

Minutes*

**Senate Research Committee
Monday, November 5, 2012
2:15 - 4:00
238A Morrill Hall**

- Present: Linda Bearinger (chair), Melissa Anderson, Arlene Carney, Jerry Cohen, Benjamin Fuller, Greg Haugstad, Mats Heimdahl, Brian Johnston, Seung-Ho Joo, Frances Lawrenz, Hinh Ly, Timothy Mulcahy, Federico Ponce de Leon, Kathleen Thomas, Thomas Vaughan, Kyla Wahlstrom, Lynn Zentner
- Absent: Robin Dittman, Tucker LeBien, Richard Leppert, Kola Okuyemi, Mani Subramani, Karen-Sue Taussig, LaDora Thompson, Karen Williams,
- Guests: Associate Vice President Andrew Furco (Public Engagement), Professor J. Michael Oakes (Institutional Review Board)
- Other: Peggy Sundermeyer (Office of the Vice President for Research);

[In these minutes: (1) issues in research in public engagement: introduction; (2) issues: protection of human subjects and community-engaged research; (3) issues: liability policies for community-engaged practices; (4) issues: indirect cost rates and community-engaged research; (5) issues: background checks for community-based activities; (6) other issues]

1. Issues in Research in Public Engagement: Introduction

Professor Bearinger convened the meeting at 2:15 and invited Associate Vice President Furco to provide background and set the stage for the issues the Committee needs to discuss. Dr. Furco had provided the Committee with a handout describing a number of issues, some accompanied by FAQs.

Associate Vice President Furco said that the University's public engagement agenda is growing robustly with greater interest and participation demonstrated from faculty and staff. Concerted work to advance public engagement across the University has been going on for about 12 years. Dr. Furco explained that community partnerships in teaching, research, and service have been part of higher education for a very long time. But in the late 1990s, several national commission reports raised issues regarding higher education's commitment to its public purposes and community engagement agenda. The reports suggested that higher education institutions, especially research universities, had become elitist, separated from society, and that the research that they were conducted was esoteric and disconnected from issues of true societal importance. The reports indicated that while universities were doing community-partnered public service and outreach, these activities have not been central to higher education's work.

In the early 2000s, the term "public engagement" emerged. This term would signify a shift from the more traditional, unidirectional outreach and public service approach to community-partnered work—

* 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.

an approach that operates under the premise that expertise resides primarily in the academy and this expertise is then shared with external audiences—to an approach to community partnership that honors and values the expertise, assets, and knowledge that reside outside of the academy.

The public engagement term brought with it three elements, Dr. Furco said.

-- It speaks to doing things *with* the community, not just *to, for, or in* it. It means working *with* the community in co-constructing knowledge, ideas, and new discoveries.

-- It is not just fulfilling the outreach or public service mission of the University; it is also advancing teaching and research (such as providing an enhanced educational experience for students and advancing the scholarship of faculty)

-- It is not just about discrete, 2-3-year projects; it is about more sustained partnerships with the community. Public engagement is not programs or projects, it is a "strategy" for accomplishing key University priorities and goals (e.g., enhancing student learning, internationalizing the curriculum, conducting interdisciplinary work, etc.).

In the early 2000s at the University of Minnesota, a set of task forces identify a set of recommendations designed to make public engagement a more central feature of the University. In 2004 the University adopted a formal definition for public engagement: "*Engagement is the partnership of university knowledge and resources with those of the public and private sectors to enrich scholarship, research, and creative activity; enhance curriculum, teaching and learning; prepare educated, engaged citizens; strengthen democratic values and civic responsibility; address critical societal issues; and contribute to the public good.*"

In 2006 the recommendation to develop a high-level position responsible for public engagement was approved. This position, Associate Vice President for Public Engagement, would oversee the Office for Public Engagement. Dr. Furco was appointed in 2008 and was charged with developing a University-wide agenda to further the institutionalization of public engagement. He led the establishment of a "Ten-Point Plan" which incorporates a broad set of strategic public engagement goals, including enhancing the scholarly value of community-engaged work, enhancing the University's assessment and accounting of public engagement activities and a number of other things. One of his jobs is to network the 200+ units, centers, and institutes at the University that are doing publicly-engaged work.

