

EAST CAROLINA UNIVERSITY
2021-2022 Faculty Governance Committee

MINUTES OF MEETING DATE: Wednesday, January 26, 2022, 3-5 p.m.

ATTENDANCE

PRESIDING: David Wilson-Okamura

REGULAR MEMBERS (_X_ IN ATTENDANCE):

Stacey Altman _X_, Cynthia Deale _X_, Edwin Gomez _X_,

Jay Newhard _X_, Anne Ticknor _X_, Mark Bowler__X_, Susie Harris ____

EX-OFFICIO MEMBERS (_X_ IN ATTENDANCE) (with vote):

Crystal Chambers____, Wendy Sergeant__X_, Mary Farwell_X__, Purificación Martínez__X (at 3:55 p.m.)_, Dave Thomson_ , Lisa Hudson,__X_

Guests in attendance: Linda Ingalls, Rachel Baker

Call to Order, 3:00 pm

1. Approved minutes of the January 12 , 2021, meeting.

2. Records retention (Altman, Hudson, Sergeant).

- Stacy Altman (Altman) ----Sent an email with feedback from the meeting. She noted that even in the personnel files there was an administrative regulation, but it is not done this way anymore, but there is no interpretation yet. They were encouraging to keep as much interpretation out of the faculty manual as possible. We want the OUC to craft language. With the goal of being brief and referring to the correct statutes, and putting language around it, but letting faculty know where to go. For next year maybe HR can develop even a 1 -page document to give all employees better language regarding the personnel file and what the differences are between a personnel file and a personnel record.
- David Wilson-Okamura (Wilson-Okamura) ---asked if there were any issues about this recommendation.
- Altman ---noted that there are concerns about what should be in a personnel file and there is a need to remove language about a secret file because there is no such thing. She noted that committee input would be helpful
- Wilson-Okamura ---wondered if we remove the language about a secret file could there be future issues.
- Altman ---noted that this is what is appropriate for a personnel file.
- Wendy Sergeant (Sergeant) ---noted that things change and if we can link it to statutes, etc. that might be easier than adding details.
- Linda Ingalls (Ingalls) ---noted that it is about learning about changes to the statute and what is public vs what is confidential, for when they have to go to the trustees it adds length of time to implement.

- Rachel Baker (Baker) --observed that one way to think about it is to consider if there some place in the faculty manual to go look for it, as there may be another place where a faculty member would go to look for information
- Wilson-Okamura--asked the subcommittee to look for that place and if that is not found, then we can have Rachel look for it.

3. Fixed-term role on senate committees

(See the minutes provided by Wilson-Okamura in his email that include minutes for Sept. 11, 2019; Feb. 12, 2020; Feb. 26, 2020; and Mar. 25, 2020, for previous discussions)

- Wilson-Okamura --noted that Puri Martinez (Martinez) brought to the attention of the committee that we should revisit the role of fixed term faculty members on faculty committees. Last week he pulled the items that the committee looked at last year.. He asked if anyone thought we needed to review them this year and no one thought so and therefore, the issue has been seen as recently reviewed. He noted that the minutes from previous meetings show extensive discussion.

4. Subcommittee reports

a. Fixed-Term Faculty (Martínez)

- Wilson-Okamura ---reported for Martinez noting that she has shown real concern for fixed term faculty and thinking more broadly about who faculty are. He observed that John Stiller, a previous faculty chair, got things going and Martinez is doing a lot of things with regard to the fixed term faculty, such as drafting fac manual materials and bringing them to subcommittee. One thing we talked about in this committee is if we want to open up the personnel committee to fixed term faculty. He is guessing that this issue will come up in a larger package. He also gave thanks to Crystal Chambers (Chambers) for bringing up the hiring status of librarians, noting that when he came to ECU that the librarians were on tenure-track positions and then the provost changed them to fixed term positions. He noted that he has contacted the library directors about our committee reviewing this issue and the directors want to talk about it. Martinez and Wilson-Okamura will meet with the library directors on February 3 to discuss this issue.

b. Departmental Evaluations and Workload (Bowler)

