

Minutes*

Faculty Consultative Committee
Tuesday, June 29, 2010
1:00 – 3:00
238A Morrill Hall

Present: Marti Hope Gonzales (chair), Melissa Anderson, Nancy Carpenter, Carol Chomsky, Kathryn Hanna, Caroline Hayes, Brian Isetts, Jan McCulloch, Martin Sampson, Kate VandenBosch, Becky Yust

Absent: Chris Cramer, Shawn Curley, Emily Hoover, Walt Jacobs, Jeff Kahn, Russell Luepker, Michael Oakes, Cathrine Wambach

Guests: Professors Elizabeth Boyle and George Sheets (incoming Committee members)

Other: none

[In these minutes: (1) welcome and thanks; (2) Chronicle of Higher Education article on federal court cases and professorial speech; (3) meetings with gubernatorial candidates; (4) budget model review; (5) new senates; (6) bylaw change; (7) the policy-review process; (8) health-care savings plans; (9) metrics committee]

1. Welcome and Thanks

Professor Gonzales convened her last meeting and welcomed Professor George Sheets (chair of the Committee on Faculty Affairs for 2010-11 and thus ex officio member of this Committee) and Professor Elizabeth Boyle (new faculty legislative liaison, and thus also an ex officio member of this Committee).

Professor Gonzales thanked the exiting members of the Committee and commented that she had been reluctant to accept the responsibility of chair of this Committee and had been able to carry out the duties because of the support and collegiality of the members of the Committee.

2. Chronicle of Higher Education Article

Professor Gonzales next noted that the University of Minnesota had figured prominently in a recent article in *The Chronicle of Higher Education* about the threat to academic freedom posed by the U. S. Supreme Court decision in *Garcetti v. Ceballos* (2006) and subsequent federal court decisions. [The gist of the decision is that public employees who criticize their employer can be subject to sanctions or termination. The decision did not arise from an institution of higher education but federal courts in a number of cases have applied it to faculty members who were critical of their institutions. The Board of Regents policy on academic freedom has been changed so it explicitly permits faculty members—University employees—to be critical of institutional decisions or policy without having to fear sanctions or dismissal.] Professor Gonzales said the information in the article should be disseminated to the

* 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.

University community because it reports that the policy change concerning academic freedom adopted by the University of Minnesota, in response to *Garcetti*, has become the model for other institutions. She extended kudos to the faculty, administrators, and the Board of Regents who made the University newsworthy in this regard.

Professor Hanna suggested that the article should be highlighted in *Brief*.

Professor Sampson suggested the article be quoted. The faculty understood the *Garcetti* case to be deeply important in how it might affect the role of faculty members and what they can do. He said a great deal of credit goes to the Committee on Academic Freedom and Tenure (which developed the amendment to the Regents policy on academic freedom and responsibility) and to this Committee for acting on it. The policy amendment came from Academic Freedom and Tenure, Professor Chomsky affirmed, and particularly from Professor Tom Clayton. The secretary to the faculty (Gary Engstrand) was instrumental in bringing the issue to the attention of Professor Clayton and the committee, Professor Chomsky noted. *Garcetti* at that point was just on the horizon but Academic Freedom and Tenure saw the threat, even though there were no indications of any problems in higher education at that point, and it crafted language to amend the Regents policy to protect faculty and staff speech that might be critical of public or institutional policy. The amendment sailed through the administration and Board of Regents, Professor Chomsky recalled, and said it is a testament to the President, Provost, and Board of Regents that they endorsed the policy change without hesitation.

Since the *Garcetti* decision, Professor Chomsky noted, there have been a number of cases that have applied the ruling to faculty members who were critical of their department or administration actions or policies. In light of those cases, both the AAUP and Modern Language Association (MLA) have been seeking institutional policy changes. The University of Minnesota's policy is being used as a model. The Board of Regents did a good and important job. Professor Sampson said this policy change is an example of the governance system producing a sensible outcome.

