

FC970403 Minutes:  
Approved FC970904.

Indiana University - Purdue University Indianapolis  
Faculty Council Meeting  
April 3, 1997  
School of Dentistry, DS S115  
3:30 p.m. - 5:30 p.m.

**Present: Administration:** Gerald L. Bepko, William Plater. **Deans:** P Nicholas Kellum, H Oner Yurtseven. **Elected Faculty:** Charalambos Aliprantis, W. Marshall Anderson, Susan Ball, William Blomquist, Lynn Broderick, Naomi Fineberg, S. Edwin Fineberg, Julie Fore, Janice Froehlich, Karen Gable, Paul Galanti, Sanjiv Gokhale, Richard Gregory, William Hohlt, Sara Hook, Elizabeth Jones, M Jan Keffer, Miriam Langsam, Byron Olson, Richard Peterson, Richard Pflanzner, Rebecca Porter, Bernadette Rodak, Beverly Ross, William Schneider, Erdogan Sener, Soren Svanum, Kathleen Warfel, Jeffrey Watt, Harriet Wilkins, Charles Yokomoto. **Ex-Officio Members:** Henry Besch, Dolores Hoyt, Bart Ng, William Orme, Rosalie Vermette.

**Alternates Present: Administration:** Patrick Rooney for Paul Bippen, LaForrest Garner for Lawrence Goldblatt, Doris Merritt for Robert Holden, Shirley Ross for Angela McBride, Dolores Hoyt for Philip Tompkins. **Ex-Officio Members:** James Baldwin, Michael Cochran, Stuart Hart, Juanita Keck, Steven Mannheimer, Virgie Montgomery, Marshall Yovits.

**Absent: Administration:** Trudy Banta. **Deans:** John Barlow, A James Barnes, Trevor Brown, Roberta Greene, Norman Lefstein, Robert Shay, David Stocum, Donald Warren, Charles Webb.

**Visitors:** William Kulsrud (Chair, Athletics Advisory Committee), Michael Moore (Athletics Director), Eugene Tempel (External Affairs).

#### **Agenda Item I: Call to Order**

**Porter:** I will call this meeting to order.

#### **Agenda Item II: Memorial Resolution**

**Porter:** Attached to the agenda is a memorial resolution for Alexander Treloar Ross from the School of Medicine. I would ask that you stand for a moment of silence.

#### **Agenda Item III: Approval of Minutes: January 16, 1997**

**Porter:** Also attached to the agenda were the minutes of the January 16, 1997 meeting. Are there any additions or corrections to the minutes?

**Langsam:** I move that we approve the minutes.

**Porter:** We have a motion to approve the minutes.

**Gable:** Second.

**Porter:** All of those in favor, say "Aye." Opposed, "No." The minutes stand approved.

#### **Agenda Item IV: Administrative Report: Chancellor Gerald Bepko**

**Bepko:** We have an update to provide on the University College, which Bill Plater will explain. He may also want to report on the Teaching Excellence Recognition Awards (TERA).

**Plater:** First, the update on University College. As a result of the actions of this body, Chancellor Bepko is forwarding to the President a recommendation that University College be established in accord with the resolution passed by this body. We are expecting University College to be formally established on July 1. It is important to understand that there will be a transition period during the coming year, and the first students who are formally admitted to University College will not be admitted until the following Fall, that is not until August of 1998. In the meantime, the name 'University College' will be used. In particular, we will have to begin revising our materials that go out to prospective students in the next few weeks so that they will be available for the recruiting season that will bring students in for the Fall of 1998.

Other activities are under way including those related to the appointment of the founding faculty of University College. There has been one meeting held on March 26 which was well attended. Another meeting will be held on April 8 at 3:00 p.m. These are open meetings for any faculty who are interested in either becoming a member of the founding faculty or otherwise being involved with University College. We invite any of you who are interested to come, certainly to spread the word about these meetings. You should know that we contacted the deans and department chairs and asked them to provide names of individuals. These were specifically invited, along with members of FACET and other groups that have expressed strong interest in undergraduate learning. These meetings are open to all faculty. The intent is to understand from faculty members what the concerns and issues are that they have about what it would be like to be a member of the faculty of University College and then also to address any issues that faculty want to raise about the formation of University College. As an example, as a consequence of earlier opened town meetings, we have already appointed a committee to begin looking at advising within University College. This committee anticipates the foundation of the faculty and would make a report early to the faculty who make up University College. There may be other such groups that will be formed during the next few months so that there can be some activities under way during the summer so that, as we begin the Fall semester, we will not be starting cold.

We should also note that the University College will be housed in what is call the 'Old Library.' As I hope everyone has noted, renovation is under way in that facility on the top two floors. That should be ready for occupancy in September and we hope there will be some appropriate ceremony marking the occupation of that building for University College.

Finally, as I mentioned, we will begin not only revising the materials that go to students and others as part of the student recruitment process, but we intend to begin a fairly aggressive marketing campaign featuring University College as a prominent part of the reason that students should consider coming to IUPUI for their undergraduate studies.

The Coordinating Committee continues to meet with groups that have invited them and will do so as long there is interest. The final step of that body will be to revise one last time the very long document that has been used to describe University College and make that available to the founding faculty. If you have comments or would like to have ideas reflected in that document, please send them to a member of the Coordinating Committee sometime before mid May. I will be glad to answer any questions.

**Porter:** Today we are going to ask that any questions be held until the Question and Answer Period so we can make sure that we move all the way through the agenda.

**Bepko:** Let me conclude by saying that the conditions in the University continue to be good to excellent -- enrollments are up, our quality is improving, recognition around the country is growing, external support continues to grow, grant support, gift support, buildings are under way, more are in the pipeline, the legislature seems to be somewhat favorably disposed toward higher education for the next biennium, we are becoming a new model for the urban university across the country, the sun is shining, it is spring. I can tell by the numbers and by the way people are seated on the periphery that some of you are planning to leave early. [laughter] Only Jan Froehlich has made a total commitment to this meeting. [she was seated in the center of the room] We will take questions later.

**Plater:** We just wanted to let you know that the TERA recommendations have been completed by the schools and we are making a report tomorrow to the Trustees. The preliminary report is that there were 190 full-time faculty who received awards and 71 faculty of various other kinds (lecturers, part-time, etc.) for a total of 261 awards. There are three schools that we do not yet have data from and it may be that these schools will not be able to participate in the awarding of TERA this year due to the time constraints. As I think most of you realize, we operated under a very great burden of trying to do this very quickly and some schools simply weren't able to comply or may not be able to do so.

#### **Agenda Item V: President's Report: William Schneider**

**Schneider:** The Chancellor stole my line about the weather. I was going to observe that today would be a good test of the influence of weather on attendance at Faculty Council meetings when we compare it to last January's meeting when the heavy snow came. It looks like the faculty has passed the test. You are here despite the temptations of nice weather and we thank you for it.

Speaking of weather, I have been asked to make an announcement by the Staff Relations Committee. Shirley Yegerlehner couldn't make it, not because of the weather but for other commitments. The committee would like to plan an outdoor function that includes the faculty and staff, a picnic-type social event, using White River State Park. They are going to be circulating a questionnaire to all faculty to find out what the best time and venue would be. Please be looking for that questionnaire. We hope everyone can show up for that.

I am going to try to keep my report brief because of the agenda. The University Faculty Council will be holding its last meeting next Tuesday, April 8. The items on that agenda will look similar to the items for today's agenda with one exception. There will be a report on consideration of non-tenure track faculty, which used to be called Tenure/Ineligible Faculty. It will state that there will not be any action this year. We, on this campus, have not been able to consider the matter fully, and we will profit by this occasion to discuss it in the fall. Otherwise, the Family Leave Policy and the Intellectual Property Policies are both items for UFC which will be considered later on in this meeting.

We have one more meeting of our Council and I want to indicate some other things that we will be considering. The Faculty Affairs Committee will be reporting on its recommendations about Post-Tenure Revue. The Academic Affairs Committee will be making a report on several things including implementation of Martin Luther King Holiday and a few other items that have been referred to it. I believe we will have a report from Budgetary Affairs Committee as well.

