Faculty Council on Faculty Affairs
4 April 2005

Synopsis: The following items were discussed at this meeting –
1. Faculty Code Promotion Procedures
2. Review Winn Report
3. Research Faculty Issues
4. Faculty Salary Issues

The minutes of the 15 March 05 meeting were approved.

Changes in Promotion Procedures – Chapter 24-54

Wilson noted that the sub-committee was unable to meet due to schedule conflicts, but wanted some guidance from the committee regarding the views of the committee regarding the changes. Specifically:
1. Who should be going up for promotion?
2. Whether recusals for bias should be mandatory?
3. Regarding the recommendations of the council – Should the recommendations be in writing? Should the recommendations be given to the candidate? How specific should the letter be? For example, should it note only the vote? Finally, should there be an opportunity for rebuttal?
4. Regarding the Dean, which parties should be told about a negative council vote? The candidate? The department? Should it be in writing? What is the timing of the decision? What is the content of the negative decision? Should there be reasons?

First, the discussion focused on the first two sentences of Faculty Code Sec. 24-54 prescribing an annual consideration for possible promotion. Vaughn noted that the decision to advise people about their opportunity for promotion is written in general language because each unit has different practices. The Code is a balance between local concerns and University concerns. Graubard noted that each department has some generally informal way to inform the candidate about whether going up for tenure or promotion would be advisable. At “Where it is decided that a candidate shall be considered for tenure,” Walker suggested the following sentence: “When a determination is made to proceed with promotion and tenure considerations, the following procedures are followed.” Wilson raised questions about who should make this initial decision. Graubard noted the “they” who decide is implicit in the language. Sjavik said that it does not need to be defined as to the “they” who are deciding because each department has a different arrangement. Wilson believes that it needs to be more explicit.

Graubard asked about how promotion decisions are handled in dysfunctional departments. Cameron stated that it is handled on a case-by-case basis, and there will be different solutions depending upon the exact circumstances. There are a number of places for resolution of problems, she noted.

Luchtel noted that there is a conflict between Wilson’s interpretation and what is the general practice in most departments. Vaughn noted that we may need to agree to disagree about the meaning of this section. Sjavik noted that there may be two separate meanings for the word “consider” in terms of the type of decisional process. Cameron and Graubard pointed out that you do not want to over-legislate this point. Walker also noted that the term “consideration” can have a variety of meanings that take in local practice. Sjavik noted that this approach has largely worked. Graubard noted that there does need to be a consideration in some fashion. Cameron said that during the different evaluative and mentoring meetings, as well as the candidate’s self-consideration, should be taking place every year as part of Sec. 24-57C and merit salary evaluations. Wilson offered to write language on this point.

Luchtel noted that point two has already been addressed, with substitution of the word “shall.”
On points three and four, Wilson asked about the type of writing that should be supplied. This is the most important decision that is made in the process, he opined, and it should be in writing so that any errors of fact are apparent. Luchtel, referring to the minutes, said that the council has already discussed this issue. Walker said that it might be more productive to have a draft of proposed language on this point. Based on her experience, Cameron said that the chairs are invited to the college councils to provide information and articulate the views of the department. Thus, there is departmental input to the councils. Wilson said that the problem is that the information does not come back the other way. The candidate does not hear about negative information. Vaughn noted that the council has to consider a large number of factors before legislation can be finalized: workload, how much openness, what the faculty member may want (some may prefer an oral explanation), etc. She suggested that it may be better to work from a subcommittee draft rather than trying to draft it as a committee of the whole in the abstract. Sjavik noted that some of the situations that Wilson describes may be an exception; the problems Wilson describes have not been his experience. Scheuer suggested that there might be a middle ground where a candidate “may” ask for feedback. Wilson noted that the response is triggered only if there is a negative decision.

Finally, the group discussed whether this is a purely local problem that can be addressed without re-writing the Code. Cameron said that one could talk with the Provost’s Office, the Faculty Senate or the Ombudsman. Wilson said that he has talked to his dean multiple times and not gotten a reply. Vaughn suggested that she or Cameron would be willing to meet with his department or school administrators. Similarly, Sjavik said that he is not certain that he would want a written negative report about him in this situation. Cameron said that she sees the dean’s report but not necessarily the council’s reports. She has not received complaints from departments about not having the information they need to guide candidates. Sjavik said that his department has been very open about these decisions, and faced no problems. Luchtel said that it seems that part of this is a dean not following the rules, and it is not clear that new rules will make the dean behave differently. Wilson replied that if the dean does not need to say anything, then nothing can happen. Cameron said she cannot tell whether this is a particularized problem or is happening more generally; so far, it has not been an issue. She noted that the dean is the ultimate decision-maker for forwarding the decision to the Provost after a thorough process. Wilson agreed that there is a lot of process at the departmental level but after that, he feels that there is no feedback. His point is that if the dean decides not to give feedback, there is nothing that one can do under the Code to get this feedback. Luchtel asked Wilson for his suggestions after this conversation; he noted that the council reaction so far has been negative and that perhaps Wilson could reconsider his proposal.

