

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

**MINUTES OF MEETING DATE:** April 24, 2019.

**PRESIDING:** Marianna Walker

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

Tracy Carpenter-Aeby   X  , Jonathan Morris   X  , Michael Duffy   X  , Brad Lockerbie \_\_\_\_\_,  
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 \_\_\_\_\_, Jay Golden, VCREDE \_\_\_\_\_, Ron Mitchelson, Provost / VCAA \_\_\_\_\_, Donna Roberson, Chancellor's Rep \_\_\_\_\_, Mark Stacy, VCHS \_\_\_\_\_,  
John Stiller, Fac Sen Rep   X  

**OTHERS IN ATTENDANCE:** Assoc. Provost and Chief Diversity Officer LaKesha Alston Forbes;  
Director of Equal Opportunity and Title IX Compliance Officer Malorie Porter; Mike Van Scott for Jay Golden

**I. Call to Order, 3:05 pm, Rawl 142**

**II. Minutes**

The minutes of Apr. 17, 2019 were approved.

**III. Continuing Business**

**A.** Forbes was invited to answer questions about expected Title IX changes and procedures for resolving allegations of discrimination.

1. Popke asked the committee to identify issues and concerns for more concrete discussions next year.
2. Carpenter-Aeby asked how subjects of investigation are notified and what records are kept.
  - a. Forbes: a case is opened when concern is expressed. However, most cases never become formal complaints. In such cases, the subject does not become a respondent and is not notified. However, notes on the case are retained.
  - b. Stiller contrasted this with the policy on student complaints: unit administrators cannot keep records of complaints without informing the accused faculty member. As a general principle, the university cannot not maintain secret personnel files.
  - c. Carpenter-Aeby and Walker asked at what point a pattern of complaints that haven't been formalized would be elevated. Forbes answered: concerns are not investigated without a formal complaint except in extreme cases.
  - d. Walker: if a formal complaint is made, are previous cases consulted, even if they did not result in a formal complaint?
    1. Forbes did not believe they have been.

2. Stiller pointed out that supervisors' memories cannot be ablated, and suggested that a supervisor's informal records might suggest avenues for investigation later, provided those records were not themselves used in a personnel action.
    3. Wilson-Okamura questioned how such informal records differed from a secret personnel file.
  3. Forbes reviewed mandatory reporting responsibilities in response to a question from Duffy.
  4. Forbes described procedures for handing off concerns that are not under OED's purview: e.g., to colleges for faculty members or HR for non-faculty employees.
  5. Van Scott remarked that the NSF must now be notified for all NSF-funded projects whenever administrative actions are taken in response to an allegation of harassment.
- B.** Porter took over from Forbes, who had to leave, at 3:45.
  1. Wilson-Okamura resumed the thread of earlier questions about cases that didn't become complaints. Do a series of unsubstantiated concerns add up to a complaint?
    - a. If they did, Stiller pointed out, an employee might have grounds to challenge the consequences using the grievance process.
    - b. Maher remarked that earlier matters will only be investigated if a later matter does rise to an actionable level.
    - c. Popke, however, noted that even closed cases can harm the reputation of a subject if it becomes known that "alternative" remediation, such as department sensitivity training, was the result. --And this can happen, Popke continued, without the subject of a case having any opportunity to respond.
  2. Wilson-Okamura asked what standard of evidence was expected in the forthcoming Title IX guidance.
    - a. Porter answered: the highest standard of evidence in use by the whole campus; at ECU, this would be "clear and convincing," rather than "preponderance."

#### **IV. New Business**

- A.** Anticipating a question on the annual report, Popke asked whether the committee had encountered any hindrances this year.
  1. Morris commented on the breadth of the committee's charge, which this year entailed consideration of teaching.
  2. Wilson-Okamura remarked on the productive interaction of faculty members and administrators.
- B.** Walker thanked outgoing members Maher and Morris for their service.

#### **V. Adjourned at 4:13 pm.**

Respectfully submitted, David Wilson-Okamura.