

Senate Research Committee (SRC)
September 12, 2016
Minutes of the Meeting

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.

[In these minutes: Senate orientation/overview; Identifying members for Research Openness Subcommittee; Overview of SRC charge, outline of priorities, solicitation of additional agenda items; Update on the state of the human subjects protection implementation; Changes in the federal rule for overtime]

PRESENT: Michael Kyba (chair), Philip Zelazo, Catherine St. Hill, Sumanth Gopinath, Jeffrey Simpson, Jayne Fulkerson, Kristina Burrack, Bill Arnold, Lisa Johnston, Sidharth Gs, Sue Paulson, Brian Herman, Tucker LeBien, Claudia Neuhauser, Nelson Rhodus, David Roberts

REGRETS: Hinh Ly, Logan Spector, Claire Stewart; Teresa Rose-Hellekant, Vldas Griskevicius, Jennifer Franco, Chengyan Yue

ABSENT: Gregory Cuomo, Michelle Gross, Jeannette Gundel

GUESTS: Vickie Courtney, director, University Senate Office; Brian Herman, vice president for research, OVPR; Kathy Brown, vice president of human resources, OHR; Patti Dion, director, OHR; Paula Merrill, compensation consultant, OHR

ALSO ATTENDING: Pamela Webb, associate vice president, OVPR

Chair Kyba welcomed the committee and members introduced themselves.

1. Senate orientation/overview: Michael Kyba, chair, introduced Vickie Courtney, director, University Senate Office. Courtney reviewed the [University Senate organizational chart](#), noting that there are over 1000 people participating in University governance. There are four senates that report to the University Senate: the Faculty Senate, Student Senate, P&A Senate, and Civil Service Senate. The University Senate and the Faculty Senate are chaired by the president, Courtney said; the SRC is a committee of the Faculty Senate. Courtney summarized the membership of the University Senate, noting that there are 278 elected members, including 168 faculty, 60 students, 25 P&A employees, and 25 civil service employees. Each committee has ex-officio members, Courtney noted, who are generally experts and/or senior administrators; these ex-officio members are important liaisons to the administration, and can help guide committee discussions.

Courtney then summarized the history of the University Senate. The University Senate was formed in 1912; it remained all-faculty until 1969, when students were added. Civil Service and P&A employees joined the governance structure in 2004.

Courtney went on to discuss the difference between resolutions and statements. Resolutions request an action from the administration, Courtney said; statements do not require an action, but often certify a position for review by University administration and/or the broader University community. Courtney noted that consultation is an important first step in forming statements and resolutions, as consultation and coordination with other committees interested in the same issues can make a stronger impact than if those groups worked separately.

Courtney outlined the path of a statement or resolution, noting that once a statement or resolution has been drafted and approved by the SRC, it would be sent to the Faculty Consultative Committee (FCC) for information, or discussion and/or action. From the FCC, it would move to the Faculty Senate for information or action. From the Faculty Senate, it may move to the University Senate, and then to the president and other relevant administrators with the expectation that they respond within 90 days.

In some cases, Courtney noted, a letter directly to a senior administrator requesting information may be helpful. Committee chairs, with the assistance of their senate associate, can draft letters to administrators requesting information, and invite those administrators to present at a future meeting.

Courtney added that in order to assist committees in their efforts toward effective consultation, the University Senate Office will soon add issues tracking as a feature on the University Senate website.

2. Overview of SRC charge, outline of priorities, solicitation of additional agenda items:

Kyba reviewed the [SRC charge](#), noting that in the past SRC has been more reactive than proactive on issues affecting research at the University. Kyba stated that he hopes to get in front of issues this year so that the SRC can be consulted before decisions are made by the administration.

Drawing attention to one of the responsibilities listed in the SRC charge, “c. to assist in the evaluation of research programs within the University,” Kyba asked committee members to think about how research programs might be evaluated by the committee, what the SRC would seek to accomplish in evaluation of the University’s research programs, and how the SRC might evaluate access to infrastructure. Vice Dean LeBien said that he and Tom Hays, associate dean for research, College of Biological Sciences, are currently co-chairing a committee charged with looking broadly at institutional infrastructure in the context of its breath, depth, financial structure, administrative structure, staffing efficiency, and contribution to the research mission of the University. LeBien said that the committee has created a document with several proposals on ways to enhance support for infrastructure, how to evaluate it periodically, and how to better support the research mission of the University, but that the report was not yet released. Kyba said that he would like to hear about the work of this committee, and noted that he would invite Associate Dean Hays to present at a future SRC meeting.

