

**Senate Committee on Faculty Affairs (SCFA)
November 8, 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 represents the views of, nor are they binding on, the senate, the administration or the Board of Regents.

[In these minutes: Bias Response Team; Office for Conflict Resolution]

PRESENT: Monica Luciana (chair), Joe Price, Ken Horstman, Jay Bell, Sophia Gladding, Tae Kim, Robert Kudrle, Peh Ng, Ruth Okediji, Ned Patterson, Lori Rhudy, Aks Zaheer, Alisha Aagesen, Geoff Rojas

REGRETS: Katherine Dowd, Phil Buhlmann, Rebecca Ropers-Huilman, Christine Blue, Jarvis Haupt

ABSENT: Kathy Brown, Teresa Kimberley, Theodor Litman, Scott Ng, Sam Stern

GUESTS: Anitra Cottledge, director of communications, Office for Equity and Diversity; Ann Freeman, senior consultant, Office of University Relations; Julie Showers, director, Office for Conflict Resolution

1. **Bias Response Team (BRT):** Professor Luciana convened the meeting and welcomed BRT staff leads Anitra Cottledge, director of communications, Office for Equity and Diversity, and Ann Freeman, senior consultant, Office of University Relations. Before hearing about the BRT, Professor Luciana called for a round of introductions. Following introductions, Professor Luciana turned the meeting over to Ms. Cottledge and Freeman.

Ms. Freeman began by noting that she will provide background information about the BRT and Ms. Cottledge will speak to the consultations that the BRT has been doing since August. With that said, Ms. Freeman noted that in January 2016 President Kaler approved a proposal from the Campus Climate Core Planning Team and Coalition for a Respectful U to establish the BRT on the Twin Cities campus. The executive oversight of the BRT is the responsibility of Vice President Katrice Albert, Office for Equity and Diversity (OED), and Provost Karen Hanson. She then proceeded to go into detail about the membership of the BRT. While the University has long had the responsibility for responding to bias incidents, the BRT was created to fill any gaps that may exist and to ensure incidents are responded to in a timely and consistent fashion, and to provide referrals as needed. Additionally, the BRT has an educational component to the work it does.

Since the BRT started meeting in February 2016, it has developed its protocol, which is a fluid document that will continue to evolve and grow. To date, the BRT has responded to approximately 35 incidents despite the fact that it has not yet broadly promoted itself. Of the incidents that have been reported so far, only two dealt with classroom issues. The BRT works a lot with its campus partners such as the Office of Equal Opportunity and Affirmative Action (EOAA), Office for Student Conduct and Academic Integrity (OSCAI), etc. Ms. Freeman noted

that the BRT has a strong commitment to upholding free speech and academic freedom, and has no interest in compromising constitutionally protected rights. The BRT frequently deals with the impact of protected speech that may have been harmful and hurtful to individuals or groups of people. Additionally, it is important to note that the BRT has no investigative or disciplinary role.

Ms. Freeman noted that the BRT is currently wrapping up its consultations with various groups across campus. By the end of November, the BRT hopes to have its website up and running and thereby creating more visibility for itself.

Professor Zaheer commented that it has been his experience that some non-U.S. students have difficulty relating to certain groups on campus. With that said, has the BRT considered developing an on-line course that the University community could take that addresses the issue of bias, e.g., recognizing bias, seeing bias in themselves. Ms. Freeman thanked Professor Zaheer for this suggestion and noted that two members of the BRT represent international students, Barbara Kappler, director, International Student and Scholar Services, and Nasreen Mohamed, director of student engagement, International Student and Scholar Services. Both have been helpful in bringing issues specific to international students forward. Professor Zaheer said rather than just being reactive, it would be good if the BRT were proactive.

