
The University Senate

FACULTY • STUDENT • P&A • CIVIL SERVICE

UNIVERSITY OF MINNESOTA

Academic Freedom and Tenure Committee (AF&T)

April 26, 2024

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:** Welcome and Committee Business; Updates and Discussion of Administrative Response to the AF&T Resolution on the Development of Policy Regarding Unit Statements; Unit Statement Policy Recommendations; Discussion on Institutional Neutrality; Draft Recommendations from the Faculty Professional Conduct Review & Implementation Group]

PRESENT: Eric Van Wyk (chair), Carolyn Bishoff, Bruno Chaouat, Upendra Chalise, Sumanth Gopinath, Rachel Johnson, Margaret Kelly, Chase Krug, Rebecca Krug, Michael Kyba, Danya Leebaw, Beth Lewis, Kelsey Metzger, Madeline Rowe, Clifford Steer, Christophe Wall-Romana, George Weiblen

REGRETS: Ron Krebs

ABSENT: Grace Conchas

GUESTS: Ned Patterson, professor, College of Veterinary Medicine; Lin Xiu, professor, Labovitz School of Business and Economics

1. Welcome

Eric Van Wyk, chair, welcomed members and began the meeting. He updated the committee on current discussion around protestors on campus who were arrested and given a one-year ban from campus on Tuesday, April 23, 2024. That one-year ban language was rescinded rather quickly, Van Wyk said, but nonetheless had a traumatizing effect on some students as did the presence of what seemed like an excessive number of police officers at the protests. Van Wyk added that the administration said they would get back to him regarding his concerns.

2. Updates and Discussion of Administrative Response to the AF&T Resolution on the Development of Policy Regarding Unit Statements

The following documents were provided to the committee for review prior to this meeting.

- [Resolution](#)
- [Administrative Response](#)

Van Wyk invited committee members to share any feedback they have regarding the administrative response to the *AF&T Resolution on the Development of Policy Regarding Unit Statements*. Chase Krug asked for clarification around a statement made at the April 25, 2024, University Senate meeting that the AF&T would be providing recommendations to a task force assembled by the provost. Van Wyk said he had told the provost that whatever recommendations the AF&T developed regarding unit statements would be shared with her and could be used as a reference by the proposed task force.

Hearing no further comments, Van Wyk moved to the next agenda item.

3. Unit Statement Policy Recommendations

Van Wyk then asked committee members to look at [this document](#) on which he had outlined what the committee had previously discussed in terms of unit statements, what it had “agreed” on, and questions that remained to be answered.

Van Wyk said he had reached out to Board of Regents Chair Janie Mayero inviting her to be part of the committee’s discussion on unit statements. She said she was happy to hear the AF&T was working on this issue and, rather than step in, would let the shared governance process do its work. Van Wyk also reached out to the chair and chair-elect of the P&A Consultative Committee for recommendations of academic advisors that he might converse with regarding perceived reaction of students to unit statements. The advisors said they would be willing to attend an AF&T meeting for a discussion if the committee decided that would be valuable.

Van Wyk went through each item on the document linked above and asked committee members if they felt he had interpreted their responses from previous AF&T meetings correctly. The committee had a lengthy discussion on whether or not there was consensus around the question *Does academic freedom extend to academic units?* Comments included the following:

- I think we generally agree that units have some type of academic function, and therefore there's a certain freedom that's implied there. The academic freedom “of a unit” is a manifestation of the academic freedom of the individuals in the unit. I’m not comfortable saying there is general consensus in the committee that units have academic freedom.
- A curriculum has diverse view points and is pluralistic intellectually and politically.
- That a collection of faculty (or any persons at a higher education institution) comprise a department and have academic freedom does not seem in doubt to me.
- From a utilitarian perspective a unit is free from undue interference from administration to do its work; building curriculum, setting research agendas, having priorities for admissions and the direction of research, etc. That indicates academic freedom on the part of the unit.

Van Wyk said given the varying positions of committee members, that it should be noted in the committee’s recommendations that the committee was not in agreement that a *unit* has academic freedom and elaborate on the nuances of the points of view.

Ole Gram listed the three ways he believes one can define academic freedom:

- As expressed in the American Association of University Professors (AAUP) statement of 1915 - faculty have the freedom to do their work without interference

- Expanding on that definition, faculty have the right to freely comment on matters of public interest - typically considered appropriate when a certain expertise in a faculty's field aligns with the topic being considered
- The third definition is still contested; academic freedom and its association with social justice considerations

Danya Leebaw said given that this topic continues to be discussed and that there is not consensus even within this committee, she is comfortable with acknowledging non-consensus in the recommendations that will be put forward.

