

## FACULTY SENATE EXECUTIVE COMMITTEE

Minutes of November 15, 2006

(unapproved)

The Faculty Senate Executive Committee met at 2:00 PM on Wednesday, November 15, 2006, in 567 Capen Hall to discuss the following agenda:

1. Approval of the Minutes of October 25, 2006
2. Report of the Chair
3. Reports on the Office of Postdoctoral Scholars and Comprehensive Graduate Program Reviews  
Marilyn Morris, Associate Dean for Graduate and Post-Graduate Education
4. Discussion of Intellectual Property Issues  
Jeffrey Dunbar, Director, UB Office of Science, Technology Transfer and Economic Outreach
5. Executive Session
6. Adjournment

### **Item 1: Approval of the Minutes of October 18, 2006**

The Minutes of October 25, 2006, were approved.

### **Item 2: Report of the Chair**

The Chair reported that at its most recent meeting, the Graduate School Executive Committee (a) established a new minimum requirement of 3.0 for admission to Masters programs; (b) indicated that the increase in application fee to graduate programs (from \$35 to \$50) is likely to take effect on December 1, 2006; (c) the age for GRE scores will likely be set for 5 years, since the Educational Testing Service will not report scores older than five years; (d) new rules and regulations for the Schomberg Fellowship are being developed; and (e) there would most likely be no central policy on the scheduling of graduate courses.

Professor Nickerson announced that the issue of *The Reporter's* new policy of not publishing letter to the editor has been addressed. A new policy is being developed by the Vice-President of External Affairs; this will be reviewed by the FSEC, and Professor Boot will be asked to comment. Once the policy is in place, resumption of publication of letters will be resumed.

### **Item 3: Reports on the Office of Postdoctoral Scholars and Comprehensive Graduate Program Reviews**

Marilyn Morris, Associate Dean for Graduate and Post-Graduate Education, introduced as ground information three recommendations formulated in March 1998 by the Association of American Universities Committee on Post-Doctoral Education chaired by former UB President Steven B. Sample. These are:

1. A central administrative officer should be assigned responsibility for monitoring postdoctoral policies to assure consistent application of those policies across the institution.
2. The university should establish core policies applicable to postdoctoral appointments., in particular, employment or student category; realistic institutional minimum stipends and benefits; faculty responsibilities for mentoring and evaluation of postdoctoral appointees; career advising and job placement; misconduct; and grievance procedures.
3. The university should establish explicit guidelines for recruitment and appointment of postdocs and for the duration of their appointments.

These were followed in 2005 by a published AAU Postdoctoral Education Survey, carried out to determine to what extent these recommendations had been implemented. In 2005-2006, the Postdoctoral Affairs Committee under Suzanne Laychock/John Yeh surveyed the postdoctoral community at UB, and recommended the formation of an Office of Postdoctoral Affairs to establish policies, and provide services and programs for postdocs. This led to the establishment this past summer of the Office of Postdoctoral Scholars (OPS). Housed in the Graduate School, the OPS provides a formal communication link among postdoctoral scholars, faculty, and the University administration, as well as assistance for new

postdoctoral scholars with information for new employees at UB including off-campus housing, and tips on life in Buffalo. The OPS plans also to offer all scholars enhanced training opportunities through targeted seminars and research symposia, as well as to host social functions for postdoctoral scholars from across the University. Special events and services for International Postdoctoral Scholars will also be highlighted. Its mission includes support and guidance for faculty who employ them.

Associate Dean Morris has created an advisory committee, composed of faculty throughout the University in programs having postdocs, to address policies and procedures and suggest programming. The committee will also identify several key issues, among them international students, affirmative action, classification, and human resources. Professor Batalama asked if the OPS intended to establish a minimum salary for postdocs; Dean Morris responded that this is not one of its top priorities; she added that certain programs -- at Roswell Park, for instance --- already follow established guidelines. Provost Tripathi added that the issue is complicated by various factors, including the amount a faculty member brings in for the postdoc, what percentage is paid, and for how long.

Dean Morris then reported on the Office of Comprehensive Program Reviews (OCPR), designed to facilitate the graduate and (SUNY-mandated) undergraduate program reviews. The departments reviewed in 2005-2006 were reviewed more or less under guidelines already established by Arts & Sciences; since May 2006, new guidelines and timelines are now in place for all reviews. The process will involve both a self-study and an evaluation from outside reviewers; these will elucidate action items and other issues which need to be addressed. The overall goal, of course, is to improve the quality of the programs.

#### **Item 4: Discussion of Intellectual Property Issues**

Jeffrey Dunbar, Director at the UB Office of Science, Technology Transfer and Economic Outreach (STOR), reviewed first the Office's services, which include: intellectual property protection, patenting and licensing assistance, assessment of disclosures, technology incubation and support services, conducting confidentiality agreements between faculty inventors and companies, and developing mechanisms for further funding to help new

technologies reach maturation. These are handled by STOR's three Divisions --- Intellectual Property, Funding, and Commercialization.

