

**Academic Health Center Faculty Consultative Committee (AHC FCC)**  
**May 21, 2019**  
**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:** AHC Faculty Code of Conduct Discussion]

**PRESENT:** Wendy St. Peter (chair), John Deen, David Jacobs, Kathie Krichbaum for Barbara McMorris, Angela Panoskaltis-Mortari, Kyriakie Sarafoglou, Kendall Wallace

**REGRETS:** Mansur Ahmad, Janice Conway-Klaassen

**GUESTS:** Tina Marisam, director/Title IX coordinator, Office of Equal Opportunity & Affirmative Action; Julie Showers, associate vice president, Office for Equity and Diversity; Eric Schnell, interim director, Office for Conflict Resolution

1. **AHC Faculty Code of Conduct Discussion:** Professor St. Peter convened the meeting and called for a round of introductions. Following introductions, Professor St. Peter provided background information to the guests about how the AHC FCC became interested in exploring the possibility of developing an AHC faculty code of conduct. She noted that earlier this year Professor Colin Campbell, associate dean of graduate education, Medical School, met with the AHC FCC to get members' thoughts on the development of a code of conduct for faculty who work with graduate students in the Medical School. Associate Dean Campbell's idea was well received by the committee and a couple members suggested taking the idea a step further and creating a faculty code of conduct for all AHC faculty. In preparation for today's discussion, said Professor St. Peter, AHC FCC members reached out to their colleagues to get examples of how people have been treated not only by their unit leaders but colleagues as well. With that as background, Professor St. Peter asked the guests their opinions about whether a faculty code of conduct should be created.

Julie Showers, associate vice president, Office for Equity and Diversity, began by saying that the [Board of Regents Code of Conduct policy](#) that Professor St. Peter mentioned in her opening remarks is not an actionable policy, but rather an aspirational standard. Therefore, if someone perceives there has been a violation of the policy, there is no formal process for redress. In order to file a grievance with the Office of Conflict Resolution (OCR), a person must be able to name a rule, policy or procedure that has been violated, not including the Code of Conduct. She went on to say that the notion of respectful conduct and behavior is often in the eye of the beholder, and there is no legislative or policy-based response. If the Code of Conduct were actionable, said AVP Showers, she would expect there would be a lot of challenges and inconsistent outcomes. The University has no policy against being a "jerk," and people struggle with this, particularly when someone's problematic behavior has been relatively consistent over time. Clearly, said

AVP Showers, there are gaps in University policies, and, in situations like this, she encourages people to look to these existing policies and address the gaps in them.

In terms of best practices around bullying, unfortunately, said AVP Showers, there is not one definition of bullying across time and space. Most institutions do not have a policy that prohibits bullying because it is often difficult to pinpoint bullying until it actually occurs. As a result, some things are less well addressed by establishing a policy than they would be by simply increasing the capacity of a supervisor to hold the offender(s) accountable. Having said that, many supervisors (e.g., program director, chair, associate dean, or dean) 1) do not believe they have the tools they need to be effective in terms of redress, 2) feel unsupported when it comes to taking action, and 3) are not subject matter experts in dealing with bad behavior. In AVP Showers opinion, she thinks efforts to stop bullying would be better spent increasing support for people taking bold action in these situations, and helping them understand how to do it effectively.

Professor Krichbaum asked for an example of “bold action.” AVP Showers said what constitutes bold action depends on the individual facts and circumstances of a particular case, but having a direct conversation and naming the behavior that is problematic and defining it as unacceptable could be an effective low-level action. If this isn’t sufficient, a supervisor could escalate the action they take by issuing a letter of reprimand or discipline proportional to the severity of the offense. She said she often uses the “event, pattern, and relationship (EPR)” approach, which involves addressing the first time something happens as an isolated event, but, if it continues happening, looking at it in terms being a pattern of behavior, and finally if the behavior continues to go unaddressed, viewing it as a relationship problem. There are ways to say that a particular behavior is inconsistent with the standards and values of a department/college/institution, and that it must change. In response, Professor Krichbaum said if she was being abused by someone with institutional power, speaking up could be risky. AVP Showers agreed and added that while there are ways to try and redirect behavior, people who have power can and sometimes do retaliate against their complainers. In this situation, she suggested reaching out to OCR and confidentially talking with an expert about the spectrum of different ways to handle the situation. Many people who go to OCR simply want help with strategizing how to handle a difficult situation. OCR can also help with searching for allies, if it is a situation where multiple people hold the same experience because there can be safety in numbers. Alternatively, OCR can also help to identify the person who holds power over the perpetrator. Lastly, in addition to OCR, there is also the Office of Equal Opportunity and Affirmative Action (EOAA), which is also a resource.