Finally, the Executive Committee within the next few weeks will be making assignments to Faculty Council standing committees. The preference sheets have already gone out. If you missed them or have a sudden change of preference, I would urge you to get in touch with Bernice or me and let us know. We always need volunteers for the various committees.

#### **Agenda Item VI: Report on Faculty Boards of Review: William Schneider**

**Porter:** A report on the Faculty Boards of Review is called for in our governance document and so today we will have report.

**Schneider:** I can report the following about Boards of Review. There are six grievances that have either been heard or assigned to Boards of Review since the last report in May of 1996. Of these six grievances, four were carryovers from the previous year. The two new grievances was the result of three requests for Boards of Review. (One was judged as not meeting the standards in the policies.) Of those six grievances that have been under consideration this year, three cases have been heard and recommendations have made from the Boards. Those three cases have not supported the faculty member and the administration has agreed. I should note that one of those was the first use of our new policy for dismissal for misconduct. That means there are three cases currently being considered by Boards of Review.

#### **Agenda Item VII: Intellectual Property Policy Discussion**

**Porter:** Our next item is a discussion of the Intellectual Property Policy. Bill Schneider will introduce the discussion and two other speakers.

**Schneider:** This s a very brief introduction to let you know what the status of the policy. As you may recall, last year a policy was approved all the way through the campuses and UFC to the Trustees. The Trustees decided to send the policy back for reconsideration. A small subcommittee was created to work on changes that were requested by the Trustees. The key person involved in that, Fred Cate, is here and can explain more about it. The upshot is that the revised policy was circulated at our Faculty Council meeting last month. Next Tuesday the UFC will be taking up its final action on this at its meeting. In the meantime, since last month, the policy has been circulated on this campus and has been discussed in one or another meetings. Dick Peterson will fill you in on the perspective from this campus. The purpose of the discussion today will be to answer questions that Council members may have as well as hear any other changes or suggestions for recommendations on this. With that, I will turn it over to Dick Peterson and Fred Cate who can then present the policy as it exists and answer any questions.

**Peterson:** I feel like we have been trying to hit a moving target with this policy because it seems to change every day so we don't know whether you have the most recent draft or not. I am not even familiar, according to this, with the most recent data from the School of Medicine. I have made some changes here at the last minute because I read some of the documentation wrong. One of the things that I wanted to do today was simply introduce you to one of the policies that is now existing on campus and that is the one that is in the School of Medicine. What we have spelled out is any current agreements would have this kind of distribution of funds from the results of a technology transfer. The Technology Transfer Office would get 25 percent; School of Medicine would get 17.5 percent; the department would get 17.5 percent, and the creator or creators, depending upon whether it is divided between several creators would between them get 40 percent.

The current proposal for the distribution of net proceeds that is in the document and is one of the central issues of that document and is distributed in this way. Between \$0-100,000; between \$100,000 and \$400,000; between \$400,000 and \$1 million and above \$1million there is a differential in the proceeds. The main thing that happens in that differential is that creator gets less and less as more money comes in and the University gets more and more. That does strike the gall of some faculty, obviously, because it doesn't seem like it is rewarding us. I must tell you, and Fred will reemphasize this, that this has been a long and grueling negotiation with the Board of Trustees and with the President to even come up with numbers that are this favorable. I am sure he will address that issue with you.

There are some remaining questions that I present here that I have heard and that I also have. There are some issues related to net proceeds that we need to make sure that we understand what net proceeds mean. If net proceeds means that they are going to take a lot of other things out of this, these numbers might take a long time to even get to \$100,000 if there is a lot of expenses. Fred tells me that that is defined in the document and he will explain that to you.

The ownership of instructional materials is also better defined. I can't give you as much information on that as Fred can. But, there was a question on campus here about the continued use of those instructional materials by the University. That has been partially addressed by this most recent revision. Fred will go into details on that. What will happen to the campus and University distributions? That is another major question. The document itself says we have to develop a policy on this campus to distribute the 25 percent that comes to us as a result of these negotiations. There is nothing spelled out in the document about what will happen to those monies. I am co-chair of the University Research Policy Committee, which met for its first time this week, and we have made the determination that we want to have some effect on what the President does with that money and make some recommendations that would be looked at and approved, hopefully, by the President and by appropriate faculty governance organizations. That is what we would like to do with that amount of money that is going to the University. We would like to make recommendations and make sure that the administration is accountable for where that money is going.

The last question that has been brought up that I want to bring up here is How will the university, campus, school, department expenses be captured for any development of any intellectual property? Apparently, the answer to that question is, there won't be any recapturing, but Fred may want to go into some detail on that issue. I think I have said all I want to say. I will be holding any questions until Fred is done.

**Cate:** Thank you very much, Dick. Let me say first of all I appreciate very much being invited here today. As someone who teaches Intellectual Property in the Law School at Bloomington, I am flattered to find Intellectual Property given the same amount of time as student athletics on any agenda anywhere. **[laughter]**

As Dick says, it has been a long process and that is certainly an understatement. It began five years ago when the Board of Trustees and the University Faculty Council appointed a committee and charged it with identifying principles governing the issue of intellectual property on campus. That committee was chaired by Myrtle Scott. I was a member of it. It met for two years and \_\_\_\_\_ which were approved by the UFC and subsequently adopted by the Trustees.

Part of those principles called for the creation of an Intellectual Property Policy Committee. It would be a committee created by the Board of Trustees which would advise the President of the University on the adoption of policies related to matters exactly such as this. That committee was created the following year. I chair it. It includes representatives: three from IUPUI, five from Bloomington; two administrators, and two from regional campuses. We have met for the past two and one-half years fairly frequently, coming up with drafts of policies, reviewing them with various organizations, groups of faculty, and administrators involved in these policies. Ultimately, we had a policy which we thought was going to fly. It was consistent with the principles. It

was adopted unanimously by the University Faculty Council and this Fall the Board of Trustees rejected that policy. The Trustees' concern was that the policy provided for too much revenue to go to the faculty member and too little revenue to go to the University. At that time, the Trustees undertook the revision of the policy themselves, something which the committee found of concern. The UFC, I think, was also concerned about. The Trustees issued a proposed policy for the committee to consider which was extraordinarily broad. It would have swept all of the Intellectual Property created by any faculty whatsoever, whether or not in the field of your expertise, whether or not you used the University's resources, whether or not that occurred during business hours. If you were breathing and you created, the University would own it.

The committee took a fairly aggressively negative position on this. The end result was a suggestion from the Trustees, which was adopted, to appoint a much smaller negotiating committee. That is exactly what it was - a negotiating committee. It included Bill Cook and Frank Otte from the Trustees, I represented the committee, Dottie Frapwell was there as University Counsel, George Walker was there as Vice President and Dean of the Graduate School, and Ed Greenebaum was there as President of the UFC. That group met on several occasions, sought outside legal opinions, sought expert advice, did more consultation, and finally came up with a draft which is what went to the UFC for consideration in February. Since that time, there have been, of course as you would imagine, many other meetings -- there has been a UFC meeting, a BFC meeting, there was a very productive meeting here which resulted in a memo from Chancellor Bepko to me and to Dottie Frapwell. The full committee, appointed three years ago, has also met in large part to respond to many of the issues that you raised.

You have before you what is now optimistically entitled "The Committee Draft" meaning the committee does not intend to meet again. The UFC may very well adopt amendments. In fact, I, as chair of the committee, may very well propose amendments to the UFC but then that will now be the UFC's amendments. The committee is trying to get out of this business. In fact, one of the things the committee resolved last year was that it wanted to be replaced by what is now the URPC (University Research Policy Committee). We thought, as of last year, that were out of business. That is what we have been pushing for digressively for the past two and one-half years. Once the policy is adopted, we will be out of business and the URPC will replace us as the principal advisor and policy developer for the University on Intellectual Property matters.

