decision about distribution of cost increases will be probably be a combination, weighted toward premium costs, Mr. Watt said. There are some inflationary costs but the University has done very well in, for example, the pharmacy management plan.

Professor Kulacki asked if there will be a variety of choices. There will be a base plan and a couple of buy-up plans and one with a high deductible and HSA, Mr. Watt surmised. Mr. Chapman said there will be a spectrum of choices.

Mr. Chapman posed a question for the Committee. The role of the BAC is to advise the Administrative Working Group and the administration on benefits changes. The BAC and Working Group are mulling over changes now and will discuss them more. One question is how additional premium costs should be added in. If one assumes there will be an increase, in the ordinary course of building a rate plan (for the base plan, for example), there are four costs (tiers), in ascending order of cost:

-- for the employee only
-- for the employee plus child(ren)
-- for the employee plus spouse/partner
-- for the employee plus spouse/partner plus child(ren) (family coverage)

The increases in cost for each group are based on increases in risk because more people are being added to the coverage. Children cost less than spouses, so employee plus children costs less than employee plus spouse (unless someone has a lot of children, but that cost averages out).

The ordinary way they would deal with an increase in employee costs would be to distribute the increase across the four tiers at the same percentage rate increase. The result of that is that the employee-only rate would go up a smaller amount of dollars than family coverage. At the last BAC meeting, Mr. Chapman said, there was substantial unhappiness with hitting families that hard, especially if one assumes that family coverage is chosen primarily by younger employees who are making less money.

His idea, Mr. Chapman said, is to take the dollar amount of the increase in employee cost and divide it by the number of employees, and give every employee the same dollar increase, regardless of tier. This would be adding a lump sum to employee cost, and all employees would be treated the same, but would no longer be paying the same percentage increase—it would a smaller percentage increase for families and larger percentage increase for employee-only coverage. Mr. Watt provided a quick example.

To cover a projected cost shift of $X millions from the University to the employees, UPlan would need a Y% increase in employee premium contribution. Set a <u>very</u> hypothetical Y to 20%, then:

Employee only coverage would increase by 20% from $100 to $120, $20
Family coverage would increase by 20% from $300 to $360, $60.

Alternately, the same cost shift $X millions could be distributed as fixed dollars per employee $X/N employees. Set a hypothetical $X/N = $35, then:

Employee only coverage would increase by $35 from $100 to $135, 35%.
Family coverage would increase by $35 from $300 to $335, 12%.

Professor Kulacki said that depending on average health conditions, a family of four could use a lot more medical services than a single employee. That is already factored into the rate tiers, Mr. Watt said.

Mr. Croce said they have to look at which option does the least harm. It seems as if families are seeing more costs, although it does receive tax breaks, but everything is hitting them.

Professor Sheets thanked Messrs. Chapman and Watt for the presentation.

<u>2. Instructional Intellectual Property</u>

Professor Sheets welcomed Professor Gary Balas to the meeting and provided some background. There have been questions raised, particularly by faculty members in the Academic Health Center, about rights to instructional intellectual property. There is perceived to be a conflict between the institutional right to use instructional materials and the creator's right to control them. Under the Board of Regents copyright policy, it appears to be fairly clear that ownership of copyright of pedagogical materials resides with the creator (absent specific conditions, such as a work-for-hire, which must include a written agreement).

In the meantime, Professor Sheets reported, the Faculty Consultative Committee (FCC) has received a faculty-composed draft of principles governing instructional intellectual property from a peer institution [the institution asked that it not be identified in any minutes because it is only a draft that they continue to work on]. The principles suggest that the creator would own the copyright but there would be an institutional right to use instructional materials without limitation. A policy that embraced such principles might be more favorable to the institution than the University's current policy. The FCC chair has asked this Committee to respond to the draft principles developed at the peer institution.

Professor Sheets related that he has been told that the Provost's office considers the existing University policy applicable to instructional materials, and he has also been informed that the Provost's office is working on the development of additional policy language (whether a separate policy or an addition to the existing policy has not yet been decided) governing ownership of software intellectual property. (The complexity of issues associated with software was such that when the copyright policy was approved by the Senate and administration and Board of Regents awhile ago, it was agreed that additional work on software issues was required and that proposals governing software would be brought back later.)

Professor Balas said that in his opinion, this has been a vexing issue for the committee of faculty dealing with the use of faculty materials by the University. He said he believes the University is far behind the trend nationally to share teaching materials with the rest of the nation; at MIT, all course materials are on open websites. There needs to be a broader discussion about sharing educational materials.

