THE UNIVERSITY SENATE OF MICHIGAN TECHNOLOGICAL UNIVERSITY

Minutes of Meeting 405

21 April 2004

Synopsis:

1. The Task Force on Intellectual Properties and E-Learning updated the Senate on its progress.
2. The Senate approved Proposals 24-04, Title and Administrative Position of Dean, 37-04, BS Program in Biological Sciences, Fish Biology Concentration, 38-04, Formats for Proposing New Academic Programs, 39-04, Review and Reappointment of Deans of Colleges, and 42-04, Evaluation Procedure for the President.
3. The Senate remanded Proposals 40-04, Wireless Spectrum Usage Policy and 41-04, Wireless Lan Usage Policy to the Computer Committee for further consideration.

President Robert Keen called University Senate Meeting 405 to order at 5:30 p.m., Wednesday, 21 April 2004, in Room B45 EERC.

1. ROLL CALL OF SENATORS

Secretary Terry Monson called roll. Absent were At-large Senator Tony Rogers and representatives from Army/Air Force ROTC, Computer Sciences, Humanities, ME-EM, Physics, the Keweenaw Research Center, Academic Services-Engineering, Auxiliary Enterprises, and HR and Facilities Management.

2. RECOGNITION OF VISITORS

Visitors included Pauline Moore (Co-chair, Task Force on Intellectual Properties and E-learning), Ryan Olson (*Daily Mining Gazette*), Robert Froese (SFRES), Carol MacLennan (Social Sciences), Jennifer Daryl Slack (Humanities), Patty Sotirin (Humanities), John Adler (Biological Sciences), Brenda Helminen (IT), Kent Wray (Provost), Marcia Goodrich (*Tech Topics*), Max Seel (College of Sciences and Arts).

3. APPROVAL OF AGENDA

President Keen presented the agenda and asked to move discussion of the Dickmeyer Report to follow New Business. There were no objections to this change. He then asked if there were any other modifications or additions to the agenda. There were no modifications and no objections to the revised agenda. [**Appendix A**. NOTE: Only official senate and library archival copies of the minutes will contain a full complement of appendices.]

4. APPROVAL OF MINUTES FROM MEETINGS 403 AND 404

Meeting 403: President Keen presented the minutes from Meeting 403 and asked if there were any additions or corrections to these minutes. Senator Bill Gregg asked that the following parenthetical remark be inserted on page 10808, column two, sentence one, before the words Senator Pickens " (Senator Gregg later added that although the Committee approved of the curricular aspects of the Concentration, the Department of Education was concerned about several non-curricular aspects of the proposal, and subsequently voted against it on the Senate floor.)" This clarification will be entered in the minutes. There were no other corrections and the minutes were approved as corrected.

Meeting 404: President Keen presented the minutes from Meeting 404 and asked if there were any additions or corrections to these minutes. There were no corrections and these minutes were approved with no objections.

5. PRESIDENT'S REPORT

President Keen's remarks included:

1. The following eight proposals were sent to the Administration for approval: 28-04, Additional Grades of 'E*' and 'U*' Indicating Academic Dishonesty; 29-04, New Grade of 'IS' for Courses In-Session at Grade Deadline; 30-04, Amendments to the Academic Renewal Policy; 31-04, BS Program in Wildlife Ecology and Management; 32-04, BS Program in Engineering Technology, Concentration in Construction Management Technology; 33-04, BS Program in Electrical Engineering, Concentration in Photonics; 34-04, Termination of the Minor in Speech Presentation; and 35-04, BS Program in Mathematical Sciences, Concentration in Education Program. **[Appendices B-I]**

2. The Administration approved three proposals: 25-04, Minor in Manufacturing, 26-04, Minor in Product Design, and 27-04, Amendments to Proposal 17-02 Late Course Add Policy. **[Appendices J-L]**

3. The Senate received notes of thanks from and transmitted notes of thanks to Board of Control members who participated in the informal Senate-Board discussion of 14 April 2004.

