

LIBRARY COMMITTEE
MINUTES OF MEETING

APRIL 2, 2008

[In these minutes: Civil Service Seat on Senate Library Committee Update, Author's Rights and Publishing Discussion, Library Space Update, University of Minnesota Libraries Ð Fiscal Year 2009 Ð 2010 Goals]

[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 represent the views of, nor are they binding on, the Senate, the Administration or the Board of Regents.]

PRESENT: James Orf, chair, Jonathan Binks, LeAnn Dean, Mike Hannon for

Joan Howland, Wendy Lougee, Bill Sozansky, John H. Anderson, Juliette Cherbuliez, Isaac Fox, Jennifer Gunn, Jay Hatch, Otto Strack, David Zopfi-Jordan, John Columbo, Shruti Patil, Farzad Sadjadi

REGRETS: Owen Williams, Anatoly Liberman, Danielle Tisinger

ABSENT: Stephen Gross, Nora Paul, Jessica Reinitz

GUEST: Associate University Librarian Karen Williams

I). Professor Orf called the meeting to order.

II). Professor Orf reported that the amended motion the committee voted to approve at its March 5th meeting was determined to be unconstitutional. According to Senate bylaws, it is

unconstitutional for the Senate Library Committee to stipulate that if the Civil Service seat is filled with a Library employee that this individual must recuse himself/herself from voting.

Professor Orf stated that after consultation with the chair of the Civil Service Committee, Cathy Marquardt, he acted on behalf of the Senate Library Committee, and sent the motion, as originally drafted, to the University Senate for approval. The motion as approved by the Senate at its March 6th meeting created a Civil Service seat on the Senate Library Committee, but prohibits a Library employee from filling this seat.

III). The committee unanimously approved the March 5th minutes.

IV). The committee continued its discussions related to author's rights and publishing. In an attempt to bring together the committee's several discussions on this topic, Ms. Lougee suggested members think in terms of how author's rights issues and publishing issues are entwined.

The University recently implemented a new copyright policy (<http://www1.umn.edu/regents/policies/academic/Copyright.html>). This replaces the University's intellectual property policy that in the past covered both technology transfer and copyright. That policy has been divided into two separate policies, with one that focuses exclusively on copyright. Most of the discussions around this policy, noted Ms. Lougee, had to do with ownership of academic works. Once an author owns his/her work, it is important that these rights be managed. In addition, it is equally important for the University to manage its copyright assets. According to Ms. Lougee, issues surrounding management of intellectual assets are addressed in a recent report from a non-profit group called Ithaka, which recommends universities have an institutional strategy about its intellectual assets (<http://www.ithaka.org/strategic-services/Ithaka%20University%20Publishing%20Report.pdf>).

As background, Ms. Lougee noted that Ithaka (<http://www.ithaka.org/>) was initially created and funded by the Mellon Foundation. They are a non-profit organization that manages a number of projects that the Mellon Foundation initiated, e.g. JSTOR, ARTstor.

Development of the University's new copyright policy involved consultations and dialogue with many senate committees. Ms. Lougee highlighted two principles in the University's copyright policy. First, the policy explicitly affirms that faculty own the rights to their academic works.

From a legal perspective, generally, the work an employee produces at his/her place of employment is considered a "work for hire," and is owned by the employer. Common law practice within the academy, however, has generally supported the "teacher exception," which allows faculty to own their academic work. The University's copyright policy underscores the institution's adoption of the teacher exception. Secondly, the policy includes a guiding principle that stipulates "É the University encourages faculty and students to exercise their interests in ownership and use of their copyrighted works in a manner that provides the greatest possible scholarly and public access to their work."

Professor Orf asked Ms. Lougee to define "academic work." She stated that it is the kind of intellectual property that a faculty member derives from his/her role when teaching or conducting research. An academic work would include intellectual output that is copyrightable, fixed in tangible form, and a work of original creation. A member asked whether this definition includes syllabi and teaching assignments. Ms. Lougee stated that the term 'academic work' could possibly include syllabi, depending on the criterion of originality. An early draft of the copyright policy proposed that the University have non-exclusive rights to the use of faculty instructional works; this proposal was not supported in senate committee discussions. Ms. Lougee noted, however, that the copyright policy does include the construct of "directed works" through which the University would have copyright in works where three conditions are met.

1. The University makes a specific request for a work;
2. Substantial University resources are invested in the work;
3. The University and faculty member agree to the "directed work" arrangement.

Ms. Lougee stated that copyright entails a bundle of rights. Copyright owners have exclusive rights to:

- Reproduce the copyrighted work.
- Prepare derivative works based upon the copyrighted work.
- Distribute copies to the public by sale or other transfer of ownership.
- Perform or display the copyrighted work in cases of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works.

When faculty sign away their rights to a publisher, the publisher typically wants all these rights exclusively.

