

Faculty Assembly Minutes
2700 Posvar Hall
October 11, 2016

Topic/Discussion	Action
<p><u>Call to Order</u> The meeting was called to order by President Frank Wilson.</p>	The meeting commenced at 3:01 pm.
<p><u>Approval of the Minutes</u> President Wilson asked for approval of the minutes of the Faculty Assembly meeting of September 13, 2016.</p>	Minutes were approved as written.
<p><u>Introduction of Items of New Business</u> No new business was reported.</p>	None.
<p><u>Report of Senate President, Frank Wilson</u></p> <p>President Wilson updated that the Year of Diversity celebration began yesterday October 10th.</p> <p>The Expanded Executive Committee (EEC) Meeting is scheduled for Monday 10/17/16. Officers and committee chairs work to plan agendas and focus on emerging issues for the upcoming year. The theme is to find ways to connect our work for efficiency and effectiveness. In the past, adhoc committee formation has been useful, but it may be preferred that we do not always do that and organize collaborative working groups between our existing committees, for example, related to faculty evaluation work coming up – we can use existing key committees. An update of the EEC meeting will be provided next month at Faculty Assembly.</p> <p>Regarding faculty evaluations, Vice-President Kear and the Plenary Planning Committee is moving ahead with planning. Nine members exist with two co-chairs and the group is from several different schools across the University. A series of related additional events outside of the Plenary session itself will be planned as well.</p> <p><u>Plenary Discussion:</u> Sukits: Is the Plenary about faculty evaluations on-line? Kear: No, it is on the use of metrics data for faculty evaluations. Wilson: This topic may be part of the Plenary series. Sukits: We may want planning committee membership from additional schools as well, as this issue is very wide-spread. Kear: Additional members can be added; please send names.</p> <p>President Wilson continued his President’s Report to note that the main item on the Faculty Assembly agenda is very important today. The last meeting of the FA in May was a marathon discussion session on the new university policy on sexual misconduct. Today we are considering the final policy from the Provost’s special committee on consensual relationships. There has been widespread discussion on this policy and there are a variety of thoughts on this matter. We need an orderly and respectful discussion today, and time will be monitored closely. If needed, limits will be imposed on oratory.</p>	Discussion is embedded in the President’s report, per topic.

<p><u>Reports by and Announcements of the Special and Standing Committees of the Senate</u></p>	<p>None</p>
<p><u>Unfinished Business and/or New Business</u></p> <p><u>Policy on Consensual Sexual, Romantic, and Intimate Relationships with Students and Between Employees</u> <i>Laurie Kirsch, Vice-Provost</i></p> <p>The latest revision of the “Consensual Relationships Policy” was shared on October 4, 2016 via email to all Faculty Assembly members for early review prior to the meeting.</p> <p>Vice-Provost Kirsch noted that she was at Faculty Assembly today to talk about the policy on consensual relationships, to hear input, and try to answer questions. She acknowledged and thanked the adhoc committee members -- faculty, staff and students—who worked on revising this policy. Those in attendance at the FA meeting were recognized.</p> <p>She noted that she chaired an ad hoc committee, convened by Provost Beeson in Spring 2015, to review and revise the sexual harassment policy. In convening the committee, the Provost emphasized the University’s commitment to an environment free from sexual harassment and discrimination, and one in which our students, faculty and staff are protected and supported. It was also important to review our sexual harassment policy in light of amendments to the Violence Against Women Act (VAWA) and the US Department of Education’s interpretation and enforcement of Title IX. Because the sexual harassment policy referenced the policy on faculty-student relationships, the Provost asked the ad hoc committee to review this policy. The review of this policy was not driven by external factors, such as government relations or new legal requirements, but because of the University’s strong commitment to safety and well-being of students and employees, and recognizing that faculty-student relationships are at the heart of the University’s educational mission. Late in 2015, the ad hoc committee sent revised policy and procedures to the Provost to review: a revised policy and new procedure on sexual misconduct (to replace the existing policy on sexual harassment), and a revised policy on faculty-student relationships (newly titled). The revised documents have been reviewed and discussed with the Council of Deans, Senate committees and this past Spring, the sexual misconduct policy and procedure discussed at length in Faculty Assembly and endorsed, and have now been implemented.</p> <p>Vice-Provost Kirsch Today noted that today at Faculty Assembly is the discussion of the revised policy on consensual relationships between faculty and students, and between employees. She provided background on the policy:</p> <p>The current policy (02-04-03), effective since July 19, 1996, has 3 main points:</p> <ul style="list-style-type: none"> • “..Prohibits intimate relationships between a faculty member and a student whose academic work, teaching, or research is being supervised or evaluated by the faculty member. • If an intimate relationship should exist or develop the University requires the faculty member to remove himself/herself from all supervisory, evaluative, and/or formal advisory roles with respect to the student. • Failure to do so may subject the faculty member to disciplinary action.” 	<p>Discussion noted below.</p>

