

EXECUTIVE COMMITTEE MINUTES

Present: Bender, Dawes, Joeckel, Konecky, Lee, Nickerson, Purcell, Reisbig, Rudy, Steffen, Vakilzadian, Woodman

Absent: Sollars

Date: Wednesday, July 22, 2015

Location: 203 Alexander Building

Note: These are not verbatim minutes. They are a summary of the discussions at the Executive Committee meeting as corrected by those participating.

1.0 Call to Order

Bender called the meeting to order at 3:05 p.m.

2.0 Director Susan Foster, Office of Institutional Equity and Compliance

Foster noted that she was asked by the Executive Committee to discuss who will be considered a responsible employee under the Title IX federal statute. She reported that Title IX requires that any university receiving federal funding must provide gender equity on campus and ensure that students are protected against sexual misconduct, sexual harassment, or discrimination. Her office is responsible for investigating any complaints that might be made if any violations have occurred.

Foster stated that each university must define who is a responsible employee. The responsible employee is required to report any concerns they become aware of that fall under Title IX. She stated that the responsible employee can fall into three categories: 1) a person who has the authority to take action; 2) has the duty to report incidents; 3) who a student reasonably believes has the authority to make a report. She pointed out that the third category is the more difficult one because it could define just about anyone. Lee pointed out that the students need to know who is a responsible employee. Foster stated that students will need to be informed and educated as to who is considered a responsible employee. She noted that some universities choose to identify all employees as a responsible employee.

Foster reported that any responsible employee who becomes aware of an offense must notify her office because the university has 60 days to investigate and inform the parties involved. She pointed out that if a responsible employee does not quickly report an incident time lapses. She stated that responsible employees also must inform the person reporting an incident that they need to speak to a confidential resource person on campus about the incident. She noted that sometimes information comes through an email, but the responsible employee still needs to provide the information to the individual.

Foster reported that the university has decided to include the category of other employee. The other employee needs to tell anyone wanting to discuss an incident that they are not

considered a responsible employee and they need to direct the individual to an appropriate person. She stated that a brochure is being created to assist the campus and a webpage is being developed which will help provide resources to the student.

Bender asked what kinds of incidents should be reported. Foster stated that, for example, any kind of sexual harassment, discrimination, stalking, or dating violence. Basically if it involves two people of different genders, or the same gender, and is of a sexual nature it falls under Title IX. Lee asked if an incident involves someone off campus if that would still need to be reported. Foster stated that Title IX is to protect students and it does not matter if the incident happens on or off campus. She pointed out that regardless of to whom or where the incident occurs, it should be reported to her office so she can figure out the legal jurisdiction.

Foster stated that she will be educating students, employees, and everyone as much as possible. She reported that symbols are being created that will be visibly posted at offices and other places across the campus indicating who is a designated responsible employee. She noted that dealing with Title IX is a complicated matter. She stated that there are resources that students can go to for help: the Women's Center, Legal Center, and CAPS. She stated that other employees will be taught that they are not responsible to report an incident, but if a person feels that an incident needs to be reported they should do so.

Woodman asked who will be responsible employees. Foster reported that responsible employees have been identified by their title and includes anyone in a supervisory position and a list of these people will be available on the website. She pointed out that the only category of employees that have not been decided on yet are faculty members. She stated that the idea is that students need a layer of people they can talk to, but who don't have to file a report and she believes faculty members ought to be in this group. She pointed out that most students will likely go to a faculty member they have built a relationship with. She noted that faculty members need to feel the importance of what they are doing and cannot ignore a student if they bring up an incident. She pointed out that faculty members need to understand the risk of liability to the campus if they are designated as a responsible employee. Nickerson reported that ASUN has asked to put Title IX language on each course syllabus. He noted that it was suggested that in doing this a faculty member was making themselves a responsible employee. Foster stated that the university's non-discrimination statement should be sufficient for the syllabus and it is required on many university documents and webpages.

Steffen stated that he liked the idea of the faculty being classified in the other employee category. He noted that a faculty member could do everything to help the student take a report of an incident to the next level and if they can refer the students to a safe place it would be helpful. Foster stated that she respects that sometimes a student just needs time to work through an incident before having a full investigation. She pointed out that other employees do not have to be involved in an investigation, but one thing faculty members need to understand is that once they tell someone who is a responsible employee of an incident it will need to be reported.