The final committee draft, as optimistically named, is redlined with underlining (the only way I could find that would duplicate successfully) to show the changes between the last draft, which was publicly distributed two weeks ago, and also is the draft which Chancellor Bepko and his group considered. Therefore, it reflects everything that has happened in the past two weeks.

Let me briefly touch on several of those points and then I will come back. I will do my best to answer these questions. The principle change in regard to the distribution is that ordinarily (originally in this instance means only two weeks ago) the campus share was a declining share along with the creator. The University was picking up from both sides. The campus share declined from 25 to 15 percent. The major change that was adopted at this meeting, and which the President has agreed to, is that the campus share would remain fixed at 25 percent.

The second change that goes along with that, this is reflected on Page 5 of your draft) is it now clarifies that the distribution of the campus share will be according to a campus policy. For example, if the existing policies at the campus takes nothing, it all goes to the school or units of the school, that continues to be the campus' policy. It will now be a smaller amount, but that amount will be distributed in any way the campus wants; however, there is also added language [in paragraph vii) . . . ***Those policies shall ensure that such distributions equitably reflects the role of Schools and Departments in the development of applicable intellectual property.*** So, there has been an effort to clarify the roles of schools and departments without doing something, which the Trustees have said they will reject outright, which is to specifically provided for an allotment to schools and departments.

There are some other changes that I should note. One which is not a change, but was very much an issue and a very important issue raised in the Chancellor's memo of last week. That is, Section V on page 'Licenses for Use of Material Made Available for the Use of the University.' That was simply omitted from the last draft. It appeared in the Table of Contents on the first page, but that section somehow got dropped out when the material was copied. This response to the very important about what happens when material that is subject to this policy and may be owned under this policy, is made available for the use of the University? Whether that is a play and it is used here or I contribute my teaching notes to a file, or some other use. All this provides is that material that is made available at the university will continue to be available at the university. Even after the faculty member leaves or if the faculty member later objects, if it was voluntarily made available for the use of the university, it will continue to be available for the use of the university. Not for profit, not for external use, but for the use of the university.

The other points I would like to address before opening it up to questions concerns net proceeds. Net proceeds is one area where we think we actually have dealt with this issue. It is defined, if you look at 'j', *Net revenue is that remaining after deducting all direct expenses necessary for obtaining protection for, and licensing, applicable intellectual property.* You are probably wondering what 'direct expenses' are. That is also defined in paragraph D. *Direct expenses are the costs associated with the protection and licensing of intellectual property. Such costs do not include the salaries or other overhead costs of Indiana University.* It is clearly understood, there is no confusion whatsoever either on the part of the Trustees, Julie Watson, Technology Transfer, or among the University administration that the only direct costs will be deducted from revenue \_\_\_\_\_ distributed. Direct costs are such things like if you hire a law firm. The lawyers will be get paid out of the revenue. Or, patent fees that you pay to the patent office, those will come out of the revenue distributed. Salary, overhead, rent, insurance -- none of that will be deducted from the revenue. So the revenue \_\_\_\_\_ has been kept fairly clean. That certainly is the intention. I think this also addresses what 'net' really means.

Ownership of instructional materials. There are two questions there. One of which I think I have addressed. The continued use by the university. If the material was made available for use of the university, it remains available for the use of the university. Instructional material raises a questions which I want to address. Most universities' policies, and I believe we have consulted them all in the United States, provide some very sweeping statement like the Trustees shall own all intellectual property created in the university. Then they provide some sort of "give back" provision which, if the material is (and then defines instructional material - books, monographs, articles) then the creator shall retain the right to use it without limitation. But, the Trustees of the University would still own it. We chose a different way to approach this and I think a better way which is to say, this policy simply will not cover traditional works of scholarship and creativity and instructional materials. Obviously, those are terms that are vague, and although we have attempted to define them, there will clearly be room for the URPC in the future.

Effectively, it was the traditional type of activity that you engage in as part of your professional advancement. As a law professor I have to write articles in order to get tenure. Whatever the equivalent of that is, whether it is fine arts, medicine, or any other field, those types of traditional research works and traditional instructional materials will not be covered by this policy. They will never be applicable intellectual property. This from the start then means we figure at least 95 percent of the creativity that we are involved in here will never be covered by this policy. That is our intention and the Board of Trustees has agreed to that individually.

Therefore, this ownership of instructional materials, instructional materials at the start will be owned by the faculty member or whoever creates them. Therefore, those materials will only be subject to continued use by the University if the faculty member makes a voluntary decision to commit those to the use of the university. For example, placing my lecture notes in a department lecture note file, I then can't five years later come back and sue the department for using my lecture notes. I only get to make that choice once.

What will happen to campus and university distributions? University distributions are specified to be used for research and technology transfer activities. This has been assumed to mean for the support of ARTI and Technology Transfer. That is not the assumption that we have worked with on the committee and it is not the assumption that ARTI is working with. In fact, at the moment, the contract that provides for how ARTI is paid by the university provides no stream of revenue related to any intellectual property. ARTI, at this point gets no percentage of intellectual property. If it participates in marketing, superbly valuable property or totally wasted property in terms of its commercialization value, it makes no difference. There is no percentage that is going to ARTI. Rather the phrase 'technology transfer' and 'research' came out of the principles developed five years ago, three years before ARTI was even thought of, which is to say that this would support primarily the types of research that generated these creative products and also the activities, but only those administrative activities that are necessary to bring those products to market or to bring them to a larger audience. This is not to be used for the overhead costs of the university.

The campus distribution share says that these proceeds are to be used for research. The only reason Technology Transfer was excluded from there is that at present, I don't believe the campuses make direct payments to ARTI that are so far a university function. Therefore, there was no need to clarify that any of this money could be used for Technology Transfer. It is all intended to be used for research where research is the relevant activity.

In terms of how these distributions are actually made, still sticking with this next to the last question, I can't tell you that. At the moment, Technology Transfer makes all distributions. They just issue checks according to policies. ARTI will be bound by this policy. Its Board has already voted that it will be bound by university policies and at such time that this is, and I believe it will be

a university policy, then ARTI will also be bound by that. The IU Foundation will also be bound by this policy as well. It is unclear, however, that will necessarily continue to be the way in which funds are actually distributed. It may very well be ARTI who will make a single payment to the University and the University will distribute it. It may be that it will go to the campus and the campus will make the distributions. That is a matter that has been thought of as an administrative procedure. It is not addressed in the policy.

Finally, how will university campus \_\_\_\_\_ departmental expenses be captured? This is a great question and the answer is, they will not. This policy does not provide for the recoupment of an investment in research. There are several reasons for that. One is because we don't have a single intellectual property invention at the university that would anywhere near cover its cost. In fact, if you look at universities across the nation, there are very few intellectual property creations which would account for their costs if you just took their revenue. When we do these very ambitious things like above \$1 million, \_\_\_\_\_ not even in sight. I hope we get there. I am not being unoptimistic. I am not lacking a vision. We are not just there yet. Everything we have so far is in the 0 to \$400,000 range. That is where we are working today. It is an important point. There is no effort here to say that, if the university invests \$50,000 in this project or \$5 million in this project, it gets that money back. It could easily happen and it certainly does happen with most \_\_\_\_\_ today. The University will never get that money back.

The last point I will make is that some of this reflects the fact that I think throughout the university, and certainly on the committee as we have come to know and love each other in the past two and one-half years, we reflect that there is a very different set of values for what this money is being used for depending upon who we are talking about. For the creator, we think of this as an incentive. This is the \_\_\_\_\_ that will say, "When I look at this research, I may carry it a step further because of the percentage that I am going to get out of it." Is that incentive necessary? I have no idea. My colleagues in the sciences tend to say 'yes,' my colleagues in the humanities who have never created anything that would use any of those numbers can't imagine why it is an incentive. Within the university, however, this is not intended to be an incentive. The university is going to support research whether or not it gets money from it. That is the job of the university. We are not trying to compensate the university for doing what the state pays them to do. Rather, this is simply an effort to say that the university should first of all be able to look for some of its costs or its marketing efforts. But, for the extra step it takes when dealing with research, whether our 'windfalls' (that is what we generally think of the \$400,000 or above category being) that the university will share in those windfalls so that the broad \_\_\_\_\_ of the university research that is supported will get some additional revenue to it. Not so costs will be covered for any one bit of research, but so that the broad pool will take in some additional money. Let me stop there. I went on longer than I intended.