Regarding derivative works, asked Professor Orf, if a publisher retains these rights could they ask another party to prepare a work that is a derivative of the original work, e.g. a second edition or a translation. Jonathan Binks stated that this is a matter of control, and, while in practice it rarely happens, logically, it could occur.

What is the Library doing to make sure that faculty are aware of the CIC publishing addendum that helps author's manage their rights asked a member? Ms. Lougee noted that all departments have a Library liaison assigned to them. These liaisons have been charged with educating departments about author's rights and the University's copyright policy. Also, in light of the National Institutes of Health (NIH) Revised Policy on Enhancing Public Access to Archived Publications Resulting from NIH-Funded Research, the Vice Preside liability issues related to institutional compliance.

A member stated that there is a lack of transparency in terms of where the work of the Library begins and ends, and where the work of the Office for the Vice President for Research begins and ends. Ms. Lougee stated that faculty not involved in NIH research may not hear as much about recent author's rights issues. The Library, in conjunction with the Office for the Vice President for Research, is working to reach as many faculty as possible to educate them about issues related to author's rights and publishing. The Library has had a copyright education program for quite some time, and a website dedicated to this topic (<http://www.lib.umn.edu/copyright/>). The Library also staffs an email address (copyinfo@umn.edu) that responds to questions pertaining to copyright. In general, the Office of the General Counsel deals with the issues of risk and the protection of works that the University owns, and the Office of the Vice President for Research focuses on compliance and ownership of rights. The Library has a focus on publishing policies, access policies, and copyright issues.

Jonathan Binks stated that copyright is very complicated. With rights there are responsibilities, and different institutions manage copyright differently. Universities like Stanford and MIT have more rights to their faculty works than the University of Minnesota does. These institutions have chosen to provide more access to the product created by their faculty. Given the remarkable set of rights University of Minnesota faculty have when it comes to managing their academic works, the institution hopes that faculty will be open to and responsible for managing these rights in a way that benefits not only the institution but the public.

Professor Orf reported on a Senate Consultative Committee (SCC) meeting he attended. At this meeting he provided SCC members with an update on the work of the Senate Library Committee (SLC). Based on discussions in this meeting, Professor Orf noted that there are faculty in leadership positions at the University who are unaware of the multitude of issues around copyright. Copyright education needs to be a top priority for the institution. During the 2008-2009 academic year, SLC should discuss this further. A member suggested starting with the department heads, and asking them to distribute the copyright information and forms to their faculty.

Another agenda item for next year, proposed a member, is for the committee to discuss the amount of product that faculty create, but which goes unrecognized as copyrightable. Ms. Lougee stated from a broader perspective, it would be interesting to explore whether the University, as an institution, should take better advantage of fair use. The Library incorporates fair use criteria in its handling of course reserves. The Library is licensing a lot of content that is used in courses, and, therefore, students may not need to pay for course pack materials since it is already available.

Faculty in the sciences seem to be more aware of the intellectual property issues than those in the humanities commented a member. She suggested that these issues should be addressed during faculty orientation. Ms. Lougee stated that Arlene Carney, vice provost for faculty and academic affairs, serves on the administrative task force that is working on the next part of the copyright policy.

Ms. Lougee stated that the University Press is poised to address recommendations in the Ithaka report, noting the earlier presentation on the Press project to support interdisciplinary scholarship. The report concludes that institutions should think more strategically about their role in publishing, and how they can help make the output of their faculty more visible, and more accessible in a strategic way. The report looks globally at mechanisms for sharing intellectual output.

In reality, noted a member, promotion and tenure governs publishing. Institutions need to focus on getting publishers to realize this fact, and to make them understand that content needs to be more accessible. Karen Williams noted that the recent revision of the tenure code has prompted departments to review these issues and potentially recognize different forms of scholarship.

The Ithaka report makes the following predictions:

- Scholar's use of information is moving on-line.
- New publishing models will continue to emerge.
- Economic models will change and there will be a consolidation of publishers.
- The role of university presses could change and, in some cases, be called into question.
- Opportunities to create greater visibility, reputation for campus intellectual output.

Recommendations put forward in the Ithaka report include:

Universities should take a more active role in publishing.

Institutions should take inventory of the landscape of their publishing activities.

Develop effective strategies for scholarly communication.

Create organizational structures to implement these strategies.

Create models that scale across universities.

Consider the importance of publishing for an institution's reputation.

Develop on-line publishing capabilities.

Invest capital strategically.

Ms. Lougee cited examples of Ithaka report recommendations that have been put into action. After some discussion related to these examples and the Ithaka recommendations, members concluded that while many professional associations are exploring alternative publishing policies, institutions need to look at their tenure and promotion policies to reflect the reality of publishing.

A member proposed that the committee look at how interdisciplinarity is structured in terms of the University, the publishing world and the Library. Ms. Lougee suggested inviting Graduate School Dean Gail Dubrow to a future meeting. Dean Dubrow is overseeing a study of 10 institutions, which is looking at the barriers to interdisciplinarity.

