

***EAST CAROLINA UNIVERSITY
2019-2020 Faculty Governance Committee**

The next meeting of the 2018-2019 Faculty Governance Committee will be held on **Wednesday, February 12**, at 3:00pm in Rawl 142.

MINUTES OF MEETING DATE: January 22, 2020

PRESIDING: Jeff Popke (vice-chair)

REGULAR MEMBERS (X IN ATTENDANCE):

Tracy Carpenter-Aeby ____, Stacey Altman ____, Michael Duffy X, Brad Lockerbie X,
Jay Newhard X, Jeff Popke X, Marianna Walker X, David Wilson-Okamura X

EX-OFFICIO MEMBERS (X IN ATTENDANCE):

Crystal Chambers, Rep of Chancellor X; Don Chaney, Rep of the Chair of the Faculty X;
Mike Van Scott, Interim VCREDE X; Grant Hayes, Acting Provost / VCAA ____;
Mark Stacy, VCHS ____; David Thomson, Rep of Faculty Senate X

OTHERS IN ATTENDANCE: Rachel Baker; Linda Ingalls for Office of the Provost; Meagan Kiser, for interim Univ. Counsel and VC for Legal Affairs Paul Zigas; Lisa Hudson, for VCHS Mark Stacy; Susan P. Martin, Sr. Equal Opportunity Complaint Investigator

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

II. Minutes

The minutes of Dec. 11 were approved with additions proposed by email.

III. New Business.

A. Popke asked for the committee's view on Faculty Manual (FM), Part IV, Section II: "III. Faculty Who May Vote on a Unit's Code of Operations" and ". Use of 'Guidelines' by a Code Unit."

1. Popke: when the code unit is a college, not a department, must the whole college vote on a department's criteria for promotion and tenure?
2. Chambers: this section of the FM applies to code units, which the departments in question are not. But there is no other section of the FM that does apply.
3. Ingalls noted that the FM's minimal code requirements *do* include tenure and promotion guidelines.
4. Popke: that still leaves open the question of who votes on tenure and promotion guidelines. The College of Engineering and Technology

(E&T) code states that the department faculty develop and approve guidelines.

- a. Popke suggested that this principle should be codified in the Faculty Manual.
 - b. Wilson-Okamura demurred: the E&T code is not ambiguous. We can't anticipate all situations, so unless there is an actual problem, perhaps the FM should leave room for different colleges to evolve different arrangements
5. Ingalls suggested that there is a similar issue with graduate faculty status.
6. Duffy asked: even if voting takes place at the department level, should the college be informed or have a say?
- a. Popke: yes, with E&T's current wording a college could end up with widely discordant tenure requirements (e.g., a single department that only requires one article for tenure).
 - b. Chambers observed that some of this danger can be alleviated through college tenure and promotion committees, which the committee has discussed several times.
 - c. Hudson described how Brody School of Medicine set minimum criteria for all of its departments.
7. The consensus of the committee was that changes to tenure and promotion guidelines should go through the whole process of screening and approval by senate and chancellor.
- a. (Up to the present time, guideline changes have been exempt from screening and approval until the next time a code was reviewed as a whole.)
 - b. Ingalls clarified that the Unit Code Screening (UCS) committee does not tell units what their criteria should be, but it has experience and can anticipate common problems and likely snags.
8. Walker asked: what happens when someone is hired and then criteria change before tenure is earned?
- a. Ingalls: the law says that the new criteria go into effect immediately upon approval unless the bylaws specify otherwise (which some unit codes do).
 - b. In these circumstances, Ingalls suggested, probationary faculty members should be allowed to request extensions of their probationary period.

