

Minutes\*

**Academic Freedom and Tenure Committee**  
**Friday, March 29, 2013**  
**10:00 – 12:00**  
**238A Morrill Hall**

Present: Carl Flink, Karen Miksch (co-chairs), William Bart, Phil Buhlmann, William Craig, Barbara Elliott, Karen Ho, Gary Peter, Carol Wells

Absent: Arlene Carney, Brian Horgan, Teresa Kimberley, Jessica Larson

Guests: Associate Vice President and Dean Meredith McQuaid, Stacey Tsantir (Global Programs and Strategy Alliance), Vice President and Dean Aaron Friedman; Scott Petty (graduate student)

[In these minutes: (1) proposed amendments, "Education Abroad Opportunities: Addressing Health and Safety Risks" Policy; (2) committee business; (3) social media and academic freedom]

**1. Proposed Amendments, "Education Abroad Opportunities: Addressing Health and Safety Risks" Policy**

Professor Miksch convened the meeting at 10:05 and welcomed Dean McQuaid, Vice President Friedman, and Ms. Tsantir to discuss proposed amendments to the policy on education abroad. She said she appreciated the level of education that Dean McQuaid's office has been providing for faculty, staff, and students about education abroad and the tools they have been providing so that people can think through international travel and make sure they do so safely. The Committee has been looking at the policy and has amendments to propose dealing with graduate student field research abroad; it has not been looking at courses taught abroad or other kinds of study abroad experiences but is concerned about the potential academic-freedom implications of possible restrictions on graduate student research. The Committee has drafted amendments and wished to have comments on it from those who are involved.

[The amendments propose a change to the authority of the International Travel Risk Assessment and Advisory Committee (ITRAAC), which is "responsible for deciding whether to suspend an education abroad opportunity sponsored by the University when a significant health or safety concern is raised regarding the opportunity. Prior approval of the Committee is required for any education abroad opportunity involving travel by University students to a location subject to a travel warning from the State Department." Prior ITRAAC approval would not be required for graduate student field research abroad but an advisory opinion may be issued by ITRAAC; final approval would rest with the graduate student's adviser and the program's director of graduate studies (DGS). Both Associate Vice President/Dean McQuaid and Vice President/Dean Friedman are members of ITRAAC.]

Dean McQuaid thanked the Committee for the opportunity to discuss the proposed amendments. She noted that she has said before that this is not "her" policy and that her job primarily involves implementing University policies (central and collegiate). She said the University's policy on education

---

\* 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.

abroad is a good one and reflects the trend in Big Ten schools. She also said that she understands the intent of the proposed amendments, said the definition of field research was good ("For the purposes of this policy, Field Research is defined as the collection or creation of information/data/scholarly work outside of a laboratory, library or workplace located within a student or faculty member's home institution or an official University partner institution abroad. The approaches and methods used in field research vary across disciplines.") She said she would take any final proposed amendments from the Senate to the administrative policy team for review. She said the amendments are well done, do represent a change in policy, but are not unheard of elsewhere in the country. She does not object to them in principle, she concluded, but will reserve final judgment until later in the process.

Professor Flink asked what the objections at the central level might be. "Safety," Dean McQuaid responded. Students go everywhere and do amazing things but often they are not adequately prepared to travel abroad. They do need a 24-hour contact for emergencies (which could arise on a holiday, for example). The interests of the adviser and the DGS are different from those of ITRAAC, although the adviser and DGS will no doubt also be concerned about safety. The world is unpredictable and changing a lot; would an adviser and DGS let a 23-year-old who has never been out of the country go off to an anthropological dig in a country that is on the State Department Travel warning list, and insist that an evacuation plan be in place, for example? Dean McQuaid said she's not sure that a faculty team would have the same interests in reviewing a plan for graduate student travel through the safety lens.