Professor Sarafoglou commented that while OCR does a great job, the problem is that the office has no power to be able to stop the abuse and change the behavior. In her opinion, the Provost’s Office needs to have the power to come into a unit and tell the administrator that a problem exists and he/she needs to address it. She said there needs to be a mechanism above the unit that has the authority/power to bring about a change; without this, nothing will happen. Instead, faculty are often told if they don’t like something, to simply leave and find another job. Professor St. Peter added that faculty do not have the resources or authority to deal with these kinds of issues as a faculty, and this is the reason for having a faculty conduct code or even a faculty ombudsperson. She rhetorically asked about the pros and cons of having a faculty conduct code.

AVP Showers said there has been talk over the past couple decades about having a faculty ombudsperson, but this position has yet to be funded. In terms of cons, AVP Showers noted that the standards of practice for an ombudsperson require that the position be informal as well as confidential and impartial, which are essentially the same services already provided by OCR. An ombudsperson is not an arbiter of justice and does not have the power to conduct an investigation, make findings and recommendations or mandate anyone do anything. Secondly, in terms of policy, the Regents Code of Conduct would need to be changed from a non-actionable statement of guidance to an actionable, proscriptive policy, and, in her opinion, the chances of this happening are virtually nil. While it is ok to borrow verbiage from other codes such as the Student Code of Conduct and apply it to faculty, the terms used would have to be explicitly defined. AVP Showers said while she is supportive of having more effective responses to inappropriate behaviors, taking an action against a faculty member such as removing him/her from the graduate faculty in his/her college, would be perceived as a disciplinary action, and the Tenure Code would kick in (the Tenure Code tells faculty what they have to do if and when they are disciplined in a very prescribed way). It is unlikely an alternative process could be created that would do the same thing. Modifying the Tenure Code, while possible, would be a significant undertaking that would likely be measured in years. The pros of having a faculty code of conduct, said AVP Showers, would be having standards that are evenly enforced.

Beyond the Tenure Code issue, commented Professor Deen, is the fact that an ever increasing proportion of the faculty are contract faculty with annually renewable contracts. The interpretation of how and why contracts are not renewed can be for a variety of reasons. A lot of power is wielded through the contract process. How people treat people when they come to work, said AVP Showers, is one of the most foundational things that affects people's happiness, productivity, experiences, self-image, sleep and health. Yet, in many ways how well employee relationships work comes down to how well employees live the mission, vision and values that are asserted on behalf of the institution in which they operate, and this is why there are striking differences from department to department at the University, for example.

Professor Krichbaum said she has observed increasing protections for students as it relates to cheating, plagiarism, etc., but not an increase in protections or recourse for faculty who are accused of wrongdoing or misbehavior. Ultimately, it is the department administrator who is the final decision-maker. The name 'Office for Conflict Resolution' is a misnomer because it is actually an office for conflict management. Based on her experience, said Professor Krichbaum, a majority of faculty feel they have no recourse or protections if they are accused of misconduct. AVP Showers acknowledged Professor Krichbaum's comment, and said that law can be a very poor proxy for justice. In terms of what exists for faculty, said AVP Showers, the University has a well-defined process for faculty accused of misconduct, which includes a peer-based hearing. This process operates under Section 10 of the [Tenure Code](#), which she went on to talk about in greater detail. The due process safeguards for faculty accused of misconduct in many ways mirror the safeguards given to students. If faculty violate a University policy, a departmental policy, their department's 7.12 statement, etc., they can file a grievance or petition, which will ultimately be heard by a panel of faculty. What doesn't exist for faculty, however, is a way to challenge discretionary decisions that are made.

