The Faculty Council on Research met on Thursday, February 27, 2003, at 8:00 a.m. in 26 Gerberding Hall. Chair Asuman Kiyak presided.

**PRESENT:**  *Professors* Kiyak, Sarikaya, Stewart  
*Ex-Officio* Dworkin, Parks, Zuiches  

**ABSENT:**  *Professors* Booth, Heath, Gordon, Kartsonis, Ruzicka, Tolnay, Troll, Vogt, Vance, Vitaliano  
*Ex-Officio* Sjavik, Stygall, Blake, Ghosh, Kahl, Hogan, Camber

**Synopsis:**
1. Approve agenda  
2. Approve minutes  
3. Conclude discussion of changes to Intellectual Property rules  
4. Other items TBA

Kiyak called the meeting to order at 8:02 a.m.

**Approve agenda**

The agenda was approved.

**Approve minutes**

The January 30 and February 13 minutes were approved.

**Classified Research Project Approval**

Asuman Kayak inquired of Malcolm Parks whether the Research Council should notify anyone that the classified research project submitted by the Applied Physics Lab at the February 13 meeting was approved. Parks said that a letter to the Vice Provost for Research, with copies to Carol Zuiches, Bob Spindel, Arthur Nowell, and Parks, would be appreciated. Kiyak will prepare and send a letter of notification.

**Joint University Councils - Shared Governance**

Kiyak drew Council members' attention to the list of UW units that might potentially be included in a joint University Council for Research, and asked for names of additional offices, committees, boards, or individuals that might need to be included.

The Senate Executive Committee (SEC) has designated FCR as one of two test cases to try the joint committee idea. Kiyak would like to implement this during Spring Quarter, if possible, but is not certain it will be feasible. There have been favorable comments on having an umbrella organization, but the new Council would be quite large. In addition to the administrators from the UW units on the list, there would need to be an equal number of faculty, since everyone would have a vote.

Parks said it was an experiment worth trying, but expressed reservations about the large size of the new version of the Research Council. Brent Stewart wondered if some kind of "split quorum" might be used, to make sure there is enough representation from both faculty and administrators. In that case, no votes could be taken without equal representation from both sides.
Mehmet Sarikaya commented that he is against large councils and committees, and that the proposed joint committee seems to be incredibly big. This could dilute the interests of the research faculty, in favor of secondary or support staff.

Parks asked whether this proposal was born out of some faculty members’ perceptions that they are often involved in University decisions after the fact, or that important decisions are undertaken without faculty representation. Kiyak said this is her feeling.

In discussion, there was a belief expressed that the proposal for joint University Councils with equal votes for administrators has been approved by the Faculty Senate, since it is being implemented in FCR and one other committee. Clarification revealed that the Faculty Senate has not voted upon the proposal and in fact has not even reviewed the proposal. Rather, the Senate Executive Committee has endorsed the proposal and has asked FCR and the Accountability Committee to try to implement it on a test basis to see whether it is workable.

Adopting the "joint councils" plan will almost certainly require Class A legislation to effect a Faculty Code change. In addition to SEC endorsement, this would entail:

- Translation of the proposal into language that specifically amends all relevant portions of the Faculty Code
- Review and approval by a majority of the Faculty Senate, which may include amendments to the proposed Code language
- Passage by the entire faculty by a majority of those eligible to vote, or by a 2/3 majority of those who actually cast a ballot.

Sam Dworkin surmised that the work of a joint University Council on Research would require that the ground work of such a large "umbrella" Council – which is intended to meet only once or twice a year – would be done by smaller units of the Council. "Who are they?" Dworkin asked. Kiyak responded that the plan is for many small subcommittees and ad hoc committees to do this work.

Kiyak envisioned that the proposed Research Council might appoint a subcommittee to research a specific issue, asking an equal number of administrators and faculty to serve, and choosing all members based upon their expertise. As specific tasks and issues come up, Kiyak said, ad hoc subcommittees would be appointed. She said she did not see the need for many standing subcommittees. Dworkin said that something as complex as, for example, the Intellectual Property revisions would be difficult for an ad hoc committee to adequately communicate to a large umbrella council, whose members would then be expected to approve the revisions after hearing them once. This plan might increase representation, but have the unwanted effect of being unwieldy. Dworkin asked the Council to consider which quality is more important.