Next, Kyba reviewed SRC agenda items for the year. Kyba outlined discussions that the committee has had over the past three years regarding the leave policy, and its effect on research budgets. Kyba has been in discussions with Colin Campbell, chair, Faculty Consultative

Committee, Kathy Brown, Office of Human Resources, and Brian Herman, vice president for research, OVPR, regarding the issue, and would like to bring it to a resolution this year. Kyba noted that he and Campbell plan to submit a letter requesting additional leaves data from OHR and OVPR.

Kyba concluded the discussion by asking members to bring any additional agenda items not previously discussed to his attention via email.

3. Identifying members for Research Openness Subcommittee: Kyba outlined the role of the Research Openness Subcommittee, a subcommittee of the SRC. He noted that typically the subcommittee meets one to two times per year, and reviews applications for funding from grants or contracts that involve secrecy. Kyba said that this subcommittee meets to discuss any submitted applications, votes, and makes their recommendation to the SRC; the SRC then votes on that recommendation, and passes along their recommendation to VP Herman. Kyba has asked Graham Candler, associate department head, Department of Aerospace Engineering and Mechanics, to take the open faculty position on the committee, and Kenny Beckman, director, AHCSH Biomedical Genomics, to take over the P&A role on the committee; both accepted. A new chair needs to be identified. If the committee has suggestions, Kyba asked that committee members send them to him via email.

4. Update on state of human subjects protection implementation: Chair Kyba introduced Brian Herman, vice president for research, OVPR. VP Herman began with an overview of the past two years of work of plan implementation. Herman said that the process began when the Faculty Senate requested an external review of human subject protection in the University's clinical trials. In response, Herman said, the University hired a company to complete an external review and recruited a number of additional outside experts; these groups compiled a report with 63 recommendations. The president then charged VP Herman and VP Jackson with putting together teams to address each of the 63 recommendations. The teams have submitted all of their reports to the OVPR office, Herman said, and all of the final plans have been approved and are in the process of implementation. Most will likely be implemented by the end of this calendar year, with the exception of an electronic IRB, which will be going live some time in spring of 2017.

Herman said that there is much emphasis on developing a communications strategy, and on creating a toolkit to enhance our culture of research ethics at the University. There are changes to how University IRBs operate, Herman said, including increases to the number of IRB panels, additional faculty members recruited to participate as reviewers, compensation provided to the divisions and departments of faculty members for time spent on the IRB process, and better training and education for faculty and staff involved in clinical research. Herman noted that the IRB has developed metrics to evaluate progress toward these goals, and a dashboard is now viewable on their [website](#).

Herman added that a validated instrument, Source Survey, was identified to assist in implementation of these changes and to get a baseline of the ethical culture of the University. Herman and Pamela Webb, associate vice president, OVPR, confirmed that an email will be sent out to the University community with this survey in a couple of days.

Jeff Simpson, professor, Department of Psychology, asked how faculty participating as reviewers on IRB panels would be compensated. Herman said that there is a formula that has been developed for compensation based on time of service, rank/service level, and relief to departments/divisions required. Compensation will go directly to units to fill gaps in service or teaching that the faculty member would normally provide. Herman clarified that faculty would not be provided the funds directly in the form of increased pay; the funds would act as relief to departments and colleges.

Kyba asked what the total cost of implementation was for these changes, and asked whether or not these funds were included in the new budget. Herman said that the total amount of revenue required to implement these changes is \$2.4 million annually; \$1.6-\$1.7 million will go to faculty, and the rest to staff support, creation of a research compliance oversight office (headed by AVP Pamela Webb), purchase of the electronic IRB, and implementation of the tool kit. Herman noted that these funds have been added to the research cost pool in the current budget.

Sumanth Gopinath, associate professor, Department of Music, requested some additional background information on this issue, specifically the path to the legislature. Herman said in an effort to fix issues in the Psychiatry department, the state legislature sought to have additional oversight of research and clinical trial activities at the University. A bill was introduced this year to the legislature, Herman said, giving the State Mental Health Ombudsman oversight to investigate allegations of inappropriate care or consent issues, specifically in psychiatric drug trials. As part of that bill, the University is now required to report any death of a patient participating in a drug trial within 24 hours to the State Mental Health Ombudsman's office. The University has met with the State Mental Health Ombudsman to work out this process, Herman said, and to create a communication path to most effectively meet this requirement.

