

Minutes*

**Faculty Consultative Committee
Thursday, May 9, 2002
2:00 – 4:00
N204 Mondale Hall**

- Present: Joseph Massey (chair), Muriel Bebeau, Arthur Erdman, Daniel Feeny, Richard Goldstein, Marti Hope Gonzales, Leonard Kuhi, Judith Martin, Scott McConnell, Paula Rabinowitz, Charles Speaks
- Absent: Wilbert Ahern, Susan Brorson, Les Drewes, Marc Jenkins, Candace Kruttschnitt, Marvin Marshak, Jeff Ratliff-Crain
- Guests: Professor Eugene Borgida (Advisory Committee on Athletics), Professor Laura Koch (Faculty Academic Oversight Committee for Intercollegiate Athletics); Vice President Sandra Gardebring, Amy Anderson (Institutional Relations); John Foley (the Foley Group)
- Other: none

[In these minutes: (1) CIC academic leadership program nominee; (2) statement on voting on tenured/tenure-track personnel decisions; (3) statement on (the lack of) privacy; (4) statements to the Board of Regents on tuition and the budget and the expenditure of administrator time; (5) questions for provost candidates; (6) ad hoc governance committee; (7) discussion with athletic committee chairs; (8) "positioning" the University]

1. Academic Leadership Program

Professor Massey convened the meeting at 2:10 and took up the question of nominating someone to participate in the Academic Leadership Program sponsored by the CIC. The University typically sends six or seven individuals to participate each year; the Committee has been invited to nominate someone this year.

The Committee voted unanimously to recommend Professor Feeny as a participant.

2. Statement on Voting

The Committee turned next to a statement on voting brought by the Senate Committee on Faculty Affairs, which received it from the Tenure Subcommittee. The statement read as follows:

The Tenure Subcommittee was asked by the Senate Committee on Faculty Affairs to consider issues associated with voting on faculty appointments, promotions, and tenure. The Subcommittee takes the following position:

* 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.

-- Only tenured full professors may vote on whether to recommend a candidate for promotion to full professor with tenure. The tenured full professors may consult other tenured faculty, non-tenured faculty, P&A and term faculty, adjunct faculty, students, and any others they wish. The deliberations and vote, however, shall be open only to the tenured full professors.

-- Only tenured associate and full professors may vote on whether to recommend a candidate for promotion to associate professor with tenure. The tenured associate and full professors may consult other tenured faculty, non-tenured faculty, P&A and term faculty, adjunct faculty, students, and any others they wish. The deliberations and vote, however, shall be open only to the tenured associate and full professors.

-- Only tenured faculty may vote on whether to recommend a candidate for tenure. The tenured faculty may consult non-tenured faculty, P&A and term faculty, adjunct faculty, students, and any others they wish. The deliberations and vote, however, shall be open only to the tenured faculty.

-- Only the tenured and tenure-track faculty may vote on whether to recommend hiring a candidate for a tenured and tenure-track faculty position in a unit. The tenured and tenure-track faculty may consult P&A and term faculty, adjunct faculty, students, and any others they wish. Individuals other than tenured and tenure-track faculty members may serve on search committees; however, the final deliberations and vote shall be open only to the tenured and tenure-track faculty. It is not required that all tenured and tenure-track faculty in a unit participate in the decision to recommend that a candidate be hired, but the decision to recommend hiring of a tenured and tenure-track faculty member shall be made only by tenured and tenure-track faculty members.

The Subcommittee will prepare appropriate language changes to implement these statements.

Professor Bebeau inquired if the term "deliberation" needed comment? In some cases, deliberation may include all faculty, tenured and tenure-track or not. This will not be clear to all, she said. Professor Goldstein said that prior consultation is fine but the final deliberations must be closed to all but tenured and tenure-track faculty.

What about the practice of having staff present at the deliberation to take minutes, Professor Rabinowitz inquired? This policy would not permit that practice, Professor Goldstein said. This needs to be made clearer, she said; NO ONE else should be present. It was agreed that a footnote would be appended clarifying this point.

The final revision of the policy will be returned to the Committee before it is presented to the Faculty Senate.

3. Statement on Privacy

The Committee next took up a statement on privacy also brought from the Committee on Faculty Affairs. It read as follows:

The Senate Committee on Faculty Affairs has been considering faculty privacy policy and current practice.