- Mark Bowler (Bowler)---noted that there is a need to meet with subcommittee about evaluations. As far as the workload goes, he noted that given new funding model, it may lead to need to make teaching workload changes. Ideas for addressing teaching load were tied to the previous model and the new funding model is nebulous and is not clear about how it will reinforce faculty members for teaching. He does not know if we should be doing that given the new model.
- Wilson-Okamura ---asked what people think and wondered if we should hold off until next year.
- Bowler ---stated that the new model is not clear; for example, it is not clear what we get reimbursed for, etc.
- Ed Gomez (Gomez) ---said that he has not seen the new funding model and has had other issues. If it ties to the new funding model, I suggest we wait. We

looked at what people are doing across units, and it is so varied, it may change with new funding model.

- Wilson-Okamura ---has the impression that the new model will give us credit for a wider range of activities. It seems less aggressive in privileging graduate studies. We might decide not to squeeze things toward graduate programs.
- Bowler ---noted that we have ample data from UNC-Charlotte using the new model and it is a potentially a huge loss for that university.
- Mary Farwell (Farwell) ---agrees that there is potential for a wider array of activities, but we are not quite sure what those metrics are. I think we need to put this off because the funding module is going to change.
- Wilson-Okamura ---asked if there is anyone who thinks we should continue to work on this topic this semester.
- Bowler ---noted that Anne Ticknor (Ticknor) and he will meet about the annual evaluation discussion. He also noted that part of the funding includes student debt in the new model; thus, it is disproportionately associated with race/ethnicity, and it is incentivizing folks to recruit more affluent students. He observed that with the “chancellor incentive compensation goals” that there are chances that these are place holders for things that are detrimental to advancing accessibility of education; also, it puts our funding at the mercy of the negotiation skills of our administrators.
- Farwell ---noted that the incentive goals have been revised, and we have met them early.

c. Personnel Policies (Chambers or Newhard)

- Jay Newhard (Newhard) ---noted the committee made a report last time and has nothing new to report. He said the next topic will be the bullying policy and noted that Chambers sent the document today about the policy as a starting point.
- Newhard said it would be ready beyond next meeting.
- Wilson-Okamura ---asked Altman if her group/committee would have something in text for us for the next meeting
- Altman ---thinks that yes, they will have something to share.
- Wilson-Okamura ---asked if there were any questions for Newhard about personnel policies and there were none.

5. Other business.

(At Chambers' suggestion, Martínez and Wilson-Okamura will be meeting with the library directors on Feb. 3 to discuss hiring models.)

- Newhard ---talked about the code of conduct discussed at our previous meeting. There are concerns because the policy governs behavior in all settings, not just on campus. The draft code’s expectation that employees will uphold “the highest standard of ethics” s based on the principle of professional ethics that relies on trust between a profession and the public. Therefore, there is a need to meet higher ethical standards. For example. if something occurs during personal time and if a reasonable person would begin to lose trust, then that harms the profession and the public. Therefore, that is why that statement

says what it says, and it does not apply to all people in all situations, but applies to all professionals in all situations.

