

Minutes\*

**Faculty Consultative Committee  
April 18, 1991**

Present: Warren Ibele (chair), Paul Holm, Norman Kerr, J. Kim Munholland, Burton Shapiro, Charlotte Striebel, James VanAlstine, Shirley Zimmerman

Guests: Senior Vice President Leonard Kuhi, Fred Morrison, Maureen Smith (Brief)

[Note: These minutes are long, in part because the meeting was an hour longer than normal and in part because the issues discussed seemed to be of such importance to the faculty that their full presentation is warranted.]

**1. Report of the Chair**

Professor Ibele briefly reported on several items:

- FCC members are asked to join a meeting of the working group on academic salaries to encourage them to continue their work despite the current bleak financial situation. The working group will be asked to make an interim report to FCC towards the end of the academic year.
- There will be a Regents' forum on ROTC on May 9 at the Earle Brown Center; both ROTC and Senate representatives will make presentations and then there will be time for individual statements. Professor Beatty, chair of the Social Concerns Committee, will be asked to speak.
- The Physical Plant and Space Allocation Committee will again be taking up the question of the steam provider.
- The Duluth Medical School has indicated it wishes to send a representative to FCC to fill the Duluth seat. Professor Ibele reported that he has contacted the General Counsel's office to learn if they have a view of the issue. The Senate Constitution provides that the Duluth campus is entitled to a representative on FCC; it has been interpreted, by the Duluth Medical School, that its 38 faculty are thereby entitled to a seat. Given the small numbers, and that the Duluth Medical School does not report to the Chancellor at Duluth, but rather to the Vice President for the Health Sciences, this assertion of a right to a seat on FCC should not be accepted without challenge, Professor Ibele suggested. The Duluth faculty union has indicated it may wish to send an observer to the meetings but has routinely responded to inquiries from FCC that it is not interested in having a representative on the Committee.

It may be time, Professor Ibele observed, to discuss a by-law amendment which would allow the Duluth seat to be filled by a faculty member from the Twin Cities campus, at least until such time as there is a change in the relationship between the Duluth faculty and the University governance system.

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\* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate or Twin Cities Campus Assembly; none of the comments, conclusions, or actions reported in these minutes represent the views of, nor are they binding on, the Senate or Assembly, the Administration, or the Board of Regents.

- [It was learned later in the meeting that] the students are interested in dividing the two vice-chair positions; the students will nominate the Assembly vice-chair and the faculty the Senate vice-chair. The faculty member will then sit on SCC and FCC, the student with the Assembly Steering Committee.
- There will be a meeting with the two new Regents next Monday; members of FCC are invited to join it to meet them.

Professor Shapiro then reported briefly on the items to be taken up at the next Finance and Planning Committee meeting: funding for implementing the recommendations of the Task Force on Liberal Education, a question about part of faculty fringe benefits being used for graduate education, the definition of "closing the University" if such an option is considered as a money-saving device (and whether or not such a step, if it includes "pay-less" holidays, conflicts with the tenure code), and the status of the plan to charge units for the space they occupy.

Another issue was raised by one of the Committee members, something about which he had received several calls. There was recently a lecture given, in Smith Hall, on "Scientific Evidence for the Existence of God." The advertisement in the Daily made it very clear who the sponsors were, and no one has any problems with such a speech being given. The problem raised was that the speech was also listed in Brief, without identification of sponsors, which suggested that it had the imprimatur of the University. Notices distributed on campus, it was noted by another, also failed to identify the sponsors; it could have been interpreted as an event sponsored by the Chemistry Department.

Ms. Smith, editor of Brief, told the Committee that she typically does not identify sponsors when listing speeches and addresses to be given on campus. There have been a number of events listed in Brief which are not technically "University-sponsored." The Committee agreed that this is a concern, although space considerations in Brief make it difficult to list sponsors. Further, it was noted, events are "sponsored" by the University in varying degrees. It was agreed that Ms. Smith would consult with her colleagues in University Relations and report back to the Committee on possible solutions.

There was brief Committee discussion of the work of the Task Force on Liberal Education. Professor Ibele noted that the Task Force will disband this Spring but that there will remain major questions which will need to be answered; the Council on Liberal Education will have considerable work to do to refine and implement the recommendations. Will creation of the Council require amendments to the by-laws of the Assembly, one Committee member inquired; it may, said several, although it was pointed out that the Task Force report calls for the Council to be appointed by the Provost (with the advice of the Twin Cities Assembly Steering Committee, the Twin Cities subset of the Senate Consultative Committee).