She noted that the ad hoc committee discussed the strengths and weaknesses of the current policy, and they reviewed policies from other institutions. Several of those on the committee – including faculty members who have served in administrative roles – have witnessed firsthand how faculty-student relationships can be harmful to students. At the same time, they recognized the importance of striving to find the right balance between individual freedoms – freedom to have relationships – and protecting students and employees. The committee members observed that the current 1996 policy speaks only to faculty-student relationships, and does not explicitly address staff, or the relationships between employees (both faculty and staff). It was in that spirit that the faculty, staff and students on the ad hoc committee collaboratively worked to develop recommendations.

Vice-Provost Kirsch then read a few sentences directly from the proposed policy, which tries to capture a key guiding principle of the revision:

“The University has established this Policy in an effort to ensure that the University’s educational and work environment is based on professional relationships in an atmosphere of mutual respect and trust. In particular, as an academic institution, the well-being and safety of our students is a primary concern.”

The committee felt strongly that the success of the University’s mission depends on trusting and respectful relationships between employees, especially between faculty and students. Committee members also agreed that when individuals involved in a consensual romantic, sexual or intimate relationship are in positions of unequal power (such as between a faculty member and a student), or work closely together, there is the **potential** for a conflict of interest, favoritism, and exploitation. They believed that such relationships have the potential for unintended, negative consequences on the student and/or the educational environment, and **potentially** impact the learning environment for those involved in the relationship and possibly others. Such relationships **can** lead to undesired behaviors or **perceptions** of undesired behaviors, such as unwarranted access or advantages, or restricted opportunities.

As a committee, they worked to develop a policy to reflect these core beliefs and values. In the committee meetings, they had many intense discussions, including whether to recommend a complete ban on all faculty-student relationships, as some Universities have proposed. They committee discussed how to handle different types of situations that might arise. They debated how to write a policy that balances personal freedoms against protecting students and employees. The proposed policy that was distributed represents the result of these discussions and deliberations. The revised policy does not suggest a prohibition on all relationships between faculty and students, or between employees. It does not ban all faculty-student relationships. Nor is the revised policy requiring that all consensual relationships between faculty and students, or between employees, be self-reported. The committee members believe though that certain steps are called for when there is a supervisory or evaluative relationship between faculty and students, or supervision or evaluation is reasonably likely between a faculty member and a student. Committee members also believe that certain steps are called for when there is a supervisory or evaluative relationship between employees – this encompasses both staff and faculty employees. Supervisory relationship is not permitted. The policy does not ban relationships between co-

workers, but discourages them. She then shared highlights of the policy as it relates to faculty/staff and students, and then relationships with employees.