Winn Report

Distributing his draft, Luchtel stated that he has attempted to capture all of the discussions and research. He spoke with Dean Ramsey last week regarding clarification of how the settlement was financed, and he believes the numbers in the report are fairly accurate. Luchtel stated that he tried to answer all of the questions that had been raised. For example, the dean had the authority to make this decision. Also, he noted that an important part of this report appears on page five regarding the culture of the medical school.

Part of the problem is that there has been a dispute between medical schools and the federal government about these practices. The federal government has been aggressive about pursuing their position, garnering $169 million in over-billing settlements. Thus, at page six, he described the billing practice issue in Couser’s trial. Some faculty have not felt as comfortable with these practices, and believed that such practices might be illegal although the majority thought these practices were legal. The underlying problem here is interpretation of Medicare billing practices so you can get two different interpretations. He hoped that this report is fair; he has tried to give credit to Dean Ramsey where possible but also reflected the views of the faculty. Although Ramsey said that a large number of changes have been made to promote transparency, it is hard to verify that these changes have taken place. Therefore, he recommends that efforts still need to be made to make these changes clear for faculty and others. Luchtel said that the resident cannot bill unless the attending doctor is there. Given this, there is pressure to bill
so that all costs are recovered and this makes the federal government unhappy. Vaughn noted that a recent *New Yorker* article described the tension between the need to train residents, and to bill patients fairly for the services they receive.

Cameron asked about the transparency issues. She said there was a training that all SOM faculty had to attend about this, and there have been a number of people hired in the compliance area. Luchtel said that he has heard this also, but cannot independently verify this on a web-site or other source. Ramsey stated that reforms show up in council minutes, but that the school still needs to do work in this area. Sjavik asked whether a copy of the draft should be shared with the medical school before we issue it; Luchtel feels we have substantially done that already. He asked for feedback from the council, but feels that we are close to completion. The schedule for various meetings was discussed, and it was agreed that we should vote on the final report at the April 18 meeting. The committee thanked Luchtel for his work.

**Research Faculty Issues**

Vaughn noted that she has heard a growing number of concerns, from faculty and administrators, about research faculty. The concerns cluster in the following areas:

1. quorum problems
2. appointment and retention issues
3. ability to be PI on a grant and act independently

Basically, some research faculty feel they still are not full members of the faculty. On the other hand, some faculty feel that granting research faculty voting rights has complicated faculty governance. Cameron noted that part of the problem may be that research faculty are not viewed as academics and are viewed as research team members or research scientists. Luchtel noted that this issue was brought up when the legislation was originally considered. The basic argument in favor of coverage was that this was a way to permit these faculty to be involved in the department. Responding to a question, Vaughn noted that many few complaints or problems arise with lecturers. Schuer said that there can be systems of two meetings, with a different culture at hiring meetings versus regular meetings. Graubard pointed out that openness to research faculty can vary with local culture, whether it is welcoming or not. Luchtel noted, referring to page eight of the Winn report, that many faculty, not just research faculty, willfully fail or refuse to go to department committee meetings. As he stated, “The enemy is us.” Sjavik asked whether the largest problem has to do with quorums. Vaughn agreed, and said that she has recommended that departments use electronic mail ballots. Cameron had previously supplied a list of departments that have research faculty. Graubard said that some departments have been appointing lecturers at less than 100% to avoid granting lecturers voting rights, but Cameron has not found data supporting that practice. Vaughn said that the concerns have appeared primarily in science departments in arts and sciences. Psychology was also an issue. Cameron reviewed the data for those departments. The committee asked Cameron to provide a similar break-down on lecturers and where they are. Vaughn talked about the ability to do a survey but that we should be cautious about this. This issue will be considered in 2005-2006.

**Faculty Salary Issues**

Luchtel said that he did not have anything to add to Faculty Senate Chair Heath’s recent comments about salaries and the legislative budget. Cameron noted that there may be a two-tiered health benefits plan. The unionized people would have one plan and those who are not (faculty, staff and librarians) would pay more.