

EXECUTIVE COMMITTEE MINUTES

Present: Dawes, Fech, Hanrahan, Konecky, Lee, Leiter, Purcell, Rudy, Vakilzadian, Woodman

Absent: Bender, Reisbig, Steffen

Date: Tuesday, October 18, 2016

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 (Woodman)

Woodman called the meeting to order at 2:30 p.m.

2.0 Interim Director Tami Strickman, Office of Institutional Equity and Compliance

Woodman stated that the Executive Committee previously met with former Director Susan Foster to discuss concerns over the Title IX process involving faculty members. Foster had agreed to work with members of the Executive Committee to develop a process that would address the concerns of faculty members, including issues of academic freedom. He asked what the current process is if a faculty member is accused of a Title IX violation.

Strickman reported that when her office receives a complaint of sexual discrimination, sexual harassment, sexual assault, stalking, dating violence, or domestic violence her office will investigate it to gather as much information about the incident from the person reporting it. She pointed out that typically it is not the victim who makes the complaint, but rather a friend or an anonymous person. She noted that it is very rare that the victim contacts her office directly. Dawes asked if the anonymous person can include someone who observed an incident. Strickman said yes. She stated that the office also receives reports through the TIPS Prevention program.

Strickman stated that when a person, other than a victim, makes a report they are asked if the potential complainant knows that the Office of Institutional Equity and Compliance has been contacted. She stated that her office tries to get the person reporting the incident to inform the potential complainant that they filed a report. This way the potential complainant is not blindsided when her office contacts them. She reported that once the connection has been made her office will call the potential complainant to ask if they want to provide information. She pointed out that her office will not go any further in an investigation if the potential complainant does not want the issue pursued. However, if there is an issue of safety other actions might need to be taken. Woodman asked if the police become involved. Strickman stated that only if there is eminent danger. She pointed out that UNL Police are designated as "Responsible Employee" and must make a report to her office. The Equity and Compliance office, however, does not report to UNLPD. She noted that filing a criminal investigation can have a chilling effect, and it is often more stressful and time consuming. She stated that her office never tries to advocate

which way a case should go, but it does let the potential complainant know that they can ask for a criminal investigation if the case warrants it. She stated that her office wants to make it very clear what all the options are for a potential complainant and her office will accept the desires and wishes of the complainant.

Strickman reported that if a complainant wants to move forward members of her staff will meet with the individual in person and will obtain all evidence that is relevant to the case which can include electronic communications. Woodman asked when the accused person will be notified in the process. Strickman stated that once all of the documentation has been collected, but her office does try to make the contact on a timely basis.

Woodman stated that a faculty member accused here reported that he did not receive any information about the accusations and was not given enough time to investigate his options with the process. Strickman stated that she reaches out personally to a faculty member, first trying to contact them by phone, then by email asking that the individual call her back. When she does speak with the faculty member she introduces herself, explains that a concern has been reported to the office, and provides them an opportunity to meet with her. She also lets them know that the person can have someone come with them, as long as they are not a witness to the incident. Purcell asked if a faculty member can bring in a lawyer. Strickman stated that they can, but the lawyer cannot serve as legal representative because it is not a legal case.

Woodman asked if the faculty member receives a letter informing them of the charge. Strickman stated that once she has spoken to the faculty member, a letter is sent informing the faculty member of the specific charge against them. Lee asked if the letter states who filed the complaint. Strickman stated that it does. She pointed out that if the faculty member prefers, she can present the letter in person and provide them the opportunity to review it. She noted that the letter also states that the faculty member can provide information or documentation. Information providing resources for support and the rights of the faculty member are also in the letter. Purcell asked that the Executive Committee be sent letter template.

Woodman asked what rights the faculty member has in Title IX cases. Strickman stated that no faculty member has to stay for the duration of the interview, they can leave if they want to and reschedule for a later date. A faculty member also has the right to bring and consult with a support person during the interview.

Lee pointed out that there are claims at other universities that faculty members were not even made aware of the nature of the complaint and the faculty member did not get to provide evidence. He asked if this could happen at UNL. Strickman stated that she absolutely hopes that those claims are not being made here and her office is doing the necessary work to make sure that it does not happen.

Konecky asked what percentage of complaints involve faculty members. Strickman reported that very few complaints involve faculty. She provided the following statistics: during the last academic school year, the Equity and Compliance office had 16 cases that involved faculty. Eight involved sexual harassment, two involved gender identity, three involved age discrimination, one involved religion, two involved race and one involved Veteran Status.