Next, Ms. Cottledge talked about the BRT's consultation with various governance committees and their chairs, which have added both depth and richness to the feedback the BRT has heard. Three of the main takeaways from the consultation process were:

- The BRT should have more faculty involvement and input.
- The free exchange of ideas should not be stifled at the University.
- The BRT should be proactive rather than just reactive.

Overall, said Ms. Cottledge, the feedback the BRT received was that it was a welcome addition to the University. Of course, however, there has also been some negative feedback and pushback. The BRT plans to take the suggestions it has heard and incorporate them into its protocol and web content. Having said that, Ms. Cottledge solicited members' questions and comments.

In Professor Bell's opinion, one of the places faculty struggle with bias is with job searches on search committees. Will the BRT provide assistance to search committees? Ms. Cottledge said if faculty have concerns related to how a job search is being handled, they could certainly report it to the BRT. It is likely the BRT would probably refer this type of concern to EOAA or the Office of Human Resources (OHR). She added that OED has been doing a lot of work around implicit bias and the faculty job search process.

Given that only two of the 30 plus reported incidents have involved faculty, commented Professor Kudrle, suggests this is a pretty thin empirical base. Is it accurate to assume that most problems in the classroom do not involve the faculty, but are concerns by students against other students? Please breakdown the cases that have been reported thus far. Ms. Freeman said as part of the consultation process, faculty have expressed concerns about students lodging unfounded complaints against faculty. Faculty are concerned that the BRT may restrict their ability to teach their courses. She then shared a few examples of incidents reported to the BRT and how they

were resolved. The BRT wants to make sure faculty have the training and cultural competencies when issues like these arise. Professor Kudrle thanked Ms. Freeman for clarifying because he feels, to a degree, that the BRT is somewhat misunderstood. In response to a suggestion from Professor Zaheer about providing resources to faculty, Ms. Cottledge said she would bring this suggestion back to the team to think about working with faculty on identifying the kinds of information that they would find useful.

Professor Patterson asked about Ms. Freeman's earlier comment about some people simply wanting to report an incident because they want to be on the record regardless if any further action is taken. What is "the record" and is it confidential? Ms. Freeman said the incident reports will eventually be in UReport, the University's confidential reporting service. Currently, the BRT keeps an incident log, and the team is careful about anonymity so names and departments are not used. One of the BRT's core principles has to do with respecting privacy and confidentiality as much as possible. Naturally, if the BRT receives an incident report that it is legally required to report, it would have no choice but to give this information to the appropriate investigatory groups on campus.

Professor Luciana asked to hear more about the BRT's interactions with other offices on campus, e.g., EOAA. How obvious is it that someone who has an incident to report would know which office to go to? Given the campus is so large and has so many resources, said Ms. Cottledge, the BRT will serve as a referral resource.

Because the BRT has not received a lot incidents involving faculty, said Professor Luciana, makes her wonder whether there should also be more student and staff membership on the BRT. Ms. Freeman said that pretty much everyone on the team thus far represents staff. The BRT consulted about having students on the BRT, and it was suggested that students not be on the team for commitment and confidentiality reasons. Of the student groups the BRT has consulted with, none have asked for representation on the team, but rather input. As a result, the BRT is considering forming a consultation and advisory group to address this issue.

Professor Okediji asked when people report to endbias@umn.edu whether this is anonymous. No, it is not anonymous, said Ms. Freeman. She added that this is why the BRT was happy to be able to be part of the UReport system (<https://secure.ethicspoint.com/domain/media/en/gui/9167/index.html>) because there is more protection for being anonymous. It is likely that endbias@umn.edu will eventually be phased out. So far, of the people that have written in to endbias@umn.edu, they do not seem to care if they are anonymous. Professor Gladding wonders if this lack of anonymity plays a role in the small number of incidents reported that involve faculty.

Because several members wanted to get a sense of the kinds of reports that had been filed, Ms. Freeman and Ms. Cottledge shared a number of examples. Many of the issues that are reported, explained Ms. Freeman, are issues more general to campus, and cannot necessarily be solved.