He then highlighted the major aspects of three separate policies regarding intellectual property rights. The first is the Patents and Inventions Policy of State University of New York, which, Mr. Dunbar pointed out, is also State law [Title 8, Chapter V, Subchapter B, Section 335.28 of the Official Compilation of Codes, Rules, and Regulations of the State of New York]. Established in 1979, it states that "All inventions made by faculty members, employees, students, and all others utilizing University facilities at any of the State-operated institutions of State University shall belong to State University". Ownership of all patentable inventions may be retained by

- non-University organizations and individuals who utilize University research facilities under the trustees' policy on cooperative use of research equipment (or under the policy/guidelines on use of State University facilities by emerging technology enterprises), or
- for inventions made by an individual wholly on the individual's own time, and without using University facilities.

In return for ownership of the invention/patent, the University entitles the inventor to 40% of the proceeds, the remaining 60% to be used in accordance with each campus's own distribution policy. Invention rights may be waived to the inventors, and there is also a mechanism through which the inventor may request such a waiver.

The second is the State University of New York Copyright Policy, drafted in 1990, which states that members of the University retain all rights to copyright and publish written works they produce. But in cases where persons are employed or directed within the scope of their employment to produce work subject to copyright, the University has the right to publish that work without copyright, or to copyright it in its own name. The copyright is also subject to any contractual agreements by the University for work in the course of which the writing was done. Furthermore, members of the University cannot allow the privilege to write and retain the rights to their work to interfere with their University duties; should they

need the assistance of University facilities, arrangements should be made with respect to the assistance requested as well as the equity of the University in the finished work.

The third is the State University of New York Computer Software Policy, in effect since January 1998. Computer software can be either copyrighted or patented, depending on particular circumstances, and often licensed for commercial use; the software, as well as software support materials, must be disclosed promptly to the Research Foundation (Technology Transfer Office), which functions by formal agreement as the agent of SUNY for administration of such materials. The software and support materials developed by faculty, employees, and students of SUNY, or employees of the Research Foundation (RF), belong exclusively to SUNY or the RF, unless all four of the following conditions exist, in which case they belong to the creator:

1. the work was not created within the scope of employment of the creator;
2. the work created was not the result of a work-for-hire situation;
3. the work created was not a product or by-product of sponsor-funded or contracted activity; and
4. the work was not developed through the use of facilities, funds, or personnel of the University or Research Foundation, or under the control of the University or Research Foundation.

Professor Rittner questioned whether under the fourth point a faculty member could own any materials developed, since technically, University facilities of some sort are almost always used. Mr. Dunbar answered first, that the policy applies only to software development, and secondly, it functions like most laws, and cannot possibly apply to every imaginable circumstance; over time, it will apply to certain cases and thus establish precedents for future cases.

If the software is created within the scope of employment or is the result of a work-for-hire situation, the RF retains all royalties generated by commercialization of the software; if the work is developed through the use of SUNY or RF facilities, funds, or personnel, or results

from sponsor-funded or contracted activities, the creator receives 40% of gross royalties, and the remaining 60% will be distributed in accordance with SUNY or RF policies.

As with the Patents and Inventions Policy, there is also the opportunity for exception or waiver to the provisions of this policy.

Other clarifications are established by key definitions (e.g., scope of employment, software, software support materials, royalties) contained in the policy.

Ensuing discussion centered around concerns of faculty being videotaped against their will and of having their images recorded and posted without their knowledge on various websites, including ratemyprofessors.com. Professor Wooldridge pointed out that, when a class is videotaped, students are often recorded as well; this presents potentially an even thornier issue, since each individual student's rights may be at stake. Professor Rittner suggested that, in absence of any documentation on this issue, the faculty should draft a policy addressing this issue.

#### **Item 5: Executive Session**

#### **Item 6: Adjournment**

The meeting was adjourned at 3:59 PM.

Respectfully submitted,

Robert Hoeing,  
Secretary of the Faculty Senate

Attendance (P = present; E = excused; A = absent)

Chair: P. Nickerson (P)

Secretary: R. Hoeing (P)

Architecture & Planning: GS. Danford (P)

Arts & Sciences: M. Churchill (A), J. Faran (P), K. Tekeuchi (P), D. Street (E)

Dental Medicine: R. Hall (A)

Graduate School of Education: J. Lee (P)

Engineering & Applied Sciences: S. Batalama (P), R. Wetherhold (A)

Informatics: J. Woelfel (P)

Law: J. Milles (A)

Management: W. Lin (P)

Medicine & Biomedical Sciences: W. Fiden (A), J. Springate (P), M. Dayton (E), J. Hasset (A)

Nursing: P. Wooldridge (P)

Pharmacy: G. Brazeau (P)

Public Health & Health Professions: G. Farkas (P)

Social Work: B. Rittner (P)

SUNY Senators: W. Baumer (P), P. Bradford (P) H. Durand (P), H. William Coles III (P)

University Libraries: JA. Volpe (P)

Guests: B. Burke (EDAAA), L. Labinski (Prof. Staff Senate), M. Cochrane (*The Reporter*),

Marilyn Morris (Graduate School), John Crasney (Physiology)