## **2. Discussion with President Hasselmo**

Professor Ibele next welcomed President Hasselmo to the meeting.

Indirect Cost Recovery funds The President began by reporting on the recent meeting of the AAU. They spent a great deal of time discussing Indirect Cost Recovery (ICR) funds. There was a mild

difference of opinion between the private and public AAU members about ICR funds; public institutions generally have much lower ICR rates than do private institutions. No one can understand why that difference exists, exclaimed one Committee member; the President concurred. It may depend in part on the aggressiveness with which institutions pursue higher rates, the President said; it may also be related to which federal agency audits a university. It seems to be a crazy system, where different agencies audit different universities, because very different practices have grown up in the different agencies--and higher education is reaping the "rotten fruit" that grows from that lack of uniformity.

Knowing the vagaries of the processes, and knowing how difficult it is to ride herd on every single account to ensure that every single one is being used absolutely according to the books, the President said the federal government has a certain amount of responsibility for the situation in which higher education finds itself. These rates are negotiated; when applied, certain of the cost pools are legitimately research, and thus certain costs are indirect costs. A new term concerning expenditures that has begun appearing is "appropriate," although the federal language speaks only of "allowable" or "disallowed."

Universities generally recognize, as does the resolution adopted by the AAU, that there have been problems and that the universities have responsibility to carefully monitor the expenditure of funds. It is also important to emphasize that the system has lent itself to misunderstandings. The AAU also reaffirms the tremendous importance of the federal-university partnership, which has led to a research development effort that is unparalleled anywhere in the world.

As far as the University is concerned, the President said, he has responded to one letter from Congressman Dingell about charging AAU dues to ICR funds; the University charges only about 15% of the dues, and the federal language on ICR funds explicitly permits dues for professional associations to be charged against them. Some institutions charge 100% of their dues to ICR funds. The University has also received an inquiry about whether or not it is auditing its ICR accounts and if the audit is being conducted by an external auditor. A number of institutions have conducted such audits; both Harvard and Cal Tech have returned funds. The president of Cal Tech, President Hasselmo said, explained that they didn't find that many problems but returned the money simply to avoid spending the enormous amount of time it would take to investigate every nook and cranny of ICR accounts; they summarily decided to lower the rate. What happens, during a federal audit, is that about 25 auditors visit an institution and examine every account in great detail. It is not clear whether or not Minnesota will be subjected to such an audit.

The ICR practices at the University were discussed by the Cabinet recently, the President told the Committee; they appear to be sound and the average University rate of 44% compares favorably with rates in the 70% range and higher charged by some other institutions. Mr. Potami has been careful to monitor ICR funds, although he has no illusions, the President said, that if someone were to go through five years of records that they could not find something that has been mis-charged--if only because of clerical error. But there do not appear to be any major problems.

One Committee member noted that the likely fallout from this situation will create a problem for the individual investigator: the agencies will want to see an hour-by-hour account of time spent by graduate assistants, secretaries, and so on. This is the threat.

There is also a tremendous amount of money spent on monitoring, the President observed; there are stories such as the federal government spending \$30,000 to monitor a \$70,000 account. A considerable bureaucracy has grown up just to monitor ICR funds; Mr. Potami believes the University could probably lower its ICR rate by quite a few points if it were to receive a flat threshold rate and get rid of all the auditing requirements.

There is a battle now going on about the legitimacy of ICR funds in general, the President said--at the same time that there is a greater need to build the universities' infrastructure than there has been for some time. The infrastructure has deteriorated considerably in recent years. The facilities program of the federal government has been discussed by AAU for several years, as has the Congressional practice of earmarking funds (especially in districts represented by chairs of appropriations committees).

The ideal solution, the President commented, would be a fixed threshold ICR rate for all research institutions--with flexibility for special facility and equipment requirements, which could even be direct expenses. This would eliminate the need for the huge machinery to negotiate and monitor and would result in substantial savings. This is, however, not a solution palatable to the institutions which have high rates; they want the opportunity to push for every cent of ICR funds they can obtain. There is some sympathy for the approach among public institutions but not among the private institutions. The AAU is carefully balanced between the two groups, so it is absolutely deadlocked on the issue.

The President agreed that the reporting system for ICR funds has grown more onerous in recent years. One issue in introduction of the CUFS financial system has been whether or not it can capture the required complexity in its reporting ability.