Lee stated that in cases such as a sexual assault a faculty member would feel obligated to report the incident, but he would feel more comfortable in getting the student to a counselor because a counselor is in a better situation to encourage the student to report the incident. Foster noted that students are more willing to speak to a victim advocate and will oftentimes seek this person out. She stated that contact information for victim advocates will be available and someone in her office will personally walk a person over to one of the counselors on campus.

Lee asked where the police are on these kinds of issues. Foster stated that her office leaves it up to the student in regards to reporting it to the police, unless the student is under 19 years of age, then a sexual assault is a violation of state statute and the police will be contacted. She noted that if the student is 19 or older the incident will be reported through the Clery Act but no names are given. Bender asked if it is possible that someone could come in and claim rape and the Equity and Institutional Compliance Office conducts an investigation without involving the police. Foster stated that this is possible, but it is also possible that both her office and the police will conduct separate investigations.

Dawes asked what the advantage is for a student to report a sexual assault to Foster's office. Foster noted that her office would not investigate a crime, but would investigate whether there has been a violation of the Student Code of Conduct. She pointed out that students reporting an incident will get a sense of empowerment and the knowledge that an investigation is being conducted. She noted that her office is neutral and does not represent either side, but will take the information that is given and weigh it to determine whether a violation has occurred. She stated that her office cannot take sanctions, but it can recommend sanctions and there are a number of actions that can be taken as a result of the recommended sanctions. Dawes pointed out that, in thinking as a victim, she is not sure whether the investigation by Foster's office would be enough for the student or whether it would cause more distress since there would not be any criminal charges. Foster stated that her office suggests a recommendation and an appeal process can occur before a decision becomes final.

Bender noted that if the Equity and Institutional Compliance Office recommends termination of a faculty member than an appeals process can occur which means that the Academic Rights & Responsibilities Committee would need to investigate the case. He noted that the ARRC can only recommend sanctions. Foster stated that her office's standard is different from a criminal proceeding. Here the evidence is weighed, but in a criminal investigation the police have greater resources available to conduct an investigation.

Woodman noted that there was a case last year where a faculty member was accused of rape and lost his job, but the case was dismissed by the police due to lack of evidence. He asked if these kinds of events could open us up for liability. Foster pointed out that the standards for a criminal case are very different and an issue that needs to be considered is whether there has been a violation of our code of conduct.

Rudy stated that he assumes that he will be a responsible employee because his position is 30% supervisory. He asked if he could be fired for not reporting an incident that a student spoke to him about. Foster stated that it would be a possibility, but this kind of decision would probably be done on a case-by-case basis. Rudy pointed out that he did not ask for this kind of responsibility and wondered if the university will provide legal help should a student want to sue for breach of confidentiality. Foster stated that she does not know what kind of legal support the university would provide. Joeckel stated that he trusts in good faith that the university would have the faculty's best interest in mind in these kinds of situations. Rudy stated that he is concerned that the administration could distance itself from providing support for a faculty member if an investigation from the Office of Civil Rights occurred. Foster pointed out that people look to sue the university, not an individual at the university, and if everyone commits to following the proper procedures with Title IX incidents there should not be an issue. Woodman asked if the university would have difficulty explaining why faculty members are not considered responsible employees given the structure of the university should there ever be litigation. Foster pointed out that as long as the university can explain the selection process that was used in determining responsible employees there won't be any question. Reisbig noted that she is also a licensed mental health practitioner and has liability insurance. She asked if the university would get liability insurance for responsible employees. Foster stated that she does not have the information to answer that question.

Purcell wondered if responsible employees would have to self-report if something happened to them. Foster stated that it would be up to the person, but Title IX states that if you have knowledge about an incident, a responsible employee must report it.

Foster stated that she would like the Executive Committee to provide input on what the faculty wants to do in regards to being a responsible employee. However, the ultimate decision on who will be a responsible employee will be made by administration.

Nickerson asked if any decisions have been made regarding putting Title IX language on each course syllabus. Foster reported that she had some discussion with the ASUN President but has not heard back from him. She noted that there has been some discussion about getting the information up on Blackboard but no formal decision has been made.

