

<p style="text-align: center;">EAST CAROLINA UNIVERSITY 2020-2021 Faculty Governance Committee</p>
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The next meeting of the 2020-2021 Faculty Governance Committee will be held on **Wednesday, Oct. 28**, at 3:00pm via video conference. The committee did not convene on Sept. 23.

MINUTES OF MEETING DATE: Oct. 14, 2020

PRESIDING: Jeff Popke

REGULAR MEMBERS (X IN ATTENDANCE):

Tracy Carpenter-Aeby __, Stacey Altman __, Michael Duffy X, Edwin Gomez __, Jay Newhard X, Jeff Popke X, Anne Ticknor X, David Wilson-Okamura X

EX-OFFICIO MEMBERS (X IN ATTENDANCE):

Crystal Chambers, Rep. of Chancellor X; Grant Hayes, Acting Provost / VCAA __; Purificación Martínez, Chair of the Faculty X; Aundrea Oliver, Rep of Faculty Senate __; Mark Stacy, VCHS X; Mike Van Scott, Interim VCREDE __

OTHERS IN ATTENDANCE: Rachel Baker; Linda Ingalls for Office of the Provost; Lisa Hudson, Associate VCHS and Human Resources Administration Director; LaKeshia Forbes, Associate Provost for Equity and Diversity and Title IX Coordinator; Malorie Yeaman, Director of the Office of Equity and Diversity (OED); Paul Zigas, Interim University Counsel and VC for Legal Affairs; Meagan Kiser, Interim Deputy University Counsel; Mary Inscoe, Assistant University Attorney; Wendy Sergeant, Assistant Vice Chancellor for Personnel and Resource Administration

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

II. **Minutes**

The minutes of Sept. 9 were approved.

III. Continuing Business

- A. "Resolving Allegations of Discrimination" regulation
1. Last spring the committee reviewed the interim regulation and recommended changes that were approved by the senate last spring. The interim chancellor endorsed the changes, pending this committee's approval of additional changes recommended by the University Counsel's Office (UCO).
 2. Kiser, who authored the additional changes, was on hand to explain them, together with Zigas and Inscoe.
 3. The committee focused on changes to 3.1, Obligation to Review Prohibited Conduct, and 7.2, on records.
 4. 3.1 Obligation to Review Prohibited Conduct
 - a. Chambers: as revised by UCO, this section now implies that all complaints will result in an alternative resolution or formal investigation. What about complaints that don't warrant either?
 - b. Wilson-Okamura amplified: the assumption that every complaint will result in an alternative resolution or formal investigation is prejudicial to the respondent.
 - c. Zigas objected to further "wordsmithing" on the grounds that UCO has already rendered its legal opinion. "We're not interested in further negotiation." This discussion has already gone on for more than a year and "it's time to fish or cut bait."
 - 1) Popke: that position represents a new understanding of shared governance.
 - 2) Wilson-Okamura: effectively, it gives UCO the last word in everything the faculty senate recommends to the chancellor.
 - d. With Kiser's approval, Popke moved an insertion: "...the Office for Equity and Diversity will undertake a Preliminary Assessment and, if appropriate, address those concerns with an alternative resolution or formal investigation." **Carried.**
 5. 7.2, on records.
 - a. Last spring the committee voted to recommend the following: "OED reports that do not eventuate in a formal Complaint can suggest avenues for investigation when they form a pattern, but reports that have not been investigated formally, in a manner consistent with due process, cannot be used to substantiate subsequent Complaints."
 - b. UCO recommends changing this to: "...unsubstantiated allegations that have not been investigated formally, in a manner consistent with due process, cannot serve as the basis for the imposition of sanctions or disciplinary action."
 - c. Kiser explained the change as clarifying the ambiguous phrase "substantiate subsequent Complaints."
 - d. Wilson-Okamura: it also changes the substance.
 - 1) The revised sentence protects respondents from accumulations of weak evidence that result in punishment. But it doesn't address

accumulations of weak evidence that result in a finding of discrimination.