Status of the University's Biennial Request Professor Ibele inquired if there are any more recent developments in the legislature. The President said he wanted to comment in particular about the salary issue, inasmuch as the question has been raised by the Committee.

This has been a peculiar year, the President explained, in that the University has had no vehicle by which to argue for any increases in its legislative request--because it was told not to submit a legislative request. The administration has tried, at every opportunity, to say that the University's number one priority is faculty and staff salaries. He has told the legislature that if there is any opportunity whatever to talk about cost-of-living increases, the President explained, the University will be there because it has a legitimate claim. They have tried to hold the issue in front of the legislature, but there has been no opportunity to have a structured discussion.

Both he and Professor Ibele spoke about salary increases in their reports to the Board of Regents, the President said, and it is important that the issue not be lost.

As far as other information is concerned, there have been various discussions of merger of the systems. There appears to be little momentum for including the University in any merger. There has also been discussion of maintaining the Waseca campus in another system; the financial basis on how that would be accomplished is not clear. It is likely that something will be done on the merger proposals, although what it will be is not known.

The House has set aside \$65 million above the Governor's original recommendation for higher education (\$55 million above the revised recommendation, which included an additional \$10 million for the University). The Senate seems to be proceeding more informally; it has not set a fixed amount it would provide to higher education. If the University were to receive the additional \$10 million recommended by the Governor plus its fair share of the \$55 million proposed by the House, it would then face a cut of "only" \$12 to \$13 million in the annual budget--"still a scary prospect," he commented.

Are the other systems and other State employees in the same position with respect to salary increase requests, the President was asked. It is, the President affirmed; no one has been able to submit a request. The other systems are doing what the University is: mentioning the concern whenever possible. The other systems are more tied to union negotiations, the President pointed out; those negotiations will take place, as they will with the unionized parts of the University. If increases were to be approved by negotiation for faculty in the other systems, presumably internal reallocation would have to occur to fund those increases--unless there is an appropriation for salaries. The President said he would expect the University to have the same access to any such appropriation as would the other systems.

So institutions must live within their current budgets, it was said, and any salary increases would have to come from that budget. The President concurred. A decision that there will be no salary increases, then, it was continued, is an internal decision; the University has apparently decided it will not use whatever funds it receives for salary increases. Other institutions are, by comparison, apparently not taking that approach--because they have unions to deal with.

The President said the University is still at liberty to reallocate for salary increases. While the preponderance of the discussions thus far has indicated that the University should not reallocate for salaries, it is not an absolutely closed question. There is a perception, the President was told, that the legislature made the decision on salaries, whereas in fact it is an internal decision. The President responded that the issue began with the Governor--both Perpich and Carlson--because the agencies were told not to ask for anything. The legislature, thus far, has given no indication that there will be a budget for salary increases--even though the University continues to make the case. It is then an internal decision for each system; in the case of systems that are unionized, if they negotiate an increase, they will have to reallocate to fund them.

The University has some unionized segments and will be involved in the same negotiations.

Could the Duluth and Waseca unions negotiate a salary increase, but the non-unionized faculty and staff not receive an increase? Would that not create a dilemma? The President said that the University must deal with the union in good faith and the outcome cannot be predicted. It is his expectation, the President said, that all employees of the University would be treated in the same way, whether or not they are unionized--this is a basic fairness question.

The President said he did not know when there would be closure on the issue; he said he has not felt it would be fruitful to push for an ironclad final decision given the uncertainties about what the State budget will be.

Asked if any reallocation for salaries would be apart from the \$60 million restructuring and reallocation plan recently approved by the Regents, the President said the basic stance of the

administration is that that plan is a set of decisions which will be observed. If there is a base budget cut, additional reallocation will be required. The same would be true for any reallocation for salary increases; it would be separate from the restructuring and reallocation plan. In the end, however, timing may have to be considered; the University will identify places where it has the flexibility to buy time to make programmatic changes. This is why the reserves will be a buffer and why treatment of (non-State) unit balances and deficits may have to be changed. Changing interest rates paid could buy the University considerable flexibility at relatively modest cost, although the administration does not want to create disincentives to being frugal and carrying money forward. The more flexibility the University has, the more likely it will be able to prevent the restructuring and reallocation plan from being delayed because of other factors.

The administration will have to consider, at least one more time, the salary question. The President said he did not want to hold out unjustified hope but acknowledged that he is himself struggling with it. Salary increases are so important to morale and fairness that he does not want to eliminate the possibility until it is absolutely foreclosed.