4. Various budget reports are now posted on the Administration's website.

5. The faculty lounge in Wadsworth Hall will be a reality. A task force of faculty is needed to offer advice on furnishings and decoration of the lounge. Keen asked senators to solicit volunteers to assist in this endeavor.

6. Keen reminded senators to encourage their constituents to vote in the senator at-large election.

7. There will be a special meeting of new and continuing senators on 28 April 2004 to elect new officers.

In discussion of item 5, Senator Deb Bruch asked the purpose of the lounge, which Keen explained. Senator Susan Amato-Henderson asked if the space allocated to the lounge might be better utilized for other purposes since she thought the lounge would not be well used due to its location. Keen responded that the task force could raise that issue.

6. COMMITTEE REPORTS
University Senate Task Force on Intellectual Properties and E-Learning: Update on Progress
Pauline Moore, Task Force Co-Chair, briefed the Senate on the Task Force's progress. **[Appendix M]**

Besides Moore, Task Force members include Carol MacLennan, Co-Chair, representing the faculty and the Senate Academic Policy Committee, Craig Friedrich, representing the faculty and the Distance Learning Implementation Committee (DLIC), Mick McKellar, a Senate professional staff appointee, and Ed Nadgorny, representing the faculty and the Academic Policy Committee.

The Task Force's charge is to: (1) undertake a review of the University's current policy on copyright, especially as it pertains to e-learning and (2) make recommendations to the Senate for amendment or replacement of this policy.

Moore provided the history of the Task Force. It transitioned from a DLIC subcommittee to a Senate task force during October 2002 to February 2003 and began meeting on a regular basis in March 2003, at which time it reviewed work of the DLIC subcommittee, read key materials on copyrights, and met with Marti Banks-Sikarskie, Director of Extended University Programs and Jim Baker, Director of Corporate Services' Tech Partnerships. In fall semester 2003, the Task Force met bi-weekly and reviewed results of five MTU focus groups on intellectual property (IP) and distance learning (DL), reviewed 18 academic IP or copyright policies, sought advice from a consultant (Laura Gasaway, Professor of Law and Director of the Law Library, University of North Carolina - Chapel Hill), and began to define key terms. In spring semester 2004, the Task Force reviewed MTU documents related to IP, created and analyzed potential MTU copyright scenarios, and established premises concerning ownership and policy directions.

Primary MTU IP-related policies and procedures are found in: (1) Chapter 18 (Patents) of the Board of Control Policy Manual, (2) paragraphs 3.3.4 and 9.4.2 of the Tenured/Tenure-Track Faculty Handbook, and (3) Chapter 11.1 (Patent and Other Proprietary rights) of the MTU Operating Procedures Manual. The latter indicates that "Books, articles, manuscripts, and works of art (except to the extent that they contain proprietary information related to inventions or computer software) are not included in this policy." This key statement gave some direction for the Task Force to follow.

In its deliberations, the Task Force

· Identified potential authors/creators, including MTU faculty, faculty adjuncts, visiting scholars, researchers, emeriti faculty, represented and non-represented staff, students, former employees and students and independent contractors and consultants.

· Adopted e-learning terms, which distinguish between "technology-delivered-learning" and "technology-enhanced-learning." The former is based upon Robert H. Jackson, "Defining e-learning - Different Shades of "online …a Definitional Protocol, http://www.knowledgeability.biz/weblearning/#Different%20Shades%20of%20Online and includes instruction in the form of a "complete technology-based package of content, assessment materials, and structure for interacting that permits a course to be taught without requiring physical access to students" (based upon Penn State's criteria), with learners being traditional on-campus students, non-traditional populations, or a blend who work independently, meet in designated physical locations, or participate in virtual communities. The latter is based upon Penn State's criteria and includes learning enhancements intended to augment or supplement, but not replace conventional classroom teaching, and are subordinate to instructor-led sessions.