- Wilson-Okamura ---noted that the highest ethical standards term may create an asymmetrical or nonreciprocal relationship between employees and institutions (which often do not uphold the *highest* ethical standards in their treatment of employees).
- Newhard ---noted that the medical profession is a case for this issue. We need them to adhere to the highest standard. There cannot be room for mistrust; 90% is not good enough. So that is an explanation for why that is there, and it is a pretty well-established principle. There is a bit of sacrifice , but there is a need to adhere to that standard. There is a higher standard for professionals.
- Wilson-Okamura ---noted that it is his impression that reasonable is a common term in statutes.
- Newhard ---noted that we can come back to that. He then mentioned *Godel, Escher, Bach* in terms of logic. He noted that if you have a set of rules governing all behavior then it is likely to generate contradictions. We want to make gaps as small as possible and can fill the gaps with the word reasonable. It is normally pretty clear what is reasonable, and not completely specific all the time. That is why I recommend the term reasonable. The term integrity can cause issues as a term so we could use reasonable.
- Bowler ---noted that the idea is predicated on needing the public to trust us more and does not think the document will influence that; does not seem to be necessary. for The engagement surveys indicate that we do not trust central administration, but this does not solve that issue, this creates more bureaucratic rules.
- Wilson-Okamura ---noted that however, it protects us from potential liabilities.
- Gomez ---noted that a psych association started using reasonable in their code of ethics.
- Bowler--- wanted to know what is reasonable and what is the procedure that is tied to it. As in, who judges reasonable? Is there a committee?
- Newhard ---noted that it is supposed to be clearer. It is not a redress. There won't be a procedure that would generate more rules. Reasonable is like putty that fills the gap and works pretty well.
- Bowler ---asked who what determines that there was a violation? How are the decisions made? Nothing in the faculty manual addresses this, but who is going to be the adjudicating this?
- Altman ----said it could be a grievance committee, court, etc. it may not be a stand alone
- Bowler ---noted that this trumps the faculty manual.
- Wilson- Okamura--- noted that much of the code simply reminds employees that they must uphold applicable laws.
- Bowler--- noted that violations it can lead to a variety of consequences including even up to dismissal.
- Wilson-Okamura ---observed that there are procedures for faculty members.
- Bowler ---said that there are a variety of items, such as making sure that the university looks good and not bad is a difficult one. Employees must hold up all rules and regulations and he just wants to know who is going to judge? Who is going to adjudicate?
- Ingalls ---asked if it would it make it more comfortable if back in violations paragraph where the sentence that says something like –where all disciplinary actions are

grievable—see faculty manual part 12—they could go to part 12 to file a grievance. She noted that staff members have their own grievance policies and staff members cannot grieve evaluation. They can disagree, but they cannot grieve a performance evaluation. Faculty can grieve a performance evaluation. I wonder if it would help to have wording that indicates that disciplinary actions may be appealable under regulations depending upon the employee.

- Bowler ---asked what is process for bringing up a senior leader for code of conduct? This does not help with the lack of accountability of senior leadership. Deans and vice chancellors are under a system policy with their own policies; the category of employment effects the disciplinary action taken and appeal rights.
- Ingalls ---noted that it has to be consistent with the regulations of the university.
- Wilson-Okamura ---noted that a draft of this code was discussed about 3 years ago. The preamble has changed, but most points are the same. I am not sure what made it come back.
- Altman ---said that we need to reread to see if it addresses professional ethics and ask a process question and what needs to be signed off.
- Wilson-Okamura ---noted brought up the University of Illinois at Champagne/ Urbana. Faculty were asked if their courses were more ethical every year. They found that there might be a limit on that.
- Gomez ---asked who is determining what is ethical and noted that bringing it back to Mark's point that he teaches a diversity class about topics that some people in the state legislature are trying to make illegal to talk about because they consider them unethical.
- Newhard ---noted that this is a moral disagreement, not a single theory accepted by everyone.
- Wilson-Okamura--- asked, what if we were to say “adhere to established ethical standards ...”
- Newhard ---noted that he thinks that at a certain point you acknowledge the gap and that some fine tuning is needed about what is acceptable, etc.
- Bowler ---queried that he does not did not see why he has to be more ethical.
- Newhard ---observed that if a faculty member goes partying and then is teaching ethics can they teach the course right? Also, smoking is a challenge for doctors and if a doctor is smoking can I trust them to help me with my health?
- Wilson-Okamura ---noted that he was kind of with Bowler on this one.
- Ticknor ---noted that she was also with on Bowler with this one. She mentioned that elementary education has been held to a ridiculously high standard—moral beyond moral.
- Newhard ---asked what does that mean? A line has to be drawn; what is real problem?
- Wilson-Okamura--- observed that a professional code of ethics tends to deal with behavior that has specific bearing on the success of the profession. For example, the ethics professor who is carousing might be construed as challenging the students with what is ethical.
- Bowler--- asked why normal behavior is said to diminish the professions.
- Newhard --noted that we could fill in the blanks for what is unethical.
- Bowler ---noted that unethical and inappropriate are two different things.
- Newhard ---stated that these things overlap.