3.0 Associate to the Chancellor Nunez - Coordinator of Faculty Governance

Nunez reported that there are two independent issues that led him to propose the idea of creating a Coordinator of Faculty Governance. He noted that the Board of Regents recently approved the creation of a Vice Chancellor of Information Technology and with this position there will be some structural changes with the Institutional Research function now falling under the VC of Information Technology. He pointed out that this decision ties into the Academic Planning Committee because the Director of Institutional Research and Planning, who currently reports to the Chancellor, is currently listed as a voting member of the APC, but with the structural change Institutional Research will

report to the VC of Information Technology instead of the Chancellor. This raises some dynamics with the membership of the APC.

Nunez stated that with Institutional Research falling under the VC of Information Technology there will be some changes in that office including more work for the person who currently serves part-time as the coordinator of the APC. He stated that he had the idea to combine the coordination of the Faculty Senate and the APC by creating the Coordinator of Faculty Governance position and Griffin would step into this role by assuming the duties of coordinator of the APC. He pointed out that he discussed this notion with Griffin, President Bender, and with Past Chair of APC Professor Hoffman and there was no general objection. He stated that he wanted to bring this idea to the Executive Committee. He stated that it is a two-tiered question: does it make sense to have a Coordinator of Faculty Governance, and is the APC committee structure still appropriate with the revised organization?

Lee asked if the decision has already been made to have Institutional Research and Planning report to the VC of Information Technology. Nunez stated that the Board approved this change in June **and the revised structure noted**. Nickerson noted that the Senate approved the elevation of the CIO position to Vice Chancellor, but did not know that there would be any changes to IRP. Nunez reported that just Institutional Research will be moved, the Campus Planning & Space Management Office would still report to the Chancellor. He noted that it has become exceedingly more difficult for him to serve as both Associate to the Chancellor and Director of Institutional Research and Planning and he has elevated the current staff in IRP to handle more of his responsibilities in that office. He noted that at this point it makes sense for him to focus on his duties to the Chancellor and in time someone could be hired to be Director of Institutional Research.

Nickerson stated that it is good having Nunez involved in the APC. Nunez suggested that his current position as Associate to the Chancellor could become a member of the APC instead of the IR Director, as this way the APC would still have the IR and other administrative resources available to it. Nickerson noted that essentially it would just be changing the title of the person who has the vote on the APC. Nunez stated that having the Associate to the Chancellor on the APC would just change the position on the APC, not the voting impact as either way this constitutes one administrative vote.

Lee stated that it seems very important that the Institutional Research Office be a non-partisan office that provides facts and is not colored by administrators. Nickerson noted that the Faculty Compensation Advisory Committee needs the data on salaries provided by Institutional Research. Nunez pointed out that Institutional Research will still continue to provide data and there are regulatory requirements that will still need data. He stated that Institutional Research is data rich in point-in-time data, but working with ITS on improving access to authenticated transactional information. He pointed out that the core data will still be available.

Nickerson asked Nunez if he envisions any change in the relationship between the Faculty Senate, the Executive Committee, and the APC. Nunez stated that the major

question is how to administratively support the APC given the structural change that is occurring. He pointed out that we have to be good stewards of the university's funds and there is no way there could be justification for hiring a coordinator for the APC at 1.00 FTE because it is only a .20 FTE position. He noted that there is a lot of commonality in what Griffin does now and what is needed for the APC and a part-time person could be hired to assist her if in time this is identified as a need. He pointed out that we need to be proactive and come up with a solution and he is open to other ideas. He noted that Griffin taking on the coordination of both the APC and the Senate could be beneficial to the Senate and also allows for Griffin to be promoted. Steffen agreed that there could be a benefit. He noted that currently the Faculty Senate office is capped at one person but with the change there is the possibility of getting a person at .25 FTE or perhaps more. He noted that it would allow for more flexibility for the Senate office and the part-time worker could assist the campus committees in bringing more information back to the Senate. Nunez stated that it would be great to have someone who could help with the APC subcommittees also but we are always challenged by available resources for these purposes. APC support to date is only for full committee meetings and overall administrative support.