What does the Senate Judicial Committee (SJC) do, asked Professor Panoskaltsis-Mortari? AVP Showers explained that the SJC is the Senate committee that deals with Sections 14 and 15 of the Tenure Code. The SJC hears major disciplinary cases under the Tenure Code, and for minor disciplinary processes, OCR and SJC confer to determine where original jurisdiction lies, which could be in either office. How does a case get escalated, asked Professor Panoskaltsis-Mortari? The faculty member who is being impacted would file a complaint with the SJC and the offending actor, said AVP Showers. Faculty should keep in mind that if there is the possibility of working something out directly with the opposing party, doing so may be easier and quicker than the relatively long SJC process. It is also important to remember that there is a timeline for the SJC process so a faculty member may want to file with the SJC but also continue to try to resolve the issue with the opposing party simultaneously. Examples of matters that are not heard by the SJC include but are not limited to 1) so and so does not respect me, 2) so and so is not professional, 3) so and so does not listen to me, 4) so and so is discourteous to me, etc. because these are considered minor disputes, which are expected to be handled informally, e.g., chain of command, involve OCR or departmental HR.

Is the University doing anything proactively to try to establish better interpersonal relations among its employees, asked Professor Jacobs? AVP Showers said this is a great question, which she would like to see the faculties' brilliant, analytical data-driven minds to focus on and help the University do a better job in this area. She said that in the conflict competency sessions she conducts across campus, she explains that one reason things go poorly when it comes to resolving conflict situations is because the University offers little training or support in learning conflict management skills. The University needs to do a better job of this, but the question remains how to do it credibly. There needs to be a way to integrate conflict management techniques/skills if there is ever going to be a culture shift.

Professor St. Peter suggested the University provide resources and training, similar to the President's Initiative to Prevent Sexual Misconduct (PIPSM), and include vignettes to educate faculty and administrators on conflict management. From AVP Showers perspective regarding department culture issues, the University's leaders need to set the tone and speak to the institutions' values and hold people accountable. Additionally, there needs to be actual shifting of departmental cultures, but in order for this to happen the department needs to identify its own standards for conduct and behavior, get the faculty buy-in, and have faculty take responsibility for bystander policing. In closing, AVP Showers encouraged members to visit the tools on the [Working Better Together](#) website. She also encouraged the committee to work through the various scenarios that they collected from their faculty by identifying the themes and trends in the various vignettes, and then based on this information, advise the administration on what it could do to more effectively disseminate the training/learning across the University.

In light of time, Professor St. Peter thanked AVP Showers, Ms. Marisam and Mr. Schnell for their time and a good discussion. After the guests left, Professor St. Peter asked members how they would like to move forward with this issue. The committee concluded that the next step should be to respond to the faculty who shared their experiences (vignettes handout) and let them know about resources that are available, e.g., OCR, SJC. Additionally, some members proposed collecting even more scenarios in an effort to get a better understanding of where the policy gaps

exist. Other members, however, pushed back on collecting more scenarios because they felt faculty were already asked once and those who chose not to respond were likely reluctant to do so out of fear for what might happen to them. In Professor Panoskaltis-Mortari's opinion, additional data/examples would likely overwhelm the system.

**2. Debrief from April meeting with Cramer, Hanson and Tolar:** Moving on, Professor St. Peter said she would like the committee to spend a few minutes debriefing from the April 23 meeting the Vice President for Research Cramer, Executive Vice President and Provost Hanson, and Vice President for Clinical and Academic Affairs Tolar. Overall, members said they got the sense from the meeting that the role of the AHC FCC has been greatly diminished given VP Tolar's comment that the academic health center no longer exists. Members generally felt that the committee's role going forward will likely focus on interprofessional education and professional clinical care, and less on research, which has been centralized under the Office of the Vice President for Research. AHC FCC members wondered about their role and how they would consult and provide input to the appropriate administrators under the new structure.

**3. Thank you to Professor St. Peter:** Professor Deen presented Professor St. Peter with a plaque recognizing her chairmanship of the AHC FCC over the past two years, and her service on the committee over the last six years. Professor St. Peter thanked members and said that she will miss serving on the committee.

**4. Adjournment:** Hearing no further questions or comments, Professor St. Peter adjourned the meeting.

Renee Dempsey  
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