Leiter asked how a violation of the Title IX policy differs from the violation of the misuse of university computers in terms of how the violations are reported. He asked if they are handled differently even though they are both violations. Strickman stated that she is not sure whether General Counsel would handle other policy violations, but her office handles cases of general discrimination and sexual harassment and it is a fact finding office only. Leiter asked why there would be different ways of handling a violation. Strickman pointed out that there are so many different variables involved with incidences of sexual misconduct. She noted that those people involved in dealing with sexual misconduct cases have gone through a lot of training to deal with sexual assault and dating and domestic violence cases. She stated that there is a push nationwide to handle the sexual misconduct cases differently.

Dawes asked how long records are kept. Strickman stated that her office is required to keep records for seven years. The records are kept internally by her office and only leave the office if a violation has been found and the supervising person who can act on a sanction wants to see more information. She pointed out that her office is only a fact finding office, it cannot carry out any sanctions.

Dawes stated that the website tells how to file a complaint, but there is really no information on the process of how complaints are processed, but there is no clear picture of the timeline and the process. She pointed out that an outline of the process would be helpful.

Hanrahan noted that in previous discussions with former Director Susan Foster she preferred the process of not telling the person being accused anything until she met with them in person so she could gauge their reaction when first presented with the allegation. Strickman stated that this is not her practice. She pointed out that the Office for Civil Rights has not dictated the process informing someone about a report alleging Title IX violations, consequently institutions and investigators have come up with different approaches. She likes to be very transparent and wants to determine the truth as much as possible.

Woodman stated that one issue for faculty members is academic freedom. He asked if any of the Title IX complaints are classroom related. Strickman stated that she can recall two concerns, but no complaints were filed and in both cases the faculty member would probably have been protected.

Strickman stated that many complaints are from freshmen students. She noted that there has been significant efforts to make students aware of the Title IX office and that complaints can be made. However, the office also gets contacted by students who are looking for advice on how to end a relationship with someone.

Hanrahan asked if the Office of Equity and Compliance checks with the person or persons who will make the decision on the Office's recommendations to see if the recommendations will be followed. Strickman stated that it depends. The decision to take disciplinary action rests with the chair, dean, or Vice Chancellor. Hanrahan asked if Strickman would ever ban a faculty member from campus. Strickman stated that if there are cases of professional misconduct she would suggest that the faculty member may need some training, but her office generally does not

collaborate with Academic Affairs about sanctions prior to the recommendation because it is outside the jurisdiction of her office. Lee asked if Academic Affairs will ask her about sanctions. Strickman stated that they might, but usually they are just seeking information to get a better idea of what happened before they take any action.

Woodman stated that he has concerns about the university facing sanctions if the police don't take action on a case when the police are involved. He asked if there are instances where the university could be at risk of a civil law suit. Strickman stated that she does not worry about this if she can justify her investigation and follows the process and procedures that are in place. Strickman talked about the difference in burden of proof between the University system and the criminal justice system. She reported that she is in the process of hiring two new investigators. Currently there is one investigator who works on the student cases. This person is a former police officer who has had significant training in dealing with cases of sexual assault. She is handling the faculty cases and the new investigators will handle student and employee matters. Dawes noted that most of the victims are probably female, and asked if they have problems sharing information with a male officer. Strickman stated that it depends on the person. She pointed out that her office has great rapport with the UNL Police and their Title IX liaison officer who handles sexual harassment and assault cases is a male officer and relates very well to the students. She stated that complainants are always given the option to decide who they want to work with, and if it is a sexual assault case she is there as well when they meet with the student. She noted that sexual assault cases are handled by a pair of investigators.

Vakilzadian asked how incidents are handled when someone is engaging in behavior that others find unacceptable, but a formal complaint is not filed. Strickman noted that this is more common with students, and if the office receives a report they will contact the individual and first ask them to please not engage in that kind of behavior. It is documented that the person has been contacted. At times there may be a request to have some kind of mediation where her office sits down and talks to the person and gets them to agree to stop the behavior. The complainant is made aware that the person has been contacted. Woodman asked if a student would be told not to take a class because the other student was in the class. Strickman stated that it would depend. If it is a repeated pattern the student will be told that they cannot take the class with the person they are harassing. She noted that the victim gets first choice in registering for classes and the harasser cannot take the same class.

