
The University Senate

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UNIVERSITY OF MINNESOTA

Academic Freedom and Tenure Committee (AF&T)

April 22, 2022

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 Introductions; Faculty Misconduct Task Force Consultations; Graduate School Perspective on the Issue of Faculty and Advisor Misconduct; Taking Stock of Items Addressed by AF&T This Year]

PRESENT: Gopalan Nadathur (chair), Teri Caraway, Bruno Chaouat, Cameron Cook, Danya Leebaw, Kelsey Metzger, Yuichiro Onishi, Gary Peter, Lisiane Pruinelli, Karin Quick, Rebecca Ropers, Rachna Shah, Clifford Steer, Eric Van Wyk, George Weiblen, Becky Yust

ABSENT: Chinomso Onuoha

GUESTS: Jennifer Goodnough, associate professor, Division of Math and Science, University of Minnesota Morris; Jessica Larson, professor, Division of Humanities, University of Minnesota Morris; Scott Lanyon, vice provost and dean, Graduate Education

OTHERS ATTENDING: Brianna Menning, assistant to the president, Office of the President, Ole Gram, associate vice provost, Faculty and Academic Affairs

1. Welcome and Introductions

Gopalan Nadathur, chair, welcomed members and guests and began the meeting by briefly outlining the agenda.

2. Faculty Misconduct Task Force Consultations

Jennifer Goodnough, associate professor, Division of Math and Science, University of Minnesota Morris, and Jessica Larson, professor, Division of Humanities, University of Minnesota Morris, presented [information](#) regarding the work to date of the Faculty Misconduct Task Force (President's Task Force), which was established by the Office of the President. A description of the charge of the task force can be found [here](#) and a preliminary draft of issues that the President's Task Force is intending to consider can be found [here](#).

Goodnough said that she and Larson were at the meeting today mainly to solicit input from committee members. She gave a brief overview of the President's Task Force's work to date, noting the following:

- The President's Task Force was established not in response to a specific incident but rather to respond to the current academic climate.
- The President's Task Force has representatives from all five campuses as well as memos of understanding with the two campuses on which faculty members are unionized.
- Phil Buhlmann, chair of the Provost's Task Force on Faculty Behavior in Graduate Education (Provost's Task Force), is also on the President's Task Force.
- AF&T's [Recommendations Regarding the University of Minnesota's Policies and Procedures for Misconduct and its Impact on Faculty Tenure and Academic Freedom](#) report (from April 2020) was reviewed by the President's Task Force.

Goodnough then opened the floor for questions and discussion from the committee.

Nadathur began by noting that from his perspective there are two important things that the President's Task Force should articulate and which should be done *before* specifying mechanisms for dealing with misconduct and how to empower department heads and deans. First, it is important to spell out what *must not* be considered under the rubric of misconduct. For example, Nadathur noted, there has been some discussion about including collegiality in this category. This could set a dangerous precedent by enforcing conformity and also bringing in subjective elements. He referred here to a the opening statement in the AF&T's recommendations referred to above as a model that spells out the scope of misconduct narrowly as follows: "*Misconduct, for the purposes of this report, includes gender- or sexually-based harassment, hostility, and improper behaviors as well as other non-gender, non-sexual behaviors that create a hostile workplace or disrupt equitable and ethical systems of communication, organization, or interactions.*"

Secondly, Nadathur said, it is important to make clear in the report what criteria any mechanism for dealing with misconduct should satisfy to be deemed reasonable. He noted that, for example, when assessing misconduct, the Board of Regents Policy: *Faculty Tenure* (Faculty Tenure policy) requires that an appropriate group of faculty, such as the faculty from the department in question, *without further selection*, should be the body making the assessment rather than administration or department heads.

Larson observed that defining misconduct is hard. However, she said, there are situations in which the identification is simple. One example that was discussed extensively by the President's Task Force was that of bullying. Bullying can be used to create havoc in the work place and can lead to discriminatory practices. Larson further noted that task force members are in agreement that centralizing the decision-making process with one person is to be avoided; multiple parties assessing the situation is preferable.

Larson said that the President's Task Force recognizes there is an abundance of groups/offices on campus assigned to deal with faculty misconduct but that they are not communicating well with each other. The committee is considering a recommendation that these groups/offices coordinate and improve their communication efforts.