Over the years, Associate Vice President Furco's office has been dealing with a number of thorny issues such as academic credit for students in publicly-engaged coursework, IRB rules, liability, among others. The issues come to him, but there was no formal mechanism for him to address them at a policy level. To address this challenge, he and Senior Vice President Jones established the Public Engagement Council (PEC) to serve as a consultative/advisory body, that would address overarching, thorny, persistent issues in public engagement work that have University-wide implications. PEC does not develop or make policy, but rather provides a place to vet issues that either might need to be considered by existing Senate committees are considering. PEC is also a body that can vet community engagement issues on behalf of the various Senate committees, when the Senate committees believe the scope or focus of the issue goes beyond their scope. The PEC meets four times per year. Dr. Furco noted that there are several issues before it that intersect with the work of the Senate Research Committee.

Professor Bearinger asked how the Committee can best address the issues. And what should be added to the list, she asked?

Associate Vice President Furco said that the PEC was established in 2011-2012 and this is fairly new. Although Professor Furco has presented to the Faculty Consultative Committee on two occasions, this is the first time he has interacted with this Senate committee on the issues that have arisen. He said that his office wants to be a support unit for the committees such as this one that make policy recommendations. If the Committee needs more information from the stakeholders or the constituents, PEC can help and can provide perspectives if needed. He noted that Professors Okuyemi and Thompson have agreed to serve as representatives from this Committee to the PEC and they can also bring issues back to it.

Professor Cohen observed that there are a number of activities at a land-grant university with long-standing structures, such as the Research and Outreach centers, Agricultural Extension, Social Work, and so on. They have structures and rules and regulations; any attempt to capture those activities in one policy could restrict the ways they engage with the public. That issue has not come up, Professor Furco replied; public engagement is very contextualized and it would be difficult to have a blanket policy to cover all of the dimensions of it. Professor Cohen said that he teaches research ethics and can think of many ways that people could get in trouble in publicly-engaged work. Professor Furco said it might be a good idea if this Committee wished to establish some guiding ethical principles; he and the PEC would be glad to work with it if it chooses to do so.

Professor Bearinger said there appear to be a number of issues or clusters of issues around public engagement: (1) constraints on research protocols, such as IRB rules, payments to research subjects, background checks, and privacy issues; (2) liability issues; (3) ownership of intellectual property when it is co-produced by the University and a community partner; and (4) low or no indirect-cost-recovery funds with publicly-engaged research. A colleague of hers suggested another item that needs to be on the list: The reality of the timeline for doing publicly-engaged research versus the tenure clock timeline.

Dr. Furco said that the last issue has come up in their discussions, whether a probationary faculty member should do public engagement work because of the tenure timeline. It could be too late for the faculty member by the time the results of the work are published and so the engagement of junior faculty in community-engaged work needs to be negotiated and considered carefully.

Dr. Carney said that faculty must also be reminded to be familiar with their department's 7.12 statement: Some of them entwine public engagement in research, teaching, and service—some more, some less, so the problem is not necessarily universal. Professor Furco agreed and said that he has seen in Faculty Activity Reports the language shift from "engagement" as a separate section from research and teaching to one where public engagement is described within research, within teaching, as well as within public service/outreach. Professor Furco pointed out that in his college (Education and Human Development), the Faculty Activity Reports are now arranged around teaching, research, and service and for each of these sections there is a drop down menu to indicate whether work was publicly-engaged.

2. Issues: Protection of Human Subjects and Community-Engaged Research

Professor Bearinger asked the Committee to turn first to the issue of protection of human subjects and community-engaged research. She noted that Professor Oakes had spoken with the PEC about them.

Several researchers who conduct community-based research (especially community-based participatory research) have expressed concern that their research is sometimes compromised because of particular procedures they must follow to receive human subjects approval. Among the procedures of concern are the following;

(1) the requirement that consent forms be written on University letterhead and contain lengthy and technical language; in some cases the language and the presentation of the consent form is intimidating to certain populations, and in turn, the capacity to secure robust sample sizes for community-based studies is put in jeopardy;

(2) certain research grants cannot be accepted without first receiving human subjects approval, and this sometimes prevents researchers to conduct participatory research; in participatory research, members of the community not only serve as study participants, but they often help develop or shape the study protocols and instruments.

