

Northwestern University
Minutes of the University Senate Meeting May 17,
2007

The University Senate held its second meeting of the 2006–2007 year on November 9 in Hardin Hall on the Evanston Campus. President Henry Bienen called the meeting to order at 3:30 PM.

Meeting called to order

I. The minutes of the November 9, 2006 meeting were approved unanimously without changes.

Minutes approved

II. Don Workman, Executive Director of the Office for the Protection of Research Subjects, presented a report on Institutional Review Board review procedures for non-federally funded grant proposals. He distributed a two-page Report received from the Faculty Advisory Committee to his office. He explained that this report came from a subcommittee of the Advisory Committee to the OPRS and the IRB which had been asked to consider a number of questions. Their charge was to consider whether Northwestern should develop separate review procedures for non-federally funded research. This would not pertain to biomedical research, where the risk level is generally higher. If the subcommittee recommended against separate procedures, they should recommend how to modify current procedures to facilitate student research, especially undergraduate projects that do not fit the typical biomedical model. The Committee was specifically concerned with social science research, where the risks are low to non-existent. In the subcommittee recommended separate procedures, alternative procedures were requested. They reported that they had insufficient time to consider the question of a separate or a single process, but they were able to make appropriate recommendations. OPRS should consider relaxing administrative rules for human subjects research when it is not federally funded and it is otherwise appropriate. The Office should maintain a high regard for ethical principles without presenting administrative obstacles when simplification is possible. Their first recommendation is that changes should be consistent across both campuses. In some research studies, more restriction has been applied to research on the Chicago Campus than on the Evanston Campus. Social science research on the Chicago Campus has, for example, been subject to additional conditions because of the hospital environment where the research is conducted. The second recommendation was that for non-federally funded research the University develop guidelines for various lengths of approval. Projects with low risk level might be approved for a one, two, or three year period. Third, certain forms of minimal-risk research should be considered where dynamic phenomena are being observed and the nature and methods of research may change too rapidly for customary protocol amendments to be practical. IRB approval in such cases would come later, perhaps in the course of an annual review. The fourth recommendation concerned greater use of Exempt Categories of research. In 2006 and 2007 there has been a large increase in the number of social science exemption applications submitted to IRB. Exempt Category research has minimal administrative requirements because it is virtually risk free. Faculty and students should be encouraged to use these categories when appropriate. The fifth recommendation concerns student research. Concern for ethical issues, the reputation of the University, the need for oversight, and unnecessary encumbrance of the IRB process have led to a number of helpful recommendations. Requirements for student research of any type should be clarified further; a new IRB policy has a more clearly written section on this that will be further improved. Departments should take more responsibility for supervising student research rather than involving IRB in such detailed oversight. Initial training of faculty and department administrators will be needed to make this possible. The language in IRB forms and instructions should be simplified to avoid confusion among students and novice researchers. Further, the system must recognize that students have limited time in which to submit and complete course-related research. Finally, the IRB website should further clarify what constitutes student research. Professor Caroline Bledsoe of Anthropology asked for clarification of the question whether there should be a separate system of review. Workman responded that the subcommittee did not have time to answer that question, but they did want to recommend a number of measures to improve the process of review. Bledsoe explained that a student of hers working on an honors thesis in South Africa wanted to include children's photographs of themselves, but under the IRB allowance after two and a half months of review she was permitted only to take half-pictures of people rather than include children's views of other children. This limitation struck at the heart of the study's method and poses severe problems that discourage students from publishing and disseminating their research. It stands in the path of the University's ambition to promote student research, to send students to international places, and encourage them to be adventurous, bright, and improvisatory in their research. Instead, the limitation

IRB procedures for non-federally funded grant proposals

cuts them off from what they can do. Workman replied that her example raises two high-profile issues: identifiable information (photographs) and children. These are not necessarily insurmountable; a system should be in place to deal with them quickly. Bledsoe commented that under the present system she cannot teach the field methods course in anthropology: she is not compliant, and she cannot teach in a way that the students would be compliant.

