

FACULTY CONSULTATIVE COMMITTEE (FCC)

October 22, 2015

Minutes of the Meeting

[These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represent the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.]

[In these minutes: Oversight Committee for External Review of Issues Related to Sexual Harassment and the Athletics Department; Academic Freedom Statement; Regents Scholarship Program Update; CIC Faculty Governance Leadership Conference Update; Faculty Senate Docket; Replacement for Professor Zuk on FCC; Debrief from October 19 Job Family Study Meeting with Vice President Brown; Nominating Subcommittee]

PRESENT: Colin Campbell (chair), Jigna Desai (vice chair), Catherine French, Rebecca Ropers-Huilman, Dan Feeney, Gary Gardner, Scott Lanyon, LaDora Thompson, Susan Wick, Greta Friedemann-Sanchez, Karen Mesce, Chris Uggen, Jean Wyman

REGRETS: Linda Bearinger, Kathleen Krichbaum, Dale Carpenter, Janet Ericksen, Joseph Konstan

OTHERS ATTENDING: Ben Farniok, reporter, Minnesota Daily; Professor Perry Leo, faculty athletics representative (FAR)

GUESTS: Joe Dixon, attorney, Fredrikson & Byron

1. **Call to order** - Professor Campbell convened the meeting and called for a round of introductions.

2. **Oversight Committee for external review of issues related to sexual harassment and the Athletics Department:** Professor Campbell asked Professor Uggen to introduce the first agenda item, an update on the work of the Oversight Committee that is reviewing the issues related to sexual harassment and the Athletics Department. Professor Uggen explained that the external review is being conducted by Karen Schanfield and Joe Dixon from the law firm of Fredrikson & Byron. The role of the Oversight Committee (Regent Laura Brod, Regent Abdul Omari, General Counsel Bill Donohue, Dean Jean Quam, Professor Chris Uggen) is to provide the external review team from Fredrikson & Byron with guidance and access to information that allows them to conduct their review. The committee meets weekly to discuss the plan and the progress that is being made. The goal today is to 1) provide information about the process [transparency], 2) give members an opportunity to ask Mr. Dixon questions about the external review, 3) correct any myths that may exist about the scope of the report, etc. Professor Uggen added that the owners of the report are the Board of Regents and Fredrikson & Byron, but the response to the report will come from the administration, the Athletics Department and any committees that want to weigh in on it.

Professor Uggen turned to Mr. Dixon and asked him to provide an overview of the review activities. Mr. Dixon thanked the committee for the invitation to attend today's meeting, and

began by providing members with information about his and Ms. Schanfield's backgrounds. After providing this information, Mr. Dixon shared the scope of the review, which involves:

- Investigating all allegations of sexual harassment against Mr. Teague or other senior Athletics Department leaders who came in after Mr. Teague's resignation on August 7, 2015.
- Reviewing all confidential complaints (and the administration's responses) regarding sexual harassment in the Athletics Department since Mr. Teague began three years ago.
- Identifying when the University knew of or should have known of allegations of sexual harassment regarding Mr. Teague, but failed to address them.
- Examining the University's vetting of Mr. Teague during the hiring process.
- Scrutinizing the climate in the Athletics Department as it relates to reporting and addressing sexual harassment allegations.

Mr. Dixon went on to highlight the goals of the Oversight Committee, but before doing so, however, noted that members of the external review team from Fredrikson & Byron do not engage with anyone from the University in terms of its work other than the Oversight Committee. The role of the Oversight Committee is to ensure full cooperation by the University and to ensure that the external review team gets the resources and access that it needs. The Oversight Committee does not know 1) who in advance the external review team is talking to, 2) approve who is being talked to, or 3) approve the kind of data that is being sought by the external review team. Additionally, the Oversight Committee is not told what witnesses said; except in a few exceptions when witnesses requested the information be shared. The external review team is not reporting to the Oversight Committee in terms of its findings, conclusions or substance of the witness interviews. The Oversight Committee has made a few suggestions about where to look for data given the University is a large organization with a complex reporting structure. The University has asked the external review team to dig deep and broad. Mr. Dixon reported that there have been coordination efforts with other bodies at the University, e.g., Office of Internal Audits, Office of Equal Opportunity and Affirmative Action.

