Meeting Synopsis:

1. Call to order
2. Review of the minutes from February 14th, 2018
3. Vetting the FEC Task Force Report
4. Approval of changes to EO8 and discussion of the OSP list of types of restricted contracts
5. Good of the order
6. Adjourn

1) Call to order

The meeting was called to order at 9:00 a.m.

2) Review of the minutes from February 14th, 2018

The minutes from February 14th, 2018 were approved as written.

3) Vetting the FEC Task Force Report

Rosenfeld explained the FCR has been asked to vet the final report of the Task Force on Faculty Effort Certification (FEC), a body appointed by the Faculty Senate Chair and Provost, and make recommendations concerning dissemination of the report widely, along with any general comments to the Senate Executive Committee (SEC) (Exhibit 1).

The objectives set for the task force under its charge were to “… provide support to our faculty colleagues who are required to report to the federal government and help to clear up reporting confusion…“ and “…to facilitate and enable the conversations between faculty and chairs/directors regarding balance of effort” (Exhibit 1). It was noted that further information concerning what specifically the Task Force was asked to clarify as part of its work is included under the cover of the report (Page 3, Exhibit 1). Sue Camber (Associate Vice President and Controller, UW Finance), co-chair of the Task Force, was present to discuss the report with the council and answer questions. FCR members were asked to provide general feedback/comments.

Rosenfeld explained one issue left unresolved concerns what happens if a department chair does not have sufficient financial resources to provide a percentage of salary to their research faculty (for grant writing). Other members agreed with the point. Camber explained there was recognition within the report that if a chair cannot or will not provide adequate funds, a conciliation process may be used.
A member explained he is left with the sense the report does not necessarily solve all the problems associated with FEC reporting but does include helpful/constructive recommendations, including that faculty make an effort to negotiate with their chairs early in the process.

A member explained many faculty are seeking some acknowledgment of the time they are spending on writing grants, as often the percentage reported for grant writing is inaccurate. It was noted some faculty feel obligated to refuse to sign their FEC form because of the inaccuracy. There was some discussion of if a faculty member is liable for reporting inaccurate time. A member noted there is also the expectation that research faculty are working 50 hour weeks, when many are likely working 60 hour weeks. A member made note of the contradiction that UW research faculty must generally publish and write grants to be promoted, but the university by way of policy (particularly those associated with FEC reporting) makes that difficult to do.

A member noted he sees no issue with faculty who are not supported on federal funds being excluded from FEC reporting. It was noted the main issue with the idea is that the university cannot currently afford to implement a new reporting system.

Rosenfeld questioned if the FCR endorses the report while understanding it does not wholly solve all of the related problems. Members noted they endorse the report and support it being sent out widely, as along with providing useful clarifying information on FEC reporting, its dissemination will raise awareness of related issues.

4) Approval of changes to EO8 and discussion of the OSP list of types of restricted contracts

Rosenfeld explained revisions for Executive Order No. 8 (Classified, Proprietary, and Restricted Research) have been developed and reviewed by himself, Carol Rhodes (Director, Office of Sponsored Programs), and Margaret Shepherd (Chief Strategy Officer, Office of the President) as part of the plan to lessen the amount of restricted contracts the FCR has responsibility to review based on type of restriction. He explained the revisions effectively transfer authority to the UW Office of Sponsored Programs (OSP) to review and decide internally on approval for research contracts restricted on certain grounds (Exhibit 2). An excel file showing types of restricted research either FCR or OSP will have authority to approve under the EO revisions was also shown (Exhibit 3). Rosenfeld explained the Executive Order revisions had not yet been formalized. Lidstrom (president’s designee) explained she is in support of formalizing the revisions. Rosenfeld asked for additional feedback from members.