**Porter:** We will take questions until 20 after the hour. Are there any questions?

**Hoyt:** I still have the same question that I had at the UFC. I think this distribution is going in a better direction, but I still don't understand why can't the campus and university just be flipped so that there is always a set amount going to the university overall and that, in the spirit of RCMs monies stay at the campus where it originated so there will be more of a chance for those funds being funneled back into more research where it was developed originally?

**Cate:** This answer may sound familiar. I think there are two reasons for that. One of those reasons is simply that there is a view that there should be a maximum amount of flexibility with any dollar \_\_\_\_\_ back to the university. The university may very well choose, the URPC may recommend to the university that it commits its share entirely to the campuses. But, the university should have that flexibility with those resources. This particularly raises an issue, not so much in the conflict of IUPUI, or Bloomington, but of other regional campuses. That campuses, if you hit the big one, if you have Netscape, which is what everyone is hoping for, you will remember that Illinois waived its rights to Netscape. It did not lose its rights, it gave them up. But, in any event, we won't make that same mistake. Therefore, those proceeds should come to the university where they can be used where they will make the best difference.

The other reason that it is not flipped is that it is politically unacceptable for it to be that way. It is absolutely clear. There has been no ambiguity about this. The President and the Trustees will not adopt the policy that provides for that. Having proposed one policy to the Trustees, which they rejected, we are now more in the business of trying to propose a policy that is as successful as we think it can be and still has a chance of being adopted.

**S. Fineberg:** There is a different problem in terms of distribution to the creator. I can think of two examples where in fact there is an anticoagulate which in fact supported the research done \_\_\_\_\_ Wisconsin for a long period of time. Then, there are numerous examples now of people \_\_\_\_\_ biology who in fact have gone to separate corporations and not shared their wealth at all with

the universities. I think it is a bit self-defeating when you have creative people who have the opportunity to go off and form a separate corporation to not recognize that possibility exists and make it possible for those individuals to remain part of the university without splitting off. I think that the distribution for the creator for that is a real problem.

**Cate:** You may be right. That issue has been raised. I think there are two responses that we have been dealing one. One of those is that, if that is created using university resources, they do not have the option to take it elsewhere. I am not saying they don't. I am saying that would violate this policy and it also violates the use of university resources. Therefore, if you create using a university resource, you have an obligation to disclose under this policy.

The second response, I think, is this. In discussing this in detail with the Board of Trustees and with members of the administration, it is clear that with this as with any other policy it is somewhat \_\_\_\_\_ dealing with the level of good faith behavior. If you don't want to disclose, it is going to be very difficult for anyone to tell you that you should have disclosed. This policy does not assume some of enforcement mechanism where the Chancellor will be going around the university with a magnifying glass looking for missing disclosures. Rather, the assumption is that we will, as members of this faculty and this community, disclose what is appropriate to disclose, irrespective of what that ultimate incentive is. If that is not in fact the case, there is nothing this policy can do to make us be better citizens in this community. We tried to come up with a balance that was both equitable and also politically pragmatic. If we have missed that, then there are basically going to be two options to that. Either people will ignore the policy which individual faculty members can do. I think institutions will have a harder time doing that. It is easier to spot at the institution. Or, they will grudgingly comply with the policy.

**Yokomoto:** How does this effect students?

**Cate:** Students will become part of a disclosure process as faculty members at the University will be disclosing the policy to them and then we will be expected to disclose under the policy. It is a hotly debated issue. Earlier on, it hasn't so much appeared in the last couple of years. The Technology Transfer Office prefers to have no students covered by the policy. Students can do whatever they want where there will be a separate policy for students. The administration and the Trustees felt very strongly that students should be covered right across the board. The in between position was that students should be treated like everybody else. That is, if you use university resources, you become subject to the policy provided that the intellectual property you create is not a traditional work of scholarship or an instructional material. In theory, that policy would apply to anyone. That was one of the concerns that the committee has addressed repeatedly. That is, what happens to a visitor on campus, a person who comes for a week, a person who comes just to use a lab for a time? The effort is to say this policy would apply to anyone.

Under the policy there are provisions for waiver and the university, you can imagine in many situations, might choose to waive its interest. That is a choice that would be up to the university. It would be subject to review by the URPC. At a starting point, anyone using university resources would be subject.

**Peterson:** There is a statement in here that the policy shall not apply to existing written agreements. Some of the current written agreements have been somewhat similar to what we have on top of this sheet which obviously involves something going to the Technology Transfer Office. With those of necessity being modified at this point and that 25 percent going to the Technology Transfer Office now goes to the university. I know it says in here that they won't be modified unless they are renewed, revised, or amended after the date on which this policy is adopted by the Board of Trustees. Can you give us an answer on that?

**Cate:** I absolutely can give you an answer on that. This will not apply to existing written agreements between the university and somebody outside the university. It will most certainly apply to agreements between the university and the faculty. This will modify those agreements as of the date it passes; that is the Trustees and the University councils. It only does not apply to written agreements -- look at D1,2,and 3 -- "between the University and/or Creator(s) and any external organization or individual." So, only if the agreement is with Eli Lilly and the University, that says Lilly will invest money and, under this agreement, the faculty member will get 'x' percent. That agreement will not be modified because it is with an external entity. If the agreement is between the creator (a faculty member) and the university, that agreement will be modified. Even as external agreements, however, they must be a best effort used to try to conform them to this policy as of the time they are renewed or revised. However, it is impossible if they say, "Well, I will give you the money if you change the terms." Then you can continue out of compliance with those agreements.

**Plater:** Fred, I appreciate how hard it is to draft a policy that tries to cover as much as this. You know from earlier conversations



that I continue to be concerned about the instructional materials because of the changing conditions made possible by electronic digital means. Increasingly, it is going to be difficult to separate current materials (i.e., textbooks) from things that we think of as syllabi as home pages are developed and incorporate vast amounts of information -- video and digitalized images, data bases of all kinds -- many of which may be created, not through the efforts of the individual instructor of a course, but through combined efforts of faculty in that department; indeed, the whole institution. In fact, as a campus, we make very substantial investments in the development of instructional materials which, under this policy, now belong to the individual faculty member who, if she or he leaves the institution, can determine whether or not we can use that course material. Now we are faced with issues larger than a textbook; not just the materials; it is in fact the course because the course and the materials are so inextricatively intertwined. I think this could be a terrible thing to happen to us as colleagues. We put our courses literally in the hands of colleagues who may leave the institution without a further thought about their obligation to us and the intellectual community in which they are a part. I would urge that we give much greater thought to instructional material and what it means in the future by either deleting it from this policy or setting aside for further review and reflection. I don't think it has received the attention it requires.

**Cate:** I certainly agree with you as to the significance. I am concerned only for this reason and that is, it was a key part of the development of the principles five years ago that instructional material would not be covered by this policy. It is one of the few areas in which both the UFC and the Trustees agreed unanimously that this policy should not touch. Therefore, I think there is a great deal of concern, particularly on behalf of the faculty, to say that now this should suddenly be either pushed out or swept aside. In terms of making interpretative decisions about how software will be covered (Web pages, etc.) we have made a modest effort to define some of those terms here more or less in line with other universities' policies. I would guess this is an area where the URPC and the administration will probably have their first test for trying to figure it out specifically. I can tell you that it is certainly the current understanding of people such as George Walker, Dottie Frapwell, and the people with whom we have consulted that any software, any electronic instructional material, the purpose of which is to convey information, will not be covered. That would be considered informational-like software no matter what technology or technological form it is and no matter what other capacity it carries with it.