III. General Faculty Committee chair Paul Arntson took the floor to present his committee's report. He began by presenting the following resolution on Provost Larry Dumas. "The University Senate offers best wishes and support to Larry Dumas and his family in dealing with his surgery and subsequent treatments. We hope for a full and lasting recovery." This resolution was passed by unanimous vote. Arntson next introduced three matters that were discussed with the Provost and President Bienen in a recent Executive Committee meeting. These were introduced for further discussion rather than a vote. Resultant proposals could be introduced for a vote at the November meeting of the Senate. Today's discussion is intended as a forum for input beyond the GFC membership. The first topic was a proposal that membership in the University Senate be determined by election. Under existing statute, membership extends to officers of administration and officers of instruction, including all full-time faculty in the rank of assistant professor and above and other members of various faculties as may be nominated by the Senate. The powers of the Senate are broadly defined to include matters across schools. Under the proposal being discussed, 45 members of the faculty would be elected to serve on the University Senate. In the course of his research, Arntson compiled a roster of University-wide faculty committees, none of which report to the Senate. Another handout prepared for the present discussion is an AAUP list of Traits of Effective Senates. A possible benefit of a Senate comprised of a smaller number of faculty than at present, Arntson said, would be meetings with a larger number of faculty actually in attendance. This number should by any account be greater than the size of the GFC. The proposal is not meant to disenfranchise anybody, he added. Any full-time faculty who wish to participate and vote would still be able to do so. The GFC web site has a Faculty Forum page that provides the opportunity to write blogs on any of the proposals to be discussed today. Charles Dowding asked for a clarification of the relation between Senate and the GFC. Arntson replied that the GFC was formed by the University Senate in the mid-1930s and makes most of its recommendations back to the Senate. The copyright policy discussed a few years ago is an example of that process. Kamal Seth asked how the elected Senate members would be different from other faculty members who would retain their right to participate and vote. Arntson answered that the diffusion of responsibility when everybody is a member results in few showing up at meetings. When a subset is elected and held responsible by their respective schools, there is a greater likelihood they will show up at Senate meetings. When standing Senate subcommittees make reports to the Senate, members thereof would be chairs of the subcommittees. Kamal remarked that it is the agenda of a Senate meeting that most influences whether he attends. The fact of being an elected member would not necessarily replace that motivation. In response to a question by Charles Thompson, Arntson stated some sort of faculty council corresponding to GFC would still be needed to consider faculty issues such as benefits. It would be a standing committee reporting to the Senate. Thompson replied that he had spent some hours working out the functions of the present GFC, and respectfully disagrees with the proposal to elect Senate members, which he said tries to cure a symptom without addressing the problem. The symptom is low attendance. He asked for a show of hands, which revealed that only eight of the GFC's 20-22 members were present at this meeting. He identified three potential problems, one of which is that academic matters within the responsibility of the Senate are being handled to the satisfaction of the faculty. Another is academic matters within the responsibility of the Administration are being handled to the satisfaction of the Administration. Third, there may be issues which are not being identified, developed, and decided on a timely basis in the opinion of some or many of those who are stakeholders in the academic life of the University. This includes members of the faculty, Administration, Trustees, students, staff, alumni, and others. Issues needing to be identified, examined, and understood by the faculty are the responsibility of the GFC. It is within the present powers of the GFC, Thompson added, to create a subcommittee from the faculty at large to make recommendations, which could include numerous measures to select new members, review communications with the faculty, and refine GFC functions. Finally, the proposal to alter Senate membership should not be on the November agenda except as a "sense of the faculty." The Senate does not have the power to change or modify its membership; it could, however, reconstitute or redirect the GFC. Carol Simpson Stern asked whether