A major issue has emerged. The Committee feels obligated to warn faculty about certain aspects of the privacy issue. There is a legal gap in privacy protection for faculty.

In the view of the Committee, the Minnesota Data Practices Act, at <http://www.revisor.leg.state.mn.us/stats/13/>, in essence removes many protections that faculty may believe apply to research data, and possibly personal communications.

The act permits anyone to request any records that a faculty member has that are arguably relevant to any public or private interest. These records may be on paper or electronic, maintained in an office or home or on an office computer or even on an entirely private home computer. This includes email, no matter where it is physically or electronically located or how it was generated. There is no requirement that the information requested actually be proven important to the public. This is the legal gap.

The only current protection for research data arises from the "trade secret" provisions of the act. Unpublished data may be considered a trade secret. To what extent data in support of published research can still be considered a trade secret is not clear to the Committee. Even data or communications (email, for example) that faculty view as private may have to be disclosed.

Requests for information can be sent anywhere in the University. Affected faculty, department heads and deans can ask the General Counsel's Office for legal advice. This process may involve turning over all potentially relevant data the General Counsel to see whether or not it is protected under the provisions of the law. Even the process can be very onerous. The law can be an effective harassment mechanism.

The law does not seem to specify what data we must keep. Most faculty are probably repelled by the thought of secure erasure of data and of data encryption, but these may be options. Of course, many of us expect never to be the subject of a data request.

This is more of a cautionary tale, Professor Gonzales observed.

The Committee also wishes to have a statement from the Office of the General Counsel on what it will transmit to outsiders. Penn State also has a policy on what the UNIVERSITY will do, irrespective of legal requirements, and the Committee may also recommend such a policy.

It was agreed that this statement should be a discussion item at the University Senate. It would be more helpful, Professor Martin said, for the statement to go out with the first paycheck of the year; many are not aware of what the Senate does. It will go to the Senate first, it was agreed.

Professor Kuhi related that he gave the Office of the General Counsel everything related to the telescope project on Mt. Graham, including emails, in response to requests for information; some of the materials were protected under attorney-client privilege (such as contract negotiations). The rest was vetted by the Office of the General Counsel before any materials were given to those who had requested it, either paper copies or emails. His was only a modest example, he said; he has heard horror stories about other requests for information.

This lack of privacy may restore use of the telephone, Professor Bebeau observed.

4. Statements to the Board of Regents

The Committee turned next to statements prepared by Professors Martin and Speaks that will be presented to the Regents' budget forum.

Professor Speaks said that his statement had been endorsed by the Committee on Finance and Planning, but that it would carry more weight if also endorsed by this Committee. His statement read as follows:

The Senate Committee on Finance and Planning, which comprises faculty, staff, and students, expresses its strong endorsement for the FY03 budget that President Yudof has submitted to the Board. In particular, we enthusiastically support the administration's efforts to improve our four- and five-year graduation rates; the 13-credit minimum and banded tuition proposals, in concert with other initiatives, will help this University achieve that important objective.

As the President has been informed, The Faculty Consultative Committee has adopted a statement that also expresses strong endorsement of the Administration's proposed budget, including the unfortunate need for a 16% increase in tuition. None of us is enthusiastic about this tuition increase, but the alternative—more draconian cuts to the budget—is much less palatable and will severely weaken the University.

We also wish to express our appreciation to the Administration for having involved the faculty so extensively in their deliberations as this budget proposal was being formulated. A special *ad hoc* Subcommittee from the Faculty Consultative Committee and the Senate Committee on Finance and Planning was formed and we met extensively with Mr. Pfutzenreuter and President Yudof. We are gratified for having had the opportunity for this level of faculty consultation during a very difficult process.

We urge adoption of the FY03 budget that you have before you, but the efforts of the University community must not end when the FY03 budget is approved.

-- We must establish a list of institutional priorities, priorities that clearly articulate what we want this great University to be;

-- It is insufficient to say that our academic investments and institutional priorities must be in alignment; *institutional priorities must drive our investment decisions*, and we must assiduously avoid the reverse process in which our priorities are established by the investment decisions that are made;

-- We also must act now to formulate a comprehensive set of principles, including budgetary principles, that will enable the University to confront future fiscal emergencies in a programmatic manner; and

-- We—the Regents, the Administration, and the faculty, staff, and students—must work together in a collegial fashion to deal intelligently with the challenges that we inevitably will face during the next few years.