Professor Sampson went on to comment that the University is also ahead of the curve on a different subject recently covered by the *Chronicle*. Beginning July 1, national regulations go into effect that are intended to make course book costs more transparent to students. The article indicated that many campuses are scrambling to meet these requirements. When the article appeared someone in fact asked if Minnesota was not making the required adjustments because there is no disarray here associated with those new requirements. The answer is that the University's Twin Cities bookstore already is in compliance. Furthermore, the bookstore has gone way beyond the new regulations by taking steps to actually reduce costs to students, including an approximately 15% cut in course book prices last year and a course-book rental program that will have 800-900 titles this fall. Huge credit goes to Robert Crabb, manager of the Twin Cities campus bookstore, and his staff.

Professor Yust commented that the reputation of the bookstore in the past has been that it gouges the students. But that is not true, and it has done the same thing with art supplies that it has done with textbooks: Frequently the University bookstore has the lowest cost on art supplies in the Twin Cities. This help for students isn't a story that gets much press and the leadership has turned it around. Some of this may be possible because it is still an independent, Professor Chomsky pointed out; many campuses have contracted with "big box" bookstore chains to operate their bookstores.

Professor McCulloch said that people are often not recognized for being forward-thinking and suggested the Committee send a letter recognizing Mr. Crabb and the bookstore leadership. What has been achieved should also be made known through *Brief* and other places, Professor Sheets added, because what the bookstores have accomplished affects students and their parents as well.

3. Meetings with Gubernatorial Candidates

Committee members discussed the possibility of having meetings with the three gubernatorial candidates, as has occurred in some prior races. These meetings would be useful to solicit candidate views on the University and higher education as well as to inform them about the University. Such meetings will also help them understand what this Committee is, and as the financial situation grows more pressing, that with many faculty voices, it is important for a governor to know that there is an elected group that formally represents the faculty.

Professor Boyle said that they are also interested in hearing from faculty who will be willing to host social events for legislative candidates. Professor Sampson said there used to be a practice of such events but interest dwindled; the University is now in a new situation and trying to revive these events is a good idea. Professor Boyle said that any faculty member interested in hosting an event should contact her. (boyle014@umn.edu)

Faculty also should be encouraged to attend "meet the candidates" sessions, Professor Yust added.

4. Budget Model Review

Professor Gonzales reported that she and Professors Anderson, Martin, Morrison, Oakes, and VandenBosch met earlier in the day with the chief financial officers from Indiana University and Ohio State University and the incoming provost of the University of Michigan. Those three individuals have been asked by the Provost to provide advice on the University's budget model; the group from faculty governance had been asked to meet with them when they were on campus to give them a faculty perspective.

Professor Martin said that the process of having input into the decision-making process about the budget model is a bigger concern to most faculty members than the model per se. The faculty who met with the visitors pointed out that concerns about the budget model itself include the negative consequences and disincentives for interdisciplinary/intercollegiate teaching.

The reviewers were impressed with the collegial governance system at Minnesota, Professor Anderson recalled, which apparently is more extensive than at their own institutions. Professor VandenBosch reported that there were a lot of questions from the reviewers about where faculty input into budget decisions occurs and where faculty would like more engagement beyond being briefed.

There was also a question about the wisdom of changing the budget model during a transition in leadership, Professor Anderson recalled; the visitors were divided in their views.

Professor Gonzales also commented that the faculty members had made clear the questions about the cost pools and, Professor Anderson added, the University's relationship with the state. Professor Yust

noted that cost issues arise with internal organizations that provide services; while departments are trying to count pennies, it sometimes seems that other units increase charges and provide little transparency on costs that makes them understandable. They also sometimes seem not to meet the standards of what one would expect from a business providing a service, Professor McCulloch said.

5. New Senates

By way of background, Professor Chomsky next noted that the Council of Academic Professionals and Administrators (CAPA) and the Civil Service Committee have both voted to become representative senates by July 1, 2011. While both P&A staff and Civil Service staff are represented in the University Senate, the question is how to arrange the organization and meetings of the various constituent senates. There will be questions that come back to this Committee and to the Senate Consultative Committee about how this will all work.