The President next turned to the possibility of "forced vacation days" for University employees. That approach, he said, is at the very bottom of his list of options. It is, in fact, "below a line of viability, as far as I am personally concerned." Discussions of that alternative have simply been part of a list of all theoretical possibility; only a part of that spectrum should be considered. The President said he would like to avoid what could be a heated debate over what is only a theoretical possibility.

Transfer of Tenured Faculty The President noted that a question will come up at the Senate meeting about the transfer of tenured faculty. The tenure code requires the University to offer approximately equivalent employment to tenured faculty when programs are closed; the potential receiving unit, under the code, does vote whether or not to receive that faculty member. A wise administrator will obviously not make these transfers haphazardly, the President observed, but would engage in discussion with the unit about the feasibility of the transfer. For the faculty member it is important to enter into a positive set of collegial relationships in order to have a productive career--rather than have the experience of someone being forced upon the unit. But the tenure code does not require the receiving unit to vote on accepting the faculty member. It is administratively possible to require a unit to accept the person.

One Committee member said the tenure code can be read differently. There have been instances, when a program has been closed, when candidates for admission to a unit have been told they would not be appointed to it unless that unit voted to accept them. The position outlined by the President, it was said, represents a considerable change. The President said this is not a decision he is making; it represents the provisions of the tenure code. Professor Ibele said he had spoken with Professor Morrison, who concurs with the President's position.

Would such a transfer include the faculty member's line item, the President was asked. The tenure code, he responded, is silent on the question of finance; prudent management would call for appropriate financial arrangements. He agreed that it was in principle possible for a tenured faculty member, from a program to be closed, to be assigned without funding to another unit.

Professor Ibele noted that he has received several calls about such a possibility. The unit involved finds that it has been treated differently in two instances. Earlier, some of its faculty members were transferred to another unit and the transfer included the salaries as well as staff support for the individuals concerned. Now the unit is being asked to take an individual unaccompanied by either salary or staff support. Their point is "why the differential treatment?" The quarrel is not about the person's credentials but about the policy. The President agreed that there ought to be some consistency to the process. He observed that the earlier case was a programmatic change, which is different from the case of the transfer of faculty members from a unit to be eliminated. The financial ramifications and staff support must be considered, he agreed. In the case of Waseca, he pointed out, there will be both faculty and support staff to whom the University will have obligations, and transfers of those individuals are likely occur.

Even though the tenure code is unambiguous on the point about transfer, the President repeated, prudent management clearly suggests that negotiations and financial arrangements would be desirable in order to make the new relationships congenial and productive.

It remains a cause for concern, one Committee member said, that this was not the policy followed when the Library School and the MacPhail Center were closed--those faculty were told that because of the tenure code they would not be accepted in units without an affirmative vote of the faculty. Another Committee member recalled a vote rejecting an individual proposed as an addition to the unit; the individual did not join.

If Morris actually receives an addition to its base budget for its new curriculum, the President was asked, will it be under pressure to take faculty members from Waseca to fill the new lines? The President said he hoped that no one would be pressured, "although we may negotiate quite a bit."

Professor Ibele thanked the President for his comments.

### **3. Discussion with Senior Vice President Kuhi and Professor Morrison about Transfers of Tenured Faculty and Candidates for Tenure at Waseca**

[Note: Although this portion of the meeting was closed, these minutes report the parts of the discussion which were general and do not identify particular units or individuals.]

Professor Ibele welcomed Professor Morrison to the meeting to discuss questions which have been raised by a unit about the possible transfer of a tenured faculty member between units (neither of which, in this instance, is being closed). [Senior Vice President Kuhi joined the meeting later.]

Professor Ibele related to the Committee three questions raised with him by a faculty member. It is proposed by a vice president to transfer a faculty member from one unit, in one college, to another unit, in a different college, and without funding. The three questions were these:

1. Does a central administrator have the right to transfer a faculty member, except in times of financial exigency, from one unit to another, and transfer that individual without funding?

2. Does the faculty in the receiving unit have a right to vote to accept or to reject such a transferred individual?
3. If there is a difference between the faculty in the receiving unit and the administrator, who makes the final decision?

Professor Ibele turned to Professor Morrison for explanation.