Questions to consider:

-- Should a set of guidelines for human subjects research be developed to address questions and issues that pertain specifically to community-engaged research that involve members of indigenous, at-risk, and other communities for whom existing procedures and requirements in the human subjects approval process may be inappropriate or intimidating?

-- What are some recommendations that can help researchers who conduct participatory research to comply with human subjects requirements when the research protocols evolve often due to input from community partners?

Dr. Furco provided context. It is often the case in community-engaged research that language and the length of forms can be intimidating and undermine the ability of a researcher to obtain a robust pool of participants for his/her study. The language of the consent forms can undermine the researcher's ability to do high-quality work and to ensure trust. In community-engaged research, study participants can sometimes also be co-researchers, which can complicate the researcher-subject relationship. Another challenge is the timing of consent, which in most cases has to be secured before the research can begin. However, because community-engaged research is often involves the study subjects to design the research and establish the protocols, there are sometimes issues of timing regarding when to secure consent. Professor Oakes related that he tried to dispel misconceptions about what the IRB needs (or not) and helped with facts that led to FAQs that he has endorsed. [The FAQs are not included with these minutes but may be found at engagement.umn.edu]

Dr. Wahlstrom commented that her unit, the Center for Applied Research and Educational Improvement, does a great deal of research in the schools, especially in early education. The more verbiage there is on a form, the less likely it is that non-native parents will sign it. She thanked the IRB for allowing the forms to be less legalistic so that subjects are willing to sign them. Professor Furco concurred and said two key issues that Professor Oakes helped make clear is that what really matters is that the IRB forms make it clear that an individual's participation in the study is voluntary. Dr. Furco

also said that Dr. Oakes helped clear up the misconception that whether or not a research study is published is a determinant of whether IRB approval and informed consent are required. Publication goals have no bearing on informed consent. It is the extent to which the findings of the study will be generalized beyond the participating subjects that is the usual determinant for requiring IRB approval. Professor Furco also point out that Professor Oakes explained at the PEC meeting that informed consent may be oral and does not always have to be written.

Professor Bearinger said that in some publicly-engaged research, the participants need to remain anonymous (e.g., in studies about HIV) and she also thanked the IRB for devising ways of documenting consent without signatures.

One of the biggest challenges for the IRB, Professor Oakes reported, is "who is the subject?" When researchers work with outside groups, with full partners in research who are the subjects, the question is who the subject is and when and how to navigate those questions with IRB regulations (which were not written for publicly-engaged research).

In addition to Dr. Wahlstrom, Professor Bearinger asked if any Committee member's research was affected by these considerations. None was; she asked Dr. Wahlstrom if it is a challenge for them to wend their way through the regulations. When they look at teacher behavior, Dr. Wahlstrom related, they also change behavior and the teachers become participants in the research. But in that case they are dealing with adults, which is very different from dealing with children. They are doing research with the Minneapolis Public Schools, which have new community partner regulations that are extremely cumbersome to fill out. They are seeking a blanket statement from the University because otherwise individual PIs are asked to fill out these extensive forms. The new regulations are a barrier to research. Dr. Furco asked if his office should look at the issue; Dr. Wahlstrom urged him to do so.

3. Issues: Liability Policies for Community-Engaged Practices

The Committee turned next to liability issues:

A number of University of Minnesota faculty and staff who engage students in various community-based learning experiences have contacted the Office for Public Engagement for information regarding liability policies for community engagement.

Among the most frequently asked questions are:

-- Who bears responsibility when something happens to a student at a community agency when participating in a required (or optional) course-based service-learning experience? When does the liability begin/end for the University, the faculty, the department, the city, and the community partners? For example, if a student is injured on a bus on the way to a community-based learning site, who bears responsibility?

-- What is the liability of the University and individual students who participate in co-curricular community-based experiences that are not connected to academic programs (e.g., students doing volunteer work as part of a University-sponsored student club)?

-- What are the limitations of liability for all parties involved in the community engagement enterprise?

-- In regards to liability, what are the most important things faculty members should know when doing community-based research or engaging students in community-based experiences?