Highlights of the policy with regard to relationships between faculty/staff and students are:

- Prohibits faculty members or staff members from soliciting or having sexual, romantic, or intimate relationships with any graduate or undergraduate student whose academic work, teaching, residence life, athletics, employment, or conduct they are directly or indirectly responsible for supervising or evaluating (or for whom there is the reasonable likelihood of future supervision or evaluation).
 - **This is referred to as “Prohibited conduct with students.”**
- If a consensual relationship exists prior to the onset of supervision or evaluation, or develops while in an evaluative or supervisory position:
 - the relationship must be immediately disclosed (to supervisor, department chair, Dean, or other administrative authority),
 - faculty or staff member must remove herself or himself from supervisory, evaluative, and/or formal advisory roles of the student, and
 - a management plan to transition authority must be developed and monitored to assure objective evaluation and supervision
- When any consensual relationship (even when no supervision or evaluation) substantially interferes with the educational environment or violates our sexual misconduct policies, the faculty or staff member will be subject to disciplinary action

Highlights of this policy with regard to relationships between employees are:

- Prohibits supervisors (including faculty members) from beginning (regardless of who initiated the relationship) or attempting to initiate a sexual, romantic or intimate relationship with an employee (including faculty members) under the supervisor’s area of responsibility.
 - **This is referred to as “Prohibited supervisor conduct.”**
- If a consensual sexual, romantic, or intimate relationship exists prior to the onset of supervisory authority, or one develops while in an evaluative or supervisory position:
 - the relationship must be immediately disclosed by the supervisor to the appropriate administrator, and
 - a management plan must be developed and implemented to address supervisory authority and to otherwise assure objective evaluation and supervision
- Beginning or initiating a consensual relationship between co-workers who work closely together is not prohibited, but it is discouraged. The University reserves the right to intervene if the relationship disrupts the working environment or violates the University’s sexual misconduct policy.

Discussion:

Kovacs: TAFC members who cannot be here had strong objections to this policy.

Bircher: The generic concern was that many phrases in the policy are not adequately defined. Perceived actions are to be reported and this forms the basis for disciplinary action, even if incorrect. We need further definition of many terms and procedural guidelines for responding to inaccurate allegations.

Kovacs: This is not ready to be approved by Assembly, and needs clearer definition of terms, including who to report to, how to report, punishing, and discipline after self-reporting. Issues of power are important, but I am concerned that we not turn this into the “sex police” and further define it. What about people who are married, or are in school together? When is it a reportable behavior?

Kirsch: It would be helpful to know exactly which terminology needs further definition. The policy is not saying that all relations need to be reported. This focuses on supervision and evaluation situations, not all relations.

De Vallejo: The entire language is about “potential” damage. Is the university going to examine personal relations? If people fall in love, who cares? Who is the police on this? This acts on presumption of guilt, not innocence. The language of the policy should be above guilt and reporting. I object to this language in terms of the spirit of the mission of the University and personal liberties guaranteed by the constitution. The policy is not enforceable

Kirsch: The policy is not trying to prohibit all relations or require all are reported. Only supervisory or evaluative relations are pertinent.

De Vallejo: You have to prove it is a damaging relationship. What does “potentially damaging” mean?

Kovacs: Keep in mind that this is not dissimilar to the anti-nepotism rules related to a spouse in your department. If you supervise your spouse, it could be favoritism and bad consequence in your department. There is something to be said for the policy to exist if supervision is going to occur. Are you questioning the way this language is worded? It sounds punitive.

Bonneau: We have a current policy that prohibits supervisor relations. This new policy compares to this, not a zero policy. This protects the health and safety of everyone in the University. The relations policy goes too far. I am familiar with the policy. He explained an example he experienced. There are two paragraphs of concern. Who determines if educational environment is affected? Is there discipline even if the situation does not involve supervision/evaluation? If a faculty member violates another policy, they will be disciplined under that policy? If a faculty member has multiple consensual relations that do not involve supervision/evaluation, why should the University care? Disruption of the work environment also was question – who decides? Will a legitimate relationship be harmed? This policy is misguided.

