

**Senate Committee on Faculty Affairs (SCFA)
September 27, 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: Unionization Forum Update; Changes to the Fair Labor Standards Act; Proposal to Modify Postdoctoral Association Structure]

PRESENT: Monica Luciana (chair), Katherine Dowd, Kathy Brown, Ken Horstman, Teresa Kimberley, Theodor Litman, Sophia Gladding, Tae Kim, Robert Kudrle, Peh Ng, Ned Patterson, Aks Zaheer, Alisha Aagesen, Geoff Rojas

REGRETS: Joe Price, Rebecca Ropers-Huilman, Jay Bell, Lori Rhudy

ABSENT: Phil Buhlmann, Christine Blue, Ruth Okediji, Sam Stern

GUESTS: Mary Rohman Kuhl, director, Compensation; Mike Wilson, survey chair, Postdoctoral Association

OTHERS ATTENDING: Vice Provost and Dean of Graduate Education Scott Lanyon

1. **Call to order:** Professor Luciana convened the meeting, welcomed those present, and called for a round of introductions.
2. **Unionization forum update:** Professor Luciana began with a brief update on a possible unionization forum that was discussed at the committee's last meeting. Since the last meeting, she noted that the Bureau of Mediation Services has ruled that the University's tenure-track faculty and contingent faculty can pursue a combined union. It is unclear at this time what the University plans to do, e.g., appeal, etc.

Professor Luciana reported that she has spoken with Professors Colin Campbell and Joe Konstan, chair and vice chair, respectively, of the Faculty Consultative Committee (FCC) about the possibility of this committee and the FCC working together to co-sponsor another forum for the University community, which would represent both sides of the issue. One idea that was discussed was to structure the forum as a debate. Professors Campbell and Konstan agreed to reach out to people on both sides of this issue about participating in a forum, and this is still in progress.

3. **Changes to the Fair Labor Standards Act (FLSA):** Professor Luciana welcomed Mary Rohman Kuhl, director, Compensation, to provide information about the changes to the FLSA and what these changes will mean for postdoctoral student compensation.

Ms. Rohman Kuhl said the Department of Labor passed new FLSA regulations. The old rule said that anyone who was an exempt employee and earned less than \$23, 660/year was exempt

from overtime pay. Now, however, effective December 1, 2016, this threshold is being moved to \$47,476/year. This means that if an exempt employee does not earn \$47,476/year that these employees need to be moved to a non-exempt status and receive overtime pay. Another important piece of information is that this salary threshold is expected to be indexed upwards every three years.

Currently, the University of Minnesota estimates it has about 1,200 employees that will be impacted by this new rule, and of these employees 495 are postdocs. To be compliant, the University can:

- Raise salaries for those earning close to the salary threshold.
- Convert employees to an hourly rate of pay and pay them overtime for any hours over 40 that they work in a workweek.

The Office of Human Resources (OHR), said Ms. Rohman Kuhl, decided to look at each case individually and this was done throughout the month of September. The one exception to this case-by-case analysis was postdoctoral associates given their importance to the mission of the University and recognizing that their research often exceeds a 40-hour workweek. In addition to talking with other Big 10 schools about how they plan to handle this change, a cross-functional group of administrators at the University looked into the cost of raising postdoctoral student salaries as opposed to paying overtime (assuming 10 hours of overtime per week). The group developed a set of guiding principles to guide the University's decisions as it relates to this matter and these principles included:

- Ensure compliance and minimize risk. Maintain a spirit of scholarship and research outcomes.
- Minimize financial impact to the institution.
- Provide market competitive salaries compared to peer institutions.
- Reduce administrative burden.

Based on these guiding principles, the group concluded that raising postdoc salaries was the right thing to do in order to meet the guiding principles it had outlined. Raises will go into effect for full-time postdocs on November 14 and will be processed centrally. Part-time postdocs will be looked at on a case-by-case basis.

Over the next month, OHR will communicate these changes to managers as well as part-time and full-time postdocs. OHR also plans to develop a FAQ that talks about different research funding options, said Ms. Rohman Kuhl.

What will the financial impact be to the University, asked Professor Zaheer? The average raise, said Ms. Rohman Kuhl, will be about \$4,000 per person, and the overall cost to the institution will be about \$2.7 million. While this figure is significant, it is about half of what paying overtime would cost the institution. Managers are responsible for finding the funds to support the increases in pay.