- Wilson-Okamura ---observed that a test case would be that of the previous interim chancellor; he was on border of this. As in, can he be leader if seen this way? He stayed on the friendly side of the line until it was found that he did something illegal— apparently, drunk driving. However, up to that point people liked the fact that he was approachable.
- Bowler--- noted that we were having ferocious debates about if that was unethical. A lot of people thought what he did was unethical, yet his is debatable in terms of what is appropriate. He thought that the whole thing diminished his ability to lead, but it was not unethical.
- Newhard ---observed that it was harming his own job performance, as it turns on judgments that were made.
- Martinez ---stated that she thought for the code of conduct that they were going to get more feedback from the auditor’s office and university employees.
- Martinez --- observed that there is now willingness from the academic counsel to revise the new language that was inserted last year in fixed-term contracts. The first step is to take a look at the language and what are concerns that faculty governance has about language.
- Lisa Hudson (Hudson) ---said that she would be happy to send some examples. There is different language for Brody and nursing; nursing and allied health were the same, and can email Amanda Williams the attorney for health sciences about the language.
- Sergeant ---said she could email the language for Academic Affairs.
- Martinez ---told the committee that she has been working on this since summer and looking at language is how they want to proceed. She noted that Wilson-Okamura is a skilled searcher of previous language and can find language from previous minutes. She does not want their willingness to change the language to go away. She asked Wilson-Okamura to consider the fixed term contracts for the next meeting.
- Hudson ---noted that she and Martinez talked about departmental tenure and promotion guidelines and what happens if those changes take place while you are on the tenure track. I think we should give the employment contract and honor the contracts that you provide when they come on board. This is what was done for students when I was a student. If it happens to students, then if new criteria come along for their degree, they are grandfathered in, and think it should be same for faculty. We think we have a faculty friendly approach, but some faculty guidelines were very vague.
- Wilson-Okamura ---asked if is something that is vague in the current faculty manual.
- Hudson ---said that she does not know.
- Martinez ---noted that she did not recall the language. In Academic Affairs that is standard procedure. We talked to academic counsel, and it seemed to them that it is appropriate. In conversation with Ingalls, she indicated that this is a UNC requirement. That tradition is included in the contract. Martinez will encourage Ingalls to come and tell us more about that.
- Ingalls ---said that she can give us an overview. It can be done for reappointment, tenure, and promotion, but tenure is the property right. That is why we have strict rules for how tenure can be taken away. Up to tenure everything is a reappointment. The case law and UNC position on probationary term employment is that it is an institution’s prerogative

to decide what our criteria are, and we can change those criteria. So, if the institution wants to go from liberal arts to research under the Carnegie classification presumably the criteria for faculty would change or might change- not necessarily that it has to change until tenure is conferred the institution. For it can change the criteria for faculty. It is very much different than a student's catalog contract . There is substantial case law to back that up, as well as the institution policy as to what has or can be done or is reasonable. There are individual situations where you do not want to make substantial changes in the expectations required of a faculty member while they are undergoing appointment review; you can contract or have a legal agreement that states that these criteria govern your employment, so as what an employee is subject to. This has happened time to time especially when faculty move from one unit to another. The faculty in a degree program may move to a new college and the criteria and unit code differ between the old and new college, so it was contractually agreed that faculty would remain under the unit code of x until tenure then for promotion they would go under new criteria, so it allowed them to make changes to reflect a new discipline, etc. For example, at ECU, the theater moved colleges. She does not think we can make the faculty policy the same as that of students.

