

Minutes*

**Academic Freedom and Tenure Committee
Friday, November 2, 2012
10:00 – 12:00
238A Morrill Hall**

Present: Carl Flink, Karen Miksch (co-chairs), William Bart, Phil Buhlmann, William Craig, Barbara Elliott, Karen Ho, Brian Horgan, Teresa Kimberley, Jessica Larson, Gary Peter, Carol Wells

Absent: Arlene Carney

Guests: none

Other: Becky Hippert (University Senate Office)

[In these minutes: (1) education abroad proposed policy revisions; (2) Senate Judicial Committee Rules of Procedure; (3) Interpretation of the tenure policy; (4) graduate student representation on the committee; (5) linking an article on academic freedom to the parents' page; (6) open time]

1. Education Abroad Opportunities: Addressing Health and Safety Risks

Professor Miksch convened the meeting at 10:00 and turned first to the proposed amendments to the policy *Education Abroad Opportunities: Addressing Health and Safety Risks* and, specifically, the role of the International Travel Risk Assessment and Advisory Committee (ITRAAC), which the policy provides "is responsible for deciding whether to suspend an education abroad opportunity sponsored by the University when a significant health or safety concern is raised regarding the opportunity. Prior approval of the Committee is required for any education abroad opportunity involving travel by University students to a location subject to a travel warning from the State Department." She and Professor Flink prepared amendments to memorialize the Committee's desire to differentiate between graduate and undergraduate students in terms of ITRAAC's authority. All students should have a plan in place when traveling internationally, but for graduate students doing field work, the appropriate way to think about such travel is with the student's adviser and department chair. Approval from ITRAAC should not be required.

Committee members took up the proposed amendments; the substantive points that arose during the discussion were as follows.

-- Should the language covering graduate students (limiting ITRAAC authority) apply to education abroad opportunities in general or only to field work? The Committee concluded it should only apply to field work (and that a distinction needs to be made between "education abroad" opportunities and "field work").

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

-- If travel for graduate student field work is approved and something awful happens, is the University liable? With the waivers and warnings in place, University liability is not likely because students are put on notice, especially if it follows its own procedures, although it is possible that in some cases there could be some University liability. But under the proposed revisions, the University (ITRAAC) could not veto a graduate student's travel plans for field work if the plans had been approved by the adviser and the department chair.

-- If ITRAAC is to be in the role of issuing an advisory opinion for graduate student field work travel, and if the Committee believes that the opinion should be issued before a student makes travel arrangements, students should be informed when they need to have plans to ITRAAC in advance. They should be aware of the requirement when planning their research and there should be a reasonable time period for ITRAAC to respond.

-- One Committee member suggested that there should be probability values attached to the risk of the proposed travel; the University could collect data from other schools and estimate the probability of harm to the student. Over time there could be data that could be used as a basis for estimation. Professor Miksch said that at present, that risk estimate is made by relying on State Department reports, and while there is disagreement about them, they are the standard used across the board. The suggestion also speaks to the idea that there should be faculty on ITRAAC who are experienced in international travel who could bring expertise to the discussions. Other Committee members expressed doubt that any hard data would exist or be useful because international situations change immediately, because each trip is different, and because certain kinds of travel (e.g., research on Siberian tigers) would be so infrequent that there would be no way to develop probabilities of risk. In some fields, there are long-standing relationships and multiple departmental contacts with areas for field work, so it is not a case of just sending a student into the field with no control.

-- It could be that ITRAAC could identify the different ways departments handle proposed field work travel to risky sites so that others could know good ways to do so.

-- This Committee should not try to tell ITRAAC how to conduct its business in terms of making decisions or issuing advisory opinions. But there needs to be a regularized process so that students anticipating international work will have a timeline they can deal with.

-- One Committee member urged a University-wide formulation of risk before students are allowed to travel; some departments could be more relaxed about the risks and others more concerned. Interviewing Chicago gang members at night would be risky. Beyond a certain level, students should not be allowed to travel. And the risk can be quantified; if a number of people have been involved in an activity, and some had problems, that information could be collected and used for judgments. Other Committee members maintained that decision rests with the student, adviser, and department chair, so it is unlikely there will be approval for "any harebrained idea." And on practical grounds, it will take far too long to gather the data. Research in Chicago could be critical, and not that risky for a former gang member; the goal is to be sure that the process does not quiet truly innovative research but provides safeguards. The essence is about freedom; the University is a unique environment that allows people to assess freely the level of risk; it may be that some will be uncomfortable with that approach for students, but the University as an institution should not put restrictions on research if it has been well thought out. Moreover, what would the covariates be? One Committee member concluded that it is better to rely on the department than to

look for data to quantify risk. Another maintained that there are too many permutations; it must be everyone's personal decision.

Professors Flink and Miksch agreed to redraft the proposal in light of the discussion and bring a revised version to the next meeting.

Professor Buhlmann offered a set of additional comments on the policy intended to make it read more hospitably and helpfully for students. The Committee agreed that his suggestions should be forwarded to the Senate Committee on Educational Policy.

2. Senate Judicial Committee (SJC) Rules of Procedure

Professor Horgan next reviewed additional minor changes to the proposed revisions in the Senate Judicial Committee (SJC) Rules of Procedure; there was nothing substantive changed, he said. He also provided copies of a timeline that could be provided to complainants so they can understand the process, a document prepared as a result of a suggestion from this Committee at its last meeting.