Professor Morrison distributed copies of the tenure code and drew the attention of Committee members to various provisions therein. Under Section 4.1, each faculty appointment or change of status is accomplished by written notice; among the items to be included in that written notice is the academic unit(s) to which the individual is being appointed. Under Section 4.3 ("Changes in Terms of Appointment"), "except for raises in rank or salary and except for actions expressly authorized by these regulations, no changes of any of the items listed in Subsection 4.1 may be made during the term of appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate." The term of appointment for a tenured faculty member, he said in response to a question, is indefinite.

Section 12 deals with programmatic change; he notes this section, Professor Morrison told the Committee, to differentiate the situation at hand from the situation with respect to the Waseca faculty. Section 12 recognizes the need for program change; it also provides that "the University has the responsibility to assign such faculty members [who are members of discontinued units] to responsibilities as closely related to their original field of tenure as is practicable. . . ." In the case of a programmatic change, the University can assign and there is not much departmental involvement other than guidance: "this person would be useful in this function, this person would not be useful in that function."

Professor Morrison was asked if he interpreted the language to mean "assign duties" to be synonymous with being a member of a department. He said that would be one of the duties which could be, which normally would be, assigned.

Section 7 of the tenure code deals with recommendations for granting tenure. The general tenor of the language of the section, Professor Morrison said, makes two things true. First, there are departmental recommendations concerning probationary faculty. Second, they are recommendations, not conclusive decisions. The end of Section 7 lodges with the administration the final and conclusive authority, although it is told not to vary from the departmental recommendation except for substantive reasons stated in writing.

These are the three touchstones of the regulations which need to be considered, Professor Morrison observed. One additional comment is that the tenure regulations are not, in his opinion, a comprehensive code for the University. They are a code that protects the interests and tenure of faculty members. There is an enormous variety of other relationships in the University which are ongoing that are not created or required or prohibited or restrained by the tenure code. But various other University policies, and simple good management, require certain kinds of solutions. He concluded--after having spent hours and years on the tenure code--that the tenure code cannot answer all the questions. Some are advice and policy questions that FCC and other committees and faculties need to provide guidance on to the administration.

There are four situations that have come up in the past year relating to the broad topic raised here. (All four, Professor Morrison noted, are real cases--which is surprising, because they don't usually arise.) The first has to do with the people in Waseca or any other unit affected by programmatic change. Section 12 answers that question, Professor Morrison said; "it tells us that the faculty member is entitled to have the University assign that faculty member to duties as closely related to what they previously did." This is one place where the code provides an answer, and while the answer might involve consultation with the unit to which the person is transferred, "certainly does not permit that unit to refuse to accept the individual, because the University has a flat-out obligation to the individual." If the University does not fulfill that obligation it is violating the tenure regulations.

The second situation which has been raised is one where the dean comes to a faculty member and says "I want to move you from department A to department B" but the individual does not want to go. That situation is equally clearly governed by the tenure regulations: 4.3 says that "except as otherwise provided"--and this would be a change in the department in which the tenure is held--the change cannot take place without the consent of the faculty member and the Board of Regents.

The third situation is one where the faculty member expresses an interest in being a different department, announces that he or she will begin teaching in that different department, and the dean declines to consent. This also is answered by Section 4.3; there must be mutual consent by the University and the faculty member (absent programmatic change or financial exigency).

What of the case where an individual is funded in a non-departmental unit but tenured in a department, Professor Morrison was asked. The faculty member no longer wishes to do the work in the non-departmental unit but wants to be in the department in which the tenure is held. The dean says "no." Professor Morrison said it is his interpretation that the tenure code does not speak of funding but of tenure. If the person has tenure in the department, he or she is entitled to be in that unit. When questions of funding arise, he said, one can look at the personnel document; typically, in this case, it will show a departmental salary which is cross-charged to the non-departmental unit. It has always been his understanding that that means the department is liable, in the long run, for that individual. This circumstance raises questions of good faith transitions and cooperative efforts and so on. But the promise is made, when tenure is granted, that they have the right to behave like a departmental faculty member. This is the distinction between faculty members and P&A appointees. P&A can be assigned to a non-instructional institute or unit, and paid as much as faculty members, but they are tied to that unit rather than the teaching or research function of an instructional department. That is part of what being a tenured faculty member means; that anchor exists in the traditional University. This does not mean, he added, that if a faculty member, under the circumstances described, can go to the dean on June 29th and announce the change; the dean could probably reasonably hold the faculty member to the non-departmental responsibilities for a short time, but not for the longer term.

