

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

MINUTES OF MEETING DATE: February 12, 2020

PRESIDING: Jeff Popke (vice-chair)

REGULAR MEMBERS (X IN ATTENDANCE):

Tracy Carpenter-Aeby __, Stacey Altman X, 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 Chair of the Faculty X; Mike Van Scott, Interim VCREDE __; Grant Hayes, Acting Provost / VCAA __; Mark Stacy, VCHS X; 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; Susan P. Martin, Sr. Equal Opportunity Complaint Investigator; Brandon Araujo, OED Data Analyst; Kyle Chapman, IPAR

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

II. Minutes

The minutes of Jan. 22 were approved with an addendum from Ingalls.

III. New Business.

A. How should participants describe themselves in the annual administrator surveys?

1. Popke summarized the issue.
 - a. Currently there are only two options for gender, male and female.
 - b. More options would reflect the diversity of our community more faithfully.
 - c. There is a danger, however, in small participant pools that making the options more specific will also make participants more identifiable, and therefore less willing to respond frankly. Granularity might come at the expense of anonymity.
2. Chapman reviewed the history and use of the survey.
3. Duffy asked what other surveys on campus ask about gender identity.
 - a. Chambers answered: in a recent campus-wide survey, 24% self-identified as LGBTQ.

- b. Popke: true, but sexual orientation can be distinct from gender identity.
- 4. Lockerbie drew on his political science training: when you construct a survey, more options usually results in fewer participants who complete the survey.
- 5. Duffy asked about statutory parameters. Chapman and Kiser were not aware of any.
- 6. Araujo urged more granularity, for the sake of inclusiveness.
- 7. Wilson-Okamura: we still need to settle the concern about anonymity.
 - a. Chambers observed: if the sample size is small enough that anonymity is an issue, that fact in itself can be telling.
 - 1. Newhard added later: also telling is when people choose “decline to answer.”
 - b. Popke and Lockerbie: the solution to concerns about anonymity is statistical aggregation.
- 8. Newhard asked for an articulation of why we are collecting this demographic information in the first place.
 - a. Araujo gave an example: if males rate an administrator highly but females don’t, that’s important. The same might be true for non-cisgender categories.
 - b. Popke added: the answers we receive guide decisions and evaluations, but the questions we ask reflect our values.
- 9. Wilson-Okamura: the consensus around the table seems to be in favor of expanding the options. So which options should there be?
 - a. The committee discussed the use of “other” and concluded that, while it seems innocent, its effect can be alienating.
 - b. Chambers suggested three options: male, female, and non-binary/non-conforming.
 - c. Chapman offered that the UNC engagement survey has five categories: female, male, transgender, non-binary, declined to answer.
 - d. Araujo: statistically, having three categories preserves anonymity better than four or more.
 - e. Lockerbie noted that, if we have more than three categories, we can aggregate the new ones under “non-binary” in situations where anonymity is endangered.
- 10. Chambers asked: should we should add a separate question about sexual orientation?
 - a. Chambers cited statistics that demonstrate concern on the part of ECU community members, that gender identity, race,

and sexual orientation are obstacles to advancement and recognition.

- b. Popke wondered: is a survey about administrators the place to begin addressing these concerns?

11. Discussion ended in favor of more options for the gender question, but the committee was undecided about which and how many. Popke will consult with the LGBTQ Center's Mark Rasdorf and the committee will take up the issue again before this year's survey is finalized in late March.

B. Popke sought the committee's advice about fixed-term (FT) service on senate committees.

1. A few years ago, the "By-laws of the Faculty Constitution" were revised such that FT could serve as voting members on senate committees, with the following proviso: "A majority of the members of all committees must be tenured or tenure-track faculty members, and in no case shall more than two elected members of each committee be fixed-term faculty members." (Faculty Manual, Part II, Section II.V)
2. After the most recent call for committee volunteers, Popke noticed that approximately one third of volunteers were FT.
3. Popke suggested that the two-member limit was unnecessary for most committees.
4. Wilson-Okamura asked: would removing the limit erode shared governance? Tenured faculty members are harder to pressure than FT faculty members on one and three-year contracts.
 - a. Chambers questioned whether the kind of pressure that FT faculty members might be subject to actually occurs on senate committees. Service outside the department can make FT work more fulfilling. Our priority should be giving all faculty members agency to choose for themselves.
 - b. Thomson asked whether tenure-track members feel less vulnerable than FT.
 - c. Chambers noted that FT faculty members in Health Sciences feel considerably less precarious than FT faculty members in Academic Affairs.
5. Chambers and Altman argued: the real question is about workload. By removing the cap on FT membership, would we unintentionally increase FT service loads, because FT faculty members are competing with each other for new contracts?

