

Student Senate Consultative Committee (SSCC)
July 13, 2020
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:** Update on Title IX Policy Changes; Election of Three (3) SSCC members to the Student Committee on Committees; Election of Two (2) Twin Cities SSCC members to the Student Senate Nominating Subcommittee; Election of SSCC members to the 2020-21 Senate Consultative Committee (SCC); Resolution Regarding UMD's Relationship with the Duluth Police Department]

PRESENT: Briggs Tople (chair), Gunnar Frahm (vice chair), Sydney Bauer (ranking student senator), Jack Flom, Annie Counihan

REGRETS: None

ABSENT: Agleska Cohen-Rencountre, Josh Lesser, Jasmine Pryor, Manpreet Singh

GUESTS: Tina Marisam, director and Title IX coordinator, Office of Equal Opportunity and Affirmative Action (EOAA); Sam Rosemark, student body president, Morris Campus Student Association (MCSA); Brett Heischmidt, student body president, Council of Graduate Students (COGS); Bobbie Erichsen, case manager, Student Sexual Misconduct Subcommittee

OTHERS: Vickie Courtney, Lucie Allen, Kate Stuckert

Chair Briggs Tople welcomed the committee, and members introduced themselves.

1. Update on Title IX Policy Changes - Tople introduced Tina Marisam, director and Title IX coordinator, Office of Equal Opportunity and Affirmative Action (EOAA), to provide an update on potential changes to University policies related to Title IX, and specifically, the process by which cases of student sexual misconduct are handled. Marisam stated that the federal Department of Education issued new Title IX regulations in May 2020 that have the effect of law and that will take effect on August 14, 2020. Some of the key new regulatory requirements include:

- the University conducting live hearings with cross-examination,
- the opportunity for both parties to appeal decisions, and
- that the University must have an investigator, hearing decision-maker, and appellate decision-maker who are all different individuals.

Marisam continued by noting that the current process for handling cases of student sexual misconduct mostly complies with these new regulatory requirements. However, she also noted some of the key changes that will apply to student cases:

- Implement a process for obtaining a formal written complaint prior to initiating an investigation.
- Formally notify the parties of a presumption that the respondent is not responsible.
- Dismiss a complaint of the conduct complained of does not meet the new Title IX regulatory requirements.
- Permit both parties to appeal a dismissal of a formal Title IX complaint.
- Provide all evidence that is *directly related to the allegations*, and is not confidential, to the parties and their advisors for their review and comment prior to the investigative report being finalized. Marisam noted that there is a lot of concern from victim advocacy groups over this final item.

Marisam then noted some of the key changes to the student hearing process which included providing an advisor to conduct cross-examination for each party, providing hearings in which the parties can see the party or witness (either in-person or virtually), and require the decision-maker (or hearing officer) to make decisions on the relevance of questions prior to responses by individual witnesses. When determining responsibility, the University will maintain its current standard of proof, preponderance of the evidence, for all student cases. Marisam noted that the standard of proof for all other cases involving faculty, staff, or students will likely be changed to this consistent standard. A final major change to the consideration of evidence is the fact that if a complainant or any other witness refuses to be subject to cross-examination, their entire testimony or other previous statements may be disallowed from consideration.

Annie Coughlin asked about the change that included formally notifying the parties of a presumption that the respondent is not responsible, and asked when that happens in the process. Marisam answered that her office is required to provide it to both parties in writing when they initiate an investigation.

Sam Rosemark, student body president, Morris Campus Student Association (MCSA), asked if statements to the police or text correspondence would be included in evidence if that witness refused to be cross-examined. Marisam replied that if a complainant or witness files a report with the police or provides other written evidence, but does not submit to cross-examination, that evidence may be thrown out or redacted.

Sydney Bauer asked if EOAA can assist complainants with filing a complaint. Marisam replied that they do have that ability, even if it is a simplified statement. She also noted that Title IX regulations only cover certain types of conduct and these rules only apply when charging individuals under the Title IX rules. In non-Title IX sexual misconduct cases, the University is intending to maintain some of the jurisdiction it currently uses, including cases that occur off campus or out of the country between two individuals of the University community.

Marisam continued by noting that EOAA is proposing to provide a single, systemwide grievance process for all University members. This includes applying the aforementioned standard of proof, preponderance of the evidence, to all cases as well as creating a systemwide hearing committee to serve as decision-makers in the live hearing. The current proposal would be to include five panel members, including one professional hearing officer and at least one panelist

from the same classification as each of the parties. These panels would then make the determinations of responsibility.