The question is, who bears responsibility when things happen, especially when they are not connected to academic programs and they involve students doing work on their own, Professor Furco said. The Office of the General Counsel met with members of PEC and offered advice and counsel on how to best address liability issues in community-engaged work. In general, the person who caused harm is mostly liable. Broadly speaking, the University responsibility to faculty and students when harm is caused is the same as it is in other settings; there is not a separate or distinct liability policy for publicly-engaged work. In transit to publicly-engaged activities, there is generally no University liability unless a University vehicle is being used.

Professor Thomas asked if the Office of the General Counsel addressed the specific questions that have been asked. Or are the situations so specific that one must go to the General Counsel for answers? The latter, Dr. Furco said; the frequent response that the PEC received from General Counsel to the liability questions was "it depends."

4. Issues: Indirect Cost Rates and Community-Engaged Research

a) Low/no ICR (Indirect Cost Recovery) Grants and Contracts

Partners in community-engaged research/CBPR typically have minimal or no capacity to pay indirect costs as part of grants and contracts that are negotiated with UMN investigators. Current budgetary pressures and the devolving of expenses from central administration to Schools to Departments and smaller units are resulting in refusals to process grants and contracts that include low or no ICR (indirect cost recovery). Sometimes grants and contracts are refused at less than the full ICR rate (~52%).

This creates a true contradiction: UMN promotes community-engaged work through the Office for Public Engagement, in its philosophical and historical identity as a land-grant institution and through documents created by working committees focused on community-partnered work (e.g., under the chairmanship of Dr. Mark Paller in the AHC a few years ago).

The infrastructure costs associated with research are real and tangible. The capacity of community partners as well as many foundations and state-level entities (e.g., MN Department of Health) to change their policies and provide ICR coverage is low to non-existent. A designated resource pool meant to underwrite these unmet infrastructure costs would permit the university to continue its commitment to community-partnered work by removing this formidable financial obstacle.

b) *Indirect Cost Limits and Academic Freedom.* During the 2010-2011 academic year, three faculty members informed the Office for Public Engagement that their respective unit leaders discouraged them to pursue particular community-based grants because the funding agency had a cap on the indirect cost rate that could be charged to the grant. A concern is that many of the

funding agencies on which faculty who do community-engaged research rely have limits on allowable indirect costs. At a faculty gathering of community-engaged research, participants expressed concern that while they are under pressure to do research and publish, they have to compromise their research agendas because they are not being permitted to pursue the kinds of research studies they seek to do. In one case, the faculty member felt that this was an infringement on her academic freedom.

Questions to consider:

-- Given the indirect cost limits among community-based organizations that sponsor research, how does the University reconcile its promotion of community-engaged scholarship with its real need to maximize the indirect cost recovery on grants and contracts?

-- What recommendations or guidelines might be offered to faculty and departmental units as they pursue community-engaged or community-partnered research activities with organizations that have limits on the indirect cost rate?

-- What issues regarding academic freedom should be considered (if any) when faculty are discouraged from pursuing grants and contracts that limit the indirect cost rate?

In a number of cases, community-engaged research does not bring in the full ICR rate, Dr. Furco noted. Given the University's budget model, garnering less than full indirect-cost funding can be a deterrent to community-based research because any indirect cost funds (if any) may not cover the full costs of research. That situation in turn has led to faculty members being told they should pursue different research, which is an academic freedom issue. They have worked with the Office of the Vice President for Research about explaining indirect-cost rates and what is allowable and what is not.

Professor Cohen said that if the community partner is a for-profit entity, the situation is more complicated. He noted that there is ambiguity in indirect-cost rates and there are special rates for things like clinical trials. This Committee has seen a number of examples where the budget model runs contrary to the best interests of the University. The issue of indirect costs in public-engagement research becomes administrative veto power over the research, because one cannot do the research without approval of a waiver; if the administrators don't like the research, they can simply refuse to grant the waiver. He said he fully supports the University receiving all the indirect cost funding it can, but the institution supports much research that has little or no indirect cost money; what needs to be applied is a "good for the University" standard when judging such research. Besides, he added, not all research actually costs the full 51% in indirect-cost funding the University is supposed to receive.

