

**EAST CAROLINA UNIVERSITY**  
**2018-2019 Faculty Governance Committee**

**MINUTES OF MEETING DATE:** September 26, 2018. (Campus was closed for Hurricane Florence during our previously scheduled meeting on Sept. 12.)

**PRESIDING:** Brad Lockerbie

**REGULAR MEMBERS (   X   IN ATTENDANCE):**

Tracy Carpenter-Aeby       , Jonathan Morris   X  , Michael Duffy   X  , Brad Lockerbie   X  ,  
Derek Maher   X  , Jeff Popke   X  , Marianna Walker   X  , David Wilson-Okamura   X  

**EX-OFFICIO MEMBERS (   X   IN ATTENDANCE):**

Don Chaney, Rep of the Chair of the Faculty   X  , Jay Golden, VCREDE       , Ron Mitchelson,  
Provost / VCAA       , Donna Roberson, Chancellor's Rep   X  , Mark Stacy, Interim VCHS   X  ,  
John Stiller, Fac Sen Rep   X  

**OTHERS IN ATTENDANCE:** Lori Lee; Linda Ingalls for the Office of the Provost; and VC for Legal Affairs Donna Gooden-Payne.

**I. Call to Order, 3:00 pm, Rawl 142**

**II. Membership**

Kylie Dotson-Blake was replaced on the committee by Morris and Lockerbie was elected to replace Dotson-Blake as chair.

**III. Minutes**

The minutes of Apr. 11, 2018 and Aug. 29, 2018 were approved.

**IV. New business**

**A.** Lockerbie solicited volunteers for working groups:

1. Popke volunteered to propose language on program coordinators for SAACS.
2. Stiller and Popke volunteered to consult with Gooden-Payne on revisions to the Faculty Manual's appellate structure.
  - a. At its next meeting the committee will review progress and schedule faculty fora.
3. Morris and Maher volunteered to review Changes to Faculty Manual, Part VIII, Section I.III: Annual Evaluation, 1. Teaching (#18-32).
4. Popke volunteered to review Faculty Manual, Part VIII, Section II: Conflicts of Interest.
5. Duffy and Maher volunteered to work on formulating college constitution guidelines.

**B.** Discussion of "Freedom of Expression Regulation – Interim" (version 2)

1. Morris asked: what is a responsible person?

- a. Gooden-Payne distinguished the rights of campus community members (“responsible persons”) from the more narrowly-defined rights of invitees and non-members.
  - b. Maher: this should be clarified in the document itself.
  - c. Stiller suggested that we amend 2.13 to define “responsible person” as any member of the university community.
2. Gooden-Payne’s team will review possibly circular language in 3.1.5.
3. Morris asked whether “clear and present danger” in 3.2.1.1 can silence any speaker, or just a lawless one.
  - a. Lockerbie: the danger is that this new section silences the speaker, not the heckler who poses a danger.
  - b. Popke: the aim is to neutralize hecklers without silencing dissent.
  - c. Gooden-Payne: the document as a whole is designed to prevent hecklers from violating the right of other speakers. However, hecklers are speakers, too, so hecklers have speech rights, too.
4. Wilson-Okamura asked would a football player kneeling during the national anthem constitute “disruption”?
  - a. Gooden-Payne: the document’s standard for disruption is “material and substantial.” Coaches might discourage this behavior...
  - b. Stiller and Popke: ...but coaches would have a hard time using this document to justify a prohibition.
5. Morris asked: what about something more inflammatory, like desecrating the flag?
  - a. Gooden-Payne and Maher: if speech were the actual topic of a class, it would probably be permitted.
  - b. Gooden-Payne added: examples of really difficult situations are those involving statements (speech) about protected classes that approach creation of an illegally hostile environment in a classroom setting, such as “I don’t think women should be lawyers.” This document usually comes down on the side of allowing free speech. Speech may be subject to reasonable time, place and manner restrictions. So, statements might be allowed in one place (on the mall, where listeners are free to leave) that are not acceptable in another place (a classroom discussion where one is expected to get the benefits of education). That does not mean every adverse, or even hostile, statement in a classroom is prohibited. For a hostile statement to be illegal, it needs to meet the definition of discriminatory (unwelcome; and so severe, persistent, or pervasive that it unreasonably interferes with or deprives someone from participating in education or employment).
6. Popke expressed concerned about penalties, that students could be expelled for trying to silence genuinely damaging speech. That said, he continued, the sanctions are sufficiently qualified as to be compatible with our existing disciplinary structures.
  - a. Gooden-Payne: the usual remedy is engagement with individual students.

- b. Duffy drew attention to guidance on this issue in *Faculty Manual*, Part V.
  - 7. Maher asked: how are Hendrix auditorium speakers covered?
    - a. Gooden-Payne: this policy calls for the University to punish hecklers who shout down the speaker.
    - b. Stiller: but what if the speaker has inflamed a large audience? Will they remove the inflamed audience, or the speaker?
    - c. Morris and Gooden-Payne: if there are police officers on the scene, they will make this decision.
  - 8. Maher suggested a distinction between objections to offensive speech and objections to religious advocacy using state funds.
  - 9. Gooden-Payne offered historical perspective: once upon a time, university presidents were expected to lead public opinion; today, however, the legislature and BOG discourage the University from advocating on issues of public policy.
    - a. Popke asked: does this apply in the classroom?
    - b. Gooden-Payne answered: student speech needs to be appropriate to time, place, and occasion; if speech is curtailed, it should be for manner not content. Classroom speech in a faculty member's field of expertise is highly protected.
    - c. Roberson interposed: student behavior in class is also covered by the existing policy on disruptive speech.
  - 10. Maher asked: do we need more explanation of academic freedom here?
    - a. Wilson-Okamura suggested: let's not try to define it in two different documents. If we're dissatisfied with the explanation in the Faculty Manual, we should amend it there.
  - 11. Lockerbie asked: what are the legal limitations on the accused's right to confront an accuser?
    - a. Gooden-Payne: except in cases of extreme trauma, such as sexual harassment, the accused can usually confront an accuser directly and in person.
  - 12. Maher suggested an amendment in 7.1: replace "students and employees" with members of the University community."
  - 13. Wilson-Okamura suggested revisions to the introduction that would limit speech for threats to the University's basic function rather than its more vaguely-defined "interests."
    - a. What's the difference? Morris gave an example, donor sensibilities, that might conflict with the University's "interests" but not its "function," which the document defines as pursuit of knowledge.
    - b. Popke pointed out that this language comes from the BOG; altering it might form an obstacle to the document's approval.
    - c. Stiller suggested that Morris and Wilson-Okamura send Gooden-Payne's team a suggested revision.
- C.** In preparation for future discussions, Popke outlined a couple issues related to college constitutions and unit code guidelines:

1. Faculty members should be involved at the drafting stage when colleges revise their codes.
  - a. Ingalls encouraged the working group to give careful attention to resource allocation.
2. Guidelines are sometimes appended to unit codes; how they should changes to those guidelines be vetted?

**V. Adjourned at 5:00 pm.**

Respectfully submitted, David Wilson-Okamura.