

Equity, Access, and Diversity Committee (EAD)
October 24, 2016
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:** Committee on Committees Review; Chair's Report; Aurora Center Privacy Policy]

PRESENT: Jeremy Jenkins (chair), Caitlin Boucha, Priscilla Flynn, Tami Jauert, Mina Kian, Cynthia Messer, Teddie Potter, Sarah Sexton, Deena Wassenberg, Marcella Windmuller-Campione, Keisha Varma, Jonathan Watkins

REGRETS: Ann Burkhart, Solomon Gashaw, Joseph Gerteis, Kimberly Hewitt, Jefrina Jayaraj, Minsoo Kim, Naty Lopez, Shailey Prasad

ABSENT: Katrice Albert, Jude Fom

GUESTS: Benjamin Clark, member, Committee on Committees; Katie Eichele, director, The Aurora Center for Advocacy & Education; Steven Pearthree, member, Committee on Committees

OTHER: Vickie Courtney, director, University Senate Office; Chuck Turchick, student

1. Committee on Committees Review

Chair Jeremy Jenkins welcomed members and introduced Benjamin Clark and Steven Pearthree, members, Committee on Committees, who were present in order to conduct the review of the committee. Pearthree explained the review process, and Clark posed the first question, "Does the committee's charge reflect the efforts of the committee?" Members agreed that it did. Pearthree then asked whether the committee's work overlaps with the work of any other committees. Priscilla Flynn said that it does, but that overlap is necessary, since other committees may look at issues through a different lens. Keisha Varma added that when there is overlap, EAD collaborates with other committees. Deena Wassenberg said that the Disabilities Issues Committee could conceivably fall under EAD's umbrella, but there is enough work to fill both committees' time. Jenkins said that he had had the same thought, but agreed that if there is enough work for both committees, there is no reason to combine. Sarah Sexton, who also serves on the Social Concerns Committee, said that there is some overlap between that committee and EAD, but shared the feeling that it is good to have several committees working on one issue from different perspectives. Teddie Potter commented that the committee's work also overlaps with many other groups on campus, such as the Diversity Community of Practice and the Bias Response Team.

Clark then inquired whether the committee's membership is appropriate, in terms of number of members, types of members, and distribution of race, ethnicity, gender, etc. Wassenberg said that the roster is appropriate, but that attendance has been a problem. Mina Kian expressed

satisfaction that there are six student members, representing the various system campuses. She added that while minorities are well represented on the committee, the goal should be to over-represent minorities in relation to the University campus. Clark asked whether the ex-officio representation was sufficient, and members agreed that it is. Potter said that it would be helpful to always have one expert from the Office for Equity and Diversity present, to provide the big picture on what other initiatives may be happening on campus. Jenkins asked whether ex-officio members can send a proxy if they are unable to attend. Vickie Courtney, director, University Senate Office, said that ex-officio members may send proxies, and also have the option to designate a proxy to attend all meetings. Members suggested contacting Vice President for Equity and Diversity Katrice Albert to see if she would like to designate a proxy, since she is rarely able to attend committee meetings. University Senate Office staff will forward a copy of the ex-officio request to Jenkins, who will follow up with Vice President Albert.

Pearthree then continued with the review questions, asking whether the committee is adequately consulted on any policy changes. Members said that there have not been changes to any of their affiliated policies in recent years. At this point, Clark and Pearthree concluded the review, thanked the committee, and departed.

2. Chair's Report

As there was time before Katie Eichele, director, Aurora Center, was scheduled to arrive, Jenkins informed members that the Bias Response Team will visit the committee in January or February, and that the Diversity Community of Practice will be invited in the spring, as well. He added that Glenn Hirsch, director, Student Counseling Services, would attend the November meeting to discuss their privacy policies. Jenkins also shared that he has been in touch with Active Minds, a student advocacy group for mental health. He reminded members about the November 3rd University Senate meeting, which will focus on student mental health. He also said that he had been approached by Chuck Turchick, student, regarding the Ban the Box initiative and that he would like the committee to look into this issue. Jenkins said in relation to this issue, that all employees have to undergo background checks, which is fine, but wondered what happens if a potential employee fails a background check, and whether units have any discretion around this. Kian said that she understood that the Board of Regents was already considering the Ban the Box issue, and wondered what else the committee could do. Courtney said that it was her understanding that the Board of Regents would be discussing the issue at its December meeting. Jenkins proposed that a potential action that EAD could take would be to sign onto whatever statement Social Concerns is already planning to make, since that committee has already done extensive background investigation. Members agreed that this was a good idea, and Sexton added that as this issue disproportionately affects men of color, it is very germane to EAD's work. She also informed members that the Social Concerns Committee had discussed the Ban the Box issue extensively at their meeting, which immediately preceded this meeting, and that this discussion had included academicians who are experts in this area. She summarized that discussion for members [for a summary, see the meeting minutes from the October 24, 2016 Social Concerns meeting]. Amber Bathke, University Senate Office, offered to find out what the Board plans to discuss in December.

