Faculty Consultative Committee (FCC)
October 5, 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 reflect the views of, nor are they binding on, the senate, the administration, or the Board of Regents.

[**In these minutes**: Unionization Update; Miscellaneous Committee Business; Sexual Misconduct Training Module]

PRESENT: Joseph Konstan (chair), Greta Friedemann-Sanchez (vice chair), Catherine French, Les Drewes, Dan Feeney, Jennifer Goodnough, Robert Kudrle, Michael Oakes, Abimbola Asojo, Robert Blair, Sheri Breen, Tabitha Grier-Reed, Peggy Nelson, Ned Patterson, Amy Pittenger, Peter Tiffin

REGRETS: Bill Arnold, Donna Spannaus-Martin, Wendy St. Peter

GUESTS: Vice President for Human Resources Kathy Brown

OTHERS ATTENDING: Phil Buhlmann, chair, Academic Freedom and Tenure

1. **Unionization update**: Professor Konstan welcomed Vice President for Human Resources Kathy Brown and asked her to provide an update on the recent developments related to the Service Employees International Union's (SEIU) attempt to represent the University of Minnesota's Twin Cities faculty and employees in instructional P&A job classifications. Vice President Brown began with some background information and noted that the SEIU filed its petition for representation on January 20, 2016. Then, after almost 20 months, the Minnesota Court of Appeals on September 5, 2017, ruled that the four P&A job categories that were in dispute as to whether they should be in or out of the bargaining unit, were deemed out. As a result, that left only the Twin Cities' faculty (Unit 8) under the Public Employment Labor Relations Act (PELRA) law. Finally, as of yesterday, the University was notified that SEIU had withdrawn its petition for representation of Unit 8. With that said, noted Vice President Brown, this representation effort is concluded.

Once the Bureau of Mediation Services (BMS) issues a statement indicating they received a withdrawal of the petition for representation from SEIU, this immediately lifts the Maintenance of Status Quo order, which will put the University back under "normal" operations, said Vice President Brown. Essentially, this means the University will no longer be restricted from talking directly to faculty about terms and conditions of employment. She added that there are a number of proposed policy changes that have been on hold since SEIU filed its petition for representation, which can now be moved forward. Beginning next week, she said she will start meeting with the appropriate leadership to discuss how to proceed with these proposed policy changes.

Why did SEIU decide to withdraw its petition to represent University faculty, asked Professor Blair? Vice President Brown said she did not know how or why they came about this decision.

Professor Konstan mentioned that this morning he sent a message to the people involved in the union organizing efforts on campus, Academics United, encouraging them to participate in the governance process. Vice President Brown added that there was also another group of faculty who were against unionization, UMN Excellence.

Having withdrawn its petition, is there a period of time that SEIU or another union has to wait to file for representation of Unit 8, asked Professor Konstan? The waiting period for SEIU is one-year; however, this does not preclude another union coming in, in the interim, if the interest is there, said Vice President Brown.

The SEIU website contains some reasoning behind its decision to withdraw its petition to represent faculty in Unit 8, noted Professor Buhlmann, chair, Academic Freedom and Tenure, and one of the 10 members of the UMN Excellence Board. Additionally, the SEIU website indicates they want to establish a "worker's association," which as they explain it is an association where dues would be voluntary. How would the University work with such a group if it were established? Vice President Brown said such an association would have no legal standing in terms of the University having to work with them. Based on labor laws, a worker's association would not have the same legal standing as a union. Essentially, it would be an independent association/club and there would be no specific obligation on the part of the University to work with them in any specific way.

It is the opinion of a number of faculty, said Professor Friedemann-Sanchez, that the University's current governance structures are not working as they should in order to have effective governance. She suggested the FCC talk about this further at some point in the future.

Clearly, said Professor Tiffin, there must have been some ambiguity in the current job codes or job descriptions that required a closer look at whether the P&A positions were part of Unit 8 or not. With that said, does the University plan to look at its job categories and clarify any obscurity that may exist? Vice President Brown said the underlying issue that the Minnesota Court of Appeals determined was based on how the state law is structured because it determines set bargaining units at the University. The University cannot unilaterally change the law; this would be a legislative matter. In her opinion, she thinks there were good reasons for how the groups were created, and those reasons still persist in many cases. Per her understanding, said Vice President Brown, SEIU felt the teaching professional classes had more in common with the faculty than other P&A employees, but the statute does not provide that. She added that she believes the Minnesota Court of Appeals decision will stand the way it is unless there would be a statutory change of some sort.