The fourth situation is the one that was described at the beginning and raises the three questions presented. The faculty member wants to move, the administration wants to move the faculty member, but there has been no consent from the academic unit involved. The tenure code, Professor Morrison said, does not answer this question. Insofar as the code does answer it, it answers it by saying that once the faculty member and the authorized agent of the University--which is probably the Provost or the President--have agreed on the transfer, it can be effected.

To say that there is nothing in the tenure code which prohibits it, Professor Morrison cautioned, is not to say that the transfer should occur. There are other policy considerations that the administration must take into account before authorizing such a transfer. Those policy considerations drive one close to some kind of departmental review. This does not necessarily mean "approval" or "approval as a tenure vote." It is outside the scope of the regulations. Good management would not lead to placing someone in a department where they are unwelcome. If an administrator chooses to try to do so, the administrator should do so with a full appreciation of the consequences for the productivity both of the individual and the unit. It is not enough to say that "everyone will live happily ever after even though this person is being jammed down your throat."

In this particular case, moreover, it is a finance issue (although it may also be a matter of "fit"). The tenure code, except in one limited way, does not address finance questions. The one limited way it does so is to provide that there must be enough money in the department's budget to pay all the salaries. So a transfer, according to the tenure code, could take effect if there is sufficient funding to cover the salaries. It could be taken from any source. Again, however, good management would suggest that senior faculty not be placed in a department at the expense of eliminating TAs or the ability to hire new junior people. This Committee, or Educational Policy or Finance and Planning could question the administrator on these questions--but in the last analysis, it is administrative discretion and good management. This is also something on which the ability of the manager will be judged.

Professor Morrison informed the Committee that he has received several calls about the case at hand. He also understands, he said, that there are other similar cases waiting in the wings--where the sending department's budget is improved, and where it might make academic sense for the faculty member, and where the receiving department is not unhappy with the qualifications of the individual but argues that it cannot absorb the person in its budget. Such a transfer becomes, in effect, an implicit retrenchment of the receiving department's budget. This is, he repeated, a question outside the tenure code but within the purview of good management policies and something which must be examined on the basis of more subjective considerations. It is these considerations, he said, which it is perfectly appropriate for FCC to discuss with the President or Provost.

On the three questions originally posed, then, Professor Morrison told the Committee he would answer them as follows: (1) As a matter of right, the administrator has the right to make the transfer; as a matter of wisdom, the answer is "only carefully." (2) As a question of right, the receiving unit does not have a right to vote to accept or reject; as matter of wisdom, the answer is "yes." An administrator who would force the transfer on an unwilling department ought to be asked to explain why it is being done. (3) Who decides when there is a difference between the unit and the administrator, the answer is probably "the President."

Others, Professor Morrison warned, may have different views on these matters.

One Committee member told Professor Morrison that "I don't like your interpretation of the tenure code" and expressed a preference for the "customary interpretation, which is that the department where the person is going to be should vote to accept the person." Professor Morrison's interpretation may not be wrong, it was acknowledged, but the custom has been the other way. Professor Morrison said

he has tried to say that the code does not require the vote but sound judgment does. He agreed that the code requires the vote for initial appointment but is silent on transfer.

Another Committee member alluded again to the faculty members in the Library School and MacPhail. Library School faculty were transferred to CLA, where they floated until they could find a department that would vote to accept them; some faculty were in that situation for many years. Maybe someone was reading the tenure code incorrectly, but the tenure code was the reason given and it now appears that the policy is being changed. It may be, another pointed out, that the college constitution has additional provisions which governed those cases.

Discussion returned to the financial questions. There is no tenure code question if the paycheck continues to arrive. There can be two problems, Professor Morrison said. One, there may be a vacant line of \$30,000 for an assistant professor and a \$30,000 budget for TAs--and the department receives a \$60,000 professor transferred without funding. The department can issue the paycheck but it cannot have a new assistant professor or any TAs. This is an implicit retrenchment of the department operations. The other situation is more complicated, where the department may have a lot of soft funding. The transferred individual may bring soft money support, but what happens if that support disappears? The promise of the tenure system is that the department stands behind the line even if the faculty member does not obtain a research grant.

Even though the tenure code does not speak to money, said one Committee member, it seems reasonable that the money should follow the person. The sending unit could even be given a promise of receiving the position back in the future. But how could a dean impose a body on a department without the funds? It would lead to decimation of the department. Another responded that he was persuaded there "are certain things you are entitled to do but that you do at your peril, if you're an administrator." Professor Morrison agreed. A vice president can make the transfer, he said, although the administration may not view it as an implicit retrenchment. Given the planning system the University has gone through, one can ask whether additional little side retrenchments should be encouraged or allowed. Or side benefits, for that matter.