Feedback and additional recommendations

A member suggested that in addition to the EO revisions, a mutual agreement be struck between FCR and OSP that if there is concern/uncertainty in OSP relating to review of any restricted contract, a designated faculty member “liaison” of the FCR be consulted, who will then decide if the full FCR should also weigh in. It was noted this procedure need not be included under the revisions for EO 8, but simply be communicated to Rhodes and OSP. There was support for the idea from other members. Frevert preliminarily volunteered to fill the role of the “FCR liaison.”
After some discussion, it was noted the EO should be further revised to include a component/statement along the lines of: “the list of contracts that OSP considered routine and did not forward to FCR during the academic year will be sent to FCR for review prior to the list being forwarded to the Faculty Senate.” It was noted this language should be included in point 3. of the revised EO. Members agreed the EO should be revised to include the intervening step. Rosenfeld noted he would communicate the recommendation to Rhodes.

Following another question, FCR approved the list showing contract restriction approval authority as defined by OSP within the excel exhibit (Exhibit 3).

Rosenfeld noted he would report back to the council after communicating these ideas to Rhodes.

5) Good of the order

Nothing was stated.

6) Adjourn

The meeting was adjourned at 9:52 a.m.

Minutes by Joey Burgess, jmbg@uw.edu, council support analyst

Present: Faculty: Eliot Brenowitz, Chuck Frevert, Benjamin Marwick, Michael Rosenfeld (chair), Nicole Gibran
Ex-officio reps: Ann Glusker, Jake Busche, Larry Pierce, Charles Hirschman
President’s designee: Mary Lidstrom
Guests: Lynette Arias, Susan Camber, Jennifer Harris

Absent: Faculty: Donald Chi, Paul Fishman
Ex-officio reps: N/A

Exhibits
Exhibit 1 – TASK FOR ON FACULTY EFFORT CERTIFICATION_SEC_OVERVIEW_02_12_18_pa_sc.pdf
Exhibit 2 – EO No. 8 - MS Proposal[48953].pdf
Exhibit 3 – Copy of Publication Restriction List.2.16.2018(48729).pdf
CHARGE

The objectives set for the task force under its charge were to “...provide support to our faculty colleagues who are required to report to the federal government and help to clear up reporting confusion...” and “…to facilitate and enable the conversations between faculty and chairs/directors regarding balance of effort”.

Because confusion exists around the reporting of faculty effort, the task force was charged specifically with:

- Identifying the federally mandated rules and guidance and the UW-processes in place under these regulations;
- Developing a set of statements and FAQs to make these rules and processes clear;
- Identifying the number of faculty affected by these reporting requirements, and
- Developing a communication/education plan to reach all key parties.

The task force was also asked to clarify:

- What is allowed and not allowed, in terms of faculty effort and compensation for that effort, and
- A process for negotiating support for non-allowed costs.

MEMBERS | Jointly appointed by UW Faculty Senate Chair and Provost

George Sandison
Professor and Vice Chair, Department of Radiation Oncology, School of Medicine (co-chair)

Susan Camber
Associate Vice President, UW Finance, and Controller (co-chair)

Scott Barnhart
Professor, Departments of Medicine and Global Health, Schools of Medicine and Public Health

Trisha Davis
Professor and Chair, Department of Biochemistry, School of Medicine

Caroline Harwood
Professor, Department of Microbiology, School of Medicine

Mary Hebert
Professor Department of Pharmacy, School of Pharmacy

Gregory Miller
Professor and Vice Dean, College of Engineering, Civil and Environmental Engineering

Patricia Moy
Associate Vice Provost, Academic & Student Affairs, Office of the Provost, and Professor, Dept. of Communication, College of Arts & Sciences

Mayumi Willgerodt
Professor, School of Nursing and Health Studies, UW Bothell
1. Basic Principles

The most fundamental commitment of the University is to the maintenance of an open academic environment that fosters intellectual creativity, freedom, and the open dissemination of research results. In order to maintain such an environment, faculty, staff, and students must be free to carry out research in an open and unrestricted manner. They must have freedom to select research topics, to participate in research, and to publish or otherwise disseminate the results of their research. This freedom is undermined by restrictions on participation that are based on factors other than interest or competence, by restrictions on access to research facilities that disrupt the overall climate of openness on campus, and by restrictions on publication or dissemination of research findings. These restrictions may be imposed by security classification, export controls, proprietary rights in privately sponsored research, or other sources.