Professor Konstan thanked Vice President Brown for her time and the update she provided. Vice President Brown, in turn, thanked the committee for their time as well.

After Vice President Brown left, Professor Konstan took a few minutes to wrap up this discussion. Among other things, he noted that there is a case (*Janus v. American Federation of State, County, and Municipal Employees, Council 31*) that will be heard by the United States Supreme Court that centers on a public employee union's ability to collect fair-share dues because these dues constitute compelled speech and subsidize political views some of its members do not support, which would violate their First Amendment right to free speech.

2. **Committee business**: Professor Konstan said he would like to spend a few minutes on the topical issues that have arisen of late to get a sense of people's interest in discussing these issues in FCC or asking other appropriate Senate committees to discuss them and report back. First, is the issue of the University as a system, e.g., sustainability and lack of a system-wide thinking and coordination, which came up when the FCC visited the Morris campus. He added that the newly named Vice President for University Services Mike Berthelsen has volunteered to meet with the FCC to discuss this issue. Before extending this invitation, Professor Konstan asked if members have any other issues that would fit under his domain. Topics that were mentioned included:

- Update on the food concerns that students raised last year. [Professor Feeney said the Senate Committee on Finance & Planning recently received this update, and things are much improved.]
- Lack of affordable housing options for students as it relates to student finances in general.
- Discuss the seemingly unresponsiveness of Facilities Management related to maintenance requests as well as the day in and day out maintenance of spaces on campus and the costs associated with doing work on campus.

In response to a question from Professor Konstan, Professor Feeney said discussing these topics with Vice President Berthelsen in FCC will not overlap with the work of F&P. He then asked members who voiced concern about FM's services whether they are contacting their building service managers in their respective colleges because the College of Veterinary Medicine does this, and things get done. A number of members never heard of a 'building service manager' in their schools, and agreed that this was part of the problem.

Another issue that came up during the visit to the Morris campus, said Professor French, was the University's webpage, which fails to message the University as a system. Professor Konstan agreed and suggested this issue be raised with Vice President for University and Government Relations Matt Kramer as well as the senior leadership more broadly.

Yet another issue that was raised during the visit to Morris, said Professor Konstan, was their tuition-free model for Native American students. It is clear that how this is handled is not the same way as other forms of financial aid are handled in the University's financial systems. As far as he can tell, said Professor Konstan, there was a one-time (and occasionally adjusted) lump sum in the Morris budget that does not increase or decrease depending on utilization.

Professor Konstan mentioned another issue, which has to do with student access to career fairs. He has heard that at least some colleges do not allow students from outside their college to participate in their career fairs. This issue was briefly mentioned to Provost Hanson with the idea that she may want to do some fact-finding with the deans before this becomes an agenda item.

The message this issue sends to students does not seem right and particularly for students who cross collegiate boundaries.

Professor Friedemann-Sanchez noted a couple other issues that were raised during the Morris visit and these included 1) access to mental health services system-wide and 2) Twin Cities faculty resources that system campuses cannot access.

Professor Drewes said he would also like there to be a conversation with the University of Minnesota Foundation. Questions have arisen as to whether the Foundation works for the Twin Cities campus or the system. Professor Konstan agreed and added that the Driven Campaign materials failed to adequately reflect the system contribution in proportion to its scale. The campaign materials are heavily Twin Cities-centric.

Professor Feeney suggested the FCC talk about admissions. He noted that Purdue University, for example, has moved to system-wide admissions, and this maybe something the University may want to consider.

3. **Sexual misconduct training module**: Professor Konstan welcomed Tina Marisam, director and Title IX coordinator, Office of Equal Opportunity and Affirmative Action, and Boyd Kumher, chief compliance officer, Office of Institutional Compliance, who were invited to FCC to hear member's feedback regarding the sexual misconduct training module that the University has purchased.

To put the conversation in context, Ms. Marisam provided some background information. She began by talking about the President's Initiative to Prevent Sexual Misconduct, which is intended to develop programming for preventing sexual misconduct. This initiative, said Ms. Marisam, is being led by Dean John Finnegan from the School of Public Health, and has five components:

- To establish a President's Committee to Prevent Sexual Misconduct;
- To enhance student education and engagement, especially beyond students' first year when Twin Cities students receive significant education about this issue;
- To create a sustainable public health/public awareness campaign;
- To develop metrics for evaluating the sexual assault and misconduct prevention, education, and advocacy and awareness activities on campus; and
- To develop and require training around sexual misconduct issues for all faculty and staff.