Professor Ibele at this point welcomed Senior Vice President Kuhl to the meeting, explained the questions which had been posed to the Committee, and reviewed the discussion of those questions with Professor Morrison. The general point of the discussion, Dr. Kuhl was told, was to draw a line between "the right to . . ." and "what is wise." The real concern, Professor Morrison said, is how to deal with this to ensure that the receiving academic unit is not implicitly retrenched because they have someone forced upon them. Another issue, it was noted, is the possible different treatment of the unit at different times--losing faculty and support staff (with funding) at one time and now being told it will absorb a tenured faculty member (without funding or support staff).

There is a general concern about the restructuring and reallocation plan--which the Committee supports, Professor Ibele pointed out--and the array of decisions that will have to be made about individuals. There need to be general policies enunciated on how these decisions will be made--so that both rights under the tenure code and good academic management would be known to the major committees of the governance system so they could understand what is occurring.

Dr. Kuhi agreed with Professor Ibele. On the case at hand, he said, he would have to speak with his colleagues. The way things have been done in the past, and the way they are planning on doing them in the future, he told the Committee, is to transfer faculty and the resources along with them. That is the logical way to do this.

The question is more complicated with respect to the Waseca faculty, he said, and would appreciate the advice of the Committee. The Waseca faculty have tenure with the University and have the right to employment, so they must be located where they best fit. How long does central administration provide to the receiving department the salary funds and support for those individuals? No answer has been arrived at; they range from "forever" (until retirement or resignation) to a phased elimination of central support over three to five years. If one is trying to recover savings from Waseca, the sooner one can collect the money, the better.

Dr. Kuhi told the Committee that there are 33 tenured faculty at Waseca, some of whom (including the Acting Chancellor) will leave and find employment elsewhere. The University is also trying to make early retirement more attractive in order to provide as many options to the faculty as possible. There are 10 additional non-tenured faculty members; there are also the four who went through the tenure process and received positive recommendations through the Chancellor to his office. He has recommended termination of those four faculty members (without judgment on their qualifications), something the University has the right to do under the tenure code, because the program has been eliminated and tenure has not been awarded. The 10 non-tenured faculty members will be given termination notices; the Regents wish to consider further what to do with the other four. He said he would appreciate the advice of the Committee on the matter.

The case of the four faculty members at Waseca was contrasted with the situation of two other assistant professors in a unit discussed at an earlier meeting by the Committee. In the latter case, it was agreed, there is room for discussion and negotiation and the problem should be resolvable without great difficulty.

On the four Waseca faculty, there is the right of the University to make the decision to terminate, Dr. Kuhi said, and on the other side there is the issue of compassion and the message being sent to the rest of the faculty. Is this the fair and right thing to do? He said he did not know if there were any questions of legal liability due to the collective bargaining contract; that question is being examined by the General Counsel's office.

One Committee member said termination sends the message of the University tying itself to the tenure code rather than being considerate. The President wants it understood that the University will bend over backwards to accommodate people. This says that the University is going to be hard-nosed about this. Dr. Kuhi said that is the message the President wishes to send; if this group is tenured, what about the group that would be ready at the end of the next academic year? The campus will not be closed until 1992.

Another Committee member expressed admiration for the statement that Regent Casey had made at the Regents' meeting, which had been more compassionate. This Committee, it was said, should have made a statement as well, because this is a faculty issue. The question is one of trust; the message being sent is that if money is involved, and the University can save money, then it doesn't care about the moral

obligation or whether or not the faculty trusts the administration. There was a commitment to those faculty members, when they were hired, that if they performed adequately and went through the reviews, they would be given tenure. None of this situation is their fault. The message is that the University will get out of the commitment if it can; money is what counts.

Other events at that Regents' meeting were cause for concern, it was continued. One Regent inquired "are faculty members fungible?" That is not normally a term applied to human beings; this implies that faculty members are simply part of the structure, cost items on a ledger. If it suits the purposes of the Regents or administration to cut the costs that faculty represent, then they will do so. One likes to think the faculty are an important part of the University; when they are treated this way, it breaks down any sense of cooperation or trust. The question that was asked was not "is this a good idea?" but "can we get away with it?"

Another Committee member took issue with the conclusion. The fact is that these are four people who do not have tenure. These are very difficult times. It is being argued that the University should give them something that they do not have. To the argument that they have earned tenure, it was responded, there are others who have been in the system for three or four years in the system. They do not have tenure.