There are some additional changes that may be needed as well, Professor Chomsky pointed out. Associate Vice President Frances Lawrenz has inquired about Senate representation for postdocs, who have expressed an interest in having their voices be heard in governance. They are not represented in the University Senate now, and it will be challenging to figure out how they would best fit given the current and contemplated categories of representation. To be sure the Committee takes a comprehensive approach to thinking about representation, she spoke with Ms. Wilhelmson in Human Resources about the postdocs and whether there are other categories of employees at the University who are not represented in the Senate; there are not. Postdocs are part of a larger class of "professionals in training" that has over 1900 people and 17 appointment categories, encompassing diverse roles at the University. Some in the category (e.g., Medical Residents) are considered students; others are not. Human Resources is planning to review the category, so it might best for the Committee to wait until that examination has taken place. In the meantime, however, the Committee could have a conversation with Dr. Lawrenz about postdoc issues and how they might participate in some fashion, whether or not directly in the University Senate.

Professor Sheets inquired about contract faculty. They are already represented, Professor Chomsky said. But CAPA will have to decide if faculty-like P&A staff will continue as members of the Faculty Senate or if they will be represented in the P&A Senate. This Committee has indicated that they cannot be represented in both places.

There is also the question of staff support for the new senates and their committees, Professor Chomsky observed.

6. Bylaws Change

The Committee approved without dissent a housekeeping bylaw change necessary to clean up the process for nominating members of the Committee.

7. The Policy Review Process

Professor Gonzales next noted that a faculty member had written to her to express concern about the manner in which new or amended policies are adopted and the ability of faculty members to comment on proposed changes. The gist of the concern is that the Senate and faculty generally should be allowed a

meaningful and timely way to express their views; there also needs to be a mechanism for deciding when a policy is to come to the Faculty or University Senate for action. The faculty member made several good points, she said:

1. Seeking comments via a tiny electronic suggestion box is very discouraging to those wanting to make comments. We have no idea how many others share similar views, no chance to have a give-and-take among interested parties, no hint on what happens to those comments. Since every policy has a responsible person identified as part of that policy, one could just as easily just send a personal email. Some better computer social networking interface would be a big improvement.
2. Right now, a new policy with its 30 day comment period could start on any day, making it necessary for us to check rather often to see what's new. Even if announced in a brief very week, that is still a bother. If they were announced only on the first of every month, with comment periods lasting for the calendar month (plus a couple of extra days for February), then all the comment periods would run in sync and we would have to look only once a month on a very predictable day. At most there would be a one-month delay over the current asynchronous system.
3. In any case, there has to be a better way to disseminate the policy proposals, and ideally those proposal postings should include links to any committee minutes where that policy was discussed. So if I have an issue with a particular policy, it is easy to see if that issue had been already raised and answered.
4. The titles of many central university web pages appear on those web pages as a graphic, not as searchable text, making it harder to find those sites using an ordinary search engine. I am always surprised how hard it is to find U web pages using a Google search.

Professor Chomsky wondered if it would not be possible to provide a list each month of the policies being considered by different committees (and a listing by policy as well). But sometimes policies come to committees before they are being circulated, in order to obtain early consultation, so that may not be a good option either, she concluded. She suggested instead that the consultation matrix and the protocol be brought to the Senate so that members of the Senate can see there was thought given to the process and that it is not just willy-nilly. She also suggested that when a policy is up for public comment, there be a link to any committee discussions that have occurred so that faculty members can see if their questions have already been raised by a committee.

Professor Hanna said that those who comment on the website should be offered the option of having their comments posted so that others can see what has been written—with or without attribution.