Vice President Friedman said that one cannot assume that what the faculty members believe is going on "on the ground" will be true for the student, something the faculty may not understand. A student may propose going to Nigeria, for example, where a faculty member has close relationships with people, but one cannot be sure those relationships would extend to a student if something bad happened. Then what happens if something happens to the student? There are also differences over time and what may have been true for a faculty member in the past may no longer be. The policy edits as proposed by this Committee suggest that the adviser and the DGS understand these things, which may not be true. Dr. Friedman suggested that the Committee reconsider the verb "may" when calling for an ITRAAC review of travel plans for graduate student research abroad.

Professor Miksch said the Committee has tried to balance the interests of the student and the need for an outside view and called for an advisory opinion, but wants to leave final approval in the hands of the adviser and DGS. The student would be required to file the information with ITRAAC, so it would be in the discussion.

Dr. Friedman said that some petitions to ITRAAC appear a week before the student is scheduled to fly out to the research location. If ITRAAC finds something missing in the plans and the student is not permitted to leave, the student may lose money and plans. If ITRAAC can conduct a timely review, it can indicate that things are missing and need to be completed.

Professor Flink said the Committee tried to stay away from minutiae and simply called for timely submission of material to ITRAAC. A week would not be timely. The plan has to be submitted to ITRAAC and the Committee proposed to leave up to ITRAAC to define what "timely" means. The goal was also a way to deal with possible bureaucratic inefficiencies; if ITRAAC indicates the plans are fine, the student can go, but if it sees problems, it can point them out.

Dean McQuaid said that ITRAAC struggles with timeliness. They ask for 6-8 weeks' notice—but about 35% of the petitions come in with less. ITRAAC could deny all those petitions because they are late—but it doesn't because that's not its purpose and it does not want to stop valuable education abroad opportunities. One concern might be that students would see the ITRAAC review as only an advisory opinion and not submit it in a timely fashion or not take their recommendations seriously. Both the student and the faculty members may see any additional steps as bureaucratic behavior and just another step to frustrate plans. ITRAAC members have thick skins and can take the criticism; the problem is when something bad happens to a student. So they worry that a graduate student or advisor might ignore the ITRAAC advice—and if something bad happens, the University will be asked why it didn't have requirements in place to prevent a tragedy.

Mr. Petty said that if an adviser approved travel even in spite of ITRAAC concerns, one would think that "all hell would break loose" for that adviser. The problem could be that it would be seen as an advisory opinion that the adviser need not follow it, Dean McQuaid said.

Dr. Friedman said one question is whether ITRAAC would be expected to send advice to the student's adviser. Professor Flink said that the Committee's idea was that a student would submit a plan to ITRAAC, which would evaluate it and might say that it is in order—and send a message to that effect. The Committee respects ITRAAC's track record but there is reciprocal suspicion about the adviser. If an adviser chose to ignore ITRAAC advice, that would be inexcusable; might there be a way to train advisers or some way to wrestle with the concern that the advice might be ignored?

The range of submissions to ITRAAC is very broad in terms of completeness, Dr. Friedman said, and there is no reason to believe that a graduate student should know what a submission should look like. Is there a way to get at that problem? Dean McQuaid's office is not hard to reach but it is not used enough for advice on this process or others. He also pointed out that it would be the University that would pull a student out of a difficult situation, specifically Dean McQuaid's office, and speaking as a physician, he would prefer to see preparations by graduate students that they would not need 99% of the time—but in the 1% of the cases, if something is not in place, it won't be the adviser who has to deal with a situation, it will be the University, not the advisor that will be on the line. Dr. Friedman noted that ITRAAC has only turned down one petition in several years of reviewing them.

Professor Wells said she was persuaded by Dean McQuaid's concerns and asked her how the proposal might be reworded. One tenet of good management practice is that if someone is given responsibility for a task, he or she is also given authority. If ITRAAC has responsibility to represent the entire University, it should also have authority. Ms. Tsantir said that at present the dean and the adviser write a letter of support that ITRAAC receives prior to making their decision. The result is that ITRAAC then understands the academic need of the opportunity and the academic voice is heard. ITRAAC's job is to balance the academic need with the risk. This is not a case of the academic side being left out of the conversation; this viewpoint is already included, and respected, in the process. She confirmed that this process only applies in the case of countries on the State Department warning list.

