

THE UNIVERSITY SENATE OF MICHIGAN TECHNOLOGICAL UNIVERSITY

Minutes of Meeting 373

28 August 2002

Synopsis: The Senate

- (1) heard that President Tompkins has approved seven proposals.
 - (2) introduced Proposal 1-03, Revision of Senate Bylaws.
 - (3) approved the formation of a Task Force on the Academic Calendar.
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President Bob Keen called University Senate Meeting 373 to order at 5:35 p.m. on Wednesday, 28 August 2002, in Room B45 EERC.

1. ROLL CALL OF SENATORS

Secretary Craig Waddell called roll. Absent were At-large Senator Adolphs and representatives from Electrical and Computer Engineering, ME-EM, Mining and Materials Processing Engineering, Keweenaw Research Center, Auxiliary Enterprises, Finance and Advancement, Research and Graduate School/University Relations/Administrative Offices, and Student Affairs and Educational Opportunity. Liaisons in attendance were Becky Christianson (Staff Council) and Dennis Taylor (USG).

2. RECOGNITION OF VISITORS

Visitors included Kent Wray (Provost), Jim Moore (SFWP), Christa Walck (Conflict of Interest Coordinator), and Marcia Goodrich (*Tech Topics*).

3. APPROVAL OF AGENDA

Keen presented the agenda and asked for additions or modifications. There were none. There were no objections to the agenda as presented. [**Appendix A**. NOTE: Only official senate and library archival copies of the minutes will contain a full complement of appendices.]

4. PRESIDENT'S REPORT

The following seven proposals had been forwarded to Provost Wray and President Tompkins for approval: 17-01, Search Procedure for University President; 18-01, Search Procedure for University Administrators; 19-01, Search Procedure for College Deans; 16-02, Procedures for Periods of Financial Stress; 23-02, Task Force on Career Opportunities for Professional Staff; 24-02, Scholastic Standards Revisions; and 25-02, Prerequisite Policy. [**Appendices B-H**]

President Tompkins has approved these seven proposals. [**Appendices I-0**]

Proposal 22-02, Policy on Consensual Relationships has been tabled; Keen will ask that it be taken off the table at the next senate meeting.

The Ad Hoc Task Force on Threatening and Violent Behavior will report its recommendations at the next meeting of the senate.

Policy revisions for tenure, promotion, and reappointment are currently under review by Provost Wray and the university's attorneys.

The Benefits Liaison Group will report at an upcoming senate meeting.

The proposal of the Task Force on Career Opportunities for Professional Staff has been approved; the senate must now elect members to that committee, which will produce a series of proposals on professional opportunities for professional staff. Keen asked the senators to solicit nominations from their constituents for two faculty representatives and three staff representatives for this committee.

President Tompkins has asked the senate to review the administrative evaluation procedures; Keen will ask the senate's Administrative Policy Committee to undertake this review.

The senate's Space Committee has, among other things, procured a new office for the senate: Room 726 in the Minerals and Materials Building.

The senate will address the issue of a 14-week calendar under new business.

Keen urged senators to attend the President's Convocation on September 18.

5. COMMITTEE REPORTS

A. Conflict of Interest

Christa Walck (SBE), the new coordinator of the university's Conflict of Interest Committee, said that she had compared the old version of the conflict of interest procedures with the new version. She encouraged the senate to pass the new procedures as quickly as possible. She presented a time line of the history of Michigan Tech's Conflict of Interest Policy.

The current policy was adopted by the Board of Control in August 2000 and is available at <http://www.admin.mtu.edu/admin/boc/policy/ch3/ch3p13.htm>.

The senate adopted the Interim Conflict of Interest Procedures (Senate Proposal 9-01) in February 2001. These procedures were revised 17 September 2001, and are available at <http://www.admin.mtu.edu/admin/prov/facbook/appb/bapp.htm>.

A proposed revision, which is already being practiced, is that members of the university community would only file a conflict of interest disclosure if a conflict actually exists. The old proposal was extensively reviewed by the university's attorneys. Additions were proposed both by Provost Wray and by Barry Solomon, the previous coordinator of the Conflict of Interest Committee. The proposed changes need to be approved by the senate, the provost, the president, and the Board of Control.

Walck said that the differences between the interim procedures and the proposed procedures were more structural than substantive. She offered the following summary of the significant substantive differences:

1. The preamble now indicates that Board of Control retains the right to amend procedures to address changed circumstances; the BOC does not need to refer proposed amendments to the senate, but they must abide by federal, state, and local laws.

