

Senate Consultative Committee (SCC)
July 13, 2021
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 reflect the views of, nor are they binding on, the senate, the administration, or the Board of Regents.

[In these minutes: Building Access Consultation; COVID-19 Safety Measures]

PRESENT: Ned Patterson (chair), Colleen Flaherty Manchester (vice chair), Mark Bee, Phil Buhlmann, Adolfo Carrillo Cabello, Carol Chomsky, Scott Creer, Liz Davis, Carl Flink, Jayne Fulkerson, Tony Fussy, Jenn Goodnough, Daksha Gummadi, Zenzele Isoke, Missy Juliette, Brendan King, Michael Kyba, Sarani Millican, Tania Mitchell, Tracy Twine, Nicholas Wallenhorst

ABSENT: Tom Chase, Karen Coenen, Monica Luciana, Keith Mayes, Dylan Young

GUESTS: Myron Frans, senior vice president for finance and operations, Office of the Senior Vice President for Finance and Operations; Katharine Bonneson, assistant vice president, University Health and Safety; Matt Clark, chief of police, University of Minnesota Police Department; Michael Osterholm, director, Center for Infectious Disease Research and Policy (CIDRAP); Michael Oakes, interim vice president for research, Office of the Vice President for Research; Rachel Croson, executive vice president and provost, Office of the Executive Vice President and Provost; Doug Peterson, general counsel, Office of the General Counsel; Jason Kerwin, faculty senator, College of Food, Agricultural and Natural Resource Sciences; Adam Sychla, student senator, College of Biological Sciences

OTHERS ATTENDING: Amber Bathke, Vickie Courtney, Jill DeBoer, Dimitri Drekonja, Dave Golden, Bri Keeney, Chris Kwapick, Geanette Poole, Rebecca Ropers, Megan Sweet, members of the Disabilities Issues Committee, members of the Campus Safety Committee, members of the Equity, Access, and Diversity Committee

1. Building Access Consultation

Myron Frans, senior vice president for finance and operations; Katharine Bonneson, assistant vice president, University Health and Safety; and Matt Clark, chief of police, University of Minnesota Police Department, joined the committee to consult on the fall 2021 [Building Access Overview](#), which was provided to members in advance of the meeting.

Chief Clark provided the following information about Twin Cities campus buildings:

- All campus buildings (280+) were locked when the campus closed due to the COVID-19 pandemic.
- The fall 2021 Building Access Overview was consulted on by facilities leads and deans to determine the best course of action for buildings in the fall. The authors received a variety of opinions from those groups.

- The decision was then made to let the Resource Responsibility Centers (RRCs) make the determinations about accessibility for their individual buildings, after they consulted with the building occupants about hours of operation and access to the building.
- The recommendation to RRCs is not to open up a door to the public if there is not a need for the public to access that door.
- The request to RRCs is that they submit their building plan to the authors once decisions have been finalized.
- There is a current trend among urban universities to lock exterior doors on their campuses.
- All building occupants can provide U Card access to anyone in their department/college, based on their needs.

SCC members provided the following feedback:

- Carl Flink expressed appreciation for giving the occupants of each building an opportunity for input regarding the access of their building.
- Sarani Millican recommended that the University consider whether locked doors at a public university are appropriate. Other members agreed. She also stressed that many students use the Gopher Way tunnels, especially in the winter months, and students may not have access to the buildings incorporated into the tunnel system.
- Samantha Grover explained that the occupants in her building are grappling with how to handle package delivery if the building is locked, which is also affecting decisions about who can work remotely, and who needs to be on campus. Chief Clark acknowledged this issue and explained that package delivery will only increase post-COVID. He explained that options for package delivery are being considered.
- Matt Verkuilen cautioned that if buildings are going to be closed, or if a limited number of doors to a building will remain open, then those determinations should be clearly marked to ensure adequate accessibility, particularly for individuals in the disabilities community.
- Deena Wassenberg expressed concern about locking buildings with classrooms, explaining that if a student forgets their U Card or misplaces it, they may miss class. She said that some students may be less likely to be let into a building, or may be less comfortable asking for access in those instances, which could result in a less inclusive learning environment.
- Zenzele Isoke suggested that it is important to use a set of reasonable criteria, informed by some set of data points, to enable departments to make these decisions. It is not fair to ask administrators/staff to make determinations about building security without that information, she said.
- Many members expressed support for keeping academic buildings open during business hours.
- Edgar Arriaga asked that consideration be given to the student traffic that takes place when there is a class period change, adding that it might not be practical to have hundreds of students try to enter the building with their individual U Cards.
- Flink also commented that different buildings, colleges, schools, and departments have different funding for security personnel.