Professor Miksch suggested changing the language so that ITRAAC "will" issue an advisory opinion. Mr. Petty asked if a refusal to do so would be an administrative veto; Professor Miksch said that concern is why there is a time frame in the draft.

There is unevenness in the process, Professor Ho said, and the issue is getting the information to the student. There need to be links all over so they know. Her department has high requirements for students and many of them have more connections to the place where they want to do research than the faculty do.

If a student only provides a one-week notice to ITRAAC, Professor Miksch said, ITRAAC members can say they don't have enough time and their advice is "don't go."

Mr. Petty asked about students who go without telling anyone, for whom it never occurs to them that they should ask? He cited the example of a student he knew who went home to Mexico and did some research while he was there. Dean McQuaid said they know that that happens frequently; if there is a disaster (e.g., earthquake, flood), the University doesn't even know to look for them. There is a University policy that allows for consequences if a student does not inform the appropriate people that he or she is traveling for research, but that is not how ITRAAC approaches the problem. The idea is to motivate students to follow policy, which educates them prior to departure and be sure that the University can help if there is a problem.

Professor Flink noted again that faculty members have expressed concerns with the language of the existing policy: It can have a quieting effect because people are deflected from research because they see a difficult procedure to go through. The Committee wants a robust policy that is used; the language of the policy right now is very legalistic. The Committee wants to be sure that critical, daring, innovative research is intelligently supported. It is not the numbers of approvals that ITRAAC has made that is the issue—because nearly all petitions are approved. Ms. Tsantir reported that they are working with the University's policy office to change the policy language to be clearer.

This is a public-relations problem in part, Professor Buhlmann said. Faculty complain about rules and many would ask why they should follow senseless rules. But most faculty would understand immediately about safety concerns if a country is on the State Department warning list. If they understand the rules, they are willing to cooperate. So this could be a language problem. What suggestions does the Committee have to make the language something the faculty endorse, Dean McQuaid asked? She also pointed out that petitions widely differ from one another in terms of content. Part of the problem may be the website, Professor Buhlmann said; it might include examples of exemplary petitions. Dr. Craig reported that he spent about 15 minutes the night before, using the University search engine, to find ITRAAC and never did find the actual policy establishing ITRAAC. That is true for many University searches, Professor Miksch commented: One does not get one wants doing a University search. Many people just use Google instead. If it is difficult for him to find the policy, someone who knows the University and that there's a policy, Dr. Craig said, what about for a student?

Professor Bart suggested collecting data from other ITRAAC-equivalent bodies and developing probabilities for problems in certain locations and building a database. That would require collecting a lot of data, he acknowledged. Dean McQuaid said if those kinds of data are needed, a good place to start would be with the State Department because it has the information—and it would only have political information, not data on earthquakes, fires, tsunamis, and so on. They do have information on the policy approach of other institutions as well as incident data for the University's overseas activities.

Following Committee comments that the policy should go to the Faculty Consultative Committee, Dean McQuaid said she would wait to bring the proposed amendments forward until the governance committees had reached conclusions. Professor Miksch agreed the proposed revisions should go to FCC and to the Faculty Senate for comment.

Dr. Craig said the question of time lines has weighed heavily on Committee discussions. The Committee suggested six weeks' notice. What happens if a student submits a plan and ITRAAC sees a problem? Dean McQuaid said that Ms. Tsantir has a staff person who looks immediately at the submissions and works with the students to finalize the application and get it to the committee quickly.. What happens is that sometimes the student does not re-submit the plan, making the suggested improvements, for weeks. ITRAAC, although composed of busy people (the provost, Associate Vice President McQuaid, Vice President Friedman, Vice Provost Henning Schroeder, and General Counsel Mark Rotenberg), tries to act quickly.