To conclude, Ms. Freeman and Ms. Cottledge thanked the committee for a good discussion and the feedback it provided. In turn, Professor Luciana thanked them, and suggested inviting them

back at some point in the future to provide an update on how the process has evolved and what is being learned about the University community through the work of the BRT.

2. Office for Conflict Resolution: Professor Luciana welcomed Julie Showers, director, Office for Conflict Resolution (OCR). Ms. Showers began by walking members through a few slides, but said she is mostly interested in answering members' questions about OCR and the work it does.

OCR, noted Ms. Showers, is a resource established by the University and it serves faculty, staff and student employees who are not members of a bargaining unit. Employees in bargaining units are covered by collective bargaining agreements that have built-in dispute resolution services; therefore, it would not be appropriate or, in some cases, lawful for the University to create a workaround for these provisions. OCR deals with conflicts that arise in the course of a person's employment at the University. Additionally, it is important to note that OCR is not an ombudsman office. OCR is independent, and not part of the Office of the General Counsel, OHR, etc.; this is a standalone office that reports up through OED. All visits to OCR are confidential unless that person presents a real, and present danger to himself/herself or someone else. Ms. Showers also noted that she works hard to ensure matters are handled impartially, and uses a multi-partial approach by letting each side know the strengths and weaknesses associated with their individual position. Ms. Showers added that she is neither an employee advocate nor a University advocate, but is an advocate for having a process that allows disputes to be heard fairly.

Approximately 20% of what OCR does, said Ms. Showers, is handling what used to be called the grievance process, but are now called petitions. The process begins with the filing of a petition, which must, under jurisdictional guidelines, identify a University rule, regulation, policy or procedure that has been allegedly violated. Each petition goes through a number of prescribed steps before being heard by a three-person hearing panel. After the hearing, the panel drafts its findings/recommendations, which are then given to the provost for a final decision. The remaining 80% of her job, said Ms. Showers, involves informal conflict resolution processes, which begin with a frank and confidential conversation about a person's experience. Many people who come to OCR simply want to be heard. While some people want advice and counsel, others ask for help in preparing for a difficult conversation. It is human nature for people to want to avoid conflict; therefore, talking about how to make these difficult conversations go better can be helpful.

Additionally, OCR does facilitated dialogues where the parties are brought together, and, in a structured way, they are encouraged to engage in a dialogue, but not a debate. The purpose is to give each party an opportunity to share how they have experienced a particular set of circumstances, and the intent is to actually have the other party understand their perspective, e.g., a shared reality.

Finally, a small part of the work OCR does is mediation, said Ms. Showers. The reality is the University actually has very few mediation cases, and she shared an example.

Ms. Showers reported that she is in the process of finalizing the OCR annual report, and she would be happy to send it to anyone who is interested in receiving it. To give members a sense of volume, she noted that last year there were 186 informal consultations, and, of these, 65 involved faculty, 65 involved P&A staff, 34 involved Civil Service employees, 17 involved graduate or undergraduate student employees, and 5 involved retirees or people in other employment categories. These numbers represent a 20% increase over the 2015 academic year. Ms. Showers noted that of the 186 consultations, only 10 resulted in the filing of a formal petition.

Next, Ms. Showers shared how she views the core of her work, which involves teaching about conflict. She reiterated that it is human nature to want to avoid conflict because it is uncomfortable, unwelcome, and unpleasant – all of which contribute to the avoidance. Instead of a conflict situation representing some sort of failure, it should be approached in such a way that potentially could offer some benefit. There are some basic pragmatic, strategic ways of doing this, which can result in a shift in behavior. With that said, she opened the floor to questions and comments from members.

