

Academic Freedom and Tenure Committee (AF&T)
September 15, 2017
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 reflect the views of, nor are they binding on, the senate, the administration or the Board of Regents.

[In these minutes: Preview of and Consultation on Title IX and Equal Opportunity and Affirmative Action Training Module; EOAA Procedures/Protections for Faculty; Introductions and Orientation; Update on MN Data Practices Act; Update on Personnel Plans; Open Discussion/Brainstorm Agenda Items]

PRESENT: Phil Buhlmann (chair), Anne Barnes, Jerry Cohen, Joseph Gaugler, Ben Intoy, Jessica Larson, Karen Miksch, Gopalan Nadathur, Yuichiro Onishi, Gary Peter, Karin Quick, Rebecca Ropers-Huilman, Nathan Shippee, Kristin Swanson, George Trachte

REGRETS: Holley Locher, Rachna Shah

GUESTS: Tina Marisam, director, Equal Opportunity and Affirmative Action, Office of Equity & Diversity; Boyd Kumher, chief compliance officer, Office of Institutional Compliance

1. Preview of and Consultation on Title IX and Equal Opportunity and Affirmative Action Training Module

Chair Phil Buhlmann called the meeting to order and welcomed members. He welcomed Tina Marisam, director, Equal Opportunity and Affirmative Action (EOAA), Office of Equity & Diversity and Boyd Kumher, chief compliance officer, Office of Institutional Compliance, who were present to demo the training module that is in development on responding to reports of sexual misconduct.

First, Marisam gave some background on the training and the rationale for it. She reminded members that last year, President Eric Kaler announced the [President's Initiative to Prevent Sexual Misconduct](#). Preceding this announcement, the University and Student Senates approved a resolution asking the administration to require all University employees to complete training on responding to and reporting incidents of sexual misconduct. One aspect of the President's Initiative to Prevent Sexual Misconduct, therefore, is to require training of all faculty and staff. Most of the University's peer institutions require such training already, Marisam added. The president charged Senior Vice President for Finance and Operations Brian Burnett, Executive Vice President and Provost Karen Hanson, and Vice President for Equity and Diversity Katrice Albert to oversee the creation of the training module. After receiving RFPs from five vendors, the committee selected [Everfi](#), the company that created the Haven training for students, which has been in use for some time. Marisam emphasized that the training can still be modified, and that they are gathering feedback from several stakeholders, including several senate committees, as well as system campuses.

Marisam explained that there are two versions of the training, one for supervisors and the other for non-supervisors, and that she would be demoing the supervisor version. She also informed members that the preview would focus on Part II of a two-part training (Figure 1). Part I focuses on sexual harassment in the employment context.

Figure 1

Sections		Pages	
PART I	1. Prologue	1. Part II	Not Started
	2. Avoiding Illegal Decisions	2. Introduction	Not Started
	3. Avoiding Illegal Behavior	3. Key Terms	Not Started
	4. Avoiding Abusive Behavior	4. Title IX Protects Students	Not Started
	5. Making a Difference	5. Obstacles to Learning	Not Started
	6. Protecting Employees Conclusion	6. Campus SaVE Act	Not Started
PART II	7. Protecting Students Introduction	7. Summary	Not Started
	8. Crimes & Conduct Violations		
	9. Your Role & Responsibilities		
	10. Protecting Students Conclusion		
	11. Course Complete		

Buhlmann asked what constitutes a supervisor. For instance, is a faculty member with graduate students considered a supervisor? Marisam said probably so, but they are still figuring out what will constitute supervision. This will be according to the legal definition.

Marisam then walked the committee through the second half of the training, which described what an employee should do if they learn about an incident of sexual misconduct. Material covered in the training included key terms, protections under Title IX, the effects of sexual misconduct on students, definition of consent, information about relationship violence and stalking, the role of the reporter, confidentiality, etc. The training includes several interactive components such as case studies, scenarios, videos and quizzes in order to maximize learning. Marisam then asked members for their feedback.

Karen Miksch said that this was a good starting point, but alone it will not be enough. She said that real learning takes place when faculty talk to their peers, and wondered if EOAA was offering any sort of follow up training. Marisam said that she does see the need for a phase two of this training. She envisions that it might involve train-the-trainer sessions and then having the training and discussion at department meetings. Jerry Cohen said that while the law is important, people should care about this because it affects people's lives, not because of the law. He suggested that emphasizing the impact of sexual misconduct not only on the victim, but on their

family and those surrounding them, could be effective in driving the point home. Marisam said that the President's Initiative on Preventing Sexual Misconduct, led by Humphrey School of Public Health Dean John Finnegan, was taking a public health approach to the issue, rather than focusing on compliance. Gary Peter wondered how participation in the training would be tracked and enforced. Kumher responded that ULearn is going away and that they are currently working through RFPs for a replacement, which should come online in January. This training will likely be tracked through that system. Noncompliance information will be shared with department heads and eventually up through the administration. Kumher said the messaging around the training will be that it is simply the right thing to do and that the expectation is that everyone will take it, with less emphasis on it being mandatory. He said at his previous institution, they reached nearly 100% compliance with this method. Rebecca Ropers-Huilman wondered if diversity in terms of race, ethnicity, sexual orientation, etc. was represented in the training, and Marisam said that it is.