- c. The committee agreed that changes to the criteria for promotion to Professor are not subject to any lag or extension.
 - 1. Chambers explained that tenure, unlike promotion, is classified as a property right.
 - 2. Hudson noted, however, that when promotion entails a salary increment, faculty members might consider that a property right as well.
- 9. Chaney: if UCS gets backed up with screening guidelines as well as whole codes, could the workload be shared by Faculty Governance or a subcommittee of UCS?
 - a. Wilson-Okamura and Popke: UCS has developed a level of expertise that is not easily transferred to another committee.
 - b. Ingalls: if needed, UCS can add meetings (and has in the past).
- 10. The committee charged Popke and Duffy to propose revisions to the Faculty Manual that would flesh out the consensus described above.

IV. Continuing Business.

- A. The committee resumed discussion of the interim regulation “Resolving Allegations of Discrimination” (2017).
 - 1. Section 3: Resolving Complaints of Prohibited Conduct.
 - a. Newhard proposed specifying when a potential Complainant should not attempt to resolve the issue with a supervisor: (a) when the supervisor is a potential Respondent; or (b) when the potential Complainant and Respondent share the same supervisor.
 - 1. Discussion focused on situation (b).
 - 2. Popke and Lockerbie: isn’t resolving conflict part of the supervisor’s job?
 - 3. Thomson interjected: we don’t want supervisors to be blindsided.
 - 4. Newhard responded: supervisors have an incentive to cover up problems in their group or unit. This has occurred often enough, and the consequences are severe enough, that we should encourage potential Complainants to go directly to OED.
 - 5. Chambers and Martin: ECU has been training supervisors to be more conscious of potential problems, and to report complaints to OED.

6. After discussion the committee voted not to specify circumstances in which a potential Complainant would be encouraged to bypass a supervisor altogether.
2. Section 3.2.3.2: Preliminary Inquiry
 - a. Wilson-Okamura: in November we agreed to reorder the sequence of events so that a Preliminary Inquiry would take place before an Alternative Resolution was undertaken. The rationale, according to our minutes, was to protect the due process rights of a potential Respondent, who might not agree with the potential Complainant's characterization of a situation or event. However, as we learned at our December meeting, a Preliminary Inquiry is really a review of the potential Complainant's initial report, not an investigation of facts.
 1. Chambers moved to change the term *preliminary inquiry* to *preliminary assessment* throughout. **Carried.**
 2. Wilson-Okamura: this is better, but it seems that an alternative resolution can still take place without first asking the potential Respondent to give his or her side of the story.
 3. Sections 5 and 7: Privacy and Records
 - b. Popke returned to another question we discussed earlier: whether records of a potential complaint should be kept without the Respondent's knowledge.
 1. Martin: OED does not maintain a "naughty list" and reports are not indexed.
 2. Kiser: However, there are legal requirements to maintain records of reports and complaints.
 3. Wilson-Okamura suggested that we formalize, in this document, OED's existing policy of not keeping secret "naughty lists."
 - c. Wilson-Okamura asked why Complainants' privacy is protected but not Respondents'.
 4. Chambers moved that we specify protection for the privacy of Respondents as well as Complainants. **Carried.**
 - d. Popke moved that we ought to maintain confidentially "of all OED records," not just ones pertaining to a formal "investigation."

1. Van Scott proposed an amendment, which was adopted, that we specify “all OED records pertaining to this policy.”
2. The amended motion **carried**.
3. Martin asked: will this change prevent OED from sharing investigative materials with both Complainant and Respondent?
 - i. Kiser: that exchange of materials is part of due process.
 - ii. Kiser volunteered to draft language allowing for this exchange.
4. Section 3.2.2: Alternative Resolution Process
 - a. Popke asked: who initiates an alternative resolution process?
 - b. Martin: OED might suggest it, but usually follows the wishes of the potential Complainant.
 - c. Popke moved the following insertion: “The Complainant may request or the investigator may suggest an alternative resolution in place of formal resolution.” **Carried**.
 - d. Martin: OED notifies potential Complainants that an alternative resolution took place, but does not report details (for example, what the potential Respondent said).
5. Wilson-Okamura: before we finish reviewing this regulation, we need to discuss appeals.

V. Adjourned at 5:00.

Respectfully submitted, David Wilson-Okamura.