Yet another said the system has found that they qualified for tenure; for the process to be stopped centrally sends the message that the faculty cannot trust administration. This is an important time for faculty to be able to trust the administration.

The decision, it was pointed out by a different Committee member, is not unrelated to other factors, such as the programs to which they would go. Would they strengthen those programs, or dilute their quality; would they be a match? The cases cannot be decided in isolation, independent of the influence the decision might have on other University programs and their faculty. But that possibility, it was rejoined, has not even been explored.

A fifth Committee member concurred with the view that these four individuals do not have tenure. The decision may make some other assistant professors very nervous. These individuals are under a union contract, not the tenure code (although it may be the tenure code, by negotiation); the University in this case is also acting to protect the tenured faculty, and that message must also be considered.

If, said a sixth individual, one is a very good assistant professor, which the department may wish to keep, why should they stay at Minnesota when they see this kind of thing happening in a time of fiscal crisis? There are assistant professors throughout the institution who are watching this decision very carefully. Those faculty members, it was pointed out, are being lost now--because the University expects them to teach undergraduates and because it is not attracting the best graduate students for them to work with. This may make it easier for them to leave.

The original antagonist to the administration's position acknowledged that the Committee can be fiscally responsible and hard-nosed; how many assistant professors serve on it? The Committee takes the view that it is OK to punish the assistant professors as long as the tenured faculty are protected. The group needs a better understanding of the position of assistant professors.

It was said further that the point to be made is not about these particular four, and there are indeed the considerations of other departments to be recognized. But what will happen down the line? The message is that if it is fiscally convenient it does not matter what the University's obligations to the faculty are; it will save money. When will the University start with unpaid holidays? When will Twin Cities campus departments be cut? When will salaries be cut? Other steps will come; there needs to be more faculty concern about these things and a little more consultation about them before they arise.

The Committee must have concern, it was agreed, and it must care, and it is now consulting. The generalization made is unfortunate; it is not new that the administration has to sign off on tenure recommendations. To say that this is a statement about all assistant professors on the tenure track is just not fair. A tenure-track faculty member in a college not being closed is not in jeopardy. To say that is to say that the sky is falling. That is what the administration is saying, it was responded; that reaction was dismissed because this is a campus that is being closed. It won't be the last one to be closed, it was rejoined. But this is a campus that will be closed and these are four people who do not have tenure; what would be the justification for giving them tenure? The moral commitment, it was said; they have fulfilled their side of the contract. It is true that not all tenure recommendations are granted, but other denials are based on criteria set out in the tenure code; these denials are based on very different grounds. This interpretation, it was argued in return, would lead to unpaid holidays, for instance. Hard decisions have to be made; no one is happy with it. If so, it was said, they should be made with consultation and with compassion and trying to preserve some trust between the faculty and the Regents.

The faculty will be involved either way, it was said by another. It is not unreasonable to think that some of the Waseca faculty will look to the Crookston campus as a possible place of appointment. Crookston is relatively small, with few departments, and prizes its lines with care. From what has been said here, all that it takes is the wish of the individual involved and the consent of the administrator to decide to assign one of them to the Crookston campus, irrespective of what the campus plans might be. That might seem fair to the individual appointed to Crookston, and the consideration of fairness might outweigh the academic plans on the campus--but it nonetheless impinges on the lives and welfare of the Crookston faculty (or the faculty of any other unit). This is not a case of doing uniform good for these four without cost; it cannot be weighed so easily.

The Committee discussed with Dr. Kuhl the timing of the entry of the four individuals into the tenure review process and whether or not they would have known that the Waseca campus was in jeopardy. Most were probably started before the President indicated that the campus might be closed, he surmised. There should be no inference taken that the files were begun in response to the announcement that the campus would be closed.

Would the four people be granted tenure under ordinary circumstances, Dr. Kuhl was asked. He said they would, which is what causes the dilemma.

Dr. Kuhl noted that he had heard the arguments on both sides.

On the question of central support for faculty members transferred from units being closed, one Committee member weighed in on the side of a long-term central commitment. Another suggested that a single resolution of the issue may not be necessary; it could depend on how useful the individual is to the continuing work of the unit.

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Professor Ibele thanked Professor Morrison and Dr. Kuhl for joining the Committee.

The Committee adjourned at 1:00.

-- Gary Engstrand

University of Minnesota