

**UNIVERSITY OF MINNESOTA
BOARD OF REGENTS**

**Special Oversight Committee
August 16, 2017**

A special meeting of the Special Oversight Committee of the Board of Regents was held on Wednesday, August 16, 2017 at 8:30 a.m. in the East Committee Room, 600 McNamara Alumni Center.

Regents present: Thomas Anderson, presiding; Michael Hsu, Peggy Lucas, David McMillan, Abdul Omari, and Steven Sviggum.

Staff present: General Counsel Douglas Peterson; Executive Director Brian Steeves; and Chief Auditor Gail Klatt.

Regent Anderson invited General Counsel Peterson and Chief Auditor Klatt to comment on the joint report and recommendations on Title IX and athletic discipline practices (report) prepared by Dorsey and Whitney, the Office of Internal Audit, and the Office of the General Counsel, as detailed in the docket.

Peterson discussed the importance of the University's ongoing work to address student safety and ensure a fair process. He indicated that individuals on both sides hold strong opinions on how incidents of sexual misconduct should be adjudicated and what the role of a higher education institution should be. He offered his appreciation to the committee and Dorsey and Whitney attorneys John Marti and Jillian Kornblatt for approaching this topic in a judicious and considerate manner.

Klatt stated that her role in the external review (review) was to ensure independence and that all areas of the charge were addressed. Klatt stated that Marti and Kornblatt had complete autonomy in conducting the review and were provided with all information they requested from the University. She commented that in her view, the work performed by Marti and Kornblatt is thorough and complete in addressing the charge.

Anderson invited Marti and Kornblatt to review the report.

Marti noted that the report is a joint report that includes their specific findings and recommendations, joint findings and recommendations, and a summary of the University's current efforts to address incidents of sexual misconduct. He added his agreement with Klatt that the review had full autonomy and access to information, and that the findings were not influenced by the Board or any University staff members.

Marti explained that the issues of student and employee privacy presented a challenge in preparing the report. He stressed that given federal law, significant constraints limit the information that can be shared in a public forum. Marti and Kornblatt outlined the findings and recommendations included in the report.

In response to a question from Regent Sviggum, Kornblatt explained that the report includes a list of individuals who declined to be interviewed. She stated that the refusals did not result in gaps in information.

Sviggum asked Marti and Kornblatt to confirm that the report did not find any violations by the University of law, policy, or procedures. Marti responded that the University's response was consistent with law and University policies.

Sviggum commented that he agrees with the recommendation that the Office of Equal Opportunity and Affirmative Action (EOAA) allow students accused of sexual misconduct to respond to preliminary EOAA findings and provide additional information. He noted that given the potential impact on an accused student, this recommendation should be instituted regardless of the additional time it might add to the EOAA investigation process.

In response to a question from Sviggum, Marti noted that identification of the third parties mentioned in the report is available to the Board in a separate attorney-client privileged communication.

Sviggum inquired about measures used by Marti and Kornblatt to determine that the former football coaching staff showed weak leadership. Marti offered that the finding is based on their judgment, informed by facts. He added that his judgment is informed by his substantial professional and leadership experience, including performing management and leadership reviews during his tenure at the United States Department of Justice.

Sviggum agreed that more coordination between the Board, administration, and the Athletics Department is important. He inquired if it is possible that the involvement of some Regents helped to end the boycott by the football team. Marti stated that it was.

Regent Lucas offered that the report's recommendations are important for refining and improving University processes. She stated her view that the University should not move away from zero-tolerance of sexual misconduct. She expressed confidence that the Board and administration will address the recommendations.

Lucas wondered why the University has a more robust system to deal with incidents of sexual misconduct than other Big Ten institutions. Kornblatt responded that the review did not include that issue. Lucas expressed her comfort that the University is a leader within the Big Ten in this area and her hope for future collaboration.

Anderson observed that no current University employees refused to be interviewed during the review. Kornblatt reiterated that all current University employees spoke at length with Marti and herself. In response to a question from Anderson, Kornblatt confirmed that accused students are informed multiple times and in multiple ways that they can bring a lawyer or advocate with them when meeting with EOAA staff.

Anderson observed that a number of federal and state laws and University policies govern the response to incidents of sexual misconduct. He asked if the differences between them created confusion and mistrust among students, coaches, administrators, and Regents. Marti confirmed that the differences and resulting confusion led to suspicion and mistrust. He indicated that the confusion led some to question why the University could take action after the Hennepin County Attorney declined to file charges. Marti suggested that if those involved had a better understanding of the processes, that understanding might have alleviated some of the strong reaction, criticism, and suspicion of the University's actions. He added that even with more understanding, the difference in roles and responsibilities between the University and law enforcement may continue to create criticism and suspicion.

Anderson invited Dean John Finnegan, chair of President Kaler's initiative to prevent sexual misconduct (initiative), to discuss how the report will influence the work of the initiative.

Finnegan described the initiative and its objectives. He noted the need for engagement across the entire University community and a focus on changing culture through a long, sustained effort. He stated that the goal of the committee is to provide the president with a plan by October 2, 2017 to enhance student education and engagement, create a sustainable public health awareness campaign, develop required training for all faculty and staff, and develop metrics for evaluating the impact of the initiative's efforts. He conveyed that bringing the insight and experience of the many University offices that address sexual misconduct into the initiative will be critical to its success.

Lucas expressed hope for the work of the initiative and interest in reviewing the recommendations presented to the president.

Sviggum asked if Finnegan agreed with the report's findings regarding the University's policies toward sexual misconduct. Finnegan offered that while he had not done the level of investigation of the University's policies that Marti and Kornblatt had, he agreed with the previous comments that they go above and beyond what many Big Ten institutions have in place. He recounted meetings this past spring where he heard from survivors of sexual misconduct that they had access to excellent support services on the Twin Cities campus. He offered his belief and agreement that the University's policies and resources should always be focused on continuous quality improvement.

Anderson commented that the University exists first and foremost for its students. He expressed his belief that the University should always be ahead of the curve and that the initiative will help the University do so.

A motion was made and seconded, and the committee voted unanimously to recommend approval of the resolution related to the joint report and recommendations on Title IX and athletic discipline practices.

The meeting adjourned at 9:35 a.m.



BRIAN R. STEEVES
Executive Director and
Corporate Secretary