· Reviewed Section 106 of the US Copyright Act of 1976, which generally permits owners to do and/or to authorize others to do the following regarding copyrighted work: reproduce, prepare derivative works, distribute copies, perform and/or display publicly.

· Discussed "unbundling," the set of rights that belongs to IP owners that may be allocated so as to optimally support the mutual interests of university, faculty, staff and students (based upon a consortium of various universities' recommendations). This consortium: (1) affirms "the right of creative faculty members and others to retain primary control over their new works [and] … [recognizes] that sharing of knowledge is central to the success of academic institutions…" and (2) suggests that creative initiative, control of content and extraordinary compensation or support be the "three key factors for reevaluating the relationship between the faculty member who creates a new work and the university."

· Considered "work made for hire" as a possible stumbling block in US Copyright law. Work made for hire is defined as "a work prepared by an employee within the scope of his or her employment; or a work specially ordered or commissioned for use as [list given] … if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire" [see Copyright Basics (circular 1) http://www.copyright.bov.circs/circ01.pdxf]. The Task Force found that the US Supreme Court made clear that the interpretation of the statutory definition of work for work for hire must be guided by the common law of agency, i.e., the fundamental question is whether the employer had the right to control the manner and means by which the work was produced.

· Concluded that: (1) universities lack the right, for reasons of academic freedom, to supervise scholarly production, which means that a wide range of faculty works are probably not works for hire and (2) the university professor has been the sole author and copyright owner of most new works in higher education.

Senator David Hand asked Moore about oversight of tables and quotes from textual materials used in distance learning. Moore recommended that someone or some unit should oversee IP practices at MTU. She suggested that a new standing committee be established for this purpose and that, after a

year or so of operation, it should report on its activities, and then continue with regular periodic reports.

Keen provided some insight on Chapter 11 of the Procedures Manual. A previous Vice President for Research (Ray Decker) wanted to have MTU's IP agreement amended so that it assigned all patents and copyrights to MTU and not to the individual inventor. Since several faculty members did not agree to give up copyrights to the Research Office, the agreement was not revised to include copyrights and a paragraph was added to ensure that copyrights belonged to the author and not the University.

Senator Ron Roblee commented that he recalled that all faculty members were asked to sign a revised IP agreement, but that many did not do so.

Keen thanked Moore for her presentation and indicated that the Senate looked forward to the Task Force's recommendations next academic year.

7. UNFINISHED BUSINESS
A. Proposal 24-04, Title and Administrative Position of Dean [See minutes, page 10736, for a copy of this proposal.]
In meeting 403, the Senate tabled discussion of this proposal until meeting 404. In meeting 404, an amended version of the proposal was introduced. [**See minutes, page 10852.**]

Senator Marilyn Cooper MOVED (Senator Anil Jambekar support) to approve Proposal 24-04, as amended.

The motion carried in a voice vote (all Senators).

B. Proposal 37-04, BS Program in Biological Sciences, Fish Biology Concentration [See minutes, page 10861, for a copy of this proposal.]
Senator John Pilling MOVED (Senator Bill Gregg support) to approve Proposal 37-04.

The motion carried in a voice vote (At-large and academic senators only).

C. Proposal 38-04, Formats for Proposing New Academic Programs [See minutes, page 10863, for a copy of this proposal.]
Senator Gregg MOVED (Senator Jim Pickens support) to amend this proposal as indicated in Senate meeting 404. The amendments are: (1) add the following bold phrase to number 6 Curriculum Design **(refer to format of degree audit form)**. **Indicate subject areas to be used for Departmental GPA calculation**, (2) add a new number 9. Computing Access Fee, and (3) for the format for new concentrations, add the bold phrase in parentheses to number 4 Curriculum Design **(refer to format of degree audit form)**.

The motion to amend carried in a voice vote (At-large and academic senators only).

President Keen ruled that these changes were clarifying amendments and that the Senate can vote on the amended proposal. There were no objections to that ruling.