Leiter asked what would happen if a person does not agree with the findings of her office. Strickman stated that if it involves a student the case would go to a hearing board which is comprised of trained individuals. If either party disagrees with the findings of the panel the matter goes to the Chancellor who gets an outside mediator involved. If it should involve a faculty member the case could go to the Academic Rights and Responsibilities Committee if the challenge was based upon the sanction. She stated that if there are sanctions on a student the Office of Student Affairs would be consulted and if the student is to be expelled there needs to be agreement from the VC of Student Affairs.

Leiter asked if the Office of Equity and Compliance's jurisdiction is only on matters of sexual harassment. Strickman reported that the office actually deals with Title VI (prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving

federal financial assistance), Title VII (prohibits employment practices that discriminate because of race, color, national origin, sex and religion), and Title IX (prohibits discrimination on the basis of sex in any federally funded education program or activity) so any kind of harassment or discrimination is handled by the office.

Hanrahan asked how cases would be handled with people who are affiliated with the university, and who may work with students, when the people are not actual employees. Strickman stated that we do not have jurisdiction over someone affiliated, but if a situation involves a student it would come to her office, however she may be limited on what can be done. She stated that usually education and training for the individuals is done first and support and resources are provided. She pointed out that many students have been victims of sexual assault before they come to campus, but we still want to provide them with information and support.

Lee noted that he has had graduate students take the search committee training and they reported that the training was minimal, typically lasting only 30 minutes. He stated that this is a huge shift in the way training has been done in the past. Strickman stated that the presentation was revamped in May to cut out some of the scenarios presented in the training because feedback showed that many people did not find these useful, but she is open to hearing suggestions on how to improve the training. Lee pointed out that faculty searches can be very complicated and proper training is required. Strickman reported that she has conducted some of the training sessions and the length and depth of the session can depend on how many questions are asked. Lee noted that a lawyer teaching the sessions might get more involvement and questions from the participants than a staff member. Strickman stated that she will take this under advisement.

Hanrahan asked how much of the Title IX procedures are dictated by the statute. He noted that there are several lawsuits at other universities due to improper procedures. Strickman noted that most of the lawsuits have been settled before any clear guidance was provided. She stated that the "Dear Colleague" letters just provide guidance. She pointed out that things are still changing and universities are still facing consequences for how they used to handle issues.

Purcell asked if Strickman is working with other Big Ten institutions. Strickman reported that the Title IX officers at the other Big Ten schools are planning to form a group with the first meeting occurring in February. She stated that the goal is to have a good base of Title IX officers networking within the Big Ten.

Dawes asked why there is the push with just Title IX. She asked if the number of reports would increase if people were aware that the Office of Equity and Compliance handled other instances of discrimination. Strickman stated that she explains when addressing groups on campus that she works for the Office of Equity and Compliance and that the office covers all forms of discrimination. She pointed out that right now there is a big push nationally to address issues of sexual misconduct. Dawes suggested that it would be helpful to provide information on the Office's website addressing other forms of discrimination in addition to the Title IX issues.

Hanrahan stated that former Director Susan Foster mentioned that a report was going to be out regarding the number of reported incidents. Strickman stated that the report will be out soon and has been delayed due to the transition in the office.

Woodman asked that a template of the letter notifying a faculty member that a complaint has been filed be sent to the Executive Committee for their review. He asked if Strickman would be willing to address the full Senate. Strickman stated that she will send the template, is willing to speak to the Senate, and if anyone has any questions to please contact her.

3.0 Announcements

3.1 University Leadership Meeting

Woodman reported that he and Purcell have received an invitation from the Chancellor to attend the university leadership meeting on October 31. The meeting will replace the deans and directors' meeting and is an opportunity for shared governance.

3.2 College of Arts & Sciences Policy on Professors of Practice

Woodman reported that the College of Arts & Sciences is developing a policy on professors of practice.

4.0 Approval of October 11, 2016 Minutes

Purcell moved for approval of the revised minutes. Motion seconded by Lee and approved.

5.0 Interim SVCAA Kostelnik and Interim VC Yoder

5.1 Update on Academic Program Review of the Honors Program

Interim SVCAA Kostelnik stated that the APR report just recently arrived and there has not been time to thoroughly review it. She noted that she did attend the debriefing of the formal review and the response from the external review team was very positive and constructive. She stated that we should look at opportunities for the program as we recruit a new director. She stated that the existing program was identified as having a lot of strengths and the sense of the external review team was of consideration for future directions that can be taken with the program, rather than having to fix something that was not working properly. She stated that the review team gave some very good alternative suggestions.