Professor Luciana asked whom the other 700 plus employees are that are being impacted by this new law. Additionally, she asked who counts as a postdoc given there are so many different classes of postdocs. Ms. Rohman Kuhl said postdocs classified as postdoctoral associates (job number 9546) will be impacted. Those who are appointed on training grants are generally not impacted. In response to Professor Luciana's first question, Ms. Rohman Kuhl said the way this

legislation is written the \$47,476/year salary minimum is not pro-rated so its impact is widespread, and even highly compensated employees who only work very part-time could be impacted.

In response to a question about how the issue of salary compression is being addressed by the University, Ms. Rohman Kuhl said there is no immediate plan to address this issue; however, talking points have been developed for colleges to use to start looking at the salary compression issue and how to resolve this matter.

Dr. Dowd commented that most postdocs are not classified as 9546 for more than three years. Mr. Wilson from the PDA said that data indicates that a fair number of postdocs stay in this job class for a number of years, and, additionally, there is no correlation between the number of months a person is in this job classification and compensation. In other words, said Dr. Rojas, the median pay for postdocs does not show any statistical variation based on their time in this classification. Vice President Brown reminded Dr. Rojas that the issue being discussed today has to do with compliance with the FLSA, and median salaries for postdocs is a separate issue.

Dr. Rojas asked whether this new law only impacts postdoctoral researchers? The law affects all exempt employees, said Ms. Rohman Kuhl, earning less than \$47,476/year. However, the University's decision to adjust postdoc salaries to the new threshold only impact full-time Postdoctoral Associates in job code 9546. Employees in all other positions will be evaluated on a case-by-case basis.

To avoid dealing with this issue, asked Professor Luciana, could postdocs be moved to another job classification? Yes, said Vice President Brown, as long as the work they do matches that job classification. Assuming, however, the person was properly classified to begin with, there would likely not be a basis for moving them to another classification unless the job duties were changed.

Professor Kimberley asked about whether there is any difference between a postdoctoral associate and postdoctoral fellow. There is a difference between these two classifications, said Ms. Rohman Kuhl. Dr. Dowd noted that postdoctoral fellows (job code 9560) are not employees because they receive their salaries from a training grant. Ms. Rohman Kuhl said postdoctoral fellows will not be included in the unilateral salary increase for postdoc associates due to this employment status. Members voiced concern about this because it is not uncommon for postdoctoral associates and fellows to be working side by side.

Dr. Rojas asked whether the researcher job classification (e.g., researcher 5, researcher 6, and researcher 7) salaries will also be raised like the postdocs. No, the researcher jobs will not be raised automatically like the postdocs, said Ms. Rohman Kuhl; instead, these jobs will be looked at on a case-by-case basis. She added that the HR leads and others in the colleges have been asked to pay attention to how the postdoc salary increases compresses with researchers' salaries. Consistent with how OHR typically handles matters of this nature, said Vice President Brown, units are given guidance and parameters to follow, but ultimately units decide how they want to manage their workforce. Dr. Rojas suggested raising the minimum salaries for researcher 5 and researcher 6 positions as well because frequently during the interview process these people are

being told they are being hired as postdocs. Job codes can be very confusing; for example, a principal investigator (PI) may not realize that their postdoc has a job code of researcher rather than postdoc. Vice President Brown thanked Dr. Rojas for this suggestion and said OHR will pay attention to this.

What is the difference between the job responsibilities of a researcher 5 or 6 in comparison to the job responsibilities of a postdoctoral associate, asked Dr. Wilson? This is an important criterion in determining how positions are classified. If the salary floor for researchers is not raised, said Dr. Rojas, researchers may not be truthful about the time they are turning in, and so this is something that will need to be monitored closely. Ms. Rohman Kuhl said OHR has the ability to run reports and plans to do this after postdoc salaries are raised to see if there were any unintended consequences for researcher positions, for example.