**Bepko:** All of this is subject to agreement to the contrary, I take it, so that a faculty member could agree that, while the materials that were being created were instructional, they could nevertheless be the property of the university, if that was a voluntary agreement. In other words, if you are going to invest \$300,000 in the development of a Web course, the faculty member could say at the outset, "These are instructional materials, but I hereby grant the primary license to the university."

**Cate:** It is subject to waiver provided that, that wave of tradition, which would include the Chancellor and the Dean of the Graduate School, all sign off. Then the waiver is no problem. It is not subject to bilateral waive.

**Bepko:** So, there would have to be a negotiation that involved all the parties that are specified. But, the same is true of a faculty member who had the potential for taking an idea that either could be developed using university resources or could be developed in another company and could say to the department chair, dean, chancellor, or Vice President for Research, "I'll do it here if you give me a better deal than the policy provides." An agreement could be entered into along those lines.

**Cate:** That is absolutely right.

**Langsam:** Let me understand that what you said was what a faculty member did in the classroom remained the property of that faculty member. Is that correct?

**Cate:** What a faculty member creates that is a traditional instructional material remains the property of that faculty member.

**Langsam:** Therefore, if a faculty member refuses to allow a student to take that material despite ABA, this policy does not in any way address that issue.

**Cate:** That is right. This policy, like all university policies, is subject to law. In other words, the law will always follow the policy.

**Porter:** I am really sorry that the Executive Committee struggled with all the items that we needed to bring forward. If we have any time at the end and you want to return to the discussion, we can have that as an option. I would encourage you to contact members of the UFC if you have comments that you want represented in that discussion. Thank you, Fred.

## **Agenda Item VIII: NCAA Division I-AAA Status for IUPUI**

**Porter:** We will move on to discussion of the NCAA Division I-AAA Status for IUPUI. We have two individuals who will be speaking. Roko Aliprantis is chair of the Faculty Council's Athletic Affairs Committee and Bill Kulsrud, who we are going to refer to as Chair of the Chancellor's Athletic Advisory Committee so you can understand why we have two speakers.

**Kulsrud:** Thank you, Becky. I want to thank the Executive Committee for having the brilliance to schedule the discussion of athletics while we are still enjoying the euphoria of the Final Four.

To help me today, I brought some reinforcements. Mike Moore is our Athletic Director and Gene Tempel, as most of you know, is Vice Chancellor for External Affairs and plays an important role in our intercollegiate athletics program. Mike and Gene will be chiming in from time to time to help me answer your questions.

I would like to divide my comments into three parts. The first concerns the one in which you are probably most interested: the move to Division I. Then, having talked a little about that, if we have some time, I will talk about what the Athletics Committees are doing. Last, but not least, I would like to devote a few moments to the Athletics Governance Committee. This committee was recently created by the Bloomington Faculty at the urging of President Brand to examine the governance of intercollegiate athletics throughout the entire university, all eight campuses.

Let me give you a brief history of intercollegiate athletics at IUPUI. IUPUI has been involved in intercollegiate athletics in one form or another since the early '70s. Initially, we were a member of the NAIA, the National Association of Intercollegiate Athletics, an organization which no doubt most of you have ever heard of. But, all during the years that we were members of the NAIA, I can remember members of the Athletics Committee saying that "we should be moving to the NCAA." I can remember myself saying that I felt like a Big Ten faculty member and that I believed our athletic program should be a Big Ten. Division I-like program as well. By 1990, we have carefully considered the possibility of joining the NCAA and the possibility of moving to Division I. At that time, there was a consensus among the committee members that going to Division I was consistent with the goals and aspiration of IUPUI. We subsequently joined the NCAA in 1992-93 which the idea that by the year 2000 we would move to Division I. The plan was to be a Division II member for about five or six years before we went to Division I. It was our hope that the experience in Division II would enable us to make a successful transition to Division I. Unfortunately, once we became a Division II school, our plan was torpedoed. Our hope was to join the Great Lakes Valley Conference. The GLVC consists of such school as the University of Indianapolis, Bellarmine, IPFW, Southern Indiana, and Northern Kentucky and is considered by most as one of the best Division II conferences in the country. The plan was to play in the GLVC while our programs developed then reassess where we were in the year 2000. As we prepared to join the NCAA, it appeared that we would be admitted to that conference. In fact, from our perspective, it was almost a foregone conclusion. All we had to do was make a presentation, go through a site visit and it would be done. I can remember Gene and I traveling, along with Chancellor Bepko, to the University of Indianapolis and talking to them about our application. To make a long story short, after they invited us they said, "Don't come to the party." In short, our application was denied.

At that point we became a Division II independent. Operating as a Division II independent has imposed a real hardship on our athletic programs. The major problem is scheduling. This occurs primarily for two reasons. First, in basketball, the NCAA prohibits Division I schools from playing more than four games with Division II schools. Second, most Division II teams are affiliated with conferences and their schedules are filled with conference opponents. Because of these limitations, our basketball team must travel all over the country to find games, a very costly result. Due to the scheduling problems and the difficulty in affiliating with a conference, we accelerated the time line and, instead of trying to move to Division I in the year 2000, we decided what we should do is go forward and try to become a Division I member as of the Fall of 1997.

To this end, we developed a proposal and presented it to the Trustees last March. The Trustees considered our proposal but voted to table the motion. I think most of us interpreted that action to postpone the decision for a year. More than a year has past and where are we with respect to Division right now? We have reviewed the original proposal, revised some of the pieces, and recently obtained a spot on the Trustees' agenda. It will be one of the major items of business at their meeting in Bloomington on September 19.

In the meantime, we have talked with the Mid-Continent Conference about the possibility of membership as soon as we officially move to Division I. The Mid-Continent Conference consists primarily of mid-western schools such as Valparaiso, Missouri-

Kansas City, Wisconsin-Green Bay, Eastern Illinois, Western Illinois, and Oral Roberts. They have been courting us and they are apparently willing to admit us. However, the conference had initially indicated that they had to make a decision on other applications and, consequently, needed to know our status by August. The decision by the Trustees to postpone reconsideration until September appeared to have jeopardized any chance of joining the Mid-Continent. However, after some calls by President Brand and Chancellor Bepko to the presidents of the Mid-Continent, the Mid-Continent has agreed to postpone that decision until the vote of the Trustees is taken in September. Obviously, this is a welcome change in events. Hopefully, Trustees willing, we will be able to tell the Mid-Continent at the end of September that we are ready, willing, and able to join their membership.

This was a quick overview as to where we are with respect to Division I. Those of us who have been pursuing this goal are keeping our fingers crossed, with the hope that the Trustees will give the proposal its stamp of approval in September.

Just as an aside, as we pursue Division I it is important to understand that the benefits that come from Division I are not restricted only to large institutions, the Ohio States and Michigans of the world. A mid-major program like the one we would like to become can also benefit. Gene's office did an analysis and looked at the campus enrollments of all 64 schools that were in the Final Four. On the men's side, our campus enrollment -- if you count our 28,000 students -- was the 16th highest enrollment. Even if you drop our number to 12,000 of full-time under-graduates, we are able the 50th percentile.

Before I answer questions about Division I, let me make a few comments about the Athletics Committees. There has been some discussion about the nature of the structure of the Athletics Committee. At present, we have two committees: the Faculty Council Athletics Affairs Committee which Roko chairs and the Chancellor's Athletic Advisory Committee which I chair. While some of us have pushed to have a single committee, we have not been able to agree to abolish one committee or the other. As a practical matter, however, there is a great deal of overlap not only in what issues are considered but also the members of the committees. There are 6 or 7 people who are on Roko's committee and who are also on my committee. It seemed foolish for all of us to be going to each other's meetings. Consequently, we have now agreed to meet together. Historically, the Chancellor's Athletic Advisory Committee has dealt with intercollegiate athletics while the Faculty Council's Athletic Affairs Committee considered other issues such as those related to facilities and intramurals. Since the latter issues rarely take much time, it seemed more efficient to combine the business and the meetings of the two committees. Now, with both committees meeting together, the plan is to address all of these issues as one body. We have met that way for the past two or three months and it seems to be working well.