This is not a problem unique to publicly-engaged research, Vice President Mulcahy commented, although it may be a problem in a larger proportion of that research. Agricultural research has always had to deal with the issue, as have researchers for the American Cancer Society, the Juvenile Diabetes Research Fund, and others—there are many indirect costs that are not reimbursed but the University welcomes research from such organizations.

With respect to rejecting a proposal, Dr. Mulcahy said, it is not acceptable for any administrative unit at the University to determine that a faculty member should not submit a grant proposal to an organization when the University has already announced publicly that it will accept that organization's

published indirect cost rate. Does that mean that a faculty member will be allowed, under all circumstances, to pursue any research grant? It does not, but it may be because the faculty member is over-extended, or the department already has multiple grants on the same research question, and so on. The absurd example of the institution telling a faculty member he or she cannot pursue a line of research, Dr. Mulcahy said, is a faculty member who wants to do research on elephants and needs housing for 50 elephants. So there may be circumstances when a department or the University can legitimately say "no." It can say that the University cannot afford the research but no one should use the indirect-cost rate as an excuse to prevent a faculty member from pursuing research.

Dr. Mulcahy agreed that the budget model puts heavy emphasis on the revenue stream and on paying the costs to operate the colleges. If a college decides it will not accept indirect-cost rates that the University has already declared that it will, then there is need for a conversation between the college and the administration. If, on the other hand, it is a new organization on which the University has taken no position, then declining grants from it can be discussed. But the University supports research and public engagement as parts of its mission so it will accept lower cost rates.

One question raised in the PEC materials [not reproduced here] was whether there is a central pool of funds available to offset the difference between the full indirect-cost rate and what might be generated by community-engaged research. The answer is "no," but Dr. Mulcahy observed that the University does cover the unmet indirect costs from somewhere. There is no specific pool of funds to draw from, but if research is done, the costs get covered—at every level of the institution. A few years ago he had a conversation with the Humphrey School, which was essentially created to be a publicly-engaged agency, but the research typically done by the Humphrey faculty is funded by agencies that do not pay indirect costs. What that means is that by accepting the research, the University is underwriting the indirect costs; with the budget model, sometimes Humphrey School funding does not support its costs, so he agrees that there need to be adjustments when there are unique circumstances, Dr. Mulcahy said.

Professor Cohen maintained that even if a faculty member brings in research funding that carries no indirect cost money, there are still benefits for the University—the funding may pay for graduate students, the research may benefit the public, and so on—every dollar into the University enriches the state in some way. It is just better if it carries indirect cost funding with it.

Vice President Mulcahy said there is a reason there are three special waiver processes at the University—which, he noted, were adopted in consultation with this Committee. One, for grants of \$50,000 or less (which is a considerable amount of money for many community-engagement research projects), for which there is a simple waiver process decided on by department heads and associate deans. Two, for projects over \$50,000 but that fit within the list of published rates the University will accept. Three, a strategic waiver, which must be approved by the vice president for research. [Descriptions of the three kinds of waivers can be found at http://www.policy.umn.edu/Policies/Research/COST_PROC03.html.] These waivers go beyond published rates and approval is required because a dean could accept every proposal made but not receive enough indirect-cost funding to support them all—and may ask the administration to support the college because of the costs incurred. To do that means taking away money from all other colleges. So when a waiver reaches a certain level, it must be approved at the vice presidential level in order to bring an institutional perspective on the proposed research.

If a faculty member is told he or she cannot submit grants to an agency whose rates the University has accepted, he wants to know about it, Dr. Mulcahy concluded.

Professor Bearinger recalled comments that Vice President Pfitzenreuter had made to the Committee about indirect costs, that he had indicated that a college must pay back to the administration 52 cents for each external research dollar it receives irrespective of whether the funds carry 0%, 52% , or 63% in indirect-cost dollars. Dr. Mulcahy responded that the charges to the colleges are not made grant by grant. The cost for the research cost pool includes all research costs, and the bill is divided among the colleges based on their percentage of the research funding, which the colleges can pay with indirect-cost funds if they wish. There is no bill to the colleges for each grant.