A member asked whether the Library asks for a publisher's copyright policy before subscribing to it journal. Ms. Lougee stated that the Library has not, in the past, considered publisher's copyright policy when making its subscription decisions. She reminded members about the Scholarly Publishing and Academic Resources Coalition website (<http://www.arl.org/sparc/index.shtml>), which contains information about publisher's publishing policies. This site can provide guidance about publisher's practices. A member stated that the Library is in a powerful position, and should consider asking publishers for their copyright policies; doing so would send a strong message. Ms. Lougee stated that when the Library negotiates licenses with publishers it has begun to discuss publisher policies about author deposit or articles in open archives.

Rather than simply talking about issues related to author's rights and publishing, a member stated that at some point a committee needs to be formed, and charged with strategically dealing with these issues. Professor Hatch volunteered to draft such a motion, and bring it back to the committee for a vote.

V). Ms. Lougee updated the committee on Library space. In 2000, the University built Andersen Library. Underneath Andersen Library on the west bank are two storage caverns, one holds the University's Archives and Special Collections, and the other cavern is a shared-capacity cavern for libraries across the state.

Ms. Lougee reported that the caverns will be full by the end of 2008. The Library is beginning to lease off-site space, and is working with University administration and other on-campus partners to think about dealing with Library space long-term.

According to Ms. Lougee, the area has capacity for many more caverns (possibly as many as 18). Originally, there were supposed to be three caverns, but the legislature only funded two.

Conversations are beginning to take place within the CIC to address space issues in a post-Google environment noted Ms. Lougee. Once materials have been digitized, do the print counterparts need to be as close at hand? The CIC is looking at how the consortium of colleges that make up the CIC can work together to address library space issues. In the sciences in particular, the use of print journals continues to drop dramatically.

Would MINITEX be able to continue to send journal articles if print copies are not close at hand asked a member? Ms. Lougee stated that the affects of any storage decisions on delivery of materials within the state will be taken into consideration. In addition, thought must be given to what it means to be the library record in the state noted Ms. Lougee. It is still too early in the process to respond to this question.

A member asked whether MINITEX is required to have the license for the electronic content it sends out. Ms. Lougee reported that MINITEX is legally considered a part of the University, and, therefore, they are bound by the contractual terms in the University's licenses. For inter-

library loans, most of the licenses prohibit the Library from working directly with electronic content; instead the content must be printed first, then rescanned and sent out.

VI). Next, Ms. Lougee reviewed the Libraries' goals for fiscal year 2009 Ð 2010:

- Integrate information and discovery and management tools and services into the workflow of students and faculty, creating highly functional physical and network environments.
- Expedite the dissemination and preservation of researchers' scholarship, e.g. articles, data, images, media, through new models of electronic publication, thereby influencing public policy on copyright and open access.
- Integrate information literacy competencies into curriculum and practice, and provide new collaborative learning spaces to facilitate student learning outcomes and goals of liberal and professional education.
- Advance the Libraries' transition from print to digital collections, fostering cooperative action toward a new model of collection management and increasing the visibility of and access to the institution's rich array of resources.
- Leverage the Libraries' spaces to maximize the visibility of its services, access to physical collections, learning, collaboration, and public engagement.
- Share and promote the Libraries' expertise and resources through engagement in dynamic community and state partnerships.
- Invest in staff and organizational capacity for innovation, collaboration, and risk-taking.

Professor Orf asked whether the Libraries have noticed an increased demand for group student study space. Ms. Lougee reported that since last year, Library usage has increased by over 10%. The demand for group study space is high. Ms. Williams shared information about the group space that is being built on the second floor of Walter Library. This space will have media creation stations, a viewing room, and a presentation practice room. The space is scheduled to open at the end of May.

As described, noted a member, this space could benefit the interdisciplinary initiatives that the Graduate School is undertaking. Ms. Lougee reported discussing with Graduate School Dean Dubrow about how to integrate the Archives and Special Collections into the campus, and how to address space needs related to Graduate School programming initiatives. These conversations are high concept at this point, but it derives from the fact that graduate students may need different types of group space.

Professor Orf asked whether discussions are taking place concerning the need for group study space on campus. Ms. Williams stated that she serves on a committee looking at this issue.

Professor Orf asked whether members had other questions or comments before adjourning the meeting. Mr. Binks noted that with respect to author's rights and publishing, the new copyright policy specifically includes students and affirms their ownership of their academic works.

Professor Orf asked whether content generated by students as part of a course is copyrightable. Do the faculty member and student jointly own content that is the product of a course assignment? Ms. Lougee stated that generally a student owns his/her work unless it is created in an employment relationship.

VII). Professor Orf encouraged members to contact him or Renee Dempsey, Senate staff, with ideas for future agendas. Hearing no further business, Professor Orf adjourned the meeting.

Renee Dempsey

University Senate