This becomes more of an issue with increased online delivery of education, Professor Sheets commented. Some schools put a great deal online. Are the MIT faculty required to put their materials on the web? Professor Balas said he believed they are, but it was the faculty that recommended MIT do so. The materials are extensive—syllabi, lecture notes, etc. He said that he knows faculty members who follow and learn from the materials, and MIT has built a strong reputation for itself around the world with these materials. Vice Provost Carney said that there is a strong department in her field at MIT and that she looks at their materials to keep updated—they are very advanced.

Professor Miksch said it is important to make a distinction between copyright ownership and academic freedom. It must be clear that the faculty member (or P&A staff member) has the academic freedom; putting copyright on materials should not be conflated with academic freedom of the faculty member to develop and teach a course the way he or she believes best. She would like to see that a teacher remains covered by the Academic Freedom and Responsibility policy, regardless of who owns the copyright. Professor Sheets agreed that those are two separate issues. Professor Miksch said that what they have heard concerns about, however, is "you created it, now we own it, so now someone else is going to update/change the course." The concern is whether copyright provides that the owner has control over content.

Professor Hanna recalled discussions a couple of years ago about faculty members controlling the content of PowerPoint slides, for example, but if the class is filmed, the University owns the tapes and can continue to use them.

The draft principles from the peer institution are confusing on one point, Professor Sheets said. Copyright is to vest in the faculty member but the institution has a right in the material as well—the faculty member presumably must grant a non-exclusive license for use. If that is the mode of granting authority for use, the university could not amend or change the material.

Professor Balas said he was not sure that was accurate. He thought that faculty members could grant use with the condition that the material cannot be changed or could grant use and it could be changed. Professor Sheets said that if a license to use copyrighted material is granted, the license is to use that material as it exists. One can grant more authority; any policy would have to make that clear. The draft principles do not do so; University policy is clear in providing that copyright resides in the creator. If the University were considering a change in that broad language, the Committee would need to see what modifications were proposed. [It should be noted that the administration is not considering any change in the provisions, only changes that would accommodate software.]

Professor Cherkassky said that he saw no mention of publishers in the draft principles. If one writes a textbook and sends it to a publisher, while one can put lecture notes on the web, the textbook copyright is owned by the publisher. It is for that reason that Wendy Lougee, the University Librarian, urges faculty member to use a special contract with publishers so they only sign over a certain level of copyright and always retain the right to use their own materials in courses and on their website, Dr. Carney observed. That would be part of the negotiations with a publisher. In an age of digital communication, Professor Cherkassky said, the notion of copyright does not make sense unless it is enforced. Even published books are pirated and often the publisher will not enforce copyright. Certain universities have been sued over this, Dr. Carney pointed out.

A problem, Professor Sheets said, is if material is altered, it still has the faculty member's name on it. Without continuing control by the creator, the material might be altered in a way that affects the faculty member's reputation adversely, or that the faculty member disapproves of for some other reason. The creator's retention of copyright would in theory prevent such alteration without the creator's consent.

Mr. Croce said that the draft principles from the peer institution seem reasonable. If the University pays for the production of the material, and it uses taxpayer support, that material should be made available. But what happens if someone creates material and is then let go by the institution (i.e., is not a tenured faculty member)? Then one might not feel so magnanimous. If a faculty member creates material, may a P&A staff member use them to teach? If material is out of date, who has the authority to update it?

The legal mechanism could be simple, Professor Sheets said. The creator grants a non-exclusive license to the institution to use the materials in the way they were created. The university could let another faculty member use them to teach, but that person could not alter the material. That would be a better way to balance rights than the way suggested in the draft principles. Dr. Carney noted that these principles are presumably the prelude to a policy, and this University went through a similar process in developing its intellectual-property policies. There is a difficult balance between wanting to be like MIT and supporting open access, on the one hand, and respecting the intellectual property of creators on the other. It is also interesting, in thinking about the draft principles and creators, that not everything in a faculty member's course is original; faculty members regularly use materials from other people. That makes the issues even more complex.

Professor Sheets observed that the draft principles would not make the University like MIT. They are also connected to the issue that has been raised in the Academic Health Center. Professor Balas said that he understood that that was more complex, because they bring in someone to help with the display of materials, so there could be a co-owner. If the person was hired to do design work, they are not co-owners, Dr. Carney said. They don't co-own the material, the University does, Professor Balas said. Faculty members are strongly encouraged to work with a designer, and that creates joint copyright ownership. Professor Sheets said that copyright is owned by one party or the other and there could different copyrights in different parts of the creation. If the material is fixed in some medium of expression, the copyright attaches immediately. Faculty and staff are jointly working on these materials, Professor Balas said, and that is where the difficulty lies. It appears that the faculty member's copyright is usurped by having a staff member work on the materials.