Nadathur clarified that he was not asking for a definition of misconduct as much as a clarification in the report of what *should not* be considered as falling under this heading. Further, it is not quite enough to say that assessments should be made by a group, it is also important to articulate the process by which the group should be determined in order to ensure neutrality.

Becky Yust noted the importance of a department administrator in becoming aware of a misconduct situation in a department of which she had been the head. She said because of perceived power dynamics, staff dealing with a misconduct situation are unlikely to report to a department head, so the administrator may play an extremely important role as someone that students feel safe reporting to.

Goodnough acknowledged that members of the President's Task Force have had conversations regarding power dynamics and that power needs to be more clearly called out as one source of the problems. Teri Caraway noted that untenured faculty feeling bullied by tenured faculty should be a part of the conversation/report as well. Larson said that while much of the focus is on tenured faculty, concerns regarding processes and protections for graduate students and P&A with instructional appointments are also being discussed. Nadathur asked if such concerns will be addressed by the President's Task Force report and Goodnough responded that while she felt the President's Task Force was not tasked with *solving* such issues, they are significant and will be part of a narrative that accompanies the report. One AF&T committee member noted in Zoom chat that faculty also bully staff outside their home department and this is a challenging issue to address; this is a common issue confronted by librarians.

Van Wyk observed that the issues of power dynamics are especially stark when one individual has the power to fire a faculty member in a contingent appointment. Furthermore, the trend is to hire more people into these contingent positions. In this situation the idea of dealing with misconduct is a non-starter in addressing the real problem, which is if it is even right to have such dramatic differences in the power structure, Van Wyk said.

Goodnough said these concerns intersect with the work of Professor Ned Patterson to create a fixed-term faculty subcommittee of the Senate Committee on Faculty Affairs (SCFA). Rebecca Ropers said that in addition to the SCFA subcommittee, the Office of the Executive Vice President and Provost will hire a faculty member to focus on similar issues. She added that she is in support of giving these two initiatives an opportunity to address the same issues that are being addressed for tenured/tenure-track faculty, including issues around faculty misconduct and their intersection with academic freedom.

Nadathur observed that the issue that Van Wyk had raised has to do with protections of academic freedom and that it is uncertain if Patterson's task force and the proposed SCFA subcommittee will address such issues. He also drew attention to the [statement](#) that the AF&T approved on October 22, 2021, that *does* deal with this issue and wondered why it was not being referred to in discussions even by people who are aware of it. Nadathur added that while the President's Task Force is focusing on issues of faculty misconduct, the issue that Van Wyk raises had more to do with administrative misconduct. He also suggested that some of the problems with regard to treating faculty misconduct issues that have arisen in recent years have been the result of bad decisions made by administrators and that perhaps restraining the extent of decisions that can be made by administration may begin to address the issue.

Yuichiro Onishi asked Goodnough if the President's Task Force has heard instances of specific units successfully engaging in deliberative, collective, and transparent processes for addressing misconduct. Goodnough responded that the College of Veterinary Medicine and the Medical School have created their own codes of conduct, specific to their disciplines. Both have reported lower levels of bullying and harassment since the codes of conduct were created. Goodnough added that task force members have seen examples of well conceived, thoughtful infrastructure at the University for addressing issues of faculty misconduct, but a clearer communication plan about what already exists is needed. Onishi commented that building culture at a local level and effectively communicating what it takes to build a trusting environment may perhaps be a better focus for addressing the problem in question rather than thinking about how to use hierarchical structures towards this end. Larson noted that an educational tsunami will have to occur as academia is asked to look at its internal power structure and recognize instances of privilege. Goodnough added that if a department is engaging in the difficult work of addressing its issues of faculty misconduct, the University should be prepared with resources to help support that work.

George Weiblen echoed Nadathur's concern that departmental leaders are not being made aware of the limits of their authority to make decisions. For example, they may feel obliged to take action when it may not be within their abilities to do so nor be in the best interest of the University. Weiblen added that he hoped a decentralized office to provide guidance to units would be a goal of the President's Task Force report. Goodnough said she and Buhlmann met with the deans from the Twin Cities campuses, and feedback from the deans included support for having multiple people involved when making determinations of faculty misconduct and appropriate sanctions. Ropers added that people who are in the position of making these very difficult decisions often feel alone and that there is no one they can engage with to discuss the situation. Ropers said, at this time, the details about a designated office with support for these people has not been determined by the President's Task Force.