Potter mentioned a recent article in the *Star Tribune*, [“After authorities did not charge her rapist, U student fought back.”](#) which reported, among other things, that over 1000 cases of sexual

assault had been reported to the Aurora Center since 2010, but none had been prosecuted. Potter said that she would like to ask Eichele how to respond to questions from current and potential students, as well as the community, about this article. Members agreed that this was a good idea.

3. Aurora Center Privacy Policies

At this point, Katie Eichele, director, Aurora Center, arrived. Jenkins reminded committee members that he has asked Eichele to talk about the Aurora Center's privacy policies in the case of litigation against the University, and whether the University could use a student's counseling records against them, as happened at the University of Oregon in 2015. First, Eichele explained that the center will be celebrating its 30th anniversary this year, and that it is one of the oldest campus sexual assault resource and advocacy centers in the country. It has also been named as a best practices model by the Department of Justice. With regard to their privacy policies, she said that they are in the process of revising these policies. She said that just as doctors are held to doctor-patient confidentiality, so is the Aurora Center responsible for the privacy of their clients. She said that since the Aurora Center is covered by the Family Educational Rights and Privacy Act (FERPA), the records therefore belong to the University. However, she said, the Aurora Center would not release student records in case of litigation against the University, unless that information were subpoenaed. In other words, if the University's legal counsel were to request that information, they could not obtain it without a subpoena even though it owns the records. She also clarified that the Aurora Center is a mandatory reporter. She provided the following handout, which covers the privacy information as well as the mandatory reporting disclosure:

The Aurora Center for Advocacy & Education (2016)

LIMITS TO CLIENT-ADVOCATE CONFIDENTIALITY

Most communication between you and your advocate is confidential.

However, there are some limits to client-advocate confidentiality. Please be aware that certain topics you might discuss with us will necessitate a report to the proper authorities.

Listed below are the topics where your advocate is mandated to report:

If you:

- 1. State you seriously intend to harm yourself. This is reported to University Behavioral Assessment Team or law enforcement.*
- 2. State you seriously intend to harm an identifiable victim or a group of people. The intended victim as well as the police must be notified.*
- 3. Report or describe and physical abuse, neglect, or sexual abuse of children. This is reported to Child Protections Services or law enforcement.*
- 4. Report the occurrence of physical abuse, neglect, or sexual abuse if you were 17 or younger at the time of the abuse and the abuse occurred sometime within the last 3 years. This is reported to Child Protections Services or law enforcement.*
- 5. A Conflict of Interest is identified according to Aurora Center Conflict of Interest Policy where:*

- a. *An individual requests services and the other party involved is or has been a client of The Aurora Center*
- b. *An individual requesting services has been named as the respondent/accused/perpetrator on a Protection Order that The Aurora Center assisted with.*
- c. *An individual requesting services has been identified as a respondent/accused/perpetrator on any intake forms processed by The Aurora Center staff/volunteers.*
- d. *A current or past client is identified and made known to The Aurora Center as a respondent/accused/perpetrator.*
- e. *A client decides to file a lawsuit against The Aurora Center, Office for Student Affairs, or the greater University of Minnesota where TAC may encounter a conflict of interest.*

The University may also have to produce counseling/advocate records if they are subpoenaed by a court of law.

Your information will not be accessed by the University or its legal counsel simply because you exercise your legal rights to sue the institution or grieve institutional noncompliance to government-related bodies; however, information may be used and shared with University counsel if the litigation or complaints relate directly to the counseling itself. Even then, only that information that is relevant and necessary to the litigation or complaints may be used or disclosed.

All other information will be kept confidential and will not be released to anyone without your informed consent and written permission.

If any of the above circumstances might apply to you, please discuss any concerns you might have with your advocate prior to disclosing.

Eichele said that the last four paragraphs have been revised to address the University of Oregon issue, and that the Office of General Counsel (OGC) has approved this wording. Number 5 above, said Eichele, was added in response to people accused of perpetrating a sexual assault seeking counseling at the Aurora Center. Eichele explained that there is not really a space for accused individuals to go for help, and that accused individuals had been confessing to the Aurora Center and expecting confidentiality. Number 5 was added to specify that the Aurora Center cannot guarantee privacy to accused individuals, and that it is not an appropriate resource for them. OGC has not yet approved the language of number 5, she said. Kian asked whether the Aurora Center would inform law enforcement if a perpetrator confessed to them. Eichele said that they would not proactively do so, but would cooperate if an investigation ensued.