- Hudson ---noted that after tenure they must follow new criteria to get to full professor. But if you change the criteria for six months before someone goes up for tenure, that could be difficult.
- Ingalls ---notes that it could probably be negotiated, but we need to be careful, as these are individual decisions.
- Martinez ---said that her concern is that it is not fair that there are different rules for health sciences and Academic Affairs. We need to be able to make these decisions across the board for everybody. If faculty can negotiate that is fine and then every faculty member can do that. Or if everyone is evaluated under the guidelines current when they were hired, that is fine. She does not want differentiation that results in inequities.
- Hudson ---commented that if faculty filed a grievance because they did not get tenure or promoted that faculty member would win that grievance because they went from x guidelines to y guidelines without much time and if it was strictly because of a significantly higher bar raised on the fac member, then that is not good.
- Wilson-Okamura ---this is an example of an institution not holding itself to the highest ethical standards. The question is: what do we do? Puri is saying we need to have a uniform standard, but Linda thinks this won't be approved.
- Hudson ---made a suggestion and it was about the standard operating procedures (SOP) approved by academic counsel being consistent in the way that we treat all faculty by treating them equally regardless of what college or school they are in.
- Martinez ---said that this might be a situation that we want to explore and that we might need to ask Megan Kaiser to come from academic counsel. There is a possibility that for faculty under some circumstances that there is a possibility of negotiation on a 1-1 basis, and was not sure how this is talked about in the health sciences arena and discussed in the Academic Affairs arena. She noted that maybe we need to talk to the deans about this issue. She asked Sergeant if she could tell us how this is handled in Academic Affairs.
- Sergeant—said that they had to redo schedule for faculty on the tenure track because something changed with regard to tenure regulations based on the revision of the faculty

manual. There is always the assumption that if tenure regulations change then it is in faculty manual schedule, as in criteria, timing. etc. As far as individual units that would be in a unit code with a process to work through. The unit level might be different in Brody in the way they reference contracts, tenure regulations, and probationary appointment letters, etc. She is not sure if there are provisional codes that are created, and that could be a discussion. There is not a blanket standard that it never changes based on the contract.

- Bowler—commented that in his department the standards have changed greatly, and they lost two faculty members because they could not meet new standards. This issue is critical and needs to be disseminated across the university
- Ingalls—noted that construction management changed their criteria for tenure and promotion and voted on it at department level. It was not time for a code review for them. They changed their criteria and the fac governance committee and unit code screening committee reviewed it. They put all that she described in the code and that was to remain under existing guidelines or change. thinks that it is not spelled out in part IX, but that is where we might want to consider it if we are going to engage in some thought about this issue, but before the committee does this she would talk to university counsel and academic council to get seek guidance about how it might be done. She does not want it to go all the way through the senate and to the chancellor and then hear that it cannot be approved as written.
- Wilson-Okamura—asked if the committee wants to do this with interim provost and interim health sciences VC or wait until the new provost is here.
- Martinez—suggested that, when the new provost comes, it will already be policy.
- Wilson-Okamura--- thinks that this is a major change and will take time; the chances of us getting it all the way through by the end of the academic year are small.
- Martinez—noted that it does not need approval beyond chancellor.
- Newhard—said that he was just thinking that the probationary period for faculty is five years and so if the criteria change suddenly, it seems unfair to change standards during the probationary period.
- Hudson ---recalled that she already discussed the matter with the university's health sciences attorney, Amanda Williams.
- Wilson-Okamura—asked what we do want to do for our next meeting. He asked if we should invite general counsel Paul Zigas? Members of academic council? What is the best strategy?
- Bowler—asked if the university counsel will actually commit to anything unless we have it written down. He does not think he would give guidance unless it written down.
- Martinez---noted that we could use the construction management language and ask what he thinks of us using it for guidance. That would seem to me to be the most expedient way to do it. It makes sense to start with Paul Zigas to ask for clarification ,etc.
- Ingalls—noted that when she suggested changing the unit code screening guidelines in part IV, she did not mean that she thinks that it would be a way to bypass the board of trustees because everything to do with tenure has to go through board of trustees and system office to make sure it is not out of compliance. The system office looks at all issues connected with tenure. She thinks it needs to be thought about a bit more as anything affecting tenure has to go to the trustees.
- Martinez said that she was confused. She asked how health sciences has gone ahead.

- Ingalls—noted that in construction management there was a group of people and the change of criteria happened on a certain date and pertained to all probationary faculty members; a minute ago we were talking about an individual.
- Martinez—noted that it seems that we need to talk with Paul Zigas.
- Ingalls—observed that there is always a statement that just meeting the criteria for tenure does not mean that you will be conferred tenure. Remember it is the professional opinion of the tenure committee, etc. Tenure is based on needs and resources, potential for future, and current criteria.
- Martinez volunteered to invite Zigas to our next meeting.

The meeting adjourned at 455 pm

The meeting minutes are respectfully submitted by Cynthia S. Deale