Professor Sampson said there is no electronic "voice of the FCC," although other faculty members and groups have such a voice. Sooner or later it will need one. Professor Chomsky said the Committee's minutes are the primary vehicle of communication, and there are rare occasions when the Committee chair writes directly to the entire faculty. Perhaps a more regular message could go out, but one is reluctant to add to the chair's responsibilities. Such a report, however, could go beyond what appears in the minutes.

Committee members discussed how best to communicate information from the Committee to the faculty. Suggestions included a website (also allowing faculty to communicate with the Committee) and a message to all faculty from the FCC chair in conjunction with Senate meetings. It was also suggested that inquiry be made of the other CIC faculty leaders to find out how they reach their colleagues. Although there was a consensus that information should be disseminated more broadly and in a public way, there was no conclusion about the best way to do so.

Professor Gonzales agreed to draft specific recommendations about the policy-approval process that the Committee could forward to Vice President Brown.

8. Health-Care Savings Plans (HCSP)

Professor Hanna reviewed the history of the Senate's action on a proposal to create health-care savings plans. The Senate originally recommended that the University divert .5% of the current 13% University contribution to the Faculty Retirement Plan (FRP) into health-care savings plans (so for each employee covered the FRP contribution would be 12.5% and the HCSP contribution would be .5%). Upon reconsideration later, this Committee and the Faculty Affairs committee brought a recommendation to divert 2% of the University contribution to the FRP into HCSPs. The latter proposal was voted down because of objections that the legislation creating HCSPs was discriminatory to the GLBT community because it did not permit HCSPs to be used tax-free by same-sex partners of University employees.

Last summer she and Professor Chomsky met with a group particularly concerned about the discriminatory effects of the proposal and got tentative support for a resolution to combine establishing HCSPs with political action to support changing the discriminatory federal tax rules. The resolution was later approved by the Committee on Faculty Affairs and this Committee. The entire process came to a halt, however, because the committees were advised to wait to see what happened with federal health-care legislation.

The federal health-care plan has passed and HCSPs are still permitted. It is now time to bring this matter back to the Faculty Senate for approval, Professor Hanna concluded. The Committee on Equity, Access, and Diversity may still have reservations about it, but this proposal will do the most good for many people and is the smart thing to do. She emphasized that the HCSP has nothing to do with health plans for employees; the HCSP is a special savings account for health-care expenses once one has retired or left the University. Nor does an HCSP have any impact on determining whether the University's health-care coverage is "Cadillac" or not under federal law.

It was agreed that Professor Hanna will have a conversation with the Equity, Access, and Diversity Committee about the proposals. Professor Chomsky noted that the federal government has taken some steps to ameliorate discrimination against the GLBT community, so there is some hope that a statement about the discrimination in the tax laws could have some effect. Such comments will likely be received more sympathetically than has been true in the past. Moreover, Professor Hanna pointed out, the Transitions Phased Retirement Plan that was recently announced includes an HCSP for those who participate, so the University has already started down the path of offering them.

It was also agreed that the proposal should be on the September 30 docket for information and the December 2 docket for action, and that there should be pre-Senate meetings with senators to explain the proposal so it is clearly understood by all. Professor Hanna said that she and Ms. Singer, Director of

Retirement Benefits, would update the earlier resolution and prepare it for the docket. She noted that the University provides NO health-care benefits for retirees (some of its peer institutions do so), so this is a way to allow employees to make a tax-advantaged contribution to their retirement health-care costs. She also emphasized that this has nothing to do with the flexible spending accounts.

On a related matter, Professor Yust said it would be helpful if the University were to have a session to explain the implications of the federal health-care bill.

Professor Chomsky said she would also like to commend the University and Employee Benefits for deciding to add back health-care coverage for adult children (to age 26) earlier than required by federal law.

9. Metrics Committee

Professor Gonzales reported that Senior Vice President Jones has asked for a representative from this Committee to serve on a Metrics Executive Committee. The Committee agreed on the name of someone to be asked.

Professor Gonzales adjourned the meeting at 3:15, to a round of applause.

-- Gary Engstrand

University of Minnesota