2. In the Statement of General Principles the following points have been added:

"It is incumbent upon the member to disclose sufficient information so that any perception of a conflict of interest can be addressed and satisfactorily resolved."

"Nothing in these procedures should be construed as allowing any member of the MTU community to avoid other obligations under state and federal law. For example, patent and copyright laws must be followed."

"All members must comply with the State of Michigan Statue on Conflict of Interest...."

Section 1.5 has been substantially reduced. The essence of this section is that "No member may undertake any activity that constitutes an actual or perceived COI except as may be expressly approved and/or permitted pursuant to these procedures. It is each member's responsibility to contact the COI Coordinator

if he or she encounters a COI not contemplated by these procedures or if there is uncertainty about the existence of a conflict."

The following phrase has been omitted: "must submit follow up disclosure if circumstances render submitted disclosure materially inaccurate or incomplete."

3. In Category I: Exempt Activities, the opening paragraph--which described what the university expects of its employees--has been deleted. The same is true for most of the remaining categories.

4. In Category II: Conflicts Associated with Outside Professional Service has been modified to recognize that the university now operates under a semester system, not a quarter system. Hence, employees may provide outside professional service for 15 days per semester (as opposed to 10 days per quarter). The proposed revision also requires members of the university community to disclose in writing to their supervisor any outside professional service, whether or not they will result in a conflict of interest.

5. In Category III: External Relationships with Minimal Financial Interests (under \$10,000), supervisors may require that the member submit to special oversight. Members can appeal the supervisor's decision to the coordinator of the Conflict of Interest Committee.

6. In Consulting, competitive advantage to third parties due to MTU employment and multiple concurrent financial, advisory, or occupation programs may create conflicts of interest. Self-authored textbooks may create a conflict of interest; hence, all textbooks must represent the most appropriate choice for that class and must be selected according to merit and appropriateness, not for personal financial gain.

7. In Sponsored Research and Project Proposals: In the new procedure, principal investigators only need to submit conflict of interest disclosure forms if there is a conflict of interest to be disclosed; this section has been significantly shortened.

4.6.2.3 Disclosure of financial interests greater than \$10,000 has been moved to Category IV.

8. In Category IV: Complex External Relationships, Including Outside Business Activities and Entrepreneurial Projects, the following changes have been made:

5.1.1. Definition: ...when member has significant financial interest of \$10,000 or more per year in any outside activity...unless this activity is of a passive nature.

5.3.3 Disclosure & Review: Must submit an annual report to the Coordinator with an update of activities.

9. In Purchases

[OLD 6.1.1.3 deleted: Members who advise the University concerning purchase of equipment or services greater than \$25,000 must disclose relationship in writing.]

Business Relationships with Subordinates

[OLD 6.3.1.2 deleted: Faculty and students that they supervise may develop intellectual properties...that have commercial value.]

10. In Review & Enforcement

7.1 COI Coordinator ...will review submitted COI disclosure forms...that contain conflicts.

Walck said that the new document is structured better than the old one and is more clearly written. She called for questions.

Senator Don Beck asked what percent of the proposed changes were initiated by the Conflict of Interest Committee and what percent were initiated by the university's attorneys. He said that although he served on the Conflict of Interest Committee, he did not recognize some of the proposed changes.

Walck said that most of the proposed changes came from Solomon, the university's attorneys, and the provost.

Beck asked why the proposed changes should not go back to the committee before coming to the senate.

Keen said that this was a senate procedural question. He said that there is pressure to get the proposed changes approved before the Board of Control's October 3 meeting, and that the Senate's Research Policy Committee, which has reviewed the Conflict of Interest Policy in the past, has a fair number of new members who are not familiar with this policy. For these reasons, the proposed changes are being presented to the full senate. Keen said that if that was not acceptable, the senate could alter this procedure.

Walck said that the Interim Conflict of Interest Procedures have been in place for seven years and that it was time that they became non-interim. The university is already operating under some of the proposed revised procedures. She said that most of the changes are structural, not substantive.

Senator Cindy Selfe asked Walck to comment on the proposed change to the preamble, which indicates that the Board of Control does not need to refer proposed amendments to conflict of interest procedures to the senate. She asked if it was normal to include such language in senate proposals.