The last thing that I would like to mention concerns a newly formed committee, an ad hoc committee, created by the Bloomington Faculty Council called the "Athletics Governance Committee. This committee consists of eight members, four from Bloomington, three from Indianapolis, and one from one of the regional campuses. Roko, Kathleen Warfel, and myself are the IUPUI representatives on that committee. This committee's charge is twofold. First, we are to determine the role that the Athletics Committee should play in the operation of intercollegiate athletics. For example, what decisions should an athletic committee be involved in and to what extent should they be involved? For instance, should the committee be given the power to approve such actions as the hiring and firing of coaches and athletic directors or should it just participate in such decisions? Our investigation is not limited to Bloomington, but also includes IUPUI as well as the other campuses. The second part of the charge is to make recommendations about the relationships that should exist between campuses. For example, should there be one single athletic committee director to whom all athletic directors report? The first two meetings have been encouraging because everyone talks in terms of the impending move of IUPUI to Division I. What we do in this committee could have some affect on how our committee (s) is structured here and what our role will be. It will be interesting to see what transpires. Roko has a class. I'll let him make a few comments at this time.

**Aliprantis:** One comment I would like to make is that we need your support. If you think it is inappropriate to have athletics with academics, you should think it over. I have talked with several people and they always give the same answer, "it is very expensive." In the long run, it is just pulling together. Although you may have reservations about one thing here or there, pulling together is very important. We are asking you to support us because it is very important to go to Division I.

**S. Fineberg:** I have two questions. First of all, will our scheduling problems disappear if we join Division I? Secondly, do you have data about the retention of students with the campus having a very active athletic program versus the less active program?

**Kulsrud:** Those are good questions. As far as the scheduling problems, I will say they will disappear. Mike, do you want to comment on that?

**Moore:** Joining the conference is as important as being Division I. For example, in basketball, just by joining the conference it will give us 16 games (we play 27) which will be automatically scheduled. We would then have the opportunity to schedule the other 10 and one more would be the conference tournament. Where now, if you have looked at our schedule we have played the last few years, for example, right now the women's basketball program for next year is not being scheduled. It is really because no Division I teams will play us because of the schedule. None of the Division II's will play us because we are going Division I and their perception is we have more resources than they do. And, we are independent which means from the beginning of January to the end of the season everyone else is in conference play. So, we have no opportunity to schedule an event. That is why now, for example, last year the men played in four tournaments. Also, we traveled and played homes games. To be quite honest with you, I would have to check the directory to find out where they were because their coaches are very proficient in getting \_\_\_\_\_. Our next challenge will be getting the type of schedule we think we would be better with such as getting the Purdue's and the IU's \_\_\_\_\_ to agree to come to our campus and play us. That is the next step.

**Kulsrud:** The second question regarded retention. First of all, some statistics regarding our student athletes. The average SAT of our student athletes is higher than the average SAT on campus. The University of Alabama at Birmingham has done a study which, in essence, says for every student athlete that they recruit four additional students come with them. If you don't want to believe this, here is some anecdotal evidence. Jason Collier, when he went to IU this year, allegedly brought over 40 people with him just because he was Jason Collier. If it is a one-to-one ratio, that doubles the number of people that would otherwise not come.

**Tempel:** The last freshman study that I saw shows that the freshmen retention for athletes is about double the campus freshman retention rate. Generally, retention for athletes is about double the campus retention rate.

**Porter:** Are there any other questions? Thank you very much.

### **Agenda Item IX: Committee Reports**

**Porter:** We will move on to committee reports. We have Bylaw amendments concerning the Faculty Boards of Review. Harriet Wilkins will present this for the Constitution and Bylaws Committee.

**Wilkins:** A couple of months back Carl Rothe reported to you on the work that the specially appointed committee had done in looking at the way in which we do our Faculty Boards of Review. He shared with you some of the problems that have been encountered over the last years in terms of recruiting people to be on Boards of Review, assigning cases to Boards of Review, and handling those Boards of Review over a considerable length of time. He also reported to you that that special committee was looking for a way to deal with the 'preliminary hearing' (initial hearing), the provision that has been in our Bylaws for some time of having what was intended to be a more conciliatory meeting before a case would have to go to a Board of Review. That committee finished its work and brought its work to the Constitution and Bylaws Committee; fortunately there was considerable overlap. Carl Rothe, Paul Galanti, and Jerry Powers joined us from the Task Force to talk about this.

What you have in front of you is the proposed amendment to the Bylaws which is coming from the Constitution and Bylaws Committee. [IUPUI Circular 97-07] We will bring that to you for action next time as a substitution for the segment of the current Bylaws that deals with Boards of Review and the initial hearing for which we are substituting the mediation board. What I would like to do now is make a couple of comments in general about the substance of the proposed amendment and invite you to give us here today any questions or general comments. If you have 'picky' things like words you would like to change or punctuation that you don't like, we would be happy to receive that. Would you put it in writing? We would certainly be glad to work with that. When you have had two committees working on things and doing a lot of it by E mail and fax, I am sure there is something that could be changed. As I said, we will bring this to you as a motion to substitute this section for the current section. We have tried to identify for you the portions of the text that we have retained and the portions of the text that are new. Because of a lot of rearrangement, we don't swear by those lines. That is primarily for your information.

Let me first of all comment on the change to the Boards of Review and then, secondly, to the mediation committee. As Carl mentioned to you earlier, one of the problems has simply been constituting Boards of Review. Therefore, we are proposing that the pool for the Boards of Review be as large as 20 members; that the Council elect members this pool from whom particular Boards of Review could be selected. The particular Boards of Review would be appointed by the Executive Committee. The terms

of the Boards are essentially the same as they are currently in the Bylaws in terms of numbers of full and associate professors, not having people from the same school, demanding that people remove themselves if they think they can't be impartial in a hearing, etc. The main change for the Boards of Review in the proposal is going from our electing three separate groups of five people to particular boards to electing a pool of people from whom particular boards would be appointed.

The major change in terms of the way in which the whole system would work is in the proposal for the mediation committee. As you know, in the past we have had this initial hearing possibility where the Executive Committee or the President of the Faculty, in consultation with the grievant, could agree to an initial hearing. That was held before a Board of Review. The effort of that initial hearing was to bring some reconciliation on the matter prior to a formal hearing. As I understand it, in some cases that has meant almost two formal hearings, although the legal niceties of the formal hearing have not been observed in the initial hearing.

Our proposal is that we do away with the initial hearing. In most cases, the grievant would be encouraged to meet with members of a mediation committee. The mediation committee would be elected by this body. From the group of persons elected to the mediation committee the Executive Committee would appoint two people to meet with the grievant, to meet with the administrator involved and to try to reach some reconciliation on that matter. The sorts of persons who would be eligible to serve on that mediation committee are set out for you here. It could include members of the Senior Academy who are faculty members, not staff members. It would be people who have had experience on Boards of Review and past presidents of the Council. The notion is that they would be experienced people who would come in and help the grievant and the administrator try to reach some reconciliation so it would be necessary to go to a Board of Review.

Certain cases are listed as having to go directly to a Board of Review, not through mediation. Those particular matters would not be eligible for the mediation process. They would go immediately to the a Board of Review.

A grievant would have the option to request a hearing by the Board of Review and the Executive Committee, as it has now, would have the authority to grant that request or not grant that request. Do you have questions about the proposal? I am sure that Paul, Carl, and Jerry would be glad to tell you about their conversations that led to these recommendations.

If you have any particular comments, you can hand something in writing to Paul, Carl, or me today. You can also send me an E-mail message (Wilkins@tech.iupui.edu). Please tell me the line number you want to change. The Constitution and Bylaws Committee will meet next week to take into consideration those issues and then we will bring the revised version if we need to.