Professor Bearinger said she understood that if a faculty member receives a grant at 8%, the college is paying back central administration at 52%. That is not the ways things work, Dr. Mulcahy explained. If a college says it will not accept an 8% indirect-cost rate, which is a published organization rate, the faculty member should call his office. Even training grants, which are cheaper to administer, do not cover all their indirect costs, but the University has said it will accept training grants. This issue has come up when she has had conversations with Committee members at lunches, Professor Bearinger said, especially in smaller colleges, where faculty are told not to apply for certain grants. The problem will not go away because the budget model remains, Professor Cohen commented.

Nothing is more misunderstood than indirect costs, Dr. Mulcahy said, so he does not blame anyone, because many do not understand them. There needs to be more transparency all around.

Are there clear policies on how indirect costs are spent, Professor Vaughan asked. There are not, Dr. Mulcahy said, and there are all sorts of models. At Minnesota, 100% of indirect-cost funds are returned to the college that generated them, and the colleges can use them to pay cost-pool charges. Professor Vaughan said that as a PI, he would like to see some of the money come back to the PI. At a number of institutions the administration holds some of the money and passes the rest to the college, the college withholds some and passes the rest to the department, and in some cases departments give back a proportion to the PI. That is not the University's model, but the colleges decide how to use the money, Professor Heimdahl added.

5. Issues: Background Checks for Community-Based Activities

In some community engagement situations (e.g., activities in K-12 schools), students, staff, and faculty who participate must first submit to a background check and receive clearance before they are able to do engaged work at the community-based site. The need for background checks in certain settings has raised a number of questions and issues.

Questions to consider:

-- Who should pay for the background check? For example, if a student is required to do a community-based experience and the community site requires the student to secure a background check, should the student pay for the background check or should the cost be borne the University?

- What are privacy implications for students and faculty when submitting required background checks for community-engaged work?
- Should the University develop and maintain a database of approved background checks to avoid having students and/or faculty be subjected to a background check every semester or year? If yes, who should maintain that database and be the stewards of the data?
- What actions are permissible (or should be taken) when the background check reveals that the individual (student, faculty, staff member) has a prior record that disqualifies him/her from serving or working in the agency?

Associate Vice President Furco related that this is the least-settled issue and one on which they have received a great deal of feedback on PEC's draft of Frequently Asked Questions. One question is who pays for the check if it is required. Another question is about the privacy issues (who maintains and houses the background checks?). Another is what happens when someone does not clear a check. They have spoken with the Office of the General Counsel, which has noted that there are different kinds of background checks, and certain of them are more applicable to public engagement work than others.

Dr. Mulcahy said he found the information from the PEC very helpful and was impressed. Committee members discussed who pays for background checks and when.

Professor Bearinger asked what triggers a background check if she receives a grant to hire someone to work with people under age 18 but the sponsoring agency does not require such a check. "You," if you want it, Dr. Mulcahy said; other Committee members suggested "common sense." Professor Bearinger said it seems like there should be an automatic trigger to alert the PI, as part of getting funding, especially if it can help notify new PIs of the need for background checks. The problem is that common sense is not common, Professor Cohen said. If a PI hires someone to work with people under the age of consent, and does not do a background check, there could be a great deal of University liability.

6. Other Issues

Dr. Furco reported that PEC is grappling with a number of other issues as well, such as publicly-engaged work conducted with faith-based organizations, what community engagement activities count toward academic credit, faculty rewards and recognition for publicly-engaged work, and awards for engaged scholarship. Also on the list of items on PEC's docket are issues concerning co-constructed intellectual property, the Martin Luther King day of service, metrics for evaluating public engagement, the use of University space by non-University entities, service learning course designators, conflicts of interest, and the alignment of the various public engagement agendas (K-12, urban, environment, poverty, health, global, etc.) across the University. He said he would keep the Committee posted on these issues as well and thanked the Committee for the discussion.

During the discussion with Associate Vice President Furco, there were questions about where the information and FAQs would be available. Dr. Furco said they would be on the Office for Public Engagement website [engagement.umn.edu]; Dr. Mulcahy said they should also appear on the website of the Office of the Vice President for Research with a link to the Public Engagement website. They should also be linked from the Faculty One-Stop, Dr. Carney suggested.

Professor Bearinger expressed appreciation for the detail and the care paid to the issues and said Dr. Furco should bring forward any others that arise. She adjourned the meeting at 4:00.

-- Gary Engstrand

University of Minnesota