2. Obligation

The policy stated below, except as noted, is intended to eliminate such restrictions. It does not, however, prohibit self-imposed restrictions based on the professional ethics of a particular discipline. It also does not prohibit the existence of classified or restricted information on campus such as sometimes arises, for instance, in connection with consulting work. Thus, parts of the policy are directed towards maintaining a separation between classified or restricted information and the teaching and research functions of the University.

A. Unless exception is made using the review process described in Section 3, the University will not enter into any contract or accept any grant which:
   1) Prohibits the open publication or dissemination of research results within a reasonable period of time.
   2) Restricts participation on grounds other than interest or competence.
   3) Restricts access to campus facilities in ways that are judged to disrupt the overall research activity of the University.

Under unusual circumstances relating to special scholarly expertise of a faculty member or his or her research activities, or to the national security, exceptions may be necessary. In these cases a review of the proposed grant or contract shall be made by the Faculty Council on Research to ensure that the academic benefits to the University, and the communities it serves, will justify the exception. The criteria for exceptions and the recommendation and decision procedures shall be formulated by the Faculty Council on Research.

B. No University courses that are given for credit shall be classified or restricted in any part.

C. No theses or dissertations will be accepted in fulfillment of degree requirements that cannot be freely published or disseminated.
D. The University will continue to facilitate the participation by faculty members in classified or otherwise restricted work of their choice, if their knowledge of their fields and pursuit of their research is advanced by access to classified material or by participation in government research and policy activities. Normal University provisions and procedures for consulting activities, public services, and leaves of absence without pay will apply.

E. A record open to the faculty and students will be kept of University agreements that involve access to classified information.

F. Every reasonable effort will be made by the University to keep projects that involve classified or otherwise restricted information physically separated from the rest of the University.

*Conferences or meetings related to research and requiring security clearances should be governed by the spirit and provisions of these principles, and should be reviewed in the same way and according to the same criteria as herein specified. For the purposes of this provision the term "conference" means any meeting involving the participation of non-University persons and requiring formal approval of the University. Consultations needed in connection with already approved classified research projects and not requiring additional financial support will not be considered to be "conferences" within the context of this provision.

3. The Review Process

A. Preamble

1) As the governing body of the University of Washington, the Board of Regents has the legal responsibility for entering into research grant and contract agreements on behalf of the University. The Board, however, seeks recommendations from the faculty concerning policy matters relating to the conduct of research within the University.

2) The policy on classified, proprietary, and otherwise restricted research approved by the Faculty Senate and by the faculty calls for the Faculty Council on Research to make recommendations concerning the appropriateness of entering into research grants or contracts before final decisions are made concerning their acceptance by the University.

B. Mandate

The Faculty Council on Research, in accordance with the policy statements in Section 2 above, shall:

1) Review every proposal for a research grant or contract that carries a provision expressed or implied that seeks to limit participation, access to facilities, or the
freedom of the investigators to publish or not to publish the results of such research in full.

a) Proposals will be referred to the Faculty Council on Research by the Vice Provost for Research, deans, or department chairs whenever in their judgment a review is necessitated.

b) Notification to the faculty of each recommendation by the Faculty Council on Research shall be promptly published in a University official notice.

c) The Faculty Council on Research and the Office of Research may, upon mutual agreement, exempt individual or categories of proposals from review by Faculty Council on Research.

2) Maintain a current record, open for review, of the review actions taken by the Faculty Council on Research. The record shall include any individual or categories of proposals exempted from review.