**Porter:** Are there any questions or comments? [None] We will now move to the report from the Fringe Benefits Committee giving us an update on the status of Partial Family Leave Policy. Bart Ng, as chair, will be reporting on that.

**Ng:** I will give you a brief report on an issue that has come up in front of the University Faculty Council regarding the Partial Family Leave Policy. This policy is to be distinguished from the Sick Leave Policy (Pregnancy Leave Policy) that is currently exists. Primarily, this policy will make provisions for full-time, academic appointees who are called 'primary care takers' to take partial leave for the following reasons: the birth of a child, the adoption of a child, or the catastrophic illness of a child, parent, spouse, or household member. A partial leave under this policy can be granted up to 15 weeks. In the usual case, a full-time, academic appointee may take a 15-week leave from classroom teaching duties or equivalent structured service/duties while continuing their research, creative work and other service activities. In exceptional cases an equivalent arrangement can be made. Upon return to regular duties, that appointee will not be expected to take on a heavier teaching load than carried prior to the leave. This is a partial leave for teaching duties or similar structured service duties, however that is defined.

People who want to go on leave under this policy will be paid 65 percent of their salary for up to 15 weeks. Their fringe benefits will be paid also on a pro-rated basis. Such a leave can be taken no more frequently than once every three years. In fact, such policy was put before the Trustees last May and the Board of Trustees considered the resolution as put before them and eventually the Board Presidents suggested to the University Faculty Council to give their reflection on the resolution including input on how the quality of instruction may or may not be affected by the proposal. Also, there is a question of cost neutrality -- what is the budgetary impact on the campus and other schools?

Subsequently, the Fringe University Benefits Committee of the University Faculty took up this leave policy and discussed it in some detail. Let me summarize what they considered to be the issues. I would like to point out that this policy actually goes beyond the federal Family Medical Leave Act. So, this is more expansive than the Federal guidelines. It is in no way in conflict

with it.

As to the cost neutrality issue, this is a touchy issue. The IUPUI Fringe Benefits Committee discussed that issue. It was generally believed that in most of the schools this will not be a significant issue. However, in some professional schools it needs to be addressed very carefully. Subsequent to the last meeting of the IUPUI Fringe Benefits Committee, we received fairly extensive comments from the School of Medicine which we will again look at in our meeting next Monday.

As to the quality of instruction, the Trustees were particularly concerned with replacing a full-time instructor with a part-time instructor. That may have a negative impact on quality. It was generally believed that the feeling is that there is a financial penalty involved, people will not exercise such a policy likely for one thing, and secondly, if a faculty member is preoccupied with matters he or she needs to attend to, that in itself will cause a \_\_\_\_\_ in quality. Therefore, \_\_\_\_\_ the faculty member takes care of business, may in fact help matters.

Finally, there is a question about informal policies that now exist. Currently a faculty member would have a need for such a leave. Often individual arrangements will be made for that faculty member. Individual negotiations will be conducted between the faculty member and the dean. They work out something to take care of the issue. This policy, in some sense, doesn't preclude that. In fact, one of the strongest and most consistent point that was made in the discussion of the partial paid leave is that the usual informal policies vary substantially with between campuses. A formal family partial leave policy establishes no more than a \_\_\_\_\_ and threshold for the use of informal policies. In any case, the IUPUI Fringe Benefits recommended to the University Faculty Council's Fringe Benefits Committee that the policy be adopted and be forwarded to the Trustees.

At the same time, we are aware of some of the issues that have been recently raised by the School of Medicine. We hope to convene a meeting to look into those issues to see whether they actually can impact on the policy and whether the policy might create problems as was pointed out to us. At this point, it is still under discussion. The University Faculty Council is very anxious to move ahead to adopt such a policy. I will be happy to answer any questions you may have.

**Porter:** It is both to answer questions and also for the body to inform the UFC members as to position that we should be taking at the UFC discussion.

**Warfel:** Has there been any discussion on this inequity between the campuses? We are talking about paying the general academic people 65 percent of what they would have been paid by releasing them from their teaching duties. Has Bloomington faculty expressed any concern that it would be release from two sections there, 3 sections here, and at the regional campuses four sections? People who are getting out of teaching are getting out of different amounts.

**Ng:** As far as I know there has not been a discussion specifically on that point. When the resolution came up for a vote last year it was not entirely clear how the funds were to be distributed. This year we specifically want to add some language to say how the funds should be handled. Let me read this to you:

*Whereas the Vice President, Chancellor on each respective campus, would create a review panel of faculty and administrators to review and approve such partial leaves to ensure that all guidelines are followed and the funding pool would be campus wide unless otherwise specified by the campus.*

I don't know whether that addresses your question, but I think they just simply say that this had to be campus specific. On each individual campus you make your own decisions. Within the campus itself, I don't think there is an equity issue. But then, I don't think you can ever deal with equity across campuses. Does that answer your question, Kathy?

**Warfel:** Yes. When the UFC is talking about this, are they talking about the old policy.

**Ng:** Yes. They are talking about the old policy with that paragraph which I just read replacing the previous paragraph. They made no mention of the fund pool. Their motion also asked that the Faculty Handbook be consistent with the policy to recommend, if adopted by the Trustees.

**Porter:** Are there any other questions or comments?

**Peterson:** What were the concerns raised by the School of Medicine?

**Ng:** First, when you replace someone, there is the question of whether there would be a negative impact on the instructions? The issue was raised that in, for example, in certain specialties it is very difficult to have a part-time neurosurgeon. I think there is also a question about, since there is a large number of duties of the faculty in the School of Medicine, the professional schools may be very different, say the amount of teaching that is being done in the Medical School. That 65 percent doesn't pay for everything the faculty is supposed to do. Also, there is a concern with the grant monies for faculty funding agencies where grant funded salaries may be suspended during family leave of absence. This would result \_\_\_\_\_ to offset the cost of the leave. If the faculty member is able to continue to do the research and only giving up the teaching, I think the relief from teaching, in some sense, is just to free the faculty from some scheduled activities so that he or she may have the flexibility to rearrange his or her work to deal with the problem. When I first read those objections I was very concerned.

I think there was also a question of, if such a policy is to enhance competition for better faculty, it is not entirely clear.

I think originally such a policy was first talked about in 1990. The policy was to cover both faculty and staff, but because of the cost of the different natures of the two groups it was decided to separate the two. So, we are only talking about faculty in this proposed policy.

**Fore:** What is the time frame involved? It says this one can only be used every three years. I am concerned about the woman who suddenly has another child in two years instead of three.

**Ng:** That falls under the Pregnancy Leave Policy. This is like adopting a child or if a faculty member takes time off to care for a child. This does not apply to pregnancies.

**Porter:** Thank you. What I would propose is that we use a few minutes for the Question and Answer Period and then under Unfinished Business, if it is your pleasure to return to a discussion of the Intellectual Property policy, we could return to it at that time.

#### **Agenda Item X: Question and Answer Period**

**Porter:** Are there any questions to be addressed to the Chancellor or to the President?. [None]

#### **Agenda Item XI: Unfinished Business**

**Porter:** We will move to Unfinished Business. Is there any unfinished business that you would like to discuss?

**Orme:** I had a question about Intellectual Property. I think I have the pragmatic answer, but I am just interested in how the policy plays out on paper. We have public clusters of fairly sophisticated machines used not only by members of the university community, but by many of the metropolitan community some of who are business people and some aren't. Would this policy be created by those individuals who, on occasions, use our sources? If so, do we not have an obligation to post some type of notice?

**Cate:** The answer is 'yes' and 'yes.'

**Froehlich:** I wanted to make a statement that I agree with Ed Fineberg that the proportion given to the creator in this Intellectual Property is particularly tight. I agree with Dolores that the proportion between the university and the campus should also be flipped, at least in part. I also agree with Bill that we need some more time to discuss this before it goes further. I will say that, in most of the areas in which most of the money will be generated, such a molecular biology significant opportunities exist outside of the university. If the University sticks to a policy like this, people will go off campus. They are being solicited directly by companies to do this research. I understood what you were talking about in terms of University resources, but let's be honest, any university resource can be bettered outside. So, if you can do it here, you can do it anywhere. If people feel that it is too tight here, they will do it elsewhere. I hope that the Trustees are aware of that.