Nadathur said that perhaps there should be something in the report stating that if a dean does *not* discuss the situation with their faculty then they are not discharging their responsibilities. Ropers noted that the current Board of Regents Policy: *Faculty Tenure* (Faculty Tenure policy) does require consultation with departmental faculty when a termination or suspension is being considered. Ropers clarified that in her earlier statement, she was suggesting it would be helpful for a dean (once they had consulted with all the necessary people including the departmental faculty and were at the point of making a determination) to have a group of people who have been through similar situations with whom to consult.

Nadathur explained his comment further by observing that he has heard discussion of cases where problems have arisen because the sanctions for misconduct have been too lenient and were made by deans without consulting the department faculty, as is required by the tenure code. Goodnough said there have been discussions in the President's Task Force noting that there is a process in place for when a sanction is considered to be too harsh, but there is nothing in place for when a sanction is considered too lenient.

Van Wyk observed that the draft of suggestions that the task force members had shared with the committee had three items, all directed towards faculty misconduct. However, much of the discussion had focused on administrator misconduct. This suggests that there should be parallel

items in the draft that specifically have to do with processes, procedures, and accountability measures to ensure that administrators follow the proper procedures in the *Faculty Tenure* policy.

Rachna Shah said she hopes that, given the number of different groups addressing the issue of faculty misconduct, that there is consultation and dialog among the groups and that the recommendations that emerge from the various groups are cohesive. Goodnough agreed and said the intention is that the work of the President's Task Force and the Provost's Task Force will amplify and support each other's work where appropriate.

Nadathur thanked the speakers and moved to the next agenda item.

3. Graduate School Perspective on the Issue of Faculty and Advisor Misconduct

Scott Lanyon, vice provost and dean, Graduate Education, University of Minnesota Twin Cities, began by noting that he is a member of the Provost's Task Force on Faculty Behavior in Graduate Education (Provost's Task Force). He sees the recommendations that will be made by the Provost's Task Force as taking several years to implement in coordination with the recommendations and actions of other groups addressing the same or similar issues. Lanyon stressed that the majority of graduate students are very happy with their advisors. However, results from the most recent Graduate Student Experience in the Research University Survey (gradSERU) indicate that:

- 24% of graduate students say they are receiving slow or inadequate feedback from their advisor.
- 13% of graduate students say poor relations with their advisor hinders their progress toward a degree.
- 10% of graduate students said they wouldn't recommend their advisor to another student.

Taking those data into account, the areas of improvement that the Provost's Task Force will likely recommend will include:

- Provide resources to help faculty advisors be more effective in their roles.
- Support faculty advisors to be more responsive when a student indicates there is a problem.
- Create mechanisms for students to communicate when there is a problem and to ensure the student is protected from retaliation. Increase the awareness of such mechanisms that already exist.
- Create a "menu" of possible remedies to address situations of faculty advisor misconduct that offers a greater variety of options than the two extremes of doing nothing and terminating the employment of the faculty advisor.
- Clarify the roles and responsibilities of everyone involved.
 - Many improvements can best be made at the local level (minor adjustments)
 - What is the faculty's responsibility and at what point might the graduate associate dean need to be involved?
 - Ways to respond to reports of egregious misconduct which make up a small subset of misconduct, but must be addressed.

Lanyon noted that the student population being considered in these discussions is not only graduate students but includes postdoctoral fellows and associates as well. He said the Graduate School wants to improve the quality of advising and to address particularly egregious cases of faculty advisor misconduct as it is very damaging to all involved; the student, faculty advisor,

and others in the program or unit. Lanyon added that the University should be a leader in determining how to address this issue without violating academic freedom or weakening tenure. He then opened the floor for questions.

Van Wyk suggested that one option may be to find alternate support for the student to find another advisor and making sure the student's choices are not curtailed by availability of funding. Lanyon said that requiring every program to be explicit about the process for changing advisors will be one of the recommendations made by the Provost's Task Force. Lanyon added that in particularly small departments, however, changing to a new advisor can be particularly difficult.

Van Wyk noted that the critical issue in these situations is finding the money to give the student the freedom to change advisors. Nadathur asked if the Provost's Task Force would be recommending ways for dealing with the financial aspect of the situation. Lanyon said he has been encouraging deans to put in place a safety net for people who want/need to change advisors. He noted that in many colleges this already exists but the difficulty is in how to make students and advisors aware of this fact without opening the door for this mechanism to be abused.