Brett Heischmidt, student body president, Council of Graduate Students (COGS), asked if there needs to be a panelist from the campus of each of the parties. Marisam replied that there is not currently a requirement for such a placement, however, several stakeholders have said that they would like that to be the case. She noted that including these additional requirements can make it more difficult in scheduling these types of hearings.

Rosemark further asked how members of the University community would be selected to the pool of panelists. Marisam stated that while the process has yet to be decided, she anticipates an application process with a committee of selection composed of faculty, staff, and students, to determine whether applicants are qualified, impartial, and have relevant experience among a diverse population.

Jack Flom asked if panels would be composed with a balance of gender and Marisam answered that they would and noted that parties have the ability to object to the make-up of the panel or to individual panelists. Bobbie Erichsen, case manager, Student Sexual Misconduct Subcommittee, added that under the current process, panels are constructed based on gender diversity, their affiliation as faculty, staff, or student, and each person's availability.

Counihan asked about the panel considering prior relationships in these cases and opined that this could be dangerous as consent can be fluid and what was consensual in the past does not mean consent in the future. Marisam commented that the regulations say that the prior sexual activity and preferences of the complainant are not relevant in the case.

Tople asked about the proposed role of the panel in providing sanctions for students, but not for faculty or staff. Marisam replied that the idea is to keep the current standards for sanctions in place. She noted that since these changes needed to come about so quickly, it was perhaps not the best time to change these processes without further detailed consultation and debate. Tople further asked about the potential for a consolidation of complaints. Marisam replied that language comes directly from the regulations and it gives EOAA some flexibility to do what they think is most efficient or effective in these cases. An example would be where there are a number of complainants against one respondent so that multiple hearings and questioning would not have to take place.

2. Election of Three (3) SSCC members to the Student Committee on Committees for the 2020-21 academic year - The following members were elected to the Student Committee on Committees for 2020-21:

- Annie Counihan
- Gunnar Frahm
- Briggs Tople

3. Election of Two (2) Twin Cities SSCC members to the Student Senate Nominating Subcommittee for the 2020-21 academic year - The following members were elected to the Student Senate Nominating Subcommittee:

- Sydney Bauer
- Jack Flom

4. Election of Seven (7) SSCC members to the Senate Consultative Committee (SCC) for the 2020-21 academic year - The following members were elected to the Senate Consultative Committee (SCC). (Note: this vote occurred after the meeting via an email vote.)

- Agleska Cohen-Rencountre
- Annie Counihan
- Josh Lesser
- Jasmine Pryor
- Manpreet Singh
- The SSCC representative from the Rochester Student Association (RSA) to be named later.

5. Resolution Regarding UMD's Relationship with the Duluth Police Department - Counihan presented a University of Minnesota Duluth Student Association (UMDSA) [resolution regarding UMD's relationship with the Duluth Police Department \(DPD\)](#). She provided a brief overview of the resolution and asked for the committee's endorsement.

Counihan noted that in light of recent events, including the killing of George Floyd in Minneapolis, many college campuses are reassessing their relationships with local law enforcement agencies in order to ensure that students, especially students of color, feel safe on campus in the presence of police officers. Counihan further explained that there have been a number of complaints against DPD officers for inappropriate action on campus and have subsequently been resistant to any sort of external review or audit. UMDSA feels that it would be irresponsible to continue working with the DPD without assessing how their policies and practices impact people of color in the community and on UMD's campus. Therefore, this resolution asks for four actions by the administration of UMD:

- That UMD suspends the direct relationship between them and the DPD.
- That the University of Minnesota Duluth Police Department (UMDPD) no longer contracts with DPD for additional law enforcement support for large events or for specialized services such as the use of DPD's K9 resources. Also, that DPD no longer patrols UMD property unless it is to come to the aid of UMDPD in terms of the mutual aid agreement with surrounding agencies.
- That UMD calls on DPD to submit to an external racial bias review of its department either conducted by UMD or an outside organization completely free of bias.
- If the audit illustrates that the DPD shows evidence of racial bias in its practices and enforcement, UMD should not continue its formal relationship with DPD until a robust racial justice plan and outside oversight of the police are in place.

Counihan moved that the SSCC endorse the resolution and the motion was seconded by Flom. The motion was unanimously approved.

Hearing no further business, the meeting was adjourned.

Chris Kwapick
University Senate Office