2. COVID-19 Safety Measures

Chair Patterson introduced the COVID-19 safety measures topic by explaining that the Faculty Consultative Committee and the SCC have received a number of concerns and feedback from constituents over the past few months related to COVID testing, masking, ventilation, accommodations, vaccines, and social distancing. In an effort to learn more about how decisions on these issues have been made and what the pros and cons of these issues are, Patterson said, the following senior leaders were invited to join the meeting: Michael Osterholm, director, Center for Infectious Disease Research and Policy (CIDRAP); Michael Oakes, interim vice president for research, Office of the Vice President for Research; and Doug Peterson, general counsel, Office of the General Counsel.

Osterholm provided the following opening remarks:

- Only 13% of higher education institutions have initiated a COVID-19 mandate, and the spectrum of what that mandate is varies on each campus that requires it.
- Regarding the vaccine, it is important to understand that childhood vaccinations are very different from the COVID-19 vaccination. The COVID-19 vaccination is controversial.
- His professional opinion is that the mandate will be counterproductive.
- Protection for immunocompromised individuals remains a significant challenge, and data shows that the vaccine is not as effective for those individuals.
- It is not unreasonable for people to feel uncomfortable about resuming pre-COVID-19 activities. The University must first acknowledge that discomfort and then institute accommodations where possible.

Patterson then invited General Counsel Peterson to talk about the legal considerations regarding COVID-19 safety measures.

Peterson emphasized that the mandate question is ultimately a public health and safety issue. He then presented a broad overview of the legal considerations that blend with considerations of medicine, science, public health, social psychology, ethics, and culture, including the following:

- Regarding a vaccine mandate, consideration must be given to whether it is appropriate to mandate a drug that is not fully approved by the Federal Drug Administration (FDA). It is one thing to have a doctor provide advice on how to weigh the risks as an individual, and another thing to have a public institution mandate what an individual puts into their body. For this reason, the mandate is a due process and First Amendment issue for state and federal government entities, as well as public universities.
- Whether fully approved or not, if a vaccine were to be mandated, the University would need to extend medical and religious exemptions as well as a natural immunity exemption (which is an exemption for individuals who previously suffered from COVID-19, and have developed a natural immunity). With these exemptions, and especially for a controversial vaccine, consideration must be given to how many currently unvaccinated individuals will make use of an exemption.
- Any public university or public employer that institutes a mandate can expect litigation due to a number of legal issues, and possibly also legislative action. Consideration must be given to this likelihood, and should also be weighed against the possibility that a number of currently unvaccinated individuals would choose to claim an exemption, if a mandate were instituted.

- There is currently a leaning in the guidance from various federal government agencies towards allowing individuals' personal choice about the vaccine.
- Minnesota state law also includes an immunization statute, which provides the process that the Minnesota Department of Health (MDH) must use in order to add an additional vaccine to the list of required vaccines for students. There is currently an open legal question about whether the statute lists only the minimum required vaccinations, which would allow institutions to add the list of requirements for their specific entity, or if the law is intended to preempt additional requirements, at least for public universities and colleges.

Patterson then invited Jason Kerwin, faculty senator, College of Food, Agricultural and Natural Resource Sciences, and Adam Sychla, student senator, College of Biological Sciences, to present a resolution they authored titled [Resolution on Updating University of Minnesota Vaccine Requirements](#). The authors also presented [slides](#), outlining their rationale for the resolution.