*Report of the General
Faculty Committee*

*Proposal for a smaller
elected University
Senate*

this kind of radical change would actually improve Senate functioning. At a time when University leadership changes, she added, is this a wise time to tinker with these bodies on which a new administration will depend for its sense of the faculty? Is a structure of 45 members likely to be more effective? Laurie Zoloth emphasized that a smaller Senate would be one way to build the discursive community that the faculty requires. Kamal Seth voiced his strong opposition to any thought that the timing of a change at the present time is unwise. If the proposed change is a good idea, it should be enacted now without regard to any changes in the Administration. Allen Taflove asked how the faculty would distinguish between levels of responsibility with elected GFC and an elected Senate. Arntson explained that GFC has looked at nine other private universities of Northwestern's stature that have an elected university senate as well as a smaller faculty council dealing with faculty issues and/or having membership in the university senate. This is like making most of the GFC part of the Senate with a smaller part concerned only with faculty matters. The Senate, he added is a University body consisting not just of faculty but also of administration. Taflove commented that the proposed restructuring is more than a cosmetic reshuffling of chairs. It is a change of mission, like the changes made at Duke and Washington University, peer universities that have elected faculty senates and other executive bodies. Faculty there have close relations with their administration and missions to review planned actions by the administration before the actions are taken, so there is faculty input even in the planning stages, whether actions are contemplated by the administration or the trustees. A fundamental change in the mission of the Senate is at stake to make it an active participant in planned moves by the administration or trustees. This was fought for at Washington University and Duke. In researching the proposed change on our Senate, the faculty governance subcommittee of the GFC made exhaustive studies of case histories in peer institutions. What resulted from changes was not adversarial but collegial and constructive for the university as a whole. As it currently stands, Taflove argued, our Senate is moribund, without a perceived mission to work with Administration prior to implementation of any plans. President Bienen commented that the printed list of standing committees identifies units that are mostly functional, like the Parking Committee, and are for the most part not academic. He cannot see how most of them could report to a University Senate that meets periodically. They are chiefly advisory; some have narrowly defined roles, and all have day-to-day administrative functions which do not give themselves to a body that assembles periodically. They do not have broad governance applications. Arntson agreed that they do not necessarily have that bearing. Other committees that he found, including six that are defunct (e.g. the Evanston Academic Affairs Committee), could have a meaningful function under revised governance procedures. Charles Thompson commented that additional homework will be needed to identify which committees are engaged with questions bearing upon University governance by the faculty. The second question considered by the GFC concerned a faculty concerns program in which senior or retired faculty would assist colleagues in the informal resolution of concerns, grievances, or problems which a faculty member feels uncomfortable about bringing before the Administration. This discussion was introduced by GFC vice-chair John Elson. Many other schools, he said, have adopted what they call an ombudsman program. Without adopting that term and the baggage it implies, the Committee has adopted some of its features. One of the main functions of a senior advisor would be to find alternative approaches to resolving problems of faculty members that may not have occurred to them. The procedure could avoid the filing of a formal grievance, litigation, or other formal process that could aggravate disagreements. A senior advisor could play a valuable role as a fact finder in situations where misunderstanding has created a grievance. He or she could also explain the pros and cons of filing a formal grievance. Schools with ombudsman programs have adopted numerous procedural rules that could be considered for adoption here. We would also need to determine whether senior people are available here willing to serve as advisors, what costs are involved, and what functions are served by advisors. Initially, the Administration has thought a resolution system could be tried on a pilot basis with four units: one for WCAS, one for the downtown schools, one for McCormick, and one for the other Evanston campus schools. Charles Thompson asked whether the Administration has approved a pilot program. Elson replied there has been no detailed conversation with the Administration; the system would work only if the Administration were willing to participate and give access to the facts of a situation requiring mediation. President Bienen commented that any such process would need to be discussed with the University's General Counsel Thomas Cline. Anything with a potential for litigation and issues of confidentiality would call for expert legal opinion. Elson added that the types of problem falling within the scope of an informal resolution system would be carefully circumscribed. Kamal Seth asked how existing ombudsman programs avoid legal entanglements. The operational