A big issue for the faculty is adequate and timely representation in the University's shared decision-making. Some believe this representation has eroded, putting the faculty in a reactive position on many issues. In addition, some feel that the proliferation of administration committees, most of which parallel Faculty Councils, has moved many debates out of the reach of Faculty Councils, in some cases until a decision on an important issue is imminent or has even been implemented.

Dworkin said he could not see how a large committee meeting four times a year could improve shared governance – it might just end up rubber-stamping administration decisions. Kiyak saw the value of a large joint council as putting many people on notice about issues in which they may have a stake. Parks hoped the process would be driven by small groups meeting regularly.
Sarikaya said some subcommittees do not require equal representation – some can be 100% faculty. Kiyak saw the value of the proposed joint councils as ensuring that faculty are involved from the beginning of an issue.

Parks said perhaps the proposal stems from some cases where things were not handled collaboratively – he is concerned about the political discussion that will be required to initiate discussion in a useful way on technical issues. Parks shares Dworkin's concern about a super-council not being workable. Sarikaya pointed out that it is more likely for a large council to overlook a serious issue.

Kiyak said she will take back the message to SEC that the Research Council is uncertain about the proposed joint University Councils being a workable approach – there is discomfort and a feeling the joint councils may be unwieldy.

Intellectual Property Revisions - Discussion (cont'd from 2/13/03).

Parks resumed the discussion on Intellectual Property Policy revisions with the intent of obtaining a vote on the policy from the Council. He advised Council members that IPMAC's charge from the President was to develop the best possible policy for Intellectual Property at the UW.

Parks explained that the Council can accept or reject the proposed revisions as is, and may also reject or suggest changes to specific line items with which Council members do not agree, with advice to the President of the Council's objections.

For example, Parks reported, IPMAC voted unanimously to strike Section 2 b.2 on software, on the grounds that:

- It is a premature policy that presumes a debate that has not occurred - it is not clear that there is a compelling business reason for the statement to be as far-reaching as it is.
- The related policy concerns (contractual obligations, significant use of university resources, work-for-hire) are adequately articulated in other sections of the document.
- The term "software" is ambiguous, according to Intellectual Property lawyers.
- The statement is perceived by IPMAC to be inflammatory and detracts from the other proposed changes that need to be made.
- The statement occurs in a section entitled "University-owned materials," which is different from University-sponsored materials. If materials are University-sponsored, faculty members retain a share of the revenues. If materials are University-owned, faculty do not retain a share of the revenues.

Kiyak asked for clarification - a book would then be University-sponsored and faculty would retain some portion of the revenues, while software would be University-owned and faculty would not retain any of the revenues? Parks said this would be the effect.

After discussion, and in view of the prior meeting's discussion and the responses Kiyak has had from around campus, members proposed that the provision in Section 2 b.2 on software be struck, subject to the concurrence of a majority of Council members.

In Section 3, paragraph C, of the Copyright section of the Administrative Policies Statement on software, Council members also recommended that the first sentence, which is essentially the same as contained in the section struck by IPMAC (The University owns all software developed by University faculty and staff within the scope of their employment) be struck and a more nuanced statement about faculty creation of software be inserted. Parks said he and an
attorney from the Attorney General's office who was involved in the draft will try to come up with some model language. There may also need to be a definition of software added.

Kiyak will circulate the minutes and ask Council members to ring in on this issue. Council members can vote up or down, or ask for more discussion at the March 20 meeting. At that time, perhaps substitute language can be drafted or model language be made available for adoption.

At the conclusion of this process, Kiyak will communicate the Research Council's position on the proposed policy revisions, and draft a letter for the Faculty Senate leadership to review and send to the President.

Brent Stewart asked for clarification of Section 2B paragraph 1. Does this mean that every piece of computer code developed in the process of fulfilling a contract must be disclosed, even if the code is not a deliverable under the terms of the contract? This needs to be clarified with the Office of Intellectual Property and Grant and Contract Accounting, so they will not be overwhelmed by Health Sciences computer code. Parks thought not, but recommended that Stewart check with Cathy Innes, UW Copyright Officer, on this point.

The meeting was adjourned at 9:45 a.m. Minutes by Linda Fullerton, Recorder.