Regarding where the process is at, said Mr. Dixon, it is in mid-stream. To date, approximately 100 people have been interviewed, primarily focusing on the Athletics Department. In addition, the external review team has spoken with people in the Board of Regents Office, the Office of the President, the Office of the General Counsel, etc. Thousands of relevant documents have also been collected and this process is substantially completed. Currently, the data is being assessed and reviewed, and the report is in the process of being drafted. While the external review team appreciates the University's urgency in completing the report, it has been instructed to do a complete and thorough investigation. With that said, Mr. Dixon asked members if they had questions or comments.

Professor Lanyon asked whether during the course of the investigation the external review team uncovers other types of harassment besides sexual harassment, would the review team report this information to the administration? The external review team, said Mr. Dixon, is very cognizant of what needs to be done if an issue is uncovered that is not part of the scope of their review, and whom it needs to be handed off to. Along these same lines, Professor Campbell asked if the external review team is legally required to report other issues or if there is an institutional policy that would require them to report? It would be prudent and in the best interest of the University

if the external review team uncovers other issues that it reports them to the appropriate party/office, said Mr. Dixon.

Do the faculty athletics representatives (FARs) have a role in the review either with Fredrikson & Byron or the Oversight Committee, asked Professor Gardner? Professor Perry Leo, FAR, said he and Professor Emily Hoover, the other FAR, have no role with the Oversight Committee, but noted that they were interviewed given they have some insight into the culture of the Athletics Department. Professor Gardner suggested the FCC consider inviting the FARs more frequently to meetings to talk about Athletics Department issues, especially climate issues, versus just reporting on what they do.

Once the report is complete, what are the next steps and will the report be released to the broader community, asked Professor Wyman? Mr. Dixon said that Fredrikson & Byron was told to draft a public report. There is a desire for transparency. While there may be the need for some redactions in the report, added Professor Uggen, they will be minimal and required due to the Data Practices Act or other legal considerations. Every effort possible is being made to make the report external and independent. Neither the Oversight Committee nor anyone in the University will be editing the report.

At the end of the review, commented Professor Lanyon, there will likely be the need for policy changes. If so, would any changes be put forth as recommendations in the report or would the Oversight Committee propose policy changes? Mr. Dixon said the report could easily include recommendations, but ultimately the University will own the response. Who responds and how they respond will depend on the specific nature of the recommendations, noted Professor Uggen. Professor Lanyon suggested because the University is so large, soon after the report is issued, explicit offices should be charged with following up on specific recommendations to make sure that things move forward.

Professor Ropers-Huilman asked about the investigation and whether only incidents of sexual harassment are being looked at or whether the investigation will look more broadly at the climate in the Athletics Department and if it promotes an acceptability of sexual harassment. Both, said Mr. Dixon.

Hearing no further questions, Mr. Dixon thanked members for their time, and said he hopes this update was helpful in terms of creating a level of transparency about the process. Professor Uggen added if members think of things they want the Oversight Committee to talk about to let him know.

3. Announcements:

- Academic freedom statement – The University along with other universities across the country are wrestling with ideas of First Amendment rights, freedom of speech rights, and academic freedom rights, said Professor Campbell. He reminded members that over the summer he, as chair of the FCC, received a letter from FIRE (Foundation for Individual Rights in Education) asking him to endorse the University of Chicago's Report of the Committee on Freedom of Expression. Professor Campbell said he did not feel comfortable to individually endorse the letter, but decided to send it to Academic

Freedom & Tenure (AF&T) for discussion. AF&T did discuss it, and decided that the Board of Regents policy, Academic Freedom and Responsibility (http://regents.umn.edu/sites/regents.umn.edu/files/policies/Academic_Freedom.pdf) adequately conveyed the importance of academic freedom at the University. Professor Campbell said he then contacted FIRE and let them know the FCC was declining the invitation to endorse any statements from other institutions and that the Board of Regents policy contains a statement of academic freedom and responsibility.

Since then, reported Professor Campbell, he was contacted by Professor Carpenter who feels that faculty at the University of Minnesota should have their own statement. Professor Campbell said he raised this idea with President Kaler who suggested that Professor Carpenter and Provost Hanson work together on crafting a statement, which Professor Campbell thought was a good idea. He said he plans to talk with Provost Hanson about this idea soon. Professor Gardner commented that now that this matter is being revisited with Professor Carpenter's input that AF&T should be brought back into the loop. Professor Campbell said he would do this. Professor Lanyon added that for him what is missing with regard to the statement is who is the audience and what is the intent. Professor Campbell said he defers to Professor Carpenter to answer these questions at a future meeting given it was his idea.