As part of this initiative, said Ms. Marisam, a working group was formed, which was led by Provost Hanson, Senior Vice President Burnett, and Vice President Albert to develop content for the training. This group looked at all the vendors that provide this type of training and selected EVERFI because it had the best product by far. EVERFI is also the vendor that provides the Haven sexual misconduct training that students take before coming on campus.

One more piece of context, said Ms. Marisam, is that most other universities either have sexual misconduct training that they provide to all employees or they are in the process of developing this training.

Following her introductory remarks, Professor Konstan went around the room and asked for members' top reactions, positive and negative, to the training module that they had been asked to watch prior to today's meeting. Comments and reactions included:

- It was hard to tell the difference between the supervisor and non-supervisor training modules.
- Information addressing student confusion about this issue seemed to be missing from the training.
- The mandatory reporting section of the module where the faculty member grabs a brochure to give a student raises the question of whether supplementary resources such as brochures, etc. actually exist.
- It was possible to keep clicking the "next" button without having to answer questions posed in the video. (In response, Ms. Marisam said this is because this is a demo version. In the version that will be rolled out, learners will have to answer questions before they can click through. Additionally, the video will not allow learners to click anywhere else on their screen, e.g., another browser, when the video is playing. Professor Konstan suspects there will be enormous opposition to this feature and added that it is not clear that the right way to get people's buy-in is to infantilize them.)
- Rather than having faculty watch the video in their offices, it would be better for faculty to watch the video together at a department meeting, for example, which would likely provoke more conversation around this topic.
- Overall the video was impressive, easy to follow and not confusing.
- Safari, the browser, did not allow the learner to see any of the streaming video.
- The vignette approach was good overall; however, the video does not allow learners to pause it and come back to it at a later time.
- The video should be smartphone accessible.
- The vignettes should not be too obvious and should not go at such a slow pace.
- The quiz questions were too simple.
- The getting and giving consent portion of the video should be made clearer.
- The statistics on sexual assault merges rape with sexual assault and these should be disaggregated because not all sexual assault is rape. It would also be helpful to include the University's definitions of sexual assault, rape, etc.
- When the video talked about intimate partner violence among minority individuals, it showed slides had statistics for sexual assault - these two did not fit together.
- Regarding the mandatory reporting section of the video, the vignette has a faculty member removing himself from the conversation by saying he has mandatory reporting obligations. Instead, there should be a vignette showing a faculty member sitting down and having a conversation with the student after disclosing his/her reporting obligations. Additionally, there should be more vignettes to address the different scenarios that could arise.
- The video should be broken down into different modules so if a learner cannot complete the whole video at once, he/she could stop it and then resume where he/she left off at a later time.
- The vignette where the faculty member closes the door with a student in his office was unsettling for some members for a number of reasons.

- Learners who complete the training should receive some sort of a certificate of completion.
- Overall the video had good elements but its superstructure was weak.
- The feature that forces learners to pay attention to the video by not allowing them to click anywhere else on their screen, for example, is punitive. At a certain point, people have to be trusted. If the goal is to test learners, they should be asked to apply the knowledge they just learned rather than forcing them sit in front of a screen for a specified amount of time.
- The video should be able to be sped up or slowed down.
- The module navigation was poor, but this might have been because it was a demo.
- The video focused too much on what is wrong and what not to do compared with prevalence of the problem, the nature and of the problem, and what the learner can do as a productive member of the University community.
- The video should address how a department could come together to protect students, and this was missing.
- The racial diversity in the video was good overall, but it did not adequately reflect Asians, Asian-Americans, or Native Americans. Also, while there was some gender diversity, there was not enough.
- Is the video accessible for disabled students, e.g., deaf, blind?
- Quiz questions were too easy. To determine whether someone has mastered something, they need to have harder problems. While this might not be something for the video, it might be something to do in department meetings.
- For all the material that was covered in the video more was learned from the City Pages article and the Dr. Alan Berkowitz presentation. Because many people who will watch this video will not learn a lot of new information, it should be fast and short, and if it can also be made deep that would be great, but if it cannot be made deep then it should not take up a lot of people's time. If the point is to engage the faculty brain, the material has to be interesting, and challenging. In response to this comment, another faculty member noted that it is important to keep in mind that not all employees taking this training are starting with the same level of knowledge.
- Will students have an opportunity to review the employee training modules? It was suggested that the working group connect with the Minnesota Student Association to see if any of the people who sit on their sexual assault task force would be interested in reviewing the employee training modules. Ms. Marisam replied that this has not been discussed, but she thinks it is a worthwhile idea and has made a note of it.
- The purpose of the initial training seems to be to set a normative minimum baseline rather than trying to deal with all possible scenarios. Then, once the baseline has been established, it would be great if the training could be expanded.
- If the training is not challenging, and faculty are locked into their screens, it will result in a negative impression of the whole endeavor.
- The video contained no mention of fraternities or athletics or other high incident areas; it seems to have intentionally steered clear of these areas.
- If the goal is make members of the University community more educated about this issue and the whole notion of reporting, it would be nice to have more information about the implications of reporting because this is a black box for many faculty.

