

Minutes*

Faculty Consultative Committee
Thursday, November 14, 2013
1:00 – 3:00
Room 238A Morrill Hall

Present: Will Durfee (chair), Linda Bearinger, Avner Ben-Ner, James Cloyd, Eva von Dassow, Jigna Desai, Janet Ericksen, Gary Gardner, Russell Luepker, Alon McCormick, Paul Ranelli, Rebecca Ropers-Huilman, David Satin, Chris Uggen, Jean Wyman

Absent: Maria Gini, Joseph Konstan, Karen Mesce, Ned Patterson

Guests: Provost Karen Hanson

Other: Deb Cran (Office of the Provost); Ken Savary (Office of the Board of Regents); Jon Steadland (Office of the President)

[In these minutes: (1) discussion with Provost Hanson; (2) changes to graduate education policies about grades; (3) change to the policy Education Abroad Opportunities: Addressing Health and Safety Risks; (4) committee business]

1. Discussion with Provost Hanson

Professor Durfee convened the meeting at 1:00 and welcomed Provost Hanson, who will first address the recommendations in the report of the ad hoc committee on college constitutions. Before turning to Provost Hanson, he said he wished to publicly thank Professor Luepker, who chaired the ad hoc committee, along with its members Professors Nancy Ehlke, Michael Hancher, Karen Miksch, and Associate Dean Carol Chomsky, for the enormous amount of time they spent investigating constitutions and preparing their report.

Provost Hanson said she wished to add her thanks to the members of the ad hoc committee for addressing important issues; she said she learned a lot in reading the report. The guidance provided by the report has been very helpful to her thinking. She said she had one response at the practical level: the ad hoc committee recommended that all college constitutions and bylaws be posted on the provost's website. She agreed with the spirit of the recommendation but believes it would be more effective, and lend the constitutions and bylaws greater credence, to put them in the University's policy library, which is the source of institutional policy, rather than risking them being lost on the provost's website, which can change from time to time. She has spoken with the policy office and they have agreed that they can post the documents.

At a broader level, one aspect of the report she found interesting about the history of college constitutions and the varied paths they took through the colleges, Provost Hanson said: the work of the ad hoc committee shows how much constitutions were influenced by the administrative structure of the University in place at the time. There is in the constitutions a need to separate that which should be stable

* 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.

and that which is not. One feature of many constitutions, in terms of material they should not contain, is how the dean is selected and removed. Those processes should be set at the institutional level, and she would understand that the faculty governance system would want the process of appointment, review, and removal of deans to be prescribed in University policy. One can see why colleges might want variations, but the provisions should not be in college constitutions.

Another general observation, Provost Hanson said, is that it would be helpful if she and the Committee could agree together on the allocation of faculty authority in a broad way. There was scant attention to that subject in the report, although there was considerable paid to promotion and tenure. There is little about curriculum and educational policy, for example, but she believes those should be emphasized in constitutions. She asked specifically about one part of a quotation from the Academic Unit Governance Policy, which provides that "The regular faculty, as defined in the Board of Regents policy on *Faculty Tenure*, shall hold the primary responsibility for governance in tenure-granting units. This responsibility shall include governance of the unit in research policy, curricular policy and degree requirements, and academic personnel allocation, in consultation with the dean, chair or head of the department." What does "academic personnel allocation" mean? Who teaches? What unit receives a line? The division of responsibilities between teaching and research? Who is competent to teach is within the faculty purview, Provost Hanson said, but the allocation of faculty positions usually is not, and it is necessary to sort out what that means.

Professor Luepker said he thought that Provost Hanson's points were well-taken and that the language about academic personnel allocation could be taken in a number of ways; they were referring to teaching personnel. Their focus was really on the first three elements referred to in the language Provost Hanson quoted.

Provost Hanson said she endorsed that view and said it is desirable that constitutions be explicit about what should be within the faculty purview and the consultation mechanisms expected for what kinds of decisions, but certain things are not within the purview of the college and should not be in constitutions. She said it is also important to look at the governing policies of the Board of Regents, especially the delegations of authority, so that constitutions are aligned with them.