Senator Susan Amato-Henderson MOVED (Senator Cooper support) to approve Proposal 38-04.

The motion carried in a voice vote (At-large and academic senators only).

8. NEW BUSINESS
A. Proposal 39-04, Review and Reappointment of Deans of Colleges [Appendix N]
Senator Cooper MOVED (Senator Roblee support) to approve Proposal 39-04.

Senator Cooper explained that this proposal originated in the Administrative Policy Committee and was aimed at decentralizing the review process in each college, i.e., each college's faculty would

develop its own procedure. Neither the College of Sciences and Arts nor the College of Engineering wanted a uniform policy so, in a meeting with the Provost, the Committee decided to decentralize the review process.

Senator Pickens asked for clarification of the second use of the term "college" in the second line of the fifth paragraph. Does the term "college" refer to a college committee or the college constituency? Cooper indicated that it was the college constituency. Pickens then MOVED (Cooper support) to amend the proposal to add "constituency" after "college." The motion carried in a voice vote (academic and at-large senators).

Keen ruled that the amendment was clarifying and not substantive and that the Senate could consider the main motion. There were no objections to that ruling. The main motion was approved in a voice vote (academic and at-large senators).

B. Proposal 40-04, Wireless Spectrum Usage Policy [Appendix O]
Senator Scott Pollins MOVED (Senator Jim Turnquist support) to approve Proposal 40-04.

Senator Bruch asked about the cost of the proposal. Senator Pilling, the Computer Committee Chair, indicated that the proposal did not involve any cost.

Senator Pickens introduced Robert Froese, who had several questions about the fourth paragraph. In it, certain devices are exempted but other devices are not (e.g., ham radios, remote car door openers). He felt that the proposal should be reworked to reconsider the exceptions.

Senator Don Beck thought Froese's suggestions were useful and suggested that Froese be named to the Committee.

Senator Pilling indicated that the proposal is designed to reduce interference to wireless access points in adjacent rooms. Senator Gregg asked if there were any federal laws keeping certain frequencies open. Brenda Helminen (IT) stated that the University can control all frequencies on campus. Gregg then asked why there should be restrictions across campus rather than in certain parts of the campus. Helminen indicated that IT needs the flexibility. Senator Bruch commented that wireless is creating problems and asked if wireless is the problem. Helminen responded negatively.

Senator Cooper asked what other devices should be exempted. Froese suggested police wireless and amateur radio and reiterated that the list is inconsistent. Some devices with ranges of 30 feet need to be registered while others with a wider range (e.g., CBs) do not. Helminen responded that CB frequencies do not overlap with wireless but amateur radio frequencies may. She also agreed that further work is needed for the exception list but that there was a need to get a policy accepted as soon as possible.

Froese asked why a policy is needed when there is no demonstrated interference. Senator Beck added that the issue of exemptions can be addressed as needed and that he would like more work to be done on the proposal so that it addresses problems that are known to exist. Helminen responded that there are problems today, e.g., the Electrical Engineering's Robotics lab obliterated wireless to the ski hill. She felt that it is not too early to be thinking about wireless issues.

Senator Amato-Henderson suggested that the policy should include devices that need to be included rather than list those that are exempted.

Senator Beck suggested that a campus information campaign is needed in order to educate the campus on what is needed and what is not. He also did not want to see another committee become involved in approval of computer purchases.

Senator Alan Brokaw asked about the preferences given to older devices in the proposal and suggested that perhaps new devices are better.

Senator Gregg felt that the proposal gave the impression that there is a strategy to deliver campus wide wireless to every academic department. Helminen indicated that the Committee removed that strategy from the proposal. Gregg asked further if there were any reasons why two departments in the same building could not cooperate to establish networks. Helminen responded that wireless transmitters are not localized and can leak out of buildings. IT wanted to see the technology limited to three non-overlapping frequencies for the 22 academic departments. There is a need for campus-wide management of all wireless networks and most universities build a campus wide wireless network.

