

Academic Freedom and Tenure Committee (AF&T)

October 16, 2015

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: Welcome; Policy on Academic Appointments with Teaching Function Subcommittee Report and New Data; Conflict of Interest Policy; Shield Amendment Update; FCC/EOAA Update; Topics for Future Meetings]

PRESENT: Phil Buhlmann, chair, Ole Gram, Marti Hope Gonzalez, Anne Barnes, Kevin Upton, Al Levine, George Trachte, Jessica Larson, Holly Locher, Paula Rabinowitz, Jerry Cohen

REGRETS: Geoff Dubrow, Nathan Shippee, Teresa Kimberley

GUESTS: Professor Will Durfee; Seth Beccard, associate administrator, Office of Institutional Compliance (OIC); Lynn Zentner, director, OIC

1. Welcome: Phil Buhlmann, co-chair, welcomed the committee and stated that co-chair Teresa Kimberley was unable to be present due to attendance at a conference.

2. Policy on Academic Appointments with Teaching Function Subcommittee Report and New Data: Buhlmann updated the committee on the work of the subcommittee charged with assessing adherence to the Policy. Ole Gram, assistant vice provost, Office of the Senior Vice President for Academic Affairs and Provost, confirmed that there are existing personnel plans for most schools. The subcommittee decided they would review each of these personnel plans, focusing on the supplemental plan of each, as the supplemental plan is supposed to address any variances of the 25% rule. Gram provided handouts to the committee that showed the distribution of different academic appointments with teaching functions in three colleges. He said that the information on the handouts should be considered preliminary and invited members of the committee to provide feedback on how the data might be presented to most accurately reflect trends in hiring and use of appointment categories.

The reports showed full time and part time faculty/P&A employee headcounts in the three schools. Some of the difficulty in displaying these data in a meaningful way, Gram stated, is that (for example) an FTE number can hide the number of part time employees, whereas headcounts can exaggerate the overall use of contingent faculty. To complicate matters, full time is either 67% from a tenure perspective or 75% from a benefits perspective, and, he added, tenured faculty on phased retirement at 50% would be considered part time employees on the reports even if they were tenured. Additionally, it can be difficult to determine whether or not someone who teaches a course occasionally is relying on such teaching as additional income on top of another full-time job. Gram said he hoped the committee would be able to help clarify what data is helpful and how the administration can present data yearly in a useful way.

Members acknowledged the preliminary nature of the data while raising questions and concerns, including: concerns about the variation between colleges and departments, the lack of a university-wide discussion about the number of desired faculty, how funding sources might affect types of contracts issued by various units, and the disparity between schools in the ratio of tenured and tenure-track faculty to contract faculty.

Gram concluded his presentation of the handouts by stating that the University is a heterogeneous place and the variation in schools shows this is a bigger conversation beyond an arts and sciences model, where limiting the number of non-tenure track faculty to 25% may be more readily attainable than in other disciplines and colleges. He said that the data needs to be easily understood, analyzed, and accessed, and he will continue to work on these data displays in consultation with the committee.

3. Conflict of Interest Policy: Professor Will Durfee; Seth Beccard, associate administrator, Office of Institutional Compliance (OIC); and Lynn Zentner, director, OIC; attended as members of the policy implementation team to hear any feedback the committee might have regarding the most recent Conflict of Interest Policy draft.

Zentner reminded the committee that the policy was revised five years ago. In reviewing the policy again, the OIC is considering both the results of external reviews and the recommendations of the implementation team. They are in the process of soliciting input from several groups, will revise based on feedback, and come back again in January for final input.

Concerns of the committee were related to a change that lowers the threshold for reporting outside income from \$5000 to \$0 for those engaged in human subjects research. If an employee is engaged in human subjects research with a company, they cannot receive money from that company for other work. The question, Durfee said, is to whom does this apply? He stated that it seemed there was general agreement this should apply only to primary investigators who define or control the study, or who enroll or consent subjects, and not all the people involved in a clinical study. One job moving ahead, he said, is to decide who falls into this primary investigator category.

Allen Levine, interim vice provost for faculty affairs, Office of Academic Affairs and Provost, stated that this is common practice in the medical sciences. It is understood, he said, that researchers should not take money from companies for whom they are doing research. It is a moral issue. Professor Jerry Cohen agreed, and stated that money taken for personal gain while conducting research is wrong. Durfee shared that there could be some exceptions but it would need to be approved by IRB and the Conflict Review Panel. Buhlmann believed that this exception option should be written into the policy.

Zentner said that for the last five years there have been certain University-mandated financial cutoff points for research. For instance, in doing clinical health care research for a company, the conflict of interest policy would kick in at \$5000 remuneration. At that point her office would come up with an agreement for oversight, to assure the integrity of the research. The non-healthcare based research cutoff was \$10,000 because clinical care was not involved. The primary change to this portion of the policy is that no individual remuneration is allowed for those doing human subjects research. She stated that her office recognizes the value of the

relationship between the University and these companies that sponsor research involving human subjects, and this is why they are getting feedback from so many groups.

Buhlmann agreed that there is inherent value in these relationships, and wondered with the zero dollar limit is being proposed, rather than a lowering of the \$5000 level. Durfee stated that the University wants to establish a sense of the University culture as a place of the highest ethics. It is about institutional reputation, he said.

In response to questions about how many individuals this might affect, Zentner stated that 100 to 120 conflict management plans are in effect at any given time. Around 40 to 50 are added each year and another 40-50 retired each year.

Professor Paula Rabinowitz expressed concern for very small dollar amounts being affected; for instance, the use of a book in a seminar, for which she may earn a total of \$7 in royalties. Zentner replied that in a case like that, she'd just need to get permission from her department. The goal is to allow University employees to stay engaged in research activities, but to manage them. Human subject research is a bit more delicate, and based on University experience, there needs to be more oversight, Zentner added.

Buhlmann said that in many industries, there are certain norms about how the value of an individual is assessed. One index of that value can be how much they are compensated. The willingness of faculty to accept compensation could be a signifier of the value of University faculty. Durfee agreed that more thought needs to be given to the issue. He thanked the committee for their feedback.

4. Shield Amendment update: Karen Miksch reported that she had not heard back from General Counsel so the committee should move forward. *Action: Miksch will propose a meeting with General Counsel to include herself and one of the chairs.*

5. FCC/EOAA update: Buhlmann stated that he received an email from FCC chair and vice chair Colin Campbell and Jigna Desai, who met with Katrice Alberts, vice president, Office for Equity and Diversity. The three agreed to meet again, and to include Kimberly Hewitt, director, Office for Equal Opportunity and Affirmative Action. Campbell also met with President Kaler, who has thought about developing a statement from the University on the topic [of academic freedom vs. harassment]. There is a Regents policy on academic freedom and a white paper from this committee, said Buhlmann, so what is needed are reminders and references to these documents, not new policies. Campbell agreed and will be in touch with Buhlmann after the next meeting with the EOAA takes place.

6. Topics for future meetings: Rabinowitz mentioned that the Rochester campus does not comply with the 25% rule and was set up not to do so, which has huge implications for academic freedom. She'd like to it to be included on a future agenda.

Hearing no further business, the meeting was adjourned.

Patricia Straub
University Senate