Professor Flink promised to move the proposal forward for additional faculty discussion and let the administration know the outcome. He thanked Associate Vice President McQuaid and Ms. Tsantir (and Vice President Friedman, who had had to depart a bit earlier) for joining the meeting.

Following the departure of the guests, Committee members discussed the proposed amendments.

Professor Wells commented that in the Academic Health Center, many faculty members are overwhelmed with administration; if there is a committee (e.g., ITRAAC) with no authority, people will not pay much attention to it or will ignore it. The amendments remove its authority. The amendments only apply to graduate field research, Professor Flink pointed out. But someone could die, Professor Wells responded. That could happen with or without ITRAAC, Professor Flink said, and in either case it would be horrific. The issue for a number of faculty members is the concern about quieting research. Substituting the word "will" for "may" would require ITRAAC advice, and it is disconcerting that 35% of students do not comply with the policy now, even if Dean McQuaid's office moves the petitions forward anyway in order to allow the education abroad opportunities to happen.

Professor Miksch said that the Committee's concern has been the academic freedom of the student and adviser, weighed against safety issues. She said she is comfortable with "will" knowing that there are resources that both students and advisers can draw on. The current policy can have a chilling effect on research in areas that could be critical where both the faculty and the graduate student believe it can take place.

Dr. Craig suggested that IRAAC could use a yellow-orange-red system, from "OK" to "strongly recommend against." But what happens if ITRAAC strongly recommends against the travel?

Professor Wells said she was not sure that academic freedom trumps all other considerations. She does research in areas where one is told things must be done in a certain way and University committees can veto the research if the appropriate protocols are not followed. If the ITRAAC response to a petition is only advisory, many may not take it seriously.

Mr. Petty said that Professor Wells' view is probably irreconcilable with the spirit of the proposed amendments. Which position argues in favor of the current policy, Professor Flink observed.

Professor Ho said she also is comfortable with the changes and with substitution of "will." In current practice, as the Committee was informed, ITRAAC has only disapproved one petition in several years, but ITRAAC members do not have the on-the-ground understanding of the risk involved. Grounded understanding changes and assumptions by an external group, such as ITRAAC, could be superficial. Academic freedom does not equal irresponsibility; responsibility means longer contact with the site and seeking an advisory opinion from ITRAAC, but the final decision should be with the adviser and DGS. The ITRAAC role should be made easy to find and included in IRB hearings and rules and graduate-student training.

Dr. Craig moved approval of the amendments with the comment that the Committee should observe that while only one petition has been rejected, others have likely been discouraged and that this is not jumping off a cliff because Berkeley doesn't require any approval. Professor Bart concurred and added that it would be helpful if ITRAAC prepared a checklist for advisers to use with graduate students contemplating field research abroad.

The Committee voted unanimously in favor of the proposal. Professors Flink and Miksch will bring the proposal to the Faculty Consultative Committee.

## **2. Committee Business**

Professors Flink and Miksch reviewed several items pending before the Committee.

-- Academic freedom and graduate students (and where they may file complaints) will come up soon. The Committee should devote an hour to a discussion with a group of graduate students about academic freedom issues.

-- An expert on disabilities will be invited to discuss section 10 procedures and involuntary leaves for disability at an upcoming meeting.

-- A representative from the Office of the General Counsel will join the Committee to discuss programmatic change and section 12 procedures next month. The AAUP has developed language concerning programmatic change that will be considered as well.

-- The Committee on Committees has agreed with the recommendation to add two graduate students as voting members of this Committee; they will not have the right to vote on matters related to the tenure policy or the Senate Judicial Committee.

## **3. Social Media and Academic Freedom**

Professor Flink turned to the topic of social media. Is it a matter of insulating the institution—providing legal protection for it—from expansion of social media or is it a concern with the possible negative effects of social media on teaching and research? What position does the Committee wish to communicate to the faculty and the Faculty Senate? A position of openness or a position of "wait and see"?