I am confident that we can accomplish all of this, and that the University of Minnesota will emerge as an even better institution.

Professor Kuhl wondered about the term "appreciate" given the concerns about the Budget Advisory Committee expressed by Professor Speaks at previous meetings. Professor Speaks said that there was a new ad hoc committee of six faculty who worked with Mr. Pfutzenreuter and the administration on development of the budget; that process represented a level of consultation not seen in a number of years.

The Committee voted unanimously to endorse the statement.

Professor Martin's statement read as follows:

FCC approved the following on May 2nd:

"Given the substantial reduction in state funding to the University, the Faculty Consultative Committee strongly endorses the tuition increase recommended by the administration as part of the 2002-03 budget plan."

The Faculty Consultative Committee also wishes to convey the following on behalf of the faculty:

It is our strong belief that the time and energy expended on issues related to athletics by President Yudof and Vice President Tonya Moten Brown this academic year has been wholly out of proportion to the role of athletics at the University of Minnesota. The time of other staff members and faculty (this year AND in the 1999-2000 scandal) has been similarly encumbered. Teaching, research, and outreach by faculty and staff, as well as student learning, are too often overshadowed by this one concern.

We recognize that the President and his staff must respond to issues of political and financial importance for the University. But in a year of declining legislative support for the University, time spent by the President and V. P. Brown on athletics has been time and energy taken away from issues of significant import to the University.

The Committee also unanimously endorsed Professor Martin's statement.

5. Questions for Executive Vice President and Provost Candidates

The Committee next agreed it wished to develop a set of questions to be used when it interviews the candidates for Executive Vice President and Provost. Professor Martin said she would forward the questions used by the search committee; she said that one area that the Committee will wish to address is how the individual would interact with the governance structure.

Several issues the Committee it agreed it wished to raise included a commitment to the faculty as the core resource of the University, the issue of tenure (in the case of tenured/tenure-track faculty versus those who do not have such appointments), intellectual innovation and the availability of funding to

support it, and whether the individual would serve only as a mouthpiece for the administration or see the office as a place to set academic priorities. One problem is that the individual serves both as an officer of the Twin Cities campus as well as a system officer.

The Committee agreed that it would develop a set of questions at its next meeting and that once the interviews were completed, it would send a letter to the President transmitting its views.

6. ad hoc Governance Committee

Professor Feeney next reported that an ad hoc committee on governance will be presenting a report to the Committee on Faculty Affairs next Tuesday; the report will then come to this Committee. The report will create controversy, he said.

7. Discussion with Athletic Committee Chairs

Professor Massey now welcomed Professors Borgida and Koch to make their annual report to the Committee about the Twin Cities intercollegiate athletic programs.

Professor Koch, chair of the Faculty Academic Oversight Committee for Intercollegiate Athletics (FAOCIA), began by noting that the two committees held a joint retreat last fall that focused on compliance and financial issues. Compliance is assigned to FAOCIA but most of the cases have nothing to do with academics, but with other areas of athletics; they wanted to be sure the responsibility was in the right place. The other tasks taken up by FAOCIA included the following:

- reviewing existing policies, many of which need to be revamped
- reviewing the schedules of all 23 teams twice per year (there were troubles with travel schedules after September 11 last year)
- considering conflicts between team travel and study day/finals week; this has become a bigger issue since the change to semesters; more teams needed exemptions from the ban on travel during study day and final exams
- looking at the eligibility of first-year students who did not earn a 2.0 during their first semester; University, Big Ten, and NCAA rules allow these students to compete (students are eligible if they earn a 1.65). The 1.65 pertains only to the first semester; her question is whether a student earning only a 1.65 can compete, travel, practice, and do the academic work necessary to bring the GPA up to 2.0?
- evaluation of transcripts for each team; if the transcripts are unsatisfactory, they work with the coach, the athletic director, and the academic counseling office and set expectations. What negotiating power do they have, Professor Martin asked? In one case, they wrote a letter about what must change; the athletic director met with them about the plan. They evaluate implementation and follow up; if the plan is not implemented, they will go to the President and Vice President Brown
- tracking compliance issues

- examining grade changes/withdrawals/grade oddities. The programs are being affected by the 13-credit rule, tuition banding, and rules about good academic standing
- determining academic awards for students participating in athletics

She and Professor Borgida had numerous meetings with the administration, academic counselors, and compliance staff about the financial challenges and the impact on students. They were concerned about the lateness of the notice to teams.