Purcell asked if the review team members had an honors program or an honors college. Interim SVCAA Kostelnik reported that the following people served on the review team: Mr. Vern Granger, Associate Vice President and Director, Office of Admissions and First Year Experience, at The Ohio State University; Dr. Melissa Johnson, Associate Director of the Honors Program at the University of Florida, member of the National Collegiate Honors Council (NCHC) Professional Development Committee, and Committee on Teaching & Learning; Dr. Shane Sharpe, Dean of the Honors College University of Alabama; Dr. Art Spisak, Director of the Honors Program at the University of Iowa, NCHC President-elect (2016) and former co-chair and current member of the NCHC Assessment and Evaluation Committee; Dr. C. Bryan Young, Director of the University Honors Program at the University of Kansas.

Interim SVCAA Kostelnik stated that the review focused on how the honors program could be made more attractive to increase participation. She noted that not all of the colleges are represented in the honors program.

5.2 Status of Extension Educators' Resolution

Interim SVCAA Kostelnik reported that she consulted with Dean Hibberd on the resolution which has now moved from VC Jackson's office to Corporation Secretary Maurer's office. Interim SVCAA Kostelnik noted that Dean Hibberd has reviewed the language of the resolution to make sure that it is accurate with the Faculty Senate's resolution. She reported that an announcement will be made when the resolution will be on the Board of Regents agenda, and people can attend the Board's public meeting when the resolution is presented. She noted that the resolution changing the Regents Bylaws has been vetted by the Senate and around the state in a variety of ways and that it should go smoothly with the Board.

5.3 Interim SVCAA Kostelnik's Definition of Rigor

Interim SVCAA Kostelnik was asked about rigor. She said she thinks of rigor in terms of academic excellence. She pointed out that we want a rigorous curriculum that has high standards based on faculty expertise. She stated that she believes one way to maintain those standards would be to go beyond simply approving the definition of a course and to require that the objectives for each course is clearly stated. There would be academic freedom for the instructors, but having the objectives stated would provide content validity of the course from one instructor to another. She pointed out that faculty stewardship of the curriculum is needed and having content validity of a course enhances for this stewardship.

Purcell asked how this change could be instituted. Interim SVCAA Kostelnik stated that this is something that could be discussed by the faculty. She pointed out that listing course objectives maintains integrity across the campus. She stated that the ACE program is a good first step in listing the course outcomes and we need to explore more of these kinds of ideas.

Vakilzadian noted that the ranking of the university is tied to how many students graduate within a certain time frame. Interim SVCAA Kostelnik stated that requiring 120 credit hours is an attempt to get students to graduate in a timely manner. She noted that requiring many additional credit hours may not be related to rigor but to overstuffing of courses. She noted that most of the Big Ten schools have gone to a 120 credit hour requirement.

5.4 Basic College Life Prerequisite Course

Hanrahan noted that all freshmen in CBA have to take a basic course on college life. He asked if there is any consideration in opening up this course to the other colleges so it is an institutional effort that would help the students. Interim SVCAA Kostelnik. She noted that more than one college is saying that there is basic information that would help students be more successful, particularly if the students received this information sooner

in their college career. She stated that there has been no discussion about this at the administrative level.

5.5 Curricular Issues Addressing Black Lives Matter Concerns

Lee asked if any changes to the curriculum is being made to accommodate the requests from the students involved in the Black Lives Matter organization. Interim SVCAA Kostelnik stated that different colleges are looking for ways to expand their course offerings to include courses in diversity and inclusiveness. She pointed out that this is not a top down effort but is coming from the faculty. She reported that Educational Administration is looking specifically at social justice coursework. She asked that anyone inform her if she hears of these kinds of initiatives.

5.6 Pre-Senate Lunches for City Campus Senators

Woodman reported that IANR has held luncheons prior to the Senate meetings for the IANR senators and the Executive Committee is hoping that this could be done for the City Campus senators. He noted that Chancellor Green held the luncheon for City Campus senators a couple of times last year. Konecky pointed out that holding the luncheons provides another level of communication between the administrators and the faculty. Interim SVCAA Kostelnik asked if the luncheons were helpful. The Committee responded yes. Interim VC Yoder noted that the deans are invited to attend the luncheon and suggested having two of the City Campus deans attend the luncheon on a rotating basis. Interim SVCAA Kostlenik stated that she will look into doing this.