3) Make an annual report to the Senate listing each restrictive grant or contract considered during the year and any individual or categories of proposals exempted from review. For grants or contracts considered, the report shall include, at a minimum:

a) Title of project;

b) Name of principal investigator or administrator;

c) Source or sources of funds for support of project;

d) Action by Faculty Council on Research as to approval or disapproval;

e) If approved, a short statement of justification for the proposed research in terms of the purposes of the University and in the light of the criteria for approval as listed in Section 3.C. below; if disapproved, a short statement of the reasons for rejection.

C. Criteria for Approval

1) A proposed research grant or contract that involves restrictions on participation, access, publication, or non-publication will be recommended for approval only when in the judgment of the Faculty Council on Research the merits of the proposed research and the potential benefits to be realized clearly outweigh the disadvantages of the restrictions. The following criteria shall be used as a basis for judgment; however, a proposal need not qualify under all criteria.

a) Involves unique University capabilities.

b) Has very substantial scholarly, scientific, or educational benefits.

c) Constitutes a very substantial public service.
2) All documents setting forth the terms of the proposed research grant or contract must be unclassified and the general nature of the research must be freely disclosed.

D. Recommendations and Advice

Any recommendation by the Faculty Council on Research shall be made by a majority vote of the quorum present. If the vote results in a tie, the matter shall be brought to the Senate Executive Committee for recommendation.

The Faculty Council on Research shall transmit to the Vice Provost for Research, through the Secretary of the Faculty, its recommendation on the approval or disapproval of each proposal together with the explanatory statements required by Section 3.B.3.e. The Vice Provost for Research may transmit to the funding agency in the normal manner each proposal that the Faculty Council on Research has approved. Disapproved proposals will be returned by the Vice Provost for Research through the dean and department chair to the initiator of the proposal, along with the Council’s statement of why the proposal was disapproved and any advice or suggestions for resolution of the difficulties leading to rejection by the Faculty Council on Research. Such rejection may be appealed (Section 3.E.)

The Faculty Council on Research shall assist the initiator of the proposal and other University personnel to achieve the greatest degree of publishability compatible with the proposed research.

E. Appeals

When a recommendation has been made by the Faculty Council on Research (or, in the case of a tie, by the Senate Executive Committee), the investigator or a group of 10% or more of the voting faculty or 25% of the Faculty Senate, and/or the Dean of the Graduate School and the Vice Provost for Research may appeal the recommendation by requesting the Senate Executive Committee to bring it before the Senate. An appeal must be made within two weeks after official publication of the recommendation of the Faculty Council on Research. Those who are appealing may be invited to express their views at the next meeting of the Executive Committee and, if they desire, of the Senate during a reexamination of the recommendation of the Faculty Council on Research. The Senate members shall then vote to sustain (or override) the recommendation of the Faculty Council on Research (or Senate Executive Committee.) The Senate action terminates the appeal process for the investigators of the proposed research or for the group of faculty who have appealed the recommendation of the Faculty Council on Research to the Senate. The Dean of the Graduate School and the Vice Provost for Research may at their discretion refer the matter, with a concise statement of the Faculty Council on Research recommendation and the Senate discussions and vote tally, to the Board of Regents for final decision.

F. Timing

The review committee’s consideration of and recommendation regarding a specific proposal should be completed within four weeks from the time of referral. The resolution of an appeal through action by the Senate should be so coordinated that normally the time required would be less than 60 days after the time of appeal.

In the case of a proposal for a continuing research grant or contract, where a lack of funding during the time required for resolution of the appeals may cause undue hardship in the
research operation, the Dean of the Graduate School may negotiate an extension for up to a period of one year.