SCC members then asked invited speakers the following questions.

Can a faculty or staff member require masking indoors, in a particular classroom or office?

No, individuals cannot institute individual mask mandates. The Center for Disease Control (CDC) has determined that fully vaccinated individuals can be unmasked, and the University has decided to implement a policy that is supportive of masks, but does not require them. This policy governs all employees at the University and must be followed by all employees to avoid violating privacy or FERPA laws. Individual mandates would require people to reveal information about their health, religion, or personal choices, which is contrary to the approach that the University, as a whole, has taken.

How is the University encouraging vaccinations, and what incentives are being offered?

The most effective ways to encourage the vaccine is through (1) social influences, (2) education, and (3) lowering the transaction cost (i.e. making the vaccine easily accessible). The primary focus for the University is to increase vaccinations among the vaccine hesitant group, who perhaps feel confused about the vaccine or who have not gotten the vaccine due to convenience. To increase vaccinations among these individuals, the University is providing additional information about the safety of the vaccine and explaining as honestly as possible what experts know and do not know about the vaccines.

The University will also offer significant wellness points to University employees who get the vaccine through the [University of Minnesota Wellness Program](#).

What HIPPA requirements would need to be considered if a vaccine mandate were enacted?

A mandate would require the University to collect state immunization information, which would also require a private centralized system to collect and store the information. Significant attention would need to be paid to handling the health information, and also to communicating what information is being collected, and for what purpose. Another consideration for the University would be how to use the data. The more specific the data and the more accessible it is, the

greater the risk of violating individual protections. If a mandate were enacted that required the University to collect health information, that information would not be handed out to professors or supervisors to help them make decisions about working and learning environments.

Members also provided the following feedback regarding COVID safety measures.

- There is no doubt that anxiety around exposure to people who are unwilling or unable to get vaccinated is very real. However, it is important to recognize that the reduction of COVID-19 restrictions is also contributing to stress in the University community as well. The mental health piece is very complicated.
- Clear direction to the University community about what can and cannot be required in terms of COVID-19 safety measures is important.

Dimitri Drekonja, associate professor, Medical School, and author of an [editorial in the *Star Tribune* in favor of mandating the vaccine](#), acknowledged that vaccines are not perfect, and they need to be combined with education and outreach, but emphasized that there is considerable data showing that mandates, with hard to obtain exemptions, drive up vaccination rates.

Osterholm responded to Drekonja, first by agreeing that they both want to get as many individuals vaccinated as possible, and then adding the following remarks:

- The COVID vaccine is unique in that it has been heavily politicized, which has had a significant impact on the decisions individuals make about being vaccinated.
- The current administration is the most pro-vaccine administration in all of Osterholm's experience, and yet they have not instituted a mandate. The state health department had an opportunity to bring the mandate discussion to the state legislature this past year, and they chose not to do it. Osterholm explained that both entities looked at both sides of the vaccine issue, and chose not to pursue a mandate.

Osterholm also explained that he is pro-vaccine and over his career he has been very forthright about that, however, he believes that, given the polarization associated with this particular vaccination, a mandate would only further isolate the vaccine hesitant individuals and split the campus into political factions. The best thing the University can do right now, he said, is stay focused on outreach and education to the vaccine hesitant population, and make the vaccine as accessible as possible to those individuals.

Patterson thanked members and administrators for their thoughtful discussion.

Professor Kerwin then asked the SCC to call a special University Senate meeting to discuss the [Resolution on Updating University of Minnesota Vaccine Requirements](#). Patterson explained that, following this meeting, the SCC will hold two electronic votes: (1) to determine whether to hold a special University Senate meeting to discuss COVID safety measures, and (2) whether to add the resolution to the senate docket, if a special University Senate meeting is held.

Patterson then adjourned the meeting.

Bobbie Erichsen
University Senate Office