Philip Zelazo, professor, Department of Child Development, asked Herman to speak about the efficacy of online training related to IRB issues. Herman noted that completely online training is not sufficient; there also will be experiential learning opportunities, such as simulated consent sessions, trained observers (to ensure a consistent consent process), and helpful training for the IRB. Consent sessions will be videotaped in some cases where a patient has a mental impairment, and the consent form will be simplified, Herman said.

Kyba inquired about audits to the IRB protocol, and if it was the case that prior to recent changes there were random inspections to make sure that all reporting was in order. Herman clarified the difference between audits (which are a formal, structured process) and reviews (related to compliance and monitoring). In the past, Herman said, CTSI was responsible for monitoring the real-time activities of clinical trials. CTSI would find compliance issues and send them to the responsible PI's, who would generally not respond or address the issues, Herman said. In the next iteration of the plan, Herman said, the University will increase the number of clinical trial monitors, and department heads will be responsible for making sure that faculty read and comply with monitoring reports. If this doesn't happen, Herman said, the issue will be escalated to VPs Herman and Jackson within 4 weeks. Herman said that an outside consultant firm, Compass Point Research, has developed a statistically-based approach to determine the risk profiles of ongoing trials, and will randomly monitor 100 trials across the entire pool. Going forward,

Herman said, we will use this algorithm to do the same with the IRB process in looking at high-risk trials.

5. Changes for the Federal rule for overtime: Kyba introduced Kathy Brown, vice president, Office of Human Resources (OHR), Patti Dion, senior director, OHR, and Paula Merrill, compensation consultant, OHR. VP Brown began with an overview of the Fair Labor Standard Act (FLSA), which is a federal law that will change how and when exempt and non-exempt employees are paid overtime. The federal government has instituted a new salary threshold for exempt employees, Brown said; previously, if an exempt employee made under \$23,660 per year, they were considered non-exempt, and any hours over 40 were paid at an overtime rate. With the changes made in FLSA, any exempt employee making below \$47,476 per year is considered non-exempt, and they are eligible for overtime pay. Merrill clarified that currently this change will only affect postdocs in job classification 9546. Brown said that OHR's recommendation to the Budget Five (President Eric Kaler, Provost Karen Hanson, VP Brian Herman, VP Brooks Jackson, CFO Michael Volna) will be to increase both full time and part time postdocs to the new exempt level. VP Brown added that most of the other institutions in the Big 10 are managing the new FLSA requirements in the same way.

Brown said that OHR considered several options for implementation of this change; the first, allowing colleges to manage the issue themselves, could create equity issues among colleges and is not an ideal option. OHR created an analysis of estimated overtime hours for postdocs, Brown said, weighing the option of paying overtime rates to these employees, or increasing pay to the exempt level. 557 postdocs are currently below the exempt threshold. To raise their pay to the exempt level would cost the University \$4.3 million per year across the institution, Brown said; to pay the overtime rate to these employees would cost the University \$8.1 million (estimating 10 hours per week of overtime per postdoc per year), or \$16.1 million (estimating 20 hours per week of overtime per postdoc per year). Additionally, Brown noted, there would be increased administrative burden in reporting overtime hours for postdocs, who do not currently report time.

Tucker LeBien, vice dean for research, Medical School, asked what the total cost of salary plus fringe for one postdoc would be per year. Brown said that the total number is approximately \$63,000 per year, and noted that the \$4.3 million number (increased cost to the institution) does *not* include fringe costs.

Brown noted that these increased costs will result in an increased cost on colleges, and on some individuals' grants, and that central funding had been discussed but not confirmed. Brown suggested that researchers may seek to re-budget their grants, request accommodation from their funding agency, stretch out time, or request assistance from their college to manage these increased costs.

Zelazo asked Brown what the average postdoc salary is currently across all colleges, and said that conceivably a college like CEHD could be more adversely affected than other colleges. Brown confirmed that any college with a large number of postdocs could be more adversely affected by this change. Patti Dion added that currently more than 50% of postdocs at the institution would need to have their pay increased to meet the new federal minimum for exempt employees.