5.7 Status of LR 509 - Legislature's Mandated Review of the History, Programs and Services of Extension

Yoder reported that the university has submitted its report to the state office on October, but we have had no response since then. He noted that the report was a 164 pages describing Extension and covers the entire breadth of the program, including where the funding has been placed in the program. Purcell asked who the report was submitted to. Yoder stated that it was submitted to Kathy Tenopir, Nebraska Legislative Fiscal Office Analyst. He noted that the Legislature could request more information or it may be satisfied with the report that was submitted. He stated that it could be shared with the Executive Committee if the Committee is interested. He noted that all efforts were made to put together the most complete report.

5.8 Faculty Development Leave for IANR Faculty Members

Woodman stated that there is some impression from faculty members that faculty development leaves are not granted in IANR. He asked if Interim VC Yoder can clarify this claim. Interim VC Yoder reported that in the seven years he served as department head in the Biological Systems Engineering department he had three or four faculty members take development leave, even though he encouraged more faculty members to apply for the leave. He stated that when he was Associate VC there were several faculty development leaves granted every year in IANR and they included both full year and six month development leaves.

Interim VC Yoder stated that IANR's policy on faculty development leaves is totally in sync with UNL policies and Board of Regents policies. He noted the IANR clearly states that anyone with six years of employment, who is an assistant professor and up can apply for a faculty development leave. He pointed out that applicants need to demonstrate that the leave will benefit the individual's development and will not have negative impacts on the department's ability to teach courses.

Lee stated that it seems like fewer faculty members in IANR take faculty development leaves than City Campus faculty members. Interim SVCAA Kostelnik stated that as dean of a college that has both IANR and Academic Affairs faculty members, she has not noticed any difference with the faculty development leaves. Interim VC Yoder pointed out that faculty members with labs and doing field work are often reluctant to leave their work for an extended period of time.

Woodman reported that after surveying the colleges about faculty development leaves for non-tenure track faculty he found that some colleges have no policies and there seems to be a disconnection between the colleges. Purcell asked if faculty members need to get approval from their chairs first. Interim VC Yoder stated that this is a requirement. Interim SVCAA Kostelnik pointed out that chairs have to manage the requests that come in for faculty development leave, which can be difficult to do with small departments.

5.9 5% Tax Report, Progress of Faculty on Review Committee, Possible Website Listing of Allocation Funds

Interim VC Yoder reported that the proposals were received, decisions were made on them, and units are being notified. He noted that the unit heads were expected to gather input from the faculty to identify the needs for the funds. Purcell asked if there was anyway the decisions on where the funds are going could be made available. She pointed out that this is the most frequently asked question that she receives. Interim VC Yoder stated that all of the funds will be distributed to the units. After a decision is finalized the unit heads are notified, but he does not know how the unit heads choose to communicate the information with their faculty. Purcell asked if the information could be put on a website for people to view. Interim VC Yoder stated that he can discuss how the information can be made more available, but not likely on a public site.

Interim VC Yoder stated that the criteria used to determine which unit will receive the funding is based on those units with the greatest need in terms of deferred maintenance, if the units will share the cost, and if there are some multiple units that would benefit from it. He noted that the 5% tax was mandated by past Chancellor Perlman because there are a lot of costs in conducting the business of the campus that are not covered by other means. He pointed out that the 5% tax is placed only on revenue generated by the units. He stated that the process is working because we are beginning to take care of some issues that have been lingering for some units for many years. He stated that there can be tremendous differences in the dollars that are generated by any one group. He noted that efforts are being made to not take too much money from those units that are generating a lot of funds and to make sure that those units are receiving some funding back. He reported that last fiscal year units were told how much money they would receive. Fifty

percent of those funds allocated to the units were spent by July 1, the beginning of the new fiscal year, but the remaining funds are still available for the units to use. He noted that the administration does keep ~10% back to help cover costs should expenses on some projects be more than expected.

Interim SVCAA Kostelnik stated that the issue has not really been discussed in Academic Affairs. She noted that the Chancellor would probably be able to address the issue better. Interim VC Yoder stated that in many departments on City Campus the amounts that could be taxed are much lower because the units generate very little or no revenue. Woodman pointed out that departments that have lab fees are taxed on the fees.

The meeting was adjourned at 4:30 p.m. The next meeting of the Executive Committee will be on Tuesday, October 25, 2016 at 2:30 pm. The meeting will be held in 201 Canfield Administration. The minutes are respectfully submitted by Karen Griffin, Coordinator and Allison Reisbig, Secretary.