Professor Miksch said everything circulates around the idea that this is an educational institution and should educate people about what can happen to them when they are not thoughtful in their use of

social media. For example, some items posted by employees on social media sites could be public. Social media postings can have implications for students. The University has no policy on the use of social media, although it does have guidelines. If the Committee believes having no policy is acceptable but wants to ensure that students, faculty, and staff receive education about social media, how does it encourage it to happen? Some institutions have policies, some do not. There are academic freedom and responsibility concerns this Committee should keep in mind as well.

Mr. Petty asked about the difference between demanding access to social media postings and email. Professor Miksch said that the difference is that email is on a University site while social media are on a third-party site. So student-athlete email is also open, Mr. Petty asked? There is a difference between students and faculty/staff, Professor Miksch said. Both employees and students at public institutions have more First Amendment rights than do those at private institutions. But at public institutions, employee emails may be made public on demand; in Minnesota, they are covered by the Minnesota Data Practices Act. University policy, however, allows for limited personal use of email, and those emails are private under the law, but anything related to work that isn't exempt must be made available to anyone who requests it. The same is true for social media sites, which is why at some institutions undergraduate advisers are prohibited from "friending" undergraduates on Facebook, because that mixes the private and the public. Moreover, some students and faculty members post inappropriate materials on Facebook.

Professor Flink agreed that Facebook and similar sites blur the line between public and private. Is a Facebook page correspondence or a platform? His view is that this issue is not yet ripe for a policy discussion. Courts tend to stay away from new fields and let them develop. This Committee could do the same. Professor Miksch agreed and said that it is more important now that people know about the implications of using social media.

Dr. Craig said that he reviewed the minutes of the discussion of social media the Committee held earlier and agreed with the view that a student who violates a professional code of ethics in social media postings can be held accountable. That puts ethical behavior in context in the use of social media; good people do not denigrate others on social media sites. Should the University train people on ethical ways to communicate views to the outside world? He wrote the code of ethics for his field and reviewed a large number of such codes in the process; there are themes that recur about respecting people.

Professor Flink said that part of the problem is that people believe in (God-given) absolute rights and that they can be undisciplined in exercising them (e.g., freedom of speech). But there are no absolute rights and the University needs to communicate an awareness of that fact.

Professor Bart asked about the criticism that people will not say things because they fear retribution. Is the recommendation that faculty and students not join a social media site or that they should be guarded in what they post? They may have legitimate criticisms of something; how do they present them? Professor Miksch said the University should not recommend people refrain from joining social media sites—such an absolute makes her nervous and it violates academic freedom and the use of the sites as a means of communication (for which they are great). People need to know what could be public and, if it is critical of something, that they may have to deal with the reactions to their post. She said she had no idea, when she moved to Minnesota, how open the law is in the state. The University has a strong sense of academic freedom and free speech, but the state also has the Minnesota Data Practices Act, which people must realize before they hit the "send" key.

Professor Ho said that in terms of who has more freedom, it varies, but the more powerful generally have more freedom. The institution should want to protect those who have less power so that they can make their critiques. A concern is that freedom is uneven and depends on power relationships.

Dr. Craig said he is concerned that students are not aware of the basic ethical principle of respect for others. Professor Wells said she tries to follow the rule that one should not put anything in a message that one is not prepared to see go around the world in 10 minutes. Those under 30 do not understand that point, Mr. Petty commented; they have little concept of privacy. He related the story of a peer who has written an article for *Slate* that will essentially make him unemployable for life—but he had no idea it would have that effect. Those under 30 have no idea how what they post on the web can affect them.

The Committee agreed it wished to hear from a University spokesperson on the University's policy or non-policy related to social media. Professor Flink adjourned the meeting at 11:50.

-- Gary Engstrand

University of Minnesota