Does the committee work, Professor Massey asked? It does, Professor Koch said, and this year people are regularly attending the meetings. Do coaches cooperate with its mission, Professor Feeney asked? Most do, Professor Koch said. What recourse does the committee have if they do not, he asked? It depends on the relationship the coach has with the athletic director; the directors have tried to work within the structure. Does the committee have the support of central administration when it needs it, he then asked? It does, Professor Koch said; the issue will need to be reviewed when the structure of athletics is changed.

How is it possible to have a search for a new women's basketball search with no search committee, Professor Speaks asked? Professor Koch said she did not know. As with a search that may include incumbent administrators, the University tries to keep quiet about a search or there can be an impact at the home school of a coach who might be considered by the University (at worst, the coach could get fired). There may not be a regular search committee but the process is similar.

Why are there only one-way contracts, Professor Kuhi asked? Coaches are free to leave without consequences but the University must pay off coaches to buy them out. Professor Borgida said clauses may be put into coaches' contracts after the departure of Coach Oldfield. He (Professor Kuhi) has a contract, Professor Goldstein maintained; Professor Kuhi said he did not; he receives a letter each year with his salary. The question is how badly the University wants a person; if badly, it will not be able to write as good a contract as it might want.

Professor Borgida next reported that the Advisory Committee on Athletics (ACA) met every 3-4 weeks during the year and has a core set of issues that included NCAA proposals (on which the University takes a stand), the CIC resolution on the athletic arms race, the financial report from Vice President Brown (it met with a group of students to talk about the merger of the departments and how these issues affected them), and a proposal concerning the Marching Band. Most of the year, however, was spent dealing with the financial issues.

One question that can be asked is how the two-committee structure fared in light of the discussion of financial issues. In addition to the \$10 million annual subsidy there is also a \$21 million deficit. One problem is that so many different faculty constituents got involved in these issues that the credibility of ACA was undermined; Professor Borgida said he also believed the President became uncertain about who he should deal with. The President worked with an ad hoc group on athletic issues because he wanted to have confidential discussions and because he was not sure which or how many committees he should deal with. There was concern on ACA about the ad hoc committee process; it wanted to be sure the President was not substituting it for the role of the governance committees.

ACA is a 20-person committee that includes a dean's representative, students, alumni, civil service staff members, and faculty. It is a good group that provides a wide spectrum of views, from the very supportive of athletics to those who see it as way overblown. He said he was concerned that both ACA and FAOCIA were slowed by the perception that it was not clear to whom the administration should talk.

The role of ACA re-surfaced when the President was reminded that there existed a policy on adding and deleting sports. The General Counsel's office offered the opinion that since the author of the original policy (the Assembly Committee on Intercollegiate Athletics) had been dissolved, all the policies it adopted were not operative. The administration was informed, however, that the new committees were operating with the previous policies, including this one. The policy required the administrator responsible for athletics to present a recommendation to ACA. Professor Borgida said he thought using the process was wise; it was a good thing ACA could discuss the recommendations and how the University should proceed. ACA heard from coaches, student-athletes, and Vice President Brown on May 6, and then closed its meeting. ACA did not vote on a resolution on May 6; the discussion was continued today and the final action takes into account the reprieve offered by the administration based on financial goals for the sports proposed for elimination. Those financial goals appear to be within the grasp of the athletic department. The final resolution from ACA will be presented to President Yudof.

There was considerable discussion at ACA about the uncertainty in the lives of students created by the decision about eliminating sports. The step back--the reprieve pending identification of financial support for the sports--was unhelpful, Professor Borgida said. Some believe the University should have just made a decision. If the financial goals are met, but 2005 the three teams will be at no greater risk than any others; there will be donor-based triaging if there remain problems.