There are also small matters that need to be addressed, Provost Hanson said. For example, constitutions are not employment contracts, so the recommendation that constitutions "should include a provision that Regular Faculty have responsibility for service on college committees" probably needs to be reconsidered. There are issues about how the documents articulate with accrediting body expectations: there needs to be the right division between constitutions and bylaws. In smaller colleges, issues emerged that may need rethinking (e.g., except in extreme cases, no one will be appointed dean without a favorable vote of the faculty). The ad hoc committee noted the problem with constitutional language about decanal terms of office; no dean is appointed for a term. As for a non-binding vote on removal of a dean, a faculty can take that step with or without any constitutional provision, but it may do no harm to have the language. One very complicated matter is that categories of teaching personnel have changed and each college must pay attention to the responsibilities of each group; the ad hoc committee, wisely, made no recommendations on how colleges should do that. She commended the ad hoc committee's reminder to colleges that constitutions need to have provisions for amendment.

Provost Hanson said she found attractive the idea of continuing to work together with the Committee and perhaps trim the report to a statement that she and the Committee can jointly endorse and

bring to the deans for review and feedback. In concert with Professors Durfee and Ropers-Huilman, and perhaps Professor Luepker, her office could draft recommendations to the colleges that could be sent to the colleges early in the spring semester, along with a request that they respond to them by the end of calendar year 2014. Some of the constitutions will require little additional work while some will require a great deal, but she would like to see a deadline so that the constitutions can be revised as needed. Professor Durfee suggested that the deans be asked to comment on recommendations developed before they are formally presented to the colleges. Provost Hanson concurred.

Professor Luepker thought Provost Hanson's comments were useful and helpful. The provost will now ask people to do things, in response to the report, and what she asks must be clear.

In terms of the heterogeneity of provisions about the selection of deans, Professor Luepker said, it is an important issue for all faculty members. It is the provost's responsibility to determine how selections are made. But nature abhors a vacuum and there has been ambiguity in the rules over time, so clarity from the provost's office should trump these various provisions, although it would be desirable to have some flexibility in the process. Provost Hanson agreed that the report suggests that changes in the University's administrative structure inevitably led to people crafting different provisions. She said that she came from an institution where university policy determined how deans were appointed and who was involved in the process, which made things simpler.

Professor von Dassow asked if there is any one constitution that has appropriate language about the faculty role in educational and curricular policy, and so on. Professor Luepker said that none of them get into the detail one might hope for. The ad hoc committee should perhaps have been more forceful on the subject of clarifying faculty roles. Professor von Dassow said she was trying to think about what such language would look like. Provost Hanson responded that she was not implying that the ad hoc committee should have prepared such language; the colleges may vary in how they wish to structure the primacy of the faculty role in appropriate areas of responsibility.

Professor Durfee said he would work with Provost Hanson to set up a process, including someone from the Committee, to develop a short version of the recommendations, with the ad hoc committee report as background. Provost Hanson said she would like to see the list go to the deans in January.

Professor Gardner said the constitutions should include some language to the effect that the tenured and tenure-track faculty have primary responsibility for carrying out the academic mission of the University (e.g., any college curriculum committee must have a majority of tenured and tenure-track faculty, but also recognizing the important role that others may play in the development and delivery of a curriculum). Professor Cloyd offered a caution about relying on the tenured and tenure-track faculty; there is a large number of non-tenured/tenure-track faculty in some of the Academic Health Center colleges who play a huge role in the design and delivery of the curriculum.

Professor Luepker said that Professor Cloyd's point was discussed by the ad hoc committee; outside the Academic Health Center, the role of the tenured and tenure-track faculty is cast in bronze. By contrast, the Department of Medicine has not hired a new tenure-track faculty member in years. The ad hoc committee did not delve into the issue deeply, but in Regents' and other University policies, the tenured and tenure-track faculty are key in any college.

Provost Hanson turned next to salary equity. She said that Vice Provost Carney's office is taking the lead, along with assistance from former Vice President Carol Carrier and staff in Institutional Research, and is working with a group of associate deans and staff who have looked at the data and drawn up rubrics for dealing with the problems that are identified. That group then tried to do the work of a Salary Equity Review Committee (SERC), which bodies are to be created by the colleges, and revised the rubric in light of that pilot work. The group will continue to pilot SERC work and revise the rubric further if needed before it is provided to the colleges. Vice Provost Carney asked that the Committee be informed that they are using the test pilot and took guidance from staff at the U of WI-Madison on what worked well and what didn't.