Keen said that this language codifies what always happens when proposals are reviewed by the university's attorney. Whether or not this paragraph is in the proposal, the Board has the power to change conflict of interest procedures without consulting the senate. This language just reminds the senate of that fact.

Selfe asked if the senate wanted to continue to invest in a system that may not be in best interest of its constituents.

Beck said that he sympathized with Selfe's position: If the Board of Control has the right to amend these procedures without consulting the senate, why is the senate involved in the process at all?

Keen said that this was an effort at shared governance. The senate has input into the system, and the senate constitution, which is approved by the Board of Control, acknowledges that the senate ought to have input into the system. If the senate wishes to remove this statement before sending the proposal to the Board, it can do so. However, the university attorney may then tell the Board that the document is unacceptable.

Beck said that rather than removing the statement, the senate could add something to it, such as "but under normal circumstances, the Board will make an effort to consult in its usual way with the Senate."

Selfe agreed and encouraged adding language that would support the concept of shared governance.

Keen said that as chair of the Financial Stress Task Force, he had argued successfully for inserting such language in the Policy on Financial Stress. He said that perhaps similar language could be inserted into the Conflict of Interest Policy. He said that the proposed revised Conflict of Interest Procedures would be sent to the senate within a few days, and such language could then be considered.

B. Conflict of Interest Committee Election

Keen said that Susan Amato-Henderson (Education) was the only remaining member of the Conflict of Interest Committee. The senate needs to elect two additional members: one to a one-year term and one to a three-year term (the candidate receiving the most votes will assume the three-year term). Keen said that

the current nominees were Ralph Hodek (Civil and Environmental Engineering), Karol Pelc (School of Business and Economics), Bruce Seely (Social Sciences), and Dennis Wiitanen (Electrical and Computer Engineering). He opened the floor for additional nominations. There were none.

Walck said that as the new conflict of interest coordinator, it would be helpful to her to have someone on the committee who has had experience with the position. She said that Bruce Seely was the original conflict of interest coordinator.

Keen closed nominations, and ballots were circulated. Keen instructed senators to vote for no more than two candidates.

Senator Cindy Selfe asked Walck why there were no staff members on the Conflict of Interest Committee, even though conflict of interest procedures and policies apply to staff.

Walck said that she was not responsible for the composition of the committee. She said that the Conflict of Interest Committee was a senate committee and that the senate could constitute it in any way that it desired.

Keen said that the structure of the committee would be in the proposed revised Conflict of Interest Procedures, which would be sent to the senate within a few days. He said that the call for nominations had been circulated to the entire senate.

Senator Becky Christianson said that the call for nominations calls for the election of two academic faculty.

Selfe said that it was unfair to have policies and procedures apply to staff if staff have no voice in forming those policies and procedures.

Keen said that that would be an appropriate point of amendment when the procedures reach the floor of the senate.

Walck said that the proposed revision says the Conflict of Interest Committee will be a permanent committee administered by the MTU Senate, consisting of three members with staggered terms.

Keen said that in that case, staff could be elected.

Selfe asked if the senate should continue the selection of candidates and hold another election.

Keen said that he had opened the floor for nominations.

Senator Chris Williams said that she had wanted to serve on the Conflict of Interest Committee last year, but that Keen told her that because she was not a member of the faculty, she could not serve on this committee.

Keen said that unless that passage Walck had read was a change from the previous Conflict of Interest Policy, he had been in error, in which case the senate may need to redo this election.

Senator Debra Bruch MOVED that the election be invalid and that nominations be reopened.

Walck said that the old Conflict of Interest Procedures also say that the Conflict of Interest Committee will consist of three members.

Bruch said that this was a matter of unintended misrepresentation.

Keen proposed that the senate redo the election at its next meeting.

Senator Steve Seidel asked if the senate needed to vote on this since Bruch had made a motion.

Keen said that if an election is damaged procedurally, then the election is invalid.

Senator Bill Gregg asked if the composition of the committee was covered in the senate constitution.

Keen said that it was covered only in the Conflict of Interest Policy.

Senator Larry Sutter asked what Christianson had read from calling for the election of two academic faculty.

Keen said that that was a call from himself or Jeanne Meyers, which was in error. Keen apologized for the error.

Keen said that he would renew the call for nominees and amend it to include both faculty and staff. He said that he presumed that students would be excluded from membership on this committee.

Walck said the Conflict of Interest Policy says that members of the committee shall be "members of the MTU community." She said that the MTU community included all faculty, staff, students, and administrators of MTU.