Professor Balas said he still prefers more open sharing of materials, especially because this is a land-grant university—something people often forget—and its mission is to educate the larger community, not just its students. Professor Sheets agreed, if the legal relationships can be made clear.

The pertinent issue for the faculty, Professor Sheets commented, is to think further about what direction the University should go in. Should the Committee take on the question, perhaps through a small study group, and take a look at how course materials are being handled? Professor Sirc said he liked the idea of a group, including representatives from the Committee on Educational Policy and the ___ Center, to look at what others have done. This question has percolated the last few years, Professor

Balas said, and he has not heard the right questions being asked. Professor Sheets said it was his feeling that the Board of Regents' policy was well-crafted and does address the issue. There is no pressing reason to change it. Professor Kulacki said he did not know where the peer institution would end up and commented that MIT is singular in the field in what it does.

Professor Sheets recommended that the Committee create a study group with appropriate representation to look further at instructional intellectual property and its licensing. Professor Bornsztein said he was not sure what principles are needed that are not already in the current policy. Where does it not work? Professor Sheets said his reading of the policy is that if a faculty member does not allow course materials to be posted on the web, they cannot be. Is the University interested in allowing more access? One way to do so would be to require faculty members to grant a non-exclusive license to the University.

Professor Balas said he thought the policy was well-administered across most of the University but that there may be some isolated cases of poor managers. There is a broader question about openness and sharing what faculty members do because the University is an asset to the state, the country, and the world. It could be doing a disservice by not allowing work to be more broadly shared. He does not like to tell his neighbors that they cannot look at his courses because they do not have an X.500 ID. Everyone has accepted the situation because that is the way it has always been, with the ID required. There has been no discussion about "the way we want to be."

It was agreed that the Committee would, at its next meeting, prepare a statement for the Faculty Consultative Committee about the draft principles.

3. Changes in the P&A Non-Renewal Policy

Professor Sheets turned now to Ms. Wilhelmson to introduce proposed changes to the administrative policy Non-Renewal of Appointment for Academic Professional and Administrative Employees.

Ms. Wilhelmson said that the recommendations for change come as a result of the regular comprehensive review of policies. This policy has undergone intensive review; because of the nature of the policy, they thought it best to have representatives from a number of groups look at the proposed changes. She provided names of the members of the Non-Renewal Policy Review Committee that had reviewed the policy. They did a lot of groundwork on the policy, including focus groups and use of benchmarks with other institutions; the committee met twice per month beginning last April.

The review committee adopted a set of guiding principles; it "seeks to design and recommend:

-- A policy that adheres to sound business practice in recognizing the service and contributions of the employee while managing the business needs of the University.
-- An effective, administratively workable policy and procedure.
-- A policy that remains competitive with other higher educationϖ institutions in the effort to recruit and retain high quality staff."

The changes that are most controversial and would have the greatest impact, Ms. Wilhelmson said, include a reduction in the maximum required notice period for termination. The current policy provides for a 12-month notice if one has worked for the University for more than 10 years. The Review Committee recommends reducing the notice period to a maximum of 6 months. They looked at the workability of the policy and the fact that the notice period does recognize the contributions of P&A employees, it provides some cost savings, and helps to manage issues that often arise around the prolonged transitional period for employees. The current policy gives employees 12 months to look for a job but it creates a cost and there can be tension in a department. Individuals are also sometimes so entrenched in their jobs that they do not take the time to start looking for another position during the first part of the 12 months. In looking at peer institutions, they found that about half provided a 12-month notice period and half provided less time. The Review Committee recommends 6 months as a middle ground and believes the change to a 6-month maximum notice period remains competitive in attracting and retaining P&A employees.

In terms of counting years of service to determine the length of required notice period, if a P&A administrative staff member is not renewed; they count the continuous years of service in only administrative positions. If a P&A employee with an academic professional appointment is not renewed, they count all P&A service. The recommendation is to count all P&A service for both administrative and professional P&A positions that are not renewed. The committee also recommended including civil service years in the count.

The proposed changes also eliminates a required notice period for P&A staff who have appointments of less than 75% time and less than 9 months, with reasonable notice expected. The current policy provides the sliding scale of notice, depending on length of service, for all P&A staff regardless of the percentage or term (length) of appointment.

Because the meeting time had run out, Professor Sheets said the Committee would return to this item at its next meeting, and he adjourned this one at 4:30.

-- Gary Engstrand

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