Professor Satin said he is ignorant about how salaries are set; in his case, it was through a process of negotiation with his department head. How will the SERC process work with such arrangements in departments? Provost Hanson said the deans are responsible for approving salaries. Professor Satin said he knows that salaries are not uniform in his department; Provost Hanson responded that they are not uniform anywhere and that the SERC process is not a movement toward making them so.

Professor Bearinger inquired about what was being done with colleges that were not included in the first two salary-equity studies. That is a separate process, Provost Hanson said. In the Medical School, for example, they do not have sufficiently clear data to do an analysis. But the School of Nursing is being included in the analyses.

Professor Gardner said that he was in industry for 14 years before coming to the University, at three different corporations, and all three had similar merit-based assessment processes for research employees. What he finds perplexing at the University is how differently merit-based salary increases are defined across units. Has the University looked at corporations that do merit evaluations? Some units at this University deliver across-the-board increases while others have a large spread in salary increases. There are guidelines that allow adjustment of merit-based salaries based on current salaries as a percentage of the base and to avoid compression. Has the University looked at that option, based on a unit's evaluation of performance?

Provost Hanson pointed out that the work she has been referring to is a gender-equity review, not a review of the overall salary-review process. She agreed that there is considerable variation across units, and there seem to be some where the process is more informal and there is less specification. The usefulness of industry examples would vary across units. Professor Gardner commented that the lack of guidelines could itself cause the gender-equity problems; Provost Hanson agreed.

Professor Wyman said that there are such differences among faculty members in some colleges that there could be different rubrics within the same college. How will they develop systems to deal with that situation? Provost Hanson said that the idea is to identify clear procedures and the process will be iterative. Everyone knows that the relevance of contributions varies by discipline and that career patterns change over time, and those are part of the normal salary-setting process. She repeated the point that the present work is focused only on gender equity.

Professor Desai noted that the comparisons are within departments. What about differences across fields, where some are more gendered than others? And have they considered how race and gender work together to affect salaries? Those discussions are occurring and it is an issue that Professor

Bearinger has raised, Provost Hanson said, but the study taking place now is not about gendered fields, it is about differences within units.

Professor Bearinger said that the School of Public Health drilled down into its data and used a multivariate model to look at salaries; what they did is a template for how colleges should do their analysis. Professor Luepker said they had a faculty statistician chair the committee that conducted the Public Health analysis; the chair said he would provide the information to the dean but that he had no idea where the money would come from. Does the provost have an answer to that question?

Provost Hanson said she would repeat what she has said all along: the college created the problem and the college should solve it. There is no central source of funds.

Professor Satin said he knows that Medical School departments have radically different ways of setting salaries, from the completely communist to pay for production (e.g., the number of surgeries one does determines one's salary). The latter might appear less prone to gender bias, but who gets operating room time or the good cases can be biased. How will any rubric address that range of practices? Provost Hanson said that the current process cannot solve all the underlying problems of gender and racial equality that exist in universities, it is only dealing with gender equity in salaries.

Provost Hanson next expressed appreciation for the Committee's discussions about interdisciplinarity. She has prepared a preliminary report for the president on what is being done and would like to finish a preliminary exercise identifying how problems manifest themselves in various places at the University, a task that will be completed by the end of the semester. She said she would welcome whatever the Committee can tell her. Interdisciplinarity is also likely to be one focus of strategic planning, how to leverage the campus for further greatness, so it will be important to solve the problems in teaching and research. It has been suggested that the problems in research are somewhat less than those in teaching, and they are learning how the problems affect various units. The investigation this fall will lead to action in the spring, and everything will be on the table, including the budget model.

With respect to strategic planning, Provost Hanson said there will be a vision statement by December 1 and they are consulting with external stakeholders (they will not tell the University what to do; the discussions will be about how they see the value of the University and how it can partner with them).

Professor Durfee thanked Provost Hanson for joining the meeting.

2. Changes to Graduate Education Policies About Grades

Professor McCormick next reviewed three policy revisions brought to the Senate Committee on Educational Policy (SCEP) by Vice Provost Kohlstedt; in all three cases, the changes in policy are to correct omissions that occurred when the policies were moved into the University's policy library.