Committee members continued to discuss their understanding of policies that are currently in place, and whether or not they allow for unit statements to be made, with or without disclaimers, and with or without names of those who support the statements. Committee members also discussed the conflict between an individual's and a unit's academic freedom, and the effect that unit statements may have on students and on people who feel left out of unit conversations. Van Wyk said that in talking with academic advisors, he had learned that some students have left particular majors when they feel alienated from a unit. Committee members noted that it is important for this committee to maintain its focus on academic freedom questions and not veer into the area of discrimination claims.

Van Wyk spoke briefly about where he believed the committee stood regarding the difference between "statements on matters of public concern" (could be somewhat political in nature, associated with relevant unit scholarship, or present the view of a certain discipline, and thus in service to the University's mission) and memoranda, white papers, and other documents, the latter three being more clearly in service to the University's mission. There was agreement from committee members on these determinations.

The next discussion was centered on the items that the committee had discussed but had not yet tried to identify the existence of a consensus : should unit statements be banned; should disclaimers and names of supporters be required on unit statements; how should/can University branding be used in unit statements; and is institutional neutrality a viable option? Committee members engaged in a wide-ranging discussion which included the following comments:

- The point I am getting stuck on: academic freedom is for the purpose of policy implementation, since that is the end goal - are entire units ever disciplined regarding matters of academic freedom or only individuals *within* the unit?
- If part of a unit's mission is advocacy, then is banning a statement censoring the unit itself?
- Units are administrative organs of the institution; it can be argued that they do not have the role of advocacy but rather the people *in* the unit do. If the action of making a statement can be accomplished by a collection of faculty who speak for themselves, what is the purpose of putting the voice of the institution behind that?
- Is the question to the provost as simple as *What can units or departments put on their own websites?*
- The history of how departments were originally created needs to be considered; what is the history of the institutionalization of new areas of scholarly work that were not previously considered?

- There are units who consider themselves a singularity, not just a collective of individuals. For instance, the Mapping Prejudice project is publicly engaged out in the community as a project, not the individuals within.
- Websites appear to be flashpoints for attacks against the University right now. The committee (and University) should be cautious about accepting external framing for what our own websites represent. Could the University or faculty communicate externally, for example, that websites are just one platform of communication for the University?

Van Wyk summarized the discussion thus far:

- The committee was opposed to the idea of banning statements altogether.
- It's not a bad idea to include disclaimers on statements that may be perceived as contentious.

Michael Kyba said that he disagrees with the chair's summary, and that the committee's deliberations have moved him into favorability to the provost's third option. He said he felt option three would do no harm to academic freedom of the individual and indeed that it would protect academic freedom from the negative effects of such statements. Kyba further said that he had not heard a good argument *against* the option of allowing no unit statements. Individual faculty can make such statements, groups of faculty can make such statements, so what exactly is it that is accomplished by speaking with the force of the institution through statements on behalf of the 'unit' that cannot be accomplished in these other ways, Kyba asked. Other committee members felt that banning such statements is too blunt an instrument in determining how and when unit statements could be made. Sumanth Gopinath said the University would invite significant scrutiny if it continues to operate without a policy.

Van Wyk then asked if any committee members opposed recommending against requiring signatures on unit statements. He said his understanding was that the committee was in agreement on this point. Comments included the following:

- Concerned about "requiring" signatures. If a policy states something like "you may want to include signatures with your statement to clarify who supports it...." that would be a helpful guideline rather than a requirement.
- Requiring signatures is problematic because it can lead to coercion or exclusion of individuals within or adjacent to the unit.
- There may be harm in unnecessarily restricting speech that is valued and perceived as important, and mission driven, by the departments in question.

Gram noted that having signatures on unit statements and opening up a department or unit website to act as a public forum could pose legal challenges for the University. The question around establishing a de facto limited public forum is a potentially serious one and needs to be explored, he added.

Van Wyk then confirmed that the consensus of the committee is that University branding does not take precedence over academic freedom or what units may write and put on their website; it is essentially a non-issue.

4. Discussion on Institutional Neutrality

The following articles were provided to the committee for review prior to this meeting: Is Institutional [Neutrality Catching On?](#), [The Uses and Abuses of the Kalven Report](#), [What Champions of Neutrality Get Wrong](#), and an [open letter](#) and [proposal](#) for this idea.