- 2) Why does that matter? Even if it doesn't result in a sanction (or the sanction is successfully appealed), a finding of discrimination remains in an employee's file, where it can block a promotion. Even without sanctions, OED findings can have long-lasting effects. (As well they should.) That effect is magnified because findings can't be appealed (3.2.3.7.3). All the more reason, then, to specify in writing how they can and cannot be arrived at.
 - e. Popke raised a couple questions: Could earlier complaints that weren't formally investigated be used to force an alternative resolution, since that's not (technically) a sanction? And later: if we disallow five-year-old complaints that weren't investigated at the time, does it expose us to legal jeopardy?
 - f. Newhard: a pattern of complaint is not evidence of whether an alleged discrimination actually occurred.
 - g. Chambers: prior complaints that weren't formally investigated are probative but not dispositive.
 - h. Popke and Duffy: now that we've talked about it, I'm satisfied that UCO's revisions provide sufficient protections for due process..
 6. At this point, the committee seemed to have reached an impasse.
 - a. Stacy remarked: UCO and the senate are both advisory to the chancellor, who will determine the regulation's final wording.
 - b. Popke and Martínez moved to approve the editorial changes proposed by UCO, as amended above (3.2.1).
 - 1) Wilson-Okamura cautioned: we are stretching the definition of "editorial changes." It's one thing to approve changes in wording, but when we approve changes in policy, we are in danger of exceeding our charge.
 - 2) **Carried.**
 - c. Chambers, as the interim chancellor's representative on the committee, offered to summarize the discussion for him in person.
- B. Title IX Revisions
1. Yeaman reviewed the university's response to recent changes in the Department of Education's interpretation of Title IX.
 2. Popke asked: should the committee undertake to review the university's newly revised policies?
 3. Chambers suggested: not yet. The regulations are complex and there may be more changes in the near future. The committee endorsed this strategy.
- C. Academic Integrity
1. At its previous meeting, the committee objected to UCO's proposal that academic integrity be moved from the faculty manual to the university policy manual.
 2. Martínez reported that the interim chancellor sees no need for a move, provided that both manuals have identical wording.

- D. Popke reported on the subcommittee for student complaints.
 - 1. Altman, Oliver, and associate HCAS dean Derek Maher (who served on Faculty Governance for several years) volunteered to be members.
 - 2. The subcommittee is drafting revisions to the grade appeal policy.
- E. Popke reported on the subcommittee to review the faculty bylaws and constitution.
 - 1. Duffy, Ingalls, Martínez, Popke, Ingalls, and Ticknor volunteered to be members.
 - 2. Drawing on written suggestions from Ingalls and Lori Lee (who retired last year after managing the faculty senate office for thirty years), the subcommittee is now reviewing the current bylaws for potential issues. E.g., there are currently no provisions for electronic voting.
 - 3. One question has arisen already: how should “the general faculty” be defined?
 - a. Popke: a sample of other UNC schools shows no uniformity.
 - b. Chambers: what about administrators who have a teaching title but aren’t currently teaching or doing research?
 - c. Wilson-Okamura: listing our current ranks solves the problem for now, but what happens when someone proposes a new rank that isn’t obviously connected with teaching or research? We’ll need a definition of “faculty” sooner or later.
 - d. Ingalls explained the history behind some of the current definition’s terminology.
 - e. Martínez asked: should we continue the practice of restricting “general faculty” status to full-time employees?
 - 1) Popke has been checking at other UNC schools: it’s not common to include part-time instructors, but there are precedents
 - 2) Martínez explained that in her department, Foreign Languages and Literatures, there are several instructors who teach full loads, year after year, but don’t have full-time status because they are on semester contracts.
 - 4. What should be the role of ex officio members in the faculty senate and on senate committees?
 - a. Popke: again, UNC schools vary widely on who is a member of what and who votes.
 - b. Stacy opined: the role of ex officio members is to advise, not vote.
 - 5. Popke: there is much streamlining to be done. For example, the rules for apportioning senators to units seem needlessly complex.
 - a. Chambers cautioned: sometimes rules are complicated for a reason. If we simplify the apportionment of senators, it might change the balance of the senate in ways we didn’t anticipate.
 - b. Wilson-Okamura welcomed a streamlined process for electing senators once they have been apportioned. In a large unit like English, the current rules for electing senators are cumbersome and time-consuming.

IV. Adjourned at 5:00 pm.

Respectfully submitted, David Wilson-Okamura.