- It would be a mistake to separate the student mental health initiative from this initiative because sexual misconduct is not independent of student mental health.
- Resources/guidance should be provided for those who may recognize themselves as potential perpetrators of sexual misconduct such that they may be able to break the cycle.

Professor Konstan thanked Ms. Marisam and Mr. Kumher for vetting the training modules with not only the FCC, but a number of other Senate committees. He then asked about the working group that Ms. Marisam mentioned in her introductory remarks and wondered to what extent this group was involved in helping to define and shape the training? Ms. Marisam replied that she, Mr. Kumher and Vice President Albert began by looking for a vendor that would be able to deliver the baseline content. To be clear, said Ms. Marisam, this initiative is not a "one and done" effort because if it were, the University would never be able to create the culture change it is looking for. There is, however, a need to get everyone at the University on the same page, and this is a challenging task because faculty have different training needs than other members of the University community. Therefore, given the limited number of vendor-produced training modules, and the short timeline, the EVERFI training that was chosen was by far the best from which the University had to choose. While all the comments that were mentioned today were helpful, they will be even more useful in the second iteration of this training. Mr. Kumher reaffirmed Ms. Marisam's point about it being hard to find a one-size product for the entire institution.

Professor Tiffin said it is clear that the EVERFI training will not be able to be changed to the degree that everyone will be happy with it. As a result, when rolling the training out to employees, the role of the training and its limitations need to be made clear upfront. Hopefully, this will help the audience accept the training for what it is. Ms. Marisam thanked Professor Tiffin for this advice because she recognizes there is always a danger of souring people on an initiative from the start and she does not want this to happen.

If the first iteration of this training is really to get people on the same page, said Professor Pittenger, it would good if there were a way for people to demonstrate they are before they take the training. Mr. Kumher said within Dean Finnegan's task force there is a subcommittee looking at a pre-test assessment and also a post-test assessment. Professor Konstan cautioned on administering a pre-test assessment and still making the learner go through the training. Mr. Kumher replied that there is the knowledge part of this initiative and the culture part, and what can be built into the assessments are people's' perceptions of right and wrong behavior at the University. The goal is to have the training move people along a continuum.

Professor Grier-Reed commented that she liked the fact that the vignettes are based on real cases and not just made up; it gives the vignettes a legal context. Secondly, she said she liked the interactive nature of the video. Lastly, in her opinion there are different places within the video where empathic statements could be inserted, e.g., I am sorry such and such happened to you, are you ok, etc.

Professor Konstan said he personally found the legal content distracting from the message. If this is all about a culture change, the University should not simply be providing the training because

it is the law, but rather because it wants to change its culture. He also suggested having the video include a customized introduction that is delivered by a senior leader of the administration who explicitly acknowledges that while there are only a small number people who are causing this problem, there are a lot of people who are allowing it to happen. The point needs to be made that it is not ok to ignore the problem because if something isn't done collectively to address the problem, then technically everyone is responsible. Finally, there needs to be messaging in the video about supporting the victim.

Professor Friedemann-Sanchez said that at the request of the administration, the FCC came up with a list of faculty that they thought could contribute to this initiative. Is there a faculty member who serves on the content work group? For the content work group, said Ms. Marisam, it was her, Mr. Kumher and Vice President Albert. To be honest, said Ms. Marisam, there was not a lot of decision-making on the part of the content work group because there were only five vendors who produce training like this. The importance of having faculty involvement in this process serves to legitimatize the implementation of an intrusion on faculty member's time, said Professor Konstan. Ms. Marisam said faculty in the School of Public Health were consulted before any decisions were made on the training.

In closing, Ms. Marisam said she does not know what level of modifications can be made to the training modules, but she appreciated all the comments today and will share them with Dean Finnegan and the task force.

Professor Asojo suggested when it is time to visit the College of Design about this initiative, it would be good to do so during one of their faculty assembly meetings.

Professor Konstan thanked Ms. Marisam and Mr. Kumher for a good discussion.

4. **Adjournment**: Hearing no further business, Professor Konstan adjourned the meeting.

Renee Dempsey
University Senate Office