Bill Arnold, professor, Department of Civil, Environmental, and Geo-Engineering, asked if there would be a downward adjustment to the fringe rate, since as the salaries go up, there are increases to fringe costs. Brown said that to her knowledge, there has been no decision on any fringe pool rate exceptions.

LeBien then asked Webb if a PI could potentially supplement a postdoc from their R01 grant if, for example, that postdoc received an award for \$40,000 per year from a private foundation. Webb responded that the percent of effort reported to the agency needed to be commensurate with the percentage of time actually spent on the R01 project. Webb noted that this would also depend on the terms of the foundation award.

Kyba asked for clarification on the postdoc employee types and who will be affected by this change. Patti Dion said that those considered “postdoc fellows” are *not* considered employee class, and are not subject to this new rule. Dion said that those considered “postdoc associates” *are* considered employee class, and are subject to the new FLSA rules. Dion said that postdocs can change back and forth between these statuses frequently, based on their funding source. Webb added that NIH has issued a statement that it is their intent, provided they get enough money in their FY17 budget, to raise all fellowships and institutional training grants to the higher compensation levels. They have made no statement regarding other types of funding.

Gopinath inquired about the potential for exploitation of part time postdoc appointments to control costs. Brown said that in OHR’s recommendation, both full time and part time postdoc pay would be increased to the new rate to prevent this type of issue. If there are any abuses related to the new FLSA pay increases, Brown said, postdocs should discuss issues with their department head, with the Office for Conflict Resolution, or with EOAA (if the postdoc feels they are being discriminated against based on a protected identity).

Kristina Burrack, postdoc, Department of Lab Medicine and Pathology, member of the Postdoctoral Association, said that their group is supportive of increases based on yearly experience, in addition to the base level increase required by FLSA. There are some concerns with postdocs losing their jobs due to lack of funding, and concern with international postdocs being more adversely affected, but Burrack said that the Postdoctoral Association did not have the resources or capacity to compile data on these issues. Brown said that OHR similarly does not have the ability to compile this type of data, but added that a 20-person team quite knowledgeable about postdoctoral issues was consulted before OHR formed their recommendations to the Budget Five.

Nelson Rhodus, professor, Diagnostic & Biological Sciences Department, added that some PI’s are now hesitating to hire new postdocs due to this new federal rule and their fears of running out of funding for them.

Kyba asked if there was potential for a short-term central response to these changes. Brown said that PI’s should first contact their department with issues; the departments will contact the colleges, and the colleges will contact the Budget Five. The Budget Five will want to hear who is impacted the most by this change.

Kyba asked about the possibility of central funding from the University to help with budget difficulties related to research projects. VP Herman recommended this also be discussed with Scott Lanyon, vice provost and dean of graduate education, as the oversight of postdoctoral issues rests in the Graduate School.

Brown concluded the discussion by asking SRC members to contact Paula Merrill or others in Total Compensation with any questions. Brown also recommended discussing these changes with the HR lead in your college. Kyba thanked Brown, Dion, and Merrill for attending.

Kyba continued the discussion with the committee, asking if others on the SRC thought the committee should take any action regarding these changes. Lisa Johnston, research data management/curation lead and co-director, University Digital Conservancy, suggested the SRC prepare a statement of ethical guidelines for the implementation of this change. Zelazo said the committee should put together two separate documents; first, a statement with recommendations and principals for OHR (for dissemination to deans, associate deans for research, and department heads in individual units implementing this change), and second, a statement to the Budget Five regarding a central response and request of temporary funds. Arnold volunteered to draft the budget statement. Simpson & Johnston volunteered to write the recommendations for implementation; Burrack volunteered to review and give her thoughts.

Kyba then asked committee members to weigh in on whether or not they felt there should be a Postdoctoral Affairs Office within the Graduate School, noting that the Postdoctoral Association is currently in discussion with VP Scott Lanyon on this issue. Burrack said that she would share information with the SRC members on this subject via email, since there may be interest in drafting a letter of support for the Postdoctoral Association's efforts. Courtney suggested that since VP Lanyon will be invited to an upcoming SRC meeting, the committee could discuss this issue with him at that time.

Hearing no further business, the meeting was adjourned.

Barbara Irish
University Senate Office