- Regents Scholarship Program – Professor Campbell reported having further discussions with President Kaler and Provost Hanson about reinstating the program. While there seems to be a tremendous amount of goodwill as it relates to reinstating the program; the issue remains figuring out a way to cover the 25% of tuition for employees who already have their first baccalaureate degree. The administration is also concerned that reinstating the program will disproportionately impact some schools than others and what can be done to alleviate this. In Professor Lanyon's opinion, the issue is not a financial one, but an issue of more work for faculty. If faculty agree to take on this additional work, then the financial argument is moot. Professor Desai added that the budget model could be adjusted so that any financial costs could be spread across all the colleges in order to not disproportionately impact one college.
- CIC Faculty Governance Leadership Conference – Professor Campbell reported attending this year's CIC Faculty Governance Leadership Conference in Champaign/Urbana. He noted that a tangible outcome of this meeting was a statement of support for the Faculty Senate of the University of Iowa's Senate and a statement of no confidence in their Board of Regents by CIC faculty governance leaders. He said he signed the resolution as an individual who was expressing his opinion as a faculty leader.

4. Faculty Senate docket approval: Professor Campbell called members' attention to the Amendment to the Administrative Policy on Makeup Work for Legitimate Absences on the November 5, 2015 docket and asked Professor Wick to say a few words about what the Senate Committee on Educational Policy (SCEP) has done with this policy. Professor Wick explained that late last spring SCEP discussed the policy and there were two primary concerns 1) adding language about caring for dependents, especially in an emergency, as part of legitimate absences and 2) adding more specific language about bereavement. Over the summer, a SCEP

subcommittee met and produced a document, which SCEP later approved. Shortly thereafter, said Professor Wick, she was approached by Joelle Stangler, MSA president, who said that students believe the policy does not go far enough in terms of how much time students are given to makeup work, time allowed for grieving, etc. The students asked SCEP to consider a policy similar to that at Purdue University, which is very specific. The SCEP subcommittee discussed the Purdue University policy but decided it was too restrictive. With this information as background for the committee, Professor Wick said she is not sure the policy is ready to go to the Faculty Senate at this time. She said she and Professor Campbell have talked and agreed that SCEP should look at the policy again and solicit more input from students. Professor Campbell suggested pulling this item from the docket unless members have a strong objection to doing so. Professor Lanyon said he believes the policy needs to be specific enough so it can be implemented, but without being too constraining. Professor Wyman said she would also like the policy to include language about students missing class because of work commitments. After further discussion, members agreed to pull the policy from the docket at this time and have SCEP revisit it.

Professor Campbell then requested Renee Dempsey, Senate staff, to send the Faculty Senate docket to members electronically so they can go through it more carefully and approve it.

5. Replacement for Professor Zuk on FCC: Professor Campbell reminded members that Professor Zuk accepted an associate dean position in the College of Biological Sciences, which has made her ineligible to continue serving on the FCC. As a result, when a seat opens up during the year on the FCC, the committee is responsible for filling that seat for the balance of the academic year. He noted that while he and Professor Desai have two candidates who are willing to stand for election, they would like to give members an opportunity to also nominate candidates. Professor Campbell said members would have until Monday, October 26 to do so and that they should send their nominations to Ms. Dempsey; after which an electronic election will be conducted.

6. Debrief from October 19 Job Family Study meeting with Vice President Brown:

Professor French began by commenting that she was surprised that the Job Family Study was a zero sum gain because she was under the impression that the purpose was to reduce the number of administrators. She articulated a couple other concerns which included 1) depending on how well an employee articulated their job duties played a huge role in how people were classified, and 2) the appeal window was really short (3 weeks), and employees need their supervisors approval to appeal how they were classified.

Professor Gardner noted that he purposefully and uncharacteristically did not ask any questions during the meeting because he noticed Vice President Brown was giving long answers to the questions, which was eating up the limit time. He added that some of what Vice President Brown said was inaccurate and cited a couple examples one of which was that supervisors were sent classification results before employees received them. Professor Gardner also asked about the academic purpose for the Job Family Study. Professor French said it is her understanding that the purpose of the study was to simplify the job classifications, at least in part. Professor Gardner said the University is an academic institution and so everything done at the University should have an academic purpose; how did this study help with the University's academic

mission. He added that in his opinion the Job Family Study was a waste of time. Professor French said the Job Family Study seemed like a business model of sorts, which is not really compatible with the University's structure, particularly in smaller units where people have a lot of different responsibilities.