Weiblen noted that the College of Biological Sciences (CBS) developed a faculty advisor code of conduct agreement that advisors and students are required to sign. He asked if Lanyon was aware of any other colleges that had taken that step and if the Provost's Task Force considered such agreements a best practice. Lanyon replied that the Medical School has created a graduate faculty code of conduct and this seems to have made a difference. He added that other colleges and departments have been asked to consider creating an enforceable faculty code of conduct. Lanyon went on to say that there may be reasons why a college/department would not want to put in place such mechanisms locally, including:

- If each college department develops its own code of conduct, there is likely to be a lack of uniformity.
- There is evidence that faculty do not want to reprimand their close colleagues.
- Oversight by a central body is unlikely to take into account the differences between disciplines at the collegiate level.

At the same time moving everything to a central level also has the problem that it might not account for differences between disciplines. Hence, ideally, Lanyon would like to see all but the most egregious cases being dealt with locally with minor interventions from the top.

Lanyon added that much of what is being discussed is about changing the culture as Onishi had pointed out earlier in today's meeting. He observed that in many cases the culture has already changed but faculty may not be explicitly aware of this. He then described a process called *revealing social norms* that could be used to reveal to faculty within departments what the new culture and norms actually were.

Nadathur noted that he finds the two ideas that 'faculty don't want to reprimand their close colleagues' and 'decisions should be made by one's colleagues' to be contradictory. He added that if culture change is to be made and arbitrariness in decisions avoided, then all these decisions should be made by faculty colleagues rather than by being moved to the collegiate level where it becomes an administrative decision. Lanyon indicated that, in his thinking, if there has been a report of egregious misconduct, faculty in the department should be made aware of it

but that there should be a committee of faculty not necessarily made up of the members of the department of the faculty member who has been cited in the misconduct report that determines the action.

Nadathur dissented from that perspective. Lanyon then asked Becky Yust, if, since she had served in the roles of both dean and department head, she would share her opinion about where the decision to address a report of egregious misconduct should lie. Yust said that including faculty from outside the department may help a student feel that there is an additional level of confidentiality. At the same time, she said, when there are particularly egregious cases, it is important to determine if the benefit outweighs the cost of increasing the number of people who are aware of the incident.

Lanyon then raised the issue of students being afraid to make a report of misconduct on the part of their advisor. He said that one of the recommendations that the Provost's Task Force is considering is that a student have multiple mentors which may mitigate the power differential that a student feels in the student/advisor relationship. Lanyon said the Provost's Task Force also feels this would be particularly important for international students to help them recognize when their experience with an advisor is not inline with professional norms. The more extensive a student's professional network is, the less long term power the advisor has over that student.

Cameron Cook asked for clarification regarding funds for students who may wish to change advisors. In particular, would this apply only to students in the hard sciences or would this also be available to students in the humanities? Lanyon said the following should be in place in all colleges:

- The procedure for changing advisors should be clearly available to students.
- If a student faces financial barriers to changing advisors the college should address that.
- If changing advisors compromises the student's ability to serve in a teaching assistant role, that is a potential financial hardship that should be addressed.

Cook added that in discussions with fellow students he had heard requests for more complete academic freedom protections for graduate students to minimize instances of retaliation by faculty advisors. Lanyon said one of the recommendations of the Provost's Task Force will be to clearly identify and articulate what constitutes retaliation and to be very explicit about what is not acceptable behavior.

Nadathur thanked Lanyon and moved to the next agenda item.

4. Taking Stock of Items Addressed by AF&T This Year

Nadathur led a discussion of next steps the committee could take concerning items previously considered by the committee.

In October of 2021, AF&T approved [A statement concerning fixed term faculty and academic freedom](#) which recommends three things:

- A return to the practice of AF&T reviewing every renewal of a term appointment for the seventh or succeeding year, which is called for in section 3.3 Term Appointments of the Faculty Tenure policy.
- A reexamination of the argument that is frequently made in favor of term appointments, that they are necessary to fulfill instructional needs.

- The creation of a task force that is charged with developing a University-level policy for protecting academic freedom for term faculty similar to the way the Faculty Tenure policy protects academic freedom for regular (tenured/tenure-track) faculty.

