

Academic Freedom and Tenure Committee (AF&T)

March 24, 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 represent the views of, nor are they binding on, the senate, the administration or the Board of Regents.

[**In these minutes:** Announcements; Discussion of Personnel Plans; Faculty Consultative Committee on Reaffirming the University's Values; Discussion with Tina Marisam, Director, Equal Opportunity and Affirmative Action]

PRESENT: Phil Buhmann (co-chair), Teresa Kimberley (co-chair), Jerry Cohen, Ben Intoy, Deborah John, Jessica Larson, Holley Locher, Karen Miksch, Gopalan Nadathur, Yuichiro Onishi, Gary Peter, Nathan Shippee

ABSENT: Marti Hope Gonzales

REGRETS: Anne Barnes, Rebecca Ropers-Huilman, George Trachte

GUESTS: Eva von Dassow, president, American Association of University Professors (AAUP), University of Minnesota-Twin Cities Chapter

OTHERS: Ole Gram, assistant vice provost, Academic and Faculty Affairs

1. Announcements

Co-chair Teresa Kimberley called the meeting to order and announced that the Data Practices Amendment resolution would go to the May Faculty Senate meeting for a vote, as the April meeting had been canceled.

Co-chair Phil Buhmann announced that he had met with Colin Campbell, chair, Faculty Consultative Committee (FCC) regarding the forum on free speech that Campbell had been trying to plan. He informed members that Campbell had told him about another related event, "Campus Community Discussion on Bias Incidents, Harassment, Discrimination and Hate Speech," happening on Friday, March 31, 2017, that had been organized by the University of Minnesota Police Department. He said he planned to attend the event and encouraged other members to do so as well.

2. Discussion on Personnel Plans

Next, the co-chairs turned the discussion to the collegiate personnel plans. Buhlmann reminded members that the goal was to deliver a product to the provost by the end of the 2016-17 academic year. He asked for feedback on what this product should look like, proposing the idea of a written report summarizing the content of the spreadsheet members had used as a working document, and an executive summary of that report.

Deborah John commented that many of the plans had not provided actual numbers in terms of tenure-track versus non-tenure-track faculty, and pointed out that this information would be useful for the committee to know in order to get an overall picture of the state of tenure at the University. Other members noted that some colleges seemed unwilling to share this information, perhaps out of fear of recrimination for being over the recommended 25% threshold for non-tenure-track faculty. However, members pointed out, the spirit of the policy is to ensure all members of the faculty have academic freedom, fair employment conditions, and the opportunity for professional development and advancement. Therefore, members expressed their disappointment that some colleges had not shared the information necessary to allow the committee and the provost to fulfill this goal.

Buhlmann then proposed a timeline for completing the summaries and report. He proposed that at the April 14, 2017 meeting, the committee finalize the report and give feedback on an executive summary that he and Kimberley would write. The report will then be given to Vice Provost Rebecca Ropers-Huilman, he said, and he will consult with Ropers-Huilman to see whether it would be appropriate to invite Provost Karen Hanson to the May 5, 2017 meeting in order to discuss the report. Otherwise, he said, he, Kimberley, Ropers-Huilman and Assistant Vice Provost Ole Gram could meet with the provost at a different time.

Eva von Dassow suggested that the reports should be made public once they were completed, and Gram agreed that this was a good idea.

3. Faculty Consultative Committee on Reaffirming the University's Values

Previously, the committee had discussed possibly endorsing a statement the FCC was writing reaffirming the University's values in reaction to President Trump's executive order on immigration and travel from six predominantly-Muslim countries. As the FCC had finished drafting the statement the day before this meeting, members felt that they needed more time to review the statement and decide whether to sign on and agreed to take an electronic vote the following Monday.