Van Wyk said it is important for the AF&T to provide its thoughts on institutional neutrality so that they can be considered by the provost and/or the task force which may be charged with addressing the development of policy around unit statements. To clarify, Van Wyk noted that institutional neutrality would mean that no one (departments, units, administration) would make statements on matters of public concern. Committee member comments included the following:

- Institutional neutrality is not where the mission of the University should lie; the benefits do not outweigh the costs.
- Our institution is not neutral; it is not within the realm of possibility. Our institution makes certain investments, it has stated values and a mission, and these are not neutral positions.
- The trend seems to be **private institutions opting** for institutional neutrality and state governments **imposing it on public institutions**.
- Institutional neutrality does *not* apply to individual faculty members.
- A state institution has some obligation to reflect and be relevant to the state it is in.
- There is a strong presumption against making statements that will intentionally alienate people and cause problems (as suggested by the Kalven Report); yet institutional neutrality turns the good idea of restraint into a blanket ban on certain types of commentary.
- Opposed to the idea that a faction energized by the denial of science, research, and inclusion of all people should be represented in the university - such a faction clearly denies what the university stands for.

Van Wyk then shared with the committee his proposed next steps which included establishing a small working group to review documents, notes, minutes, and recordings and begin drafting recommendations. A shared Google document would be created for all committee members to share comments as the recommendations are drafted. The intention, Van Wyk said, is to have a draft of recommendations to review and vote on at the May 2024 AF&T meeting.

5. Draft Recommendations from the Faculty Professional Conduct Review & Implementation Group - for consultation

Ned Patterson and Lin Xiu, co-chairs, Faculty Professional Conduct Review & Implementation Group (Implementation Group), provided these [presentation slides](#) to the committee for review prior to this meeting. The slides detailed the members of the Implementation Group, its history and timeline, the scope and reason for the Implementation Group, an overview of recommendations made from the President's Task Force on Faculty Misconduct, definitions of language used in the recommendations, climate and reintegration, and policy, processes, and procedures that already exist at the University that relate to the recommendations made by the Implementation Group.

Liu and Patterson summarized the recommendations of the Implementation Group and then invited feedback from committee members. They said they were especially interested in the AF&T's opinions regarding a few terms in the recommendations: "egregious" and "reasonable person."

A number of committee members expressed serious concerns regarding the recommendations. There was an overwhelming negative reaction to the presentation. Some of the comments in the meeting included the following:

- Fearful about defining specific behaviors that are actionable; does that mean that behaviors *not* on the list are not actionable?
- Very significant potential for misuse of these recommendations; are there guardrails in place to prevent misuse? "Much of this worries me - the potential for abuse seems extremely high." The word "Orwellian" was used in the Zoom chat.
- This is a way of replacing ethical decisions and judgment with guidelines.
- We can police measurable deeds but not attitudes.
- There are already policies in place that address faculty misconduct; is it being suggested that change be made to existing policies or that new policies are created?
- Some departments are dysfunctional but legislating them into functionality is a dangerous proposition. It was suggested that the group go back and examine how each item in the lists can be misused as there is significant potential for misuse and abuse. Mechanisms for preventing this misuse must be specified.
- These recommendations would make it easier for a department chair to get rid of someone who is problematic; that job should *not* be made easier; it's imperative for that department chair to justify why they are making the decision.
- The "norms" mentioned in the provided slides from the 1970 AAUP statement are about academic norms, not behavioral ones.
- "I find it so deeply disturbing about the potential for it to really be exploited by the very bad actors that are attempting to tear down higher education." Is this a Trojan Horse of our own making?
- Reduce the list of behaviors that could be considered misconduct; if it is *not* absolutely egregious take it off the list. Reduce the scope wherever possible.

There was some support for the goals of reducing misconduct and fostering a healthier work environment"

- At the University, people assume the role of department chair without enough training to handle situations of misconduct. Department chairs need to be better trained and better compensated. Chairs can feel "in over one's head" and not know what to do. Giving tools to chairs to promote a good culture is great - perhaps the "coaching" and educational parts should be emphasized.
- The two student representatives on AF&T were more generally positive, feeling the need for this policy to address faculty misconduct.

Van Wyk concluded by stating that the work the committee has done on post tenure review makes the committee especially wary of a policy that can be "weaponized" to go after faculty members. The "bar" one must get over here is much lower than in the post tenure review process and is thus potentially much easier to abuse. This raises many "red flags."

In the interest of time, Van Wyk thanked committee members and guests and adjourned the meeting.

Geanette Poole
University Senate Office