Wassenberg said that in past conversations with OGC, she had understood that they were unwilling to put into place a policy that would prevent the University from ever releasing student counseling records in the case of litigation against the University, although she said OGC agreed that using student counseling records in that way would be reprehensible. Eichele clarified that

OGC's message to her was that individual units have the right to put such policies into place at the local level.

Priscilla Flynn asked whether the Aurora Center is separate from Boynton Health Service, and Eichele said that it is. Flynn then wondered what Boynton's policy is. Wassenberg said that Boynton is covered by the Health Insurance Portability and Accountability Act (HIPAA), so the University does not own those records. Student Counseling Services (SCS) is covered by FERPA. Kian commented that many students do not know the difference between Boynton and SCS, so may think they're protected when they are in fact not.

Potter then referenced the *Star Tribune* article, and asked Eichele what advice she has about answering questions from students and the community. Eichele said that she had been getting questions all day, and that there is a great deal of anger and concern from the public. This is common when people feel powerless, she acknowledged. She said that in response to questions, people reaffirm that the center is doing extra training of both investigators and students. She said that the University of Minnesota Police Department (UMPD) is very responsive to sexual assault cases, but that the system external to the University needs work. She said that she is working with the Minneapolis Police Department and the Hennepin County Prosecutor's Office. She also cautioned members to be cognizant of victim blaming and to keep in mind that the part of the story available to the public is often not the whole story. Potter asked what work is being done around date rape drugs and shifting the culture around date rape. Eichele said that they have been working with organizations with cultures that are more vulnerable to sexual assault occurring in their communities, such as the Reserve Officers' Training Corps (ROTC), Greek life, Athletics, Housing, and International Student and Scholar Services, in order to build partnerships and awareness. She also reminded members that the number one date rape drug is alcohol, and that it is important to educate students about alcohol use, although it is also important not to imply that alcohol use *causes* or *invites* sexual assault. She added that the center has a Masculinity Program that offers a curriculum around examining the socialized norms about what it means to be a man, some of which contribute to the problem of sexual assault and date rape.

Potter asked how people could help shift the culture, and Eichele said that crafting messages that meet people where they are is important. She said that she finds working with groups that are resistant to this shift in culture particularly rewarding. For example, she said, she has spoken with academics (not necessarily from the University of Minnesota) who do research around a so-called "warrior gene" in men that leads to aggressive behavior, or the idea that the urge to procreate is genetically encoded and that leads to certain behaviors. Potter shared a movement-building model, which places people on a "spectrum of allies" ranging from active allies to active opponents. She said that the active opponents are individuals who will likely never accept the message. Instead, she said, it is advisable to focus on the passive allies, and once those individuals join the movement, the neutrals follow, and eventually the passive opponents follow, and then perhaps active opponents may eventually be won over. Wassenberg added that she is a faculty member in the College of Biological Science and teaches a course on the biology of evolution and sex to 400-600 students per semester. She said that the "warrior gene" idea is problematic and that using evolution to justify behavior is not acceptable, and that she addresses this issue in class. Potter said that incorporating education around sexual assault into "sympathetic" curricula such as this one is a good way to help shift the culture.

Eichele asked what other tools might be helpful in this work. Keisha Varma said that faculty don't necessarily know how to handle talking to students about this issue and asked whether there is training available. Eichele responded that there is a 60-minute training called "How to Take Disclosures For Crisis Intervention," and Kian asked whether that training is mandatory. Eichele said that it is not mandatory at the University of Minnesota, and Kian wondered if it could be made mandatory. Jenkins said that the committee could add this as a possible initiative this year, but that there needs to be evidence in the minutes of why such training should be mandatory. Wassenberg pointed out that when faculty lead study abroad programs, they are required to do such training. She added that the affirmative consent policy is very clear and helpful, and thanked Eichele for her work on this. Members asked if there is anything else that the committee can do to help advance the work of the Aurora Center. Eichele said that they really need more staff and office resources, as they only have two full-time advocates for all of the Twin Cities (55,000 students and 16,000 staff) and Augsburg (about 5,000 people), with which they have a partnership. These individuals are often doing long hearings that last four to five hours after a full business day, and in addition, the Aurora Center's staff members staff the 24-hour crisis line by taking turns carrying a cell phone, and that their office save the University over \$400,000 a year by using student volunteers. The Aurora Center has a budget of \$500,000 annually, she said, to cover staff, operations, etc. One or two more full time advocates are needed. Members asked Eichele to provide data on staff work hours, etc., so that the committee can take action in support of increasing funding for Aurora Center staff. Eichele added that the Aurora Center is undergoing an external review at the end of November, which is groundbreaking in that field. This could help to support their budget request, she said. She thanked the committee for their feedback and support.

In the interest of time, Jenkins adjourned the meeting.

Amber Bathke
University Senate Office