What is being done, asked Professor Uggen, for employees who were re-classed in terms of employee development? Is the Office of Human Resources (OHR) doing anything along these lines or is it being left up to departments? Are there resources for employees who want to build their careers?

Professor Campbell said based on the comments he has heard that members did not like how the Job Family Study was conducted, but he reminded them that it is done. With that said, he asked members for their thoughts on what can be done to move forward given the study is complete?

Was it a good meeting, asked Professor Lanyon? Professor Campbell said it was a good meeting if one considers how it could have gone.

Professor Thompson said she supports Professor Uggen's idea of challenging the administration and the leadership to identify career/promotion paths for employees.

Professor Friedemann-Sanchez said she was surprised to hear that the Job Family Study was not done to save money. She suggested requesting data, e.g., how many employees moved from P&A to Civil Service to BU and how many moved from Civil Service to P&A, how many appeals were granted, how many appeals were denied by job family, and how many people left the University as a result of the Job Family Study.

Professor Feeney noted that the problem he has with the Job Family Study is that it was another arbitrary classification of employees and it will not be the last. The old classification got out of hand because it was not being monitored.

Professor Lanyon said it is his sense that the employees involved in the Job Family Study did not have enough guidance to properly describe their job responsibilities and/or they did not use the right words that OHR was looking for to describe their duties.

In terms of next steps, Professor Campbell requested members send questions they would like to get written answers to Ms. Dempsey. He also reported that Vice President Brown agreed to meet again to continue the discussion once the appeal phase was complete.

7. Nominating Subcommittee: Professor Campbell turned the meeting over to Professor French, chair of the Nominating Subcommittee. Packets of information to facilitate the identification of a slate of candidates to fill the open FCC seats were distributed to Nominating Subcommittee members.

Professor French noted that the three seats that will be coming open are those of Professors Uggen, Wyman and Mesce. Ms. Dempsey added that there will also be another seat to fill,

which is the seat vacated by Professor Zuk because the FCC is only temporarily filling this seat for the remainder of the academic year.

Professor French explained the Nominating Subcommittee is responsible for identifying candidates willing to stand for election to fill the seats of members who will be rotating off the committee. The goal is for the FCC to have broad representation and not to be disproportionately represented by only a handful of colleges/schools. Although FCC members are to represent the University as a whole, rather than their individual units, broad representation promotes representation of a broad range of perspectives and more effective communication of important issues back to the units across campus. She then shared with members her thoughts on potential collegiate pairings. While final pairings do not need to be decided today, said Professor French, they should be decided at the next Nominating Subcommittee meeting.

Regarding the document in the packet with nominations and self-nominations, Professor Ropers-Huilman asked if it would be possible to separate out who self-nominated and who were nominated by others. Ms. Dempsey said she would get this information and distribute it to members.

Professor Ropers-Huilman agreed with Professor French's earlier comment about the importance of broad representation on the FCC. She asked members to keep in mind that the FCC would miss out on important perspectives if there were no representatives from some of the larger schools, e.g., CLA.

Related to Professor Ropers-Huilman's comment, Professor Wyman noted that another consideration the Nominating Subcommittee has kept in mind in the past is colleges who have not had a representative on the committee for a while. Professor Ropers-Huilman asked Ms. Dempsey whether she could provide members with the spreadsheet that shows which colleges that members were from. Ms. Dempsey said she would be happy to provide subcommittee members with this information.

At the request of Professor Feeney, Professor French volunteered to develop a grid to indicate who will be on the committee next year, what colleges will be represented, and what colleges will not have representation to help members ensure broad representation when filling the open seats.

Professor Uggem encouraged subcommittee members who recognize people from the lists that they think would be good on the FCC to reach out and let them know that the FCC is starting the process on filling seats that will be opening up next year. The most effective people on the FCC are/have been civic-minded and see the big picture. Members spent the remaining few minutes reviewing the lists of names and talking about whom they may want to ask to stand for election.

As the committee members needed time to think further about potential pairings and provide potential candidate names, Professor French adjourned the Nominating Subcommittee meeting.

Renee Dempsey
University Senate