Selfe asked if the Conflict of Interest Policy applies to students.

Keen said that it applies to all members of the university community. He said that he would issue a call for nominations to the whole university community.

Strong said that the Conflict of Interest Policy also applies to members of the Michigan Tech Smart Zone Board.

USG Liaison Dennis Taylor said that his interpretation was that the policy applied to employees of the university.

Keen said that that isn't what the policy says.

Taylor said that he wasn't sure how students could follow this policy, since it refers to reporting to one's supervisor, etc.

Williams said that the policy was probably more relevant to graduate students, who do research and teach classes.

Senator Tony Rogers said that the policy would also apply to undergraduate students who worked in the Enterprise Program.

Seidel asked if the call for nominations would go to the entire student body.

Keen said that it would, probably by way of the Undergraduate Student Government and the Graduate Student Council. He said that the senate would then elect the members of the committee.

Senate Assistant Jeanne Meyers asked if the current selection procedure was based on the Interim Conflict of Interest Policy or on the Proposed Conflict of Interest Policy.

Keen said that it would have to be based on the interim policy since the proposed policy was not yet approved.

Keen asked if the Interim Policy limited membership on the Conflict of Interest Committee to academic faculty.

Meyers said that she believed that it did.

Provost Wray said that it did not, and neither does Board of Control Policy.

Walck said that the Conflict of Interest Committee only meets to consider Category 4 conflicts. She read from the policy, "This shall be a permanent committee, administered by the Senate, consisting of three members."

Selfe said that this implied that the committee members would be members of the senate.

Keen said that it didn't. He said that he would refer this and other questions to one of the original authors of the policy to clarify the intent of the policy. He added that the senate may wish to alter the original intent. Meanwhile, the senate will prepare for another election at its next meeting.

Beck said that the senate should not be electing student representatives.

Keen said that this could be discussed at the senate's next meeting. Keen said that, currently, if there was a conflict of interest regarding a student, the president of the senate, working with the administration, could appoint a student to the Conflict of Interest Committee on an ad hoc basis.

Beck said that students, not the University Senate, should elect student members to the Conflict of Interest Committee.

Keen said that this point could be discussed at the next senate meeting.

6. NEW BUSINESS

A. Proposal 1-03, Revision of Senate Bylaws [Appendix P]

The senate constitution requires that the senate's representation units be updated annually. Since the Department of Mining and Materials Processing has been eliminated, the senate will need to vote to amend the unit-representation list. This vote will be held at the senate's next meeting.

B. Proposed 2002-2003 Meeting Dates [Appendix Q]

Keen presented proposed University Senate meeting dates for the 2002-2003 academic year.

C. Selfe MOVED and Ellen Seidel seconded the motion to approve the meeting dates as presented.

Keen called for discussion.

Waddell asked if meeting on September 11 might be a problem because of memorial services and events planned for that date.

Keen asked if others on the senate shared this concern. No one did.

The motion to approve PASSED on a voice vote with no dissent.

C. Senate Committee Assignments [Appendix R]

Keen presented a preliminary list of standing senate committee assignments and asked the interim chairs to convene the committees prior to the next senate meeting, arrange the election of committee chairs, and report the results of those elections to Senate Assistant Jeanne Meyers. The senate will approve the assignments at its September 11 meeting.

D. Creation of Task Force on the Academic Calendar

Keen said that when President Tompkins meet with the University Senate on May 2, 2002, he (Tompkins) expressed support for a 14-week semester, as recommended in Senate Proposal 11-99. Keen said that there is some pressure to make decision on this matter since many university-related events and

publications have to be scheduled more than a year in advance. He asked the senate's permission to form and appoint members to a Task Force on the Academic Calendar. There were no objections.

Senator Dickie Selfe asked whether the committee would be charged with proposing a 14-week calendar or with considering the advantages and disadvantages of such a calendar.

Keen said that the committee would be charged with composing a 14-week calendar. The Senate would then vote to support or oppose such a calendar.

Keen asked if there were objections to his appointing an academic calendar committee. There were none. Keen called for volunteers to serve on this committee by contacting himself, any of the other senate officers, or Jeanne Meyers. The senate will vote to approve or oppose appointments at its September 11 meeting.

7. ADJOURNMENT

C. Selfe MOVED and Senator Jim Turnquist seconded the motion to adjourn. The meeting adjourned at 6:28 p.m.

Respectfully submitted by Craig Waddell
Secretary of the University Senate