Will faculty be allowed to reduce the appointment length of their postdocs while keeping their weekly pay at \$913, asked Dr. Rojas? Anecdotally, Dr. Rojas said he has heard that some faculty are considering doing this as a way to cope with the salary increases for postdocs. This has not come out as a recommendation from OHR, said Ms. Rohman Kuhl; faculty are not being encouraged to do this. Vice Provost Lanyon said it is his understanding that for a lot of faculty with grants this would be a viable and perhaps necessary option if the agency funding the grant refuses to increase the amount of the grant. Based on what Ms. Rohman Kuhl has heard Associate Vice President Pamela Webb from the Office of the Vice President for Research say is that there are a number of different ways to structure a grant. The result of this type of a decision, said Vice Provost Lanyon, is that for a period of time, many federal research grants will likely be shorter in duration, and will have to be submitted for renewal sooner than anticipated. Additionally, reducing the appointment length has consequences, particularly for international postdoc students who are here on visas tied to their employment status.

Dr. Rojas asked committee members who work with postdocs if they think postdocs could actually keep to a 40-hour workweek. In his opinion, even if postdocs or researchers are told they can only work 40-hours/week, they will not stop working at 40 hours if they need to get something done. Instead, they will keep working but only claim a 40-hour workweek, which is technically illegal and could result in fines to the institution. In Dr. Wilson's opinion, postdocs are professionally incentivized to work a lot because their productivity is directly tied to a postdoc getting his/her next job. Professor Luciana said she fundamentally agrees with Dr. Rojas in that there is essentially no one in the postdoc or researcher categories that works less than 40-hours/week. Anyone left in a non-exempt category, said Ms. Rohman Kuhl, must report the time they work and get paid for the hours that they work.

From today's discussion, said Vice Provost Lanyon, to the extent that there are people who are properly classified as postdoctoral associates, but are being moved into researcher positions, which are non-exempt, this is something that will need to be carefully monitored.

Is there going to be any oversight on the part of administration as it relates to how actively the various units across the University pursue alternate funding sources, asked Dr. Rojas? Vice Provost Lanyon said department heads/chairs have been informed that they have to do this, but how they go about doing it is completely up to them. His sense is that it will be highly variable

across the institution. In Professor Zaheer's opinion, there are enormous incentives on the part of faculty to find every source of funding available; he asked Dr. Rojas to trust the incentives (progress, papers, prestige, power) because they are incredibly powerful. Vice Provost Lanyon reminded those present that there are also postdocs who are paid by multiple PIs, and these situations should be paid attention to as well because this could be problematic.

Professor Luciana thanked members for an informative and provocative discussion, and suggested inviting Ms. Rohman Kuhl back later in the year as this evolves to see what issues, if any, have arisen, etc.

4. Proposal to modify the Postdoctoral Association (PDA) structure and facilitate postdoc professional development: Professor Luciana turned to Mike Wilson, survey chair, PDA, to walk members through the proposal before them about restructuring the PDA to facilitate better postdoc professional development opportunities. Currently, said Dr. Wilson, the number and diversity of people participating in the PDA is minimal, and, in his opinion, this is because there is not a lot of 'stakeholdership' at the unit level (college or department) for encouraging participation. The goal of this proposal is to make simple changes to the way the University thinks about postdocs in an effort to increase participation in the PDA so they are better represented. He went on to explain the current PDA model, which involves soliciting volunteers to serve on the PDA. This model has not been very effective, in part, because many postdocs are quite isolated. Instead, the PDA would like to partner with the colleges to increase participation. Going forward, the goal will be to have the PDA be a fixed-seat representative body and its membership will be based on the number of postdocs in each college.

Vice Provost Lanyon said because the PDA is subject to a fair amount of turnover, he suggested thinking about not only having PDA representatives, but to have alternates as well. Dr. Wilson agreed and said the PDA needs the support of the faculty to make it possible to develop PDA/faculty partnerships at the unit level. While it is obvious, said Vice Provost Lanyon, why it is in the best interest of the institution to have a strong PDA, he does not believe it is obvious to the individual postdocs why it is in their best interest to get involved. It will be important to come up with a way to market the PDA to postdocs so they understand why it would be a good move to get involved. Professor Kimberley said from a PI's perspective who is paying a postdoc off their NIH grant for full-time work, participating in the PDA is not related to that grant. To address this concern, Dr. Wilson said the PDA is thinking about having a postdoc orientation that includes mandatory job training, which would help postdocs understand their role at the University and talk with them about developing a good mentor/mentee relationship with their advisor. Participation in the PDA is good for career development because it gives postdocs an opportunity to demonstrate leadership skills.