Professor Zaheer asked whether the faculty cases involved issues related to tenure or salary. Ms. Showers said the most common issues are those involving a behavior that someone finds rude, offensive or disrespectful, and this is the same for the other employee groups she works with as well. In other words, the number one issue involves concerns around a personal relationship, and these cases do not result in the filing of a petition because there is no policy prohibiting being rude, offensive or disrespectful. Other issues include salary equity, and hybrid cases involving various connected issues, but true promotion and tenure cases go to the Senate Judicial Committee. Ms. Showers went on to share a couple other issues she frequently deals with and one has to deal with people who have repetitively raised a concern, but were never granted the courtesy of a response. She believes employees who work at the University deserve a response when they raise a concern. Another fairly common issue involves people coming to OCR to share a concern, but not wanting the specifics disclosed to the other party involved. Ms. Showers said it is important for people to be willing to deal with an issue directly.

Professor Bell said if University faculty were to vote to unionize, would faculty no longer be able to go to OCR for help. Ms. Showers said that this is her understanding because once an employee group is unionized it has a designated legal representative whose role it is to assist in the resolution of disputes.

In response to a question from Professor Kudrle about the petition process, Ms. Showers explained that after a hearing is conducted, the hearing panel provides their findings/recommendations to the provost, who has two weeks to review the decision and can either accept it, reject it, or modify it. If the decision goes against the employee, that person then has the right to appeal to an outside, neutral arbitrator and submit to binding arbitration and waive their right to go to court for the same claim. Alternatively, in limited situations, an employee can appeal directly from the University's process to the Minnesota Court of Appeals on a writ of certiorari.

Technically, said Dr. Rojas, the University classifies postdoctoral fellows as non-employees. With that said, are postdoctoral fellows able to use OCR's services? Ms. Showers said her test for whether is a person is a University employee is if they receive a paycheck, and, if they do, she considers them an employee.

Professor Patterson mentioned the respectful workplace training and other training offered by the College of Veterinary Medicine. In response, Ms. Showers, said when she started in her position, OCR was perceived to be a resource only for aggrieved employees. In her opinion, the more proactive people are in seeking out resources, the better the chance of a positive outcome. She said she offers conflict resolution and communication styles programming for any department that would want her to do so.

Please share information about the training programs for division chairs, deans, etc., that her office offers, asked Professor Ng. She also asked whether Ms. Showers would be willing to provide this information during chair's orientations, for example, given these positions usually turnover every so many years. Orientation would be a good time to share this information because it gives OCR visibility so when people face a conflict they will know the office exists, said Ms. Showers. She then turned members' attention to a slide that outlines how she works around conflict and the workshops Professor Ng mentioned. As she walked members through the slide, she noted it is very important for people to avoid making conclusions from what they have seen or heard, and remember that there are things that cannot be seen or heard, e.g., motivation, intention, who they are as a person, what they value. She then provided a couple examples to illustrate the point she was making. When thinking about how to fix a problem, think about what are the behaviors that need to be seen, started or stopped in order for that working relationship to be productive. Ms. Showers went on to say that the University of California Berkeley has a Staff Workplace Bullying Prevention Policy (<http://hr.berkeley.edu/news/staff-workplace-bullying-prevention-policy>). While such a policy probably would not work everywhere, UC Berkeley has decided collectively what they want their culture to look like.

In response to a question about the relationship between OCR and EOAA and the BRT, Ms. Showers reiterated that OCR is one of eight offices that is housed in and report up through OED. Employees can file a petition with OCR over issues perceived to be discriminatory or harassing, or they can file with EOAA, but not both. Employees are told the differences between OCR's processes and EOAA's processes so they can make an informed decision about which office they would rather work with. OCR and EOAA collaborate to ensure they are not operating on parallel tracks. Regarding the BRT, said Ms. Showers, OCR is not part of the BRT and has no involvement in their charter or operation.

Professor Luciana thanked Ms. Showers for an incredibly useful presentation and discussion.

3. **Adjournment:** Hearing no further business, Professor Luciana adjourned the meeting.

Renee Dempsey
University Senate Office