- a. Ingalls noted that some FT faculty members are only credited with a maximum of 10% for service on their annual evaluations, no matter how much service they do.
6. Chambers proposed giving the Committee on Committees discretion to balance membership.
7. Lockerbie worried that “discretion” would become “carte blanche.”
8. Chaney moved, instead, to amend the By-laws and remove the limitation altogether: “~~A majority of the members of all committees must be tenured or tenure-track faculty members, and in no case shall more than two elected members of each committee be fixed-term faculty members.~~” Carried.
9. This recommendation will go to the senate for discussion. In the meantime, Thomson and Popke urged that Chairs of the Faculty should continue making use of FT expertise by appointing FT faculty members as their representatives.

IV. **Continuing Business.**

- A. The committee resumed discussion of the interim regulation “Resolving Allegations of Discrimination” (2017).
 1. Wilson-Okamura moved three amendments.
 - a. Under “3.2.2. Alternative Resolution Process”: insertion of “3.2.2.3 The request for an alternative resolution is not tantamount to a finding of Prohibited Conduct, which can only be established through a formal investigation as described below.”
 1. Chambers proposed, to general agreement, deleting the phrase “tantamount to.”
 2. The amendment was adopted as follows: “3.2.2.3 The request for an alternative resolution is not a finding of Prohibited Conduct, which can only be established through a formal investigation as described below.”
 - b. Under “3.2.3.8. Conclusion of Investigation”: strike the phrase “OED’s findings may not be appealed and constitute the University’s final decision except that” and insert a new subpoint: “3.2.3.8.4. Faculty members can appeal OED’s findings through the grievance procedures in Faculty Manual, Part XII.”
 1. Wilson-Okamura explained: until now, allegations of discrimination against faculty members were handled under the procedures in the Faculty Manual, which provides for appeals. This regulation now applies to

faculty members too, and they shouldn't lose their due process right to an appeal.

2. Kiser questioned whether faculty members would be trained adequately to adjudicate discrimination cases.
 - a. Walker asked how faculty members dealt with such cases in the past.
 - b. Wilson-Okamura argued: the faculty grievance pool might not be the right venue for a discrimination appeal, but a regulation with no venue for appeal is inconsistent with due process.
 3. Chambers noted that appeals are of sanctions, not findings.
 - a. Kiser added: appeals of sanctions usually address the underlying finding too.
 - b. Wilson-Okamura responded: the university is trying to take discrimination seriously. Findings of discrimination are – and should be – a material obstacle to advancement when they become part of an employee's personnel file. If a finding causes material harm, there should be a way to appeal it.
 4. Martin noted that Complainants sometimes challenge findings when the outcome favors the Respondent. When they are dissatisfied, Complainants and Respondents can both seek a new finding from an outside body.
 5. The committee was not persuaded that findings can be a material harm and voted not to adopt the proposed amendment.
- c. Under "7. Records": insertion of "7.2. OED maintains records of all reports but does not maintain a list of potential Respondents. 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."
1. Discussion focused on the first sentence, which (Wilson-Okamura explained) was intended to formalize Martin's description of existing OED practice: files are

not organized by Respondent and the Office does not keep a “naughty list.”

- a. Kiser worried that the sentence was inaccurate. Even if files aren’t indexed by Respondent, records are searchable and the university, once alerted to a potential violation, is obligated to follow up.
 - b. Wilson-Okamura pointed out that one of the reasons we were reviewing this regulation was a concern that OED maintains secret files that potential Respondents have no knowledge of and therefore can’t address or correct until they are presented en masse.
 - c. Chaney drew on his experience as unit administrator to confirm that this concern has at least some basis in past practice.
 - d. Popke acknowledged the concern, but questioned whether it merited addressing in the regulation.
 - e. Several committee members attempted to revise the sentence, but eventually the committee abandoned it.
2. The amendment was revised and adopted as follows:
“7.2. 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.”
 3. Ingalls proposed, to general approval, a linked reference to the records retention policy.
2. Under “Evidence,” Kiser proposed inserting an additional sentence:
“3.2.3.6.1. “Both the Complainant and the Respondent will have the opportunity to provide evidence and/or witnesses relevant to the complaint. The parties will have timely and equal access to information that will be used during the formal resolution process and related meetings, as allowed by applicable law.”
 - a. Kiser explained that the additional sentence would bring the regulation into conformity with other regulations.
 - b. Walker moved approval and the amendment was adopted.

3. Popke moved approval of the whole regulation as revised. Carried.

V. Adjourned at 5:12.

The next meeting of the 2019-2020 Faculty Governance Committee will be held on Wednesday, February 26, at 3:00pm in Rawl 142.

Respectfully submitted, David Wilson-Okamura.