Senator Tomas Co commented that the problem is both a technology and a conflict issue. If registration is required, then it may not be desirable to have IT resolve the conflict issue; perhaps, another group of experts could do so. Helminen responded that IT has no vote on the Wireless Spectrum Review Committee (WSRC), which means that it is not involved in conflict resolution.

Senator Bruch MOVED (Senator Beck support) to remand the proposal to committee in order to clarify issues discussed at this meeting, to appoint Robert Froese to the committee, and add student representation or ensure student input to the committee. Senator Pilling indicated that the Committee had no objections to the motion.

Senator Gregg asked if all devices shut down when interference exists. Helminen indicated that they slow down when there is minor interference and that they shut down when there is major interference.

Senator Roblee asked if the committee had student representation. Senator Pilling responded negatively. Senator Pickens asked if the Committee had ideas of student thoughts on wireless. Froese indicated that the amateur radio club is concerned. Senator Bruce Mork suggested that the IEEE student chapter would be a good source of student input.

In a voice vote, the Senate approved Senator Bruch's motion to remand Proposal 40-04 to committee.

C. Proposal 41-04, Wireless Lan Usage Policy [Appendix P]
Senator Amato-Henderson MOVED (Senator Pollins support) to remand Proposal 41-04 to committee.

Senator Pollins commented that this proposal calls for an enabling policy that permits wireless devices that are not prohibited.

The motion was approved in a voice vote.

D. Proposal 42-04, Evaluation Procedure for the President [Appendix Q]
Senator Cooper, Chair of the Administrative Policy Committee, introduced the proposal. She noted that no other Michigan public university has a similar policy. Reasons for its introduction included a request by the previous President (Curt Tompkins), a need to replace the current cumbersome policy, Interim President Glenn Mroz' interest in evaluation next academic year and the Committee's thinking that a regular, simple process that promotes communication is better than a referendum.

Senator Cooper MOVED (Senator Gregg support) to approve this proposal.

The motion was approved in a voice vote.

E. Proposals 43-04, Master of Forestry Spin-off from Master of Science in Forestry, 44-04, Master of Science in Forest Ecology and Management Spin-off from Master of Science in Forestry, 45-04, Master of Science in Applied Ecology Spin-off of Master of Science in Forestry, and 46-04, Master of Science in Forest Molecular Genetics and Biotechnology Spin-off from Master of Science in Forestry [Appendices R-U]

Senator Gregg explained that these proposals will show specialization in forestry disciplines. The Curricular Policy Committee extensively reviewed these proposals and they are ready for action at the next Senate meeting.

Senator Pickens commented that the proposals involve no new classes, might add new students, and have no financial implications.

F. Proposals 47-04, BA in Communication and Culture Studies with a Concentration in Communication in Contemporary Culture, 48-04, BA in Communication and Culture Studies with a Concentration in Communication in Human Interactions and Global Contexts, and 49-04, BA in Communication and Culture Studies with a Concentration in Communication Media [Appendices V-X]

Senator Gregg explained that these proposals call for one new degree program with three separate concentrations. They too have had extensive review by the Curricular Policy Committee and are ready for action at the next Senate meeting. He commented further that they will add to the range of programs available at MTU, which might help to offset cycles in engineering enrollment. He cited data indicating that psychology and communications programs each enroll as many students as engineering programs nationwide.

Senator Hand asked about job placement for psychology and communications graduates. Gregg responded that placement was good. Employment in health, human services, and other services is growing while Michigan has lost manufacturing jobs.

Discussion of Dickmeyer Report
There was no time remaining to discuss this report. It will be discussed at meeting 407.

9. ADJOURNMENT
Senator Bruch MOVED (Senator Jambekar support) to adjourn. The motion carried and Senate meeting 405 adjourned at 7:30 p.m.

Respectfully submitted by Terry Monson
Secretary of the University Senate