Nadathur observed that in October last year there was a perception that a subcommittee that was being created for term faculty affairs might be able to take up a treatment of these issues but that, now that the charge of that subcommittee has become clear, it had become obvious that this matter was not one that is within its purview. He noted moreover that when he referred to the first component of the AF&T's statement at the April 5, 2022, Senate Committee on Faculty Affairs (SCFA), as well as his concern that it had not yet been addressed, Patterson said that if Nadathur felt the statement needed action, it would be appropriate for the AF&T committee to bring that desire to the FCC or to the Faculty Senate.

Therefore, Nadathur said, if AF&T wants the matter to be taken seriously, the committee might bring up a discussion of it at the Faculty Senate level by drafting a resolution. Nadathur said he had created a draft of such a resolution as a place to begin the discussion. He said the request in the resolution would be twofold:

- The creation of a task force that looks into the issue of how to guarantee and protect the rights to academic freedom for term faculty; and
- In the interim, to ensure that section 3.3 of the Board of Regents Policy: *Faculty Tenure* is adhered to.

Nadathur then asked the committee for discussion regarding the draft resolution.

Weiblen said it would be helpful to have data regarding the number of fixed term appointments that meet the criteria for review by AF&T and wondered if this was the intent of the second clause. Nadathur explained that this was one purpose but the larger purpose was to get into compliance with the Faculty Tenure policy and to adhere with its spirit while alternatives that are more practical may be considered. Ole Gram observed that it is reasonable to say that colleges have not been compliant with this requirement and administration has not been good about enforcing the reporting requirement. He said that, however, there are other mechanisms in place to try to monitor the percentage of term faculty in departments, namely the academic personnel plans, in which colleges are required to provide their rationale for maintaining a larger than recommended percentage of term faculty, and he wondered what might be the best way to realize the reporting requirement.

Nadathur said the draft resolution has two parts. One part admits that there is a changing perception around what constitutes being faculty and that there may be rationale for employing term faculty. However, it goes on to note that the issue needs to be looked at seriously and collectively and not dealt with in an ad hoc manner. The second part of the resolution proposes an interim measure while a cohesive and sensible process for addressing these issues is decided on.

Karin Quick suggested that providing the number of faculty that have been in term appointments in a particular department for six year or more could become a required component of the personnel plans and that a requirement could be added to explain how academic freedom is guaranteed for personnel in term appointments. Nadathur agreed that a third clause with this content could be added to the resolution if committee members desired this. Gram noted that the

Administrative Policy: *Academic Appointments with Teaching Functions* might be a vehicle the AF&T could use to address some of these issues in an intentional way.

Nadathur said that further discussion in the committee on both issues raised in the draft resolution would be a good idea. He recommended creating a shared Google document on which committee members could provide comments and questions, to be followed by further discussion on May 27, 2022. After that discussion and if revisions made to the draft in light of the discussion are acceptable to committee members, the committee could then vote on moving the resolution to the Faculty Senate at its May meeting. As that would be the final meeting of AF&T for the current academic year, the matter of taking the resolution to the FCC for inclusion on a Faculty Senate docket would be taken up in the fall of 2022.

Committee members had a brief discussion about the possibility of getting useful information regarding term faculty appointments from the periodic process of reviewing academic personnel plans. Nadathur noted that, in his estimation, requests for such information made to the colleges the last time these plans had been reviewed (in 2017) had not been adequately responded to. He further noted that this still does not address the question of academic freedom protections and reiterated that something similar to the Faculty Tenure policy might need to be created for term faculty for this purpose.

Gram noted that many of AF&T's conversations are interrelated with conversations that are happening around the formation of a proposed SCFA subcommittee and that further discussion between the two groups might help clarify intentions. Nadathur said that he had attempted to discuss this matter with Patterson and that it appears the proposed SCFA subcommittee will be addressing different issues. Nadathur said that in the many discussions regarding the formation of the subcommittee, the AF&T's statement concerning fixed term faculty and academic freedom has never been mentioned. Thus, if the AF&T wants its statement to be taken seriously, Nadathur said, the discussion needs to be pushed forward by the AF&T committee.

Nadathur then noted that he had created a [draft statement](#) to respond to Professor Ken Leopold's request during the February 25, 2022, AF&T meeting concerning multi-section courses. The intention is to discuss this statement at the May 27, 2022, AF&T meeting.

Nadathur added that the issue concerning disabilities accommodation and academic freedom which was raised by Professor Keya Ganguly at the March 25, 2022, AF&T meeting would also be discussed further at AF&T's May meeting.

Nadathur then thanked committee members and, in the interest of time, adjourned the meeting.

Geanette Poole
University Senate Office