4. Discussion with Tina Marisam, Director, Equal Opportunity and Affirmative Action

Next, Buhlmann welcomed Tina Marisam, director, Equal Opportunity and Affirmative Action (EOAA). In addition to giving a general overview about EOAA, Buhlmann had asked Marisam

to talk about (i) to what extent EOAA considers academic freedom in its processes, and (ii) due process for faculty and staff in teaching functions, including postdocs and graduate students. First, Marisam explained that the EOAA's role is to respond to discrimination, harassment, sexual misconduct, retaliation and nepotism concerns through informal problem-solving, consultations with units and departments (in cases where someone reports an incident to the unit and it can be handled at the unit level) and, when necessary, investigations to determine whether a University policy has been violated. Often, said Marisam, a full investigation is not required, and the inquiry is closed after a preliminary investigation. Marisam added EOAA takes the informal problem-solving approach now more often than in the past. If an investigation occurs, EOAA provides written findings and recommendations, if any, to the appropriate University authority, and the appropriate University authority decides on responsive actions, if any, and implements them. Such actions can include anything from coaching to termination for very serious issues. Marisam emphasized that the unit makes the final determination-- it is rare that EOAA recommends consequences beyond what the unit deems appropriate.

With regard to academic freedom, Marisam stated that EOAA interprets the University's discrimination and harassment policies so that they do not abridge academic freedom. Academic freedom is considered in every case when determining how to address a report whether a University policy was violated. EOAA is more likely to take the informal problem-solving approach when issues of academic freedom and free speech are involved, rather than invoke a formal investigation. For example, if a student files a complaint about something an instructor says in the classroom, EOAA will reach out to the instructor just to communicate the student's concerns. Marisam said that approach seems to work well, and that while occasionally an instructor will get defensive, most appreciate the information. von Dassow asked whether this overlaps with the charge of the Bias Response and Referral Network (BRRN). Marisam acknowledged that it does, but that not all incidents are reported to EOAA-- some are only reported to the BRRN and the BRRN can either handle the incident or refer to EOAA if necessary. Buhlmann commented that AF&T was involved in giving feedback to the BRRN about its processes, and that Karen Miksch now serves as the AF&T representative on the BRRN. Miksch said that these situations require expertise on how to have such a conversation without violating academic freedom. She added that she will be conducting a training for the BRRN on academic freedom. von Dassow then wondered what happens when an individual makes a complaint to both the BRRN and EOAA-- do they coordinate or do both contact the accused? She pointed out that the latter could make the person accused feel like they are being ganged up on. Marisam said that it is possible that this could happen, but EOAA and the BRRN do try to coordinate. Also, she added, many complaints come in to the BRRN anonymously through UReport, and the Office of Institutional Compliance screens reports submitted through UReport to try to avoid overlap. Gram expressed concern that since the BRRN has so many members, making personnel complaints via the BRRN could jeopardize privacy. Marisam said

that only the staff leads get all the information on a case-- the other members get only general information with no identifiers attached.

Marisam then moved on to the question of procedural fairness for faculty and staff in teaching positions. She said that in the interest of fairness, faculty and staff against whom a complaint has been made are afforded:

- Notice of allegations and potential policy violations
- Information about the EOAA process
- The Opportunity to provide information and identify witnesses
- The Opportunity to bring an attorney to investigative meetings
- Notice of the decision and the reasons for the decision.
- Privacy to the extent possible
- Consistent treatment with other cases
- Grievance and response procedures

Deborah John asked whether the grievance procedures for faculty and staff are the same that students get, and Marisam responded that students have more layers available to them because they have more protections spelled out by law and policy, but the investigation processes are very similar.

von Dassow asked about a hypothetical forum called something like “Myths of Monotheism” after which students hypothetically complained that the forum discriminated against their faith. Marisam said this would likely not be a policy violation because no specific individual was targeted, and since this scenario took place in a teaching context, it would make it a case of academic freedom. She said they may refer students to the BRRN in order to address the impact, but that there would likely be no action against the organizers of such a forum. If a student felt they were graded unfairly based on religion, that would be a case where there would be a preliminary investigation.

Jerry Cohen asked whether EOAA looks into policies to ensure that policies are equitable. Marisam said that they have in the past, but it is rare.

In the interest of time, Buhlmann adjourned the meeting.

Amber Bathke

University Senate Office