**Yokomoto:** I understand that student works will become the property of the university under the new proposal. If so, this would encourage students to withhold their best work because they would have to withhold anything that might have some serious benefits financially. I would hate to see a policy that discourages students from putting their best foot forward. Also, students who

sometimes do projects in conjunction with their work may have to select other projects. It just poses another problem.

**Froehlich:** I have one other question. Chancellor Bepko, did you ask the question that in any given instance you could make adjustments to the policy particularly if it had an outside third party involvement that you could in fact go to the university and say, "This will not be negotiated unless the policy is adjusted as follows?" Is that still an option open to us if this policy is accepted? I think I heard him ask that question.

**Cate:** That is absolutely accurate. There is a specific provisions. One dealing with the allocation of money and one dealing with overall changes to the policy -- exemptions from the policy. They may always be an exemption in either of these cases provided there is an agreement between the Chancellor on the campus involved, the creator, and the Vice President for Research.

**N. Fineberg:** I have a question regarding students. Many of our students are part-time students who work. If you are in some sort of an applied program course or engineering course, and as a class project you do something that is work related, under this policy you could not take that back and let your employer use it at no charge.

**Cate:** Under this policy the university would have a claim to that. That is right.

**N. Fineberg:** I will certainly discourage industry from sending their students here. Have the Trustees thought about this? It is going to make the people in industry around here send their students to other schools.

**Cate:** I think the Trustees assume that the URPC, the administration, and the university will craft exemptions as necessary in specific settings. The policy is designed to cover across the board.

**N. Fineberg:** Do you have to do this for every class?

**Cate:** To the contrary, you certainly could craft an exemption and provided the Chancellor agreed to it, it would deal with this choice from across the board.

**Keffer:** I am curious on two parts. First, as I heard this and read through it, it says 'faculty voluntarily submits their material then that material becomes the property of the university.'

**Cate:** If the faculty voluntarily submits material, the university retains the right to using that material. The ownership doesn't change.

**Keffer:** So, a new faculty joining gets a sheet of paper to sign and the university would do well to slip that in there.

**Cate:** You are right. The Trustees proposed a contract which each and everyone of us would be required to sign in order to keep our jobs. Now, I understand tenure would make that a bit of problem to enforce, but that was the situation. That is what the Trustees proposed -- a written contract that every person who comes to the university (student, faculty member, staff member) would sign. The UFC felt, as you could imagine, fairly strongly that that was not a good idea. Obviously, I felt that was not a good idea and the committee felt that was not a good idea. So, we have suggested that there not be written contracts and the Trustees have agreed that there will not be written contracts except in specific situations where they are indicated. For example, producers of television shows who work for WTIU have always signed written contracts and the university thinks they should continue to. But, the norm would be no written contracts particularly where faculty were concerned. The downside of that however is exactly, as you noted, these are very important rights that are being allocated here and clear notice is a very important part of that. To some extent I think the university sees it in its best interest by the university \_\_\_\_\_ the administration to provide clear notice.

The second thing that gives me a certain amount of comfort here is there is now a faculty committee with oversight of this policy -- the URPC. The URPC will play, I would imagine, a very important role in helping remind the university and craft the university about the form of that notice its frequency.

**Keffer:** My second point. I think it is interesting on the agenda today is we do have the Intellectual Property policy along with the Athletic Affairs Committee. Intellectual Property policy are those things that we do as faculty. What connection might there be with physical athletic ability/property to the university?



**Cate:** I can tell you that we debated for more hours than you would believe what happens to things like basketball plays. They would be covered by this policy.

**Keffer:** From all the money they actually bring in, do they have to pay back some? For example, Say you get ABC to pay you \$50 million for one game, then how much of that has to be. . .

**Cate:** That would be covered both by the NCAA II rules on student athletics and also the Conflict of Interest rules. This would not apply beyond that.

**Besch:** I have a question but I don't believe I would like to hear what your answer is going to be. But, I think it is necessary to ask the question, hear the answer, and have it recorded. At a practical level, we do a variety of entrepreneurial things at the laboratory and at the departmental level which require our working with some people outside the campus. This has been a successful strategy. If I understand what you have said, the new policy would prevent any individual laboratory or department from doing that. Is that a reasonable interpretation or is that unreasonable?

**Cate:** It is certainly not true that it would prevent it. It doesn't say a word about those activities per se.

**Besch:** But, you can't get back your money for them.

**Cate:** It says the creator only gets back a certain percentage of that. The university has an interest in the rest of that whether it is split between the university or the campus. The department will not get back that money. It doesn't say anything about whether you can do that or not. Of course, it doesn't anything about whether you can obtain waiver up to the Vice President or not.

**Besch:** Obviously, we will have to have that much better covered from our point of view to exempt each and every activity since otherwise they are not exempt.

**Cate:** I don't understand the question.

**Besch:** You don't go out and get people to fund invention projects. When we do go to, for example Lilly, they don't expect that if something comes out of the \$400,000 they gave us in a year to fund a creative project, the university has exclusive rights to it.

**Cate:** That would be the same as a written agreement between the university and the \_\_\_\_\_.

**Besch:** Exactly, but it continues to be anticipated that such things could occur and in each instance would have a clause that would say, 'this does not conform to the policy.'

**Cate:** No. But it would say that the university's share of that would have to conform to the policy. So, if the university signs an agreement with Lilly and the university takes \$1 million away from it and Lilly takes \$1 million, Lilly can do what it wants with its million. The university's share would be governed by this policy absent an exemption to the policy.

**Orme:** Point of clarification. I believe I heard you mention something about a unit committee of some sort that is responsible for notifying members of the community of this policy. Is that true?

**Cate:** It is not that there is a unit responsible. There is a unit. It is a University administration. The Counsel's office is going to take it for the moment. I would say the URPC has \_\_\_\_\_ the policy in governing that.

**Orme:** I am concerned at this point about notifying students of the policy because, if memory serves me well, Noble Roman's Pizza chain resulted from a Business School project at IU Bloomington.

**Cate:** That is right.

**Orme:** So, that would then be governed by the policy.

**Cate:** Not necessarily. This only deals with applicable Intellectual Property. Intellectual property is an expression or an invention which can be captured in some expressive form. An idea is never that. It is felt by the people who participated in negotiating this policy, most recently Bill Cook who, as you know, is somebody who invests significant, negotiates these contracts day in and day out in his business. But, this is a very workable compromise where nobody got exactly what they wanted.

**Galanti:** Is the URPC the arbitrator of disputes? I am looking particularly at “device-like” software and information software. I don’t know if there is ever likely to be a question as to which category a particular software program fits. If so, who would be the arbitrator of whether it is covered because it is information software, or not covered because it is “device-like” software.

**Cate:** Essentially, what laid out at the very end of the policy where it talks about the administrative appeal procedure, the URPC would be the \_\_\_\_\_. Of course from there it can also go to the Trustees. I would guess that the initial interpretation would actually come from the Technology Transfer Advisory Committee which is more or less a subcommittee of the URPC.

**Fore:** What does URPC stand for?

**Cate:** The University Research Policy Committee. It is the newly created committee. It replaces the Intellectual Property Policy Committee. It is the faculty’s overall voice in governance in research issues.

**Peterson:** It is jointly appointed by George Walker’s office and by the University Faculty Council.

**Porter:** Thank you. I appreciate your patience with having a variety of discussion on this. Fred, particularly for remaining here through the entire discussion. Fred, can you give us your full name and location in case people want to communicate with you?

**Cate:** The easiest way to find me is through my E-Mail which is FCATE@indiana.edu.

## **Agenda Item XII: New Business**

**Porter:** I know of no new business to come before this group.

## **Agenda Item XIV: Adjournment**

**Porter:** We stand adjourned.