Professor Kuhi said he was dismayed at the position originally taken by the General Counsel's office, namely, that the dissolution of a committee also meant the discontinuation of all the policies formulated by the committee (although it was pointed out that the language chartering ACA and FAOCIA called for them to reconfirm existing policies within six months of their appointment, which they may not have done). Professor Borgida said following the policy on adding and deleting sports may have helped avoid litigation and helped create time to be compassionate and let people address concerns. In the long run, the decision to follow the policy helped the University.

Professor Feeney asked that Professors Borgida and Koch think about what they need from this Committee next year; he asked them to send him a note. This Committee can help support their work, he observed.

Professor Massey thanked Professors Borgida and Koch for joining the meeting.

8. Positioning the University

Professor Massey next welcomed Vice President Sandra Gardebring to the meeting to discuss positioning the University. Vice President Gardebring in turn introduced Amy Anderson from her office, Director of Marketing, and John Foley, head of the Foley Group, an organization that does marketing and branding in the Twin Cities. Mr. Foley, she said, is a CLA graduate who has been working with her office for about two months to determine if it is possible to develop a broad-based positioning statement

for the Twin Cities campus. They have consulted various groups (faculty/deans, senior administrators, students, alumni, and donors) as a statement is being developed.

Mr. Foley distributed a handout to Committee members and led the discussion. Two words are bandied about a great deal, he said: brand and positioning. "Brand" is a promise made, such as that the University of Minnesota provides a good education and services for students. Coke promises to refresh. Arthur Andersen and Firestone broke their promises so are going out of business. "Positioning" is a process consumers use to develop short lists of products they will consider purchasing (e.g., in looking for a new car, they may narrow their choices down to four options).

Mr. Foley noted the "positioning triangle" developed by the University of Chicago that depicts "utility based positioning": consumers choose things for non-ego, utility, and ego reasons; that is, they may either have ego involved (brand loyalty) or not. None of the choices is wrong; the University, however, wants to target communications to the people who choose education for a combination of utility and ego reasons; "what kind of person am I because I went to the University and how does that reflect on me?"

The purpose of the project is "to establish a set of broad based [sic] positioning statements that clearly differentiate the 'U' from other educational institutions. Once a final selection of options is made, they will be developed into creative concepts for testing." The obtained information by conducting focus group discussions with key audiences and got very different responses from the different groups mentioned above.

Insights from the discussion groups were these:

-- "The University prepares people for real life" (this is a difficult place to get around in and no one holds your hand, so it provides an opportunity to see how the real world works; students are proud they learned to navigate in the University's environment).

-- "The urban setting is unique" (Professor Martin observed that it is NOT unique for universities to be in urban settings; this is what people SAID in the discussion groups, Vice President Gardebring responded, and Mr. Foley added that for many constituents of the University, Chicago, Boston, and Los Angeles are too scary; there is a sense that people will be safe in Minnesota).

-- The University "best serves the kind of person mature enough to manage their [sic] way through it all (the Committee corrected "their" to "his or her"; the thought here is that this is not a good school for someone who is not ready to grow up).

-- The University "is very comprehensive in nature, including both education and research."

-- The University "is very affordable" (the press picks up on the percentage increase in tuition but the University remains a bargain; when people are asked what they think it costs to attend the University, most think it costs twice as much as it really does).

"Positioning Statement Option 1" is "There Are No Limits": "The University of Minnesota is one of the world's largest universities offering unlimited academic and experiential opportunities for students and faculty to take control and make choices about their future." The distillation of the message is "You

are in charge of your future." The idea is that only the University "offers the depth and breadth of academic, cultural, and social experiences to put you in complete control." This is the "student" view, Mr. Foley said, a sense that there is the opportunity to do anything. This is, Vice President Gardebring emphasized, not a tag line or a slogan, but an idea; Mr. Foley and his staff would develop language and visuals to capture the idea once there is agreement.

"Positioning Statement Option 2" is "Real World Experiences": "The University of Minnesota is a comprehensive educational and research institution in a vital urban setting offering a well-rounded education and life experiences to prepare self-directed students for life's challenges." It can be distilled to "educational experiences in an urban setting prepare you for life." This also is what students said, Mr. Foley reported; they were proud of this and they will be more competitive in life as a result. Professor Martin noted that the "comprehensive education" and "research" needed to be kept together because Metro State certainly offers a comprehensive educational opportunity in an urban setting.