Nickerson asked what steps need to be taken if the idea is endorsed. He asked who will represent Nunez's position on the APC and how Griffin's job description will change. Nunez noted that the timing of the change can happen over a period of a year if need be. He pointed out that the Senate Executive Committee is looking at revising the UNL Bylaws and he will be taking an active role in this as well because these changes need to be reflected in the Bylaws. He stated that it is imperative that the Bylaws are active and updated and hopefully this can occur by the end of the academic year because the Board will need to give final approval. He noted that the Board will want a redlined document showing any changes to the existing UNL Bylaws. Woodman stated that a subcommittee of the Executive Committee has been reviewing the Bylaws and asked if Nunez is also looking at the references in the Bylaws to make sure they are current. Nunez stated that this has already been done by him and a student from the Law College that was hired by the Chancellor to work on the Bylaws.

Bender stated that the Executive Committee will provide a response to Nunez by the end of the summer semester regarding the Coordinator of Faculty Governance position and will provide input on the process and revisions to the Bylaws. Nunez thanked the Committee and stated that he will talk further with them in the near future.

4.0 Announcements

4.1 Email Regarding Extension Educators and Proposed Revisions to Bylaw 4.3

Bender reported that he received an email message from VC Green saying that he had spoken to Varner Hall regarding possibly inclusion of the Extension Educators in the proposed revisions to Bylaw 4.3 to provide them the protection that the proposed amendments will provide for Professors of Practice and Research Professors. VC Green indicated in the email that the university attorneys oppose including Extension Educators because their situation is not parallel to that of educators who are on a multi-year contract in that they can be dismissed prior to the termination of their contract. Extension

Educators have only one-year contracts with a 90-day notice-of-termination clause. Bender pointed out that the Senate may want to consider the idea of trying to get better protection for Extension Educators. Nickerson stated that this would be recommendation that could come from the Senate and he hopes after the October 9 non-tenure track faculty forum that there will be some suggestions regarding this issue.

Woodman asked if Extension Educators have a rolling contract or if they are required to sign a new contract each year. Purcell reported that it is a rolling contract but they only sign their yearly evaluation. Lee asked if Extension Educators are evaluated by the District Director, the Extension Dean, or others. Purcell stated that the only time Extension Educators are evaluated by their peers is if they are going for a promotion. Otherwise the evaluation is done by the District Director. Woodman pointed out that Professors of Practice are not evaluated by their peers, only by their Chair/Director. He noted that some departments might have a committee that conducts the evaluations.

5.0 Approval of July 8, 2015 Minutes

Joeckel moved for approval of the revised minutes. Steffen seconded the motion. That motion was approved.

6.0 Unfinished Business

6.1 October 28 Executive Committee Meeting

Bender reported that the Executive Committee is now scheduled to meet with President Bounds but also is scheduled to meet with Chancellor Perlman. He asked if the Executive Committee should meet with the President separately. Joeckel recommended that the Committee meet separately with President Bounds and the Committee agreed.

6.2 Agenda Items for Chancellor Perlman

Bender noted that the Executive Committee will meet with Chancellor Perlman on August 5 and asked for topics of discussion. The Committee identified the following agenda items:

- Will liability insurance be available for those employees identified as responsible employees in accordance with Title IX?
- Fall enrollment and budget implications
- Resolution on Additional 1% Raise for the Staff (previously held back for faculty promotions)
- Student Housing – Plans to renovate Neihardt or install an elevator
- Feasibility Study on Burr and Fedde dorms
- Status of Plans for Old CBA Building
- Safety Concerns with Construction of New CBA Building
- Projection for When Campus Sidewalks Will be Open for Use
- Bylaws and their legal status
- Status of Accreditation Process

6.3 Executive Committee Retreat Topics

Suggested topics for the Executive Committee Retreat:

- Possibility of restructuring the faculty governance system to increase participation. What can be done to make it more meaningful and to get more involvement.
- Have committee chairs inform the Executive Committee on planned work for the semester.
- How to increase faculty involvement and increase communication.

The meeting was adjourned at 5:02 p.m. The next meeting of the Executive Committee will be on Wednesday, August 5 at 3:00 pm. The meeting will be held in the 201 Canfield Administration Building. The minutes are respectfully submitted by Karen Griffin, Coordinator and Allison Reisbig, Secretary.