In all three cases, the policy changes restore the countable grades (for Ph.D. student, Master's students, and Post-baccalaureate Certificate Plans Approved by the Board of Regents) that had long existed in Graduate School policy. In the case of the performance standards for the Ph.D., the proposal includes changing "must" to "should" when providing for a minimum GPA to be maintained by Ph.D. students; the reason for this change is to allow programs flexibility and not be required automatically to

remove someone from a Ph.D. program even if there are good reasons not to do so. Professor McCormick pointed out language in all three policies that allow programs and departments to establish more stringent grading requirements than the minima set in these policies.

Committee members briefly discussed the change from "must" to "should" and concluded they concurred with the Graduate School and SCEP recommendation.

Professor Bearinger cited language in the Master's and Ph.D. policies providing that "This policy does not apply to first professional degrees. (The first professional degrees are the J.D., M.D., Pharm.D., D.V.M., D.D.S, and L.L.M degrees.) It was noted that this reflects a national definition of first professional degrees. Professor McCormick said that some Master's degrees are covered by the policy but others are not. Professors Bearinger and Wyman pointed out that there is a professional degree in Nursing and it is not clear if it is covered; the national definition of first professional degrees is out of date.

Professor Durfee suggested that SCEP and the Graduate School should have a discussion of first professional degrees. He said that action on these policies should not be held up because of the concern about the definition of first professional degrees; that language is already in the policies and these changes are about grades. He suggested that the Committee approve the policies on behalf of the Faculty Senate as technical changes.

Professor von Dassow agreed and also pointed out that requiring students to meet certain grade standards is in conflict with the push to produce more degrees. Insofar as the grade of C is defined as meeting course requirements, implicit in a higher standard is the proposition that some students will not earn degrees, because the minimum GPA is above a C in all three policies. Increasing the rate of degree production cannot co-exist with rigorous grading standards.

The Committee voted unanimously to approve the changes on behalf of the Faculty Senate. The changes will be reported to the Faculty Senate for information.

3. Change to the Policy Education Abroad Opportunities: Addressing Health and Safety Risks

Professor Durfee next asked Committee members to consider the changes proposed to the Education Abroad Opportunities: Addressing Health and Safety Risks policy brought forward by the Senate Committee on Academic Freedom and Tenure. [The only change provides that the International Travel Risk Assessment and Advisory Committee, or ITRAAC, would no longer have final authority to approve or disapprove graduate student travel abroad for research field work to areas covered by State Department or other travel warnings; ITRAAC would continue to have final authority over all undergraduate and other post-baccalaureate study abroad activities. Final authority over graduate student travel abroad for research would rest with the adviser, the program DGS, and the appropriate dean. The reason for the proposal is that ITRAAC veto or delay of field research could constitute an infringement on the right of graduate students to do work in a field of their choice, including in places that may appear to be dangerous.]

Professor Durfee recalled that this Committee heard the proposal last year and expressed discomfort with it when it only suggested requiring adviser and DGS approval. The proposed revision, at FCC's suggestion, now calls for the dean to approve the travel as well.

Professor Ropers-Huilman cited the example of a case of a student doing research in Africa when violence broke out; what if the student refused to return?

Professor von Dassow said the issue goes back a few years, when a Political Science graduate student was prohibited from carrying out planned research because ITRAAC made a decision that the student could not travel to the location where the research would be conducted. She said the policy is appropriate for undergraduates taking coursework abroad but not for graduate students doing research. She said that people would be surprised at the number of faculty and student research projects that are inhibited by existing policies. (For example, faculty could not have students participate in archaeological fieldwork in Israel because it is under a State Department travel warning.)

Professor Ranelli said that Professor Ropers-Huilman's example probably occurred while the student was already there and would be in a position to refuse to return. Could a dean or adviser demand that the student come home?

Professor Gardner said that Professor von Dassow's reaction was too mild. Both this policy and the one that requires faculty members to register when they travel abroad both violate academic freedom and serve as examples of administrative bloat. These require staff to account for people. Why should someone have to register to go to Canada? Some colleges do not allow travel reimbursement unless the faculty member pre-registers, so the policy is being applied punitively.