"Positioning Statement Option III" is "New Frontiers": "The University of Minnesota is more than a teaching institution, it provides complete programs for undergrad to doctoral level as well as vanguard research efforts to drive economic engines and define new frontiers for both students and greater community." The distilled version is "encounter and advance new frontiers." This statement reflects feedback from faculty and deans, Mr. Foley said; the students did not find this one compelling.

What purpose is served by this effort, who is paying for it, and what does it cost, Professor Rabinowitz asked? Vice President Gardebring said she is paying for it, Mr. Foley is providing this service to the University at a rate substantially below his usual charges, the funds are O&M funds from her office, and the are being use to support a thematic approach to what the University does that could be used over a number of years (e.g., with the legislative request, publications, factbooks, profiles, and so on). It is difficult to generate recognition with the public without a theme. When people are polled about the University, they think "big," and it would be better if there were something else they thought of. This is an effort to try to develop something that can be used as an overarching effort; it is done at most universities but not here. This would not replace individual college "brands," she said.

Is there a problem trying to get students, so this is needed, Professor Rabinowitz asked? The University does not have a problem recruiting students, Vice President Gardebring said. The theme would be useful for general public support, fund-raising, and the legislature.

Positioning happens whether an organization wants it or not, Mr. Foley said. One's view of the University can depend on whether or not one attended school here, one's experiences here, and press coverage (the University is being defined by its intercollegiate athletic programs, a tiny dimension of the University but for some, all they know about the place). They are trying to identify a unifying message that all colleges can work with; it will not be so rigid schools cannot craft their own messages.

Why would a slogan help, Professor Rabinowitz asked? To say it is a slogan diminishes the effort, Mr. Foley responded. It is not a slogan; it is about what people should think about the University.

The focus groups consisted of people with a strong vested interest in the University, Professor Kuhi pointed out; they need to talk to the thousands who do not have any such interest. That is next, Vice President Gardebring said. If what the people at the University think is not important, that must be attended to, she said.

Her reaction, Professor Rabinowitz said, is that the ruling class in Minnesota does not send their children to the University like the ruling class does in Michigan. People go to the university in Iowa and Michigan because of an intellectual commitment. This positioning effort does not have anything to do with that difference, she said. How does the University change their minds, Mr. Foley asked? Professor Rabinowitz said she did not know and added that it is surprising the level of support the University has, given this lack of support from the elite in the state. One thing that has struck her is that Minnesota is 49th of the 50 states in terms of parental support for kids going to college; where she comes from, the whole idea is for parents to make life for their kids better than what they had. Parents do pay less at Minnesota, Vice President Gardebring agreed, although it was pointed out that Dr. Zetterberg in Institutional Research and Reporting has expressed skepticism about the data.

Professor Rabinowitz said she was skeptical about trying to sell the University when there were other important issues to be addressed. Selling is one thing; getting a true story out is another, Ms. Anderson said. This is not a sales job, Mr. Foley agreed; the University will not say a student would have the same experience here as at a small private liberal arts college. This is a difficult place to attend; the idea is to create a framework so people can understand what the University stands for. This is the starting point.

Professor Bebeau agreed that it will be important to get the views of typical Minnesotans about the University and about what must change. People care about the University, Mr. Foley said, from a utility/ego standpoint, but it is not clear anyone can change their minds in other ways. He said he would not recommend the University spend a lot of time trying to do so.

The University has been notable for the number of false starts, Professor Feeney said, such as the undergraduate initiative and reductions in class size. If things are to be done, the faculty need to be sure the administration buys into it and that it is not some "other goofball initiative." This would not supplant substantive decision-making about the direction of the University, Vice President Gardebring said, and it will not work if there is not institutional buy-in. She has talked to the President and the academic vice presidents; the President is engaged in the idea. It would not be a 6-month project, she agreed; with faculty and administrative support, it would be about a 3-year project. There is a solid core of what the University is about that people believe and that can be reinforced on a periodic basis. What is needed is a template, Professor Feeney said, and colleges can emphasize different aspects of it. Vice President Gardebring agreed.

Professor Massey thanked Vice President Gardebring and her colleagues for the presentation, and adjourned the meeting at 4:15.

-- Gary Engstrand

University of Minnesota