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<tr>
<th>Category</th>
<th>Publication Restriction Type</th>
<th>Description</th>
<th>Examples</th>
<th>FCRT?</th>
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<tbody>
<tr>
<td>Joint Publications or By Committee</td>
<td>Collaboration in which joint publication is envisioned; UW can independently publish</td>
<td>The parties (sponsor and UW) are collaborators and both have right to publish. UW has the ability to independently publish results.</td>
<td>Collaboration agreement</td>
<td>NO</td>
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<td>Collaboration in which joint publication is envisioned; however, UW cannot independently publish until a waiting period is over.</td>
<td>The parties are collaborators and intend to jointly publish. UW does not have the ability to independently publish results of the collaboration effort until after a waiting period NTE 18 months after completion of study.</td>
<td>Multi-site clinical trial or study in which a multi-center publication is envisioned</td>
<td>NO, unless waiting period exceeds 18 months or UW not able to independently publish at all</td>
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<td>Publication decisions by committee; UW may independently publish</td>
<td>Consortia or committee makes publication decisions for multi-site or consortium publications; however, UW may publish independently for only its site.</td>
<td>Consortia agreements</td>
<td>NO</td>
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<tr>
<td></td>
<td>Publication decisions by committee; no ability for UW to independently publish</td>
<td>Consortia or committee makes publication decisions; no ability to independently publish</td>
<td>Consortia agreements</td>
<td>YES</td>
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<tr>
<td>Restriction related to Federal Regulatory Requirements, or Business Proprietary</td>
<td>Prevents publication of information related to cultural or heritage of sponsor or individuals involved in research</td>
<td>The purpose of the publication restriction is to prevent PHI, PI or other personal, student, or other privacy information protected by statute/regulation from being shared.</td>
<td>Native population studies related to health outcomes</td>
<td>NO</td>
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<td>Prevents publication of information restricted by privacy regulations</td>
<td>The purpose of the publication restriction is to prevent export-controlled information from being shared; if removed from publication, can publish without restriction (e.g. fundamental research results)</td>
<td>Clinical Study involving patient data</td>
<td>NO</td>
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<td></td>
<td>Prevents publication of information restricted by export control regulations</td>
<td>The purpose of the publication restriction is to prevent export-controlled information from being shared; if removed from publication, can publish without restriction (e.g. fundamental research results)</td>
<td>Applied Research Agreement, Federal or Federal-flow through</td>
<td>NO</td>
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<td>Prevents publication of information considered Controlled Unclassified Information (CUI)</td>
<td>The purpose of the publication restriction is to prevent CUI from being shared; if removed from publication, can publish without restriction</td>
<td>Federal contracts</td>
<td>NO</td>
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<td>Prevents publication of classified work</td>
<td>The purpose of the publication restriction is to prevent classified information from being distributed outside the intended clearance limitations.</td>
<td>Classified programs (with DD Form 254)</td>
<td>YES</td>
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<td>Prevents publication of information considered by sponsor to be business confidential or proprietary</td>
<td>The purpose of the publication restriction is to prevent a sponsor or third party's proprietary information from being included in publication. Restriction is limited to proprietary information as that is defined in contract; no overarching terms that include all research results or UW owned information as belonging to sponsor</td>
<td>Industry agreements</td>
<td>NO, unless sponsor requires broad definition of &quot;proprietary&quot; or is trying to control the publication for its own commercial advantage</td>
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<td>Extended period of restriction for sponsor review</td>
<td>The publication restriction is to allow sponsor to review the intended manuscript/publication draft for possible patent protection or to strike its confidential/proprietary information from the publication, and this restriction exceeds 90 days, from time of disclosure.</td>
<td>Industry agreements</td>
<td>NO, unless exceeds 90 days.</td>
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<td>Sponsor approves all publications</td>
<td>Sponsor has the final approval over all publications or other dissemination of the research results.</td>
<td>e.g. DFARS 215.204-7000</td>
<td>YES, unless Task Order/Delivery Order under ONR Basic Agreement, then may accept</td>
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<td>Non-Research</td>
<td>Work-for-hire</td>
<td>Sponsor owns the results; therefore we do not have right to publish/disseminate results (typical in services or other procurement agreement, not typically handled by OSP but rather under the auspices of APS 58.3)</td>
<td>Service agreements</td>
<td>NO, OSP to use UW IP Disposition Memo to get PI acknowledgement of terms</td>
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