*Proposal for a conflict
resolution process*

guidelines of several other universities have been studied, Elson explained. Such processes are not legally privileged; there is an understanding that any advisor would maintain confidentiality and a relationship of trust must exist to be effective. As an example of issues eligible for mediation, he gave a dispute whether a 12-month contract is in force instead of a 9-month contract. Because no one at Northwestern has ever served in the role, it is difficult to predict exactly what matters would be submitted for resolution. Carol Simpson Stern remarked that an ombudsman can be useful to junior faculty in a probationary track for tenure who is considering whether to withdraw from the tenure track. These situations do occur, she said. Such persons need to feel they can talk to somebody outside the chain of command. When there is a potential issue of affirmative action, other special protections and privileges, and mainstream non-protected positions, faculty members caught in a dilemma may need a sounding board. It is commonplace to have unusual groups convened to make judgements on issues such as tenure because of affirmative action considerations. A non-protected citizen of the University could wonder about the wisdom of unfamiliar procedures that are protecting special interest groups. Such discussions are extremely loaded wherever they occur. Starting two years ago, GFC has argued the need for an ombudsman on the strength of arguments from the Medical School. The call has been repeated from various quarters over the past three years, suggesting it should be given a trial. Elson added an example where a person said he had been hired to administer a program but when he arrived the role failed to materialize. Allen Taflove said controversies can also arise between faculty members. Even among full professors, severe controversies and accusations can be made. Without the benefit of some internal process, the confrontation goes externally to one or more professional societies. Legal fees multiply, with intense personal agony. President Bienen commented that the University would have great reluctance to appoint a grievance negotiator who is not a University official. Sometimes problems are handled by chairs and deans, but some people involved in a dispute may be reluctant to bring the matter to chairs and deans. Who would handle those situations, and what status do they then have? In a litigious world, legal constraints multiply that limit what can be done by the institution. Elson acknowledged that in the ombudsman roles the GFC has considered the intervening person has no decision-making authority. Senior and emeritus faculty engaging in this role have the advantage of institutional memory, which is otherwise hard to find. Thompson remarked that anyone engaging in an intervening role would need to have sufficient legal protection from the University whether or not they are paid. In response to a chairman who said he would be reluctant to support an ombudsman proposal is that an untenured faculty member with a grievance would not first go to the department chair, Elson said many institutions with ombudsmen recommend the department chair or dean as the first avenue of appeal for redress. But, it was remarked, when a chair acts arbitrarily the faculty or a graduate student is disenfranchised and there is no one to turn to. An ombudsperson then becomes the person to carry the problem to the next level. Another aspect of this program, Elson added, is that the ombudsperson collects data and is able to call attention to a recurring problem. Kamal Seth commented that since an ombudsman's role is purely advisory, there should be no legal jeopardy. Elson replied that most universities with this program have come to the same conclusion. The third and last issue brought forth by the GFC for consideration at this meeting was the regular review of the administration by faculty at peer institutions. Sometimes this is annual, sometimes it is in part public. The Administration has agreed that the Provost's Office and the Program Review Council will oversee a faculty survey approved by the AAU Provosts. The Administration has not supported the GFC proposal for an annual and public survey of faculty about administrator performance. Instead, the Administration has noted its reliance on program review for administrative units. Other universities where such reviews are carried out would need to provide the questions asked if necessary benchmarking is to be possible. Numerous issues of matters and persons to be included, frequency of reviews, and disclosure of findings need to be determined. The GFC will take part in this process with the Provost's office and the Program Review Council. John Margolis remarked that this AAU enterprise is directed to facilities, services, parking, and other subjects in addition to the administration. As this review process is still in development, said Elson, there is no need to conduct a discussion of the matter at the present Senate meeting. Margolis added that there is relatively little flexibility about the questions to be asked in peer data is to be at all useful. The GFC and Program Review Council would have some role in tweaking the proposed survey and perhaps adding some questions. This can be considered sometime in October, he expected.

*Proposal for an AAU
survey of
administration*

IV-V. In view of the lateness of the hour, President Bienen did not offer additional remarks. He thanked members of the Senate present at this meeting for participating in discussion of the matters raised by the General Faculty Committee. There being no further matters brought before the Senate,

*Remarks of the
President*

Adjournment

The meeting was adjourned at 4:55 PM.

Respectfully submitted,

Daniel H. Garrison Secretary to the
University Senate