Is there a question about the legal responsibility of the University, Professor Satin asked? Concern about the cost of the helicopter to evacuate someone? There has been no indication of any concern about institutional insurance costs.

Professor Bearinger recalled that Associate Vice President and Dean Meredith McQuaid, responsible for international programs, spoke with the Senate Research Committee and explained that everyone is required to register when they go abroad because of concerns about when riots broke out in Egypt, the University had no idea who was there and so it could not help them.

The Committee voted unanimously to endorse the proposed policy change. Professor Cloyd suggested that the policy change be distributed to all faculty and it be pointed out that the system is decentralized.

4. Committee Business

Professor Durfee reported that this Committee provides recommendations to the Committee on Committees on who should serve as chair of those committees whose chair serves as an ex officio member of this Committee; it also makes a recommendation about the chair of the Senate Committee on Academic Freedom and Tenure. Committee members discussed possible candidates to serve as committee chairs.

Professor Durfee next asked for comments on a letter about the Markingson case that had been addressed to the president and to the Faculty Senate and signed by a large number of bioethicists. (Mr. Markingson was a participant in a clinical drug trial at the University and committed suicide during the study.) The letter asked the Faculty Senate to request an independent inquiry of the case.

Professor Cloyd said the question is whether the Faculty Senate would take on the matter requested by the letter—or what process it would use to deal with the request.

Professor von Dassow said that in the 24 hours preceding the meeting she and a few other Committee members received letters urging them to act on this matter. She said the letters were not "cut and paste jobs," rather, each was the individual work of its author, and they come from University alumni and faculty as well as members of the public. She forwarded a selection of these letters to the Committee last night, since which time the Committee has received additional information about the investigations that are said to have been conducted in the Markingson case. In addition, a number of faculty senators wrote to the Committee asking that it bring the letter to the Faculty Senate. The Committee must decide on a response; if it cannot be the December Senate meeting, the next one is not until March.

Her recommendation, Professor von Dassow said, is that the Committee not make decisions on behalf of the Faculty Senate but put the letter on the December 5 docket for discussion. She said she believes the University administration is in error in refusing to address the issues raised in the letter except to deny them. She said she does not want to become an expert on IRBs and related research issues and try to adjudicate the matters, but the reply from the General Counsel contains statements that conflict with other material the Committee has seen. She said she believed the way to proceed is to have open discussion at the Faculty Senate meeting and she believed it should recommend an impartial review of the case. If the Faculty Senate votes "no" on making such a recommendation, the reasons for doing so should be made clear.

Professor Luepker said he respectfully disagreed with Professor von Dassow. This is not a matter on which to rush to judgment; "we are uninformed about all the facts," he said, so it is not reasonable to think that a group of 150 people can come to a decision. There is much information available about this case, some of which he knows, although not all of it. What bothers him, Professor Luepker said, is that the events in the case are being accelerated to the level Tuskegee and eugenics, and it would not surprise him to next hear a comparison with Dachau. He said he hoped that any discussion of the case would be based on the facts, not blogs and uninformed commentary. The case is ten years old, so there is no need to rush to judgment—because there is the potential to do wrong.

Much of the fight over the case is in the media, Professor Luepker said, and the justification for it is to "help" the University's reputation. In his view, making unfounded charges through press releases and interviews are not an attempt to help the University or illuminate the facts of the case; the aim is to damage the University.

Professor Desai said that the letter writers have a constellation of evidence and it should not be the Committee's job to sift through it. This has not gone away for ten years and the University's name is tarnished, and these are not just media or legal questions. The senate could ask for an investigation but it is not something the Committee should manage. She said did not want to be in the position of saying she does not know what is going on; the Senate could call for an investigation but it is not urgent, and it should do so because many people care about the University.

Professor Satin said that he feels a responsibility to go to his colleagues with answers, and if there was wrongdoing, he does not have the answer. He said he hoped the Committee could figure out how to figure this out. If the Committee can do fact finding, that would be great; if the Senate can do fact finding, that would be great; if there is need for an independent investigation, great. He said he has not looked at all the available information and cannot say whether the situation is acceptable. At least a group needs to take time to see what information is there and decide if it is necessary to do more.

Professor Durfee said the discussion would continue at the next meeting and adjourned this one at 3:00.

-- Gary Engstrand

University of Minnesota