Dr. Wilson said the PDA would like to see a policy whereby 10% of a postdoc's professional time can be used towards career development, recognizing that this may be in conflict with the 100% time postdocs owe to their funding agency, e.g., NIH. Dr. Dowd said a number of funding agencies require a postdoc mentoring plan, e.g., professional development agreement between the PI and the postdoc. She added that she is not sure this could be made a requirement per se but rather a strong suggestion.

Regarding the recommendation that 10% of a postdoc's time be used towards career development, said Professor Kimberley, this reminds her of the Graduate Student Bill of Rights and Responsibilities that came before a number of Senate committees in the spring of 2015, and suggested the PDA may want to look at this document with an eye toward what postdocs and graduate students should and should not expect. Dr. Wilson said it seems like a lot of problems are generated because when people enter into a postdoc relationship, they are not sure what that actually means. This is where the orientation component of this proposal comes in because the PDA believes there should be clear expectations for mentees and mentors. Before leaving to teach a class, Dr. Dowd said part of the issue for the PDA in garnering support for this proposal is how it will be able to demonstrate that it can meet the career development needs of all postdocs given the wide range of disciplines, e.g., a mathematician postdoc versus chemist postdoc, which are very different.

Other suggestions from members regarding this proposal included:

- Look at the policies of the various funding agencies about what they say about the use of postdoc time for career development opportunities.
- Educate faculty as to why it is their long-term best interest to have their postdocs get career development training.
- Make the incentives for participation in the PDA very clear, e.g., what experiences will a postdoc receive that will benefit them after they leave the University for a position in industry, for example. Demonstrate why it is important for postdocs to make time to participate in the PDA, and point out why PDA involvement would make a postdoc more employable.
- Talk with people who are not active in governance about the proposal to find out why they may be reluctant to endorse it; get a variety of perspectives on this proposal.

Professor Luciana asked Dr. Wilson if he was hoping to get a formal endorsement of this proposal by SCFA. Dr. Wilson said the PDA wanted to have a discussion in order to get input so it can eventually draft a document that will be amenable to both postdocs and faculty.

Based on the comments regarding time limitations, grant restrictions, etc., said Professor Kim, there would be a bit of natural selection in terms of which postdocs would be able to participate or not in the PDA. According to Dr. Wilson, the voice that tells postdocs that they cannot do career development activities is stronger than the voice that tells them that they can. While each individual postdoc needs to decide what is right for himself/herself, they should be given the opportunity to participate if they wish to do so.

Professor Kimberley said serving on a representative body such as the PDA is not a development plan. Based on this proposal, the PDA says it wants more involvement by postdocs in the PDA, but what it really seems like the PDA wants is a culture shift within the University of dedicated time that postdocs deserve and need for career development purposes, and this has nothing to do with governance. She suggested the PDA rethink what it really wants and provided ideas for how to restructure the proposal to get what it wants.

Dr. Wilson noted that the PDA would like the opinion of this committee on who it should partner with in the colleges, and whether the committee would be willing to encourage those in the

colleges responsible for this work to help the PDA create this structure. Dr. Wilson volunteered to have the PDA identify people that should be its contacts in each of the colleges and give it to the committee for their thoughts.

Professor Kimberley suggested that the PDA bring this proposal to the Senate Research Committee (SRC) and get their input as well. Dr. Wilson said that the postdoc representative on the SRC has talked with the SRC in principle about this proposal, but has not presented any details yet.

Vice Provost Lanyon reported that the Graduate School plans to move forward on professional development issues for both graduate students and postdocs. He welcomed involvement by the PDA. Professional development for graduate students and postdocs is a huge need at the University of Minnesota.

Before adjourning, Professor Luciana summarized the committee's suggestions as it relates to this proposal, which was to make item three (facilitating postdoc involvement in professional development) the priority, and then develop points one (structure of an inclusive PDA) and two (responsibilities of PDA representatives) to support the primary point.

Professor Gladding clarified that this proposal suggests that being more engaged in the PDA is a way to pursue professional development, but it is not the only way. With that said, the PDA is still asking for a policy that would support professional development – these two asks need to be separated because the structure is just one example of how professional development can be pursued.

Professor Luciana said that SCFA is supportive of what the PDA is trying to accomplish and when the time comes to approach people at the collegiate level, the committee will help the PDA get connected with the right people.

5. **Adjournment:** Hearing no further business, Professor Luciana adjourned the meeting.

Renee Dempsey
University Senate