Professor Flink complimented Professor Horgan on the timeline and noted that the goal was to have something that lays out the process clearly and simply. He reiterated the point he had made previously: Sometimes University policies are difficult to penetrate because of the language.

Professor Miksch also commended the timeline and asked whether complainants can ask for additional information later in the process, beyond the period identified for discovery. That does happen, Professor Horgan said; during the pre-hearing discussion they try to guide complainants on what they will need but Rule 13(d) is clear that one can obtain additional information if the need arises. They try to err on the side of the faculty member but worry about extending an open invitation to seek additional information because they want the process to move along.

The Committee voted unanimously to approve the revised Rules of Procedure.

Committee members discussed what happens when the University's respondent happens to be an attorney, even if neither the complainant nor the University has brought counsel to the proceedings. (At present, Vice Provost Carney usually serves as the University's respondent, and she is not an attorney, but there may be cases where the University's respondent is an attorney by training.) Professors Flink and Miksch suggested that the SJC could require full disclosure so that the complainant knows of the respondent's background. Professor Larson said if she were a complainant, she would want an advocate with credentials equal to those of the respondent.

Professor Horgan said that there is a panel to oversee the process and he has never seen a case where a faculty member came into it without an adviser. Professor Flink observed that anyone looking at the timeline will realize that they are entering a quasi-legal process, but said that disclosure is important. Professor Horgan said the complainants are well-educated people who usually do their research before they come to the SJC. Professor Flink said that the Committee wants to believe that the University will use processes that treat people fairly and not try to sneak something in without anyone knowing about it.

The Committee voted unanimously to endorse the timeline.

3. Interpretation of the Tenure Policy

Professor Miksch noted that there is need for an Interpretation of the Regents' tenure policy to bring it into alignment with the new Rules of Procedure. She said she would draft language for the Committee.

4. Graduate Student Representation on the Committee

Professor Flink raised for discussion the question that came up in the discussion of academic freedom and graduate students: Does the Committee wish to recommend the addition of a graduate student or two to its membership? Or invite them when there are relevant topics?

Professor Miksch said that she knows of a number of graduate students who are interested in issues of academic freedom. Some graduate students are getting ready to be faculty members so will be interested. She suggested that the Committee recommend the addition of graduate student members but not hold them to the usual attendance rule (because there will be meetings where the discussion is focused entirely on provisions of the tenure policy or procedures documents).

The Committee agreed on a two-year experiment and that graduate-student members would be informed that they do not attend if there are no items of interest to them on an agenda. It was agreed that the Committee would extend an invitation to the Council of Graduate Students to inquire if it wished to identify two students to serve on the Committee on an experimental basis.

5. Linking an Article on Academic Freedom to the Parents Page

Professor Miksch reported that the Committee had received a request for advice from the Parent Program about linking an article about academic freedom written by Professor Cary Nelson, the former national AAUP executive. After some discussion, the Committee concluded it would not be particularly helpful and could be problematic to provide a link.

The Committee expressed its thanks to Ms. Savage, Director of the Parent Program, for coming to the Committee to seek its advice.

6. Open Time

Professor Flink invited members of the Committee to suggest additional agenda items for upcoming meetings, in addition to those already on the list of issues pending.

Professor Larson reported that there remains confusion or misunderstanding about "stopping the clock" for a probationary faculty member. Professor Flink said that people need to stop using the term "stopping the clock" because it is an extension of the probationary period, during which a faculty member works and continues to be evaluated on that work. Professor Larson said it could also be used to extend an appointment that should not be extended; Professor Kimberley pointed out that there are rules governing extension of the probationary period. Only the extension for childbirth or adoption is automatic; the leaves for caregiving or personal medical reasons must be approved by the provost.

Professor Miksch observed that there is also a tension in some departments, that one should never take an extension, that must be overcome. There should not be "informal advice" to probationary faculty members not to seek an extension of the probationary period when it is appropriate. Professor Horgan recalled Vice Provost Carney saying that if a probationary faculty member has or adopts a child, they should take an extension. The need is to overcome the sense that one should never seek an extension, Professor Miksch said, versus one can always extend the probationary period, like three excused absences. In her department promotion and tenure meetings, the chair reminds the faculty about extensions.

Professor Flink commented that he as a department chair receives very little information about why a probationary faculty member may receive an extension—and he does not have a role in granting an extension.

Professor Flink reported that after the meeting notes of the last meeting about programmatic change were distributed, he received a message from a faculty member recalling the "tenure wars" and pointing out that tenure is in the University and that in the case of programmatic change, a person is at the University and can teach whatever they want to. Professor Flink observed that tenure does not mean someone just sits there doing whatever they wish. The reason the Committee is discussing procedures for section 12 of the tenure policy, which deals with programmatic change, is to identify ways that the University and the faculty member deal with the situation.

Professor Miksch said that many people read the Committee's minutes and it is important to bring back insights from those who do. The Committee also brings up issues from the news media, from other institutions, and from legal cases. Professor Ho said the Committee should address program closure and merger because they will not be isolated events as the University changes.

Professor Flink adjourned the meeting at 12:00.

-- Gary Engstrand

University of Minnesota