Marisam said that they hope to roll out the training in January, which will coincide with implementation of the new administrative policy on sexual misconduct and the accompanying Regents policy. The administrative policy has been approved by the President's Policy Committee, and both policies will go before the Regents at their October meeting. Assuming the Regents approve the policies as they currently are, the administrative policy will then enter its 30-day comment period and will go into effect beginning spring semester 2018.

With no further comments, Buhlmann thanked Marisam and Kumher, and Kumher left. Marisam stayed for the next agenda item.

2. EOAA Procedures/Protections for Faculty

Buhlmann explained that about two years ago, the committee had expressed concerns about EOAA's procedures when a faculty member is accused of a violation, and protections for faculty in the event of an accusation that turns out not to be a violation. He said that the EOAA website contains a lot of information for students, but not as much for faculty. He added that faculty can also be victims of EOAA violations. Marisam stated that these concerns were brought forth under her predecessor, and acknowledged that some action items may have slipped through the cracks during the transition. She said that some progress has been made, however. There is more transparency and clarity in the new policy that will be rolled out probably in January, and they have developed standard documents that are sent to every witness, complainant, and respondents in cases involving employees. These documents cover the standards of evidence, retaliation, due process, etc. EOAA is currently in the process of redesigning their website; when that is complete, these documents will be available on the website.

Marisam went to explain that in about 50% of cases, there is no investigation, but instead an informal problem-solving process. If there is an official investigation, there are many protections for both parties. If the parties disagree with the findings of the investigation, they can provide EOAA with their concerns in writing. Other options for appeal depend on the employee class, but faculty can work through the Office of Conflict Resolution or the Senate Judicial Committee, if they believe the tenure code is being violated. She said that they are open to ideas and suggestions regarding how sanctions are imposed on faculty who are found to have committed a

violation: currently, sanctions are up to the department head, but Marisam said that they have considered having faculty panels determine sanctions. Members liked the idea of a faculty panel, because of the power differential between a faculty member and their department head or dean. Ropers-Huilman said that department heads need more training if they are to make such decisions.

Miksch said that in the case where a complaint made against a faculty member is determined not to be a violation, a letter explaining this could go in the faculty member's file. When such a complaint is made, at least some people know about it, and it can be very difficult for a faculty member to recover their reputation if the complaint is dismissed. Such a letter would help. Marisam agreed that this was a good idea. She acknowledged that since EOAA investigations are confidential and have a large impact on people's lives, there can be a perception of secrecy and uncertainty around the process and its integrity. Marisam assured members that they are very highly reviewed, and also very open to feedback and ideas on how they can do things better.

With this, Buhlmann thanked Marisam and she left.

3. Introductions and Orientation

Buhlmann officially introduced himself and asked members to do the same. He then reviewed the committee charge and reminded members that this committee does not deal with cases-- that is the purview of the Senate Judicial Committee.

4. Update on MN Data Practices Act

Buhlmann gave some background on the proposed amendment to the MN Data Practices Act. He explained that the Minnesota Data Practices law, which requires data owned by government agencies to be open or available to the public, includes the University, and scholarly work in progress can be requested under this act. This can impede and endanger research. The proposed amendment would exempt scholarly work in progress from this requirement. It has been approved by the Faculty Senate, and this year the legislative liaisons will work to get it into the Minnesota state legislature.

5. Update on Personnel Plans

Rebecca Ropers-Huilman said that all of the requested collegiate personnel plans, which AF&T is charged to review every few years, were submitted to her office last year, except for one. It should be in by the end of the semester. All have been reviewed except for that one and three others that came in after last year's review period. These three should be reviewed this semester. The provost has seen the plans and the committee's summaries, but has not yet communicated with the individual deans or colleges. Finally, Ropers-Huilman thanked members for their hard work on reviewing these plans, acknowledging that it is a lot of work.

6. Open Discussion/Brainstorm Agenda Items

Finally, Buhlmann invited members to bring forth items for consideration by the committee. Members suggested the following topics:

- Post-tenure review processes
- Promoting academic freedom on all campuses

- ITRAAC
- Free speech forum
- Team Science (October meeting)
- Report from the Bias Response and Referral Network
- Uneven application of academic freedom - it applies to everyone on campus, but contract and term faculty, postdocs, and graduate/professional students have fewer protections around it

With no further discussion, Buhlmann adjourned the meeting.

Amber Bathke
University Senate Office