Kirsch: The intent of this policy is not to punish consensual relationships. We are trying to protect students and those in a relationship who may be on the lesser side of the

power relationship. If there are specific phrases that are not helping us to meet that goal, please let me know the specifics of wording changes/suggestions. The policy can intervene if the work environment is disrupted.

Kovacs: What does that mean? What is the execution of this? What does disruption mean?

Schmidhofer: Difficulty with this situation is there, and faculty do not want to make each other mad. What makes up substantive disruption? It cannot be defined. Given the environment we are in, we need to err on the side of more versus less restriction because this is impossible to concretely define.

Stoner: Does this send a message further chilling spousal/partner hires within department and centers? Could university have some disclaimers? Could management plans include the spouse recusing themselves from promotion/renewal discussions? We do have people in centers connected, within departments, administrators and faculty are connected.

Sukits: Many business corporations have policies like this limiting relationships once married, etc., to avoid any implications between spouses. Particularly for employees, some of this language gives rise to subjective opinions and conclusions, including "claims." What needs to be done if this policy will be fair, not intrusive, and not disruptive, is that better words should be used. Anyone can claim anything is disruptive. Be careful to review that and modify these words.

Spring: To tighten the document, we have a sexual misconduct policy that is legally required and is a companion to this. In Section A, paragraph 4 and Section B, paragraph 3, there is reference to the sexual misconduct policy being a basis for action. If the committee were to look at this action under the sexual misconduct policy, would it be true that it does not need to be addressed in the consensual relations policy since it is under the other policy? That would not need to be recovered here. That is one suggestion to simplify the policy. Another suggestion is to accentuate the positive. Section A, paragraph 2, last 2 sentences: While the intention is to remediate situations where prohibitive relations develop, there may be circumstances where disciplinary action may be needed as well. We must manage the conflict so no one is harmed. Take out the "iffy-ness," and focus on the positive, but open that something more may need to be looked at. Finally, the most troubling phrase on page 2, Section A, paragraph 4, line 2: "substantially" interferes...who is the arbiter of that? It is fair to say that with 10,000 people on campus, there are 2,000 supervisors on campus. Each supervisor will have to define this. It says "disrupts the working environment." How? Who decides? My suggestion is that where this policy relates to sexual misconduct, do not repeat that again in the new policy and refer to the existing policy; accentuate the positive and eliminate the negative; and change the wording on "significantly disrupts or interferes," so there is not so much room for interpretation and differing views.

Kirsch: There is going to be judgement in this, even if we do define it further. We are not going to be able to fully define every situation. I do take your points. If there is overlap with the other policy, we can eliminate that. Regarding the two sentences causing consternation, they could be more clear and positive. Imagine a situation where the faculty is having a relationship with a student in the class. The student is being

evaluated by that faculty member. If that faculty member reports this relation, that may not be enough and we cannot turn a blind eye. That is the intent of that language.

De Vallejo: For those of us who read it, we do not know the intent of the language clearly and know the committee's thinking. Instead of going through how we are going to punish prohibited relationships, why don't we just set the guideline and parallel to misconduct policy and how you promote a more positive environment? There is a risk of power difference. What does "disruptive" mean? Scientists have different views. The whole thing has gone too far. The policy focuses on punishment.

Kirsch: I understand that you cannot know the committee's intent. That is why we are at Faculty Assembly today to engage in the discussion of the intent.

Kovacs: Sexual misconduct already occurs and is handled via policy. Putting it in this document confounds it. It might make it easier to approve of this if you refer to consensual relations exclusively to ensure no exploitation.

Kirsch: This is a good point. The policy does denote its scope, so we can remove the overlap. Confusion about what relations are prohibited seems to exist. Is there confusion on this?

Schmidhofer: A potential scenario: I offer my student a better grade for relations. Which policy applies and which do we refer to?

Landsittel: I don't understand how husband and wife fits in the same group. If consensual, how is this a problem? I would suggest it be more minimal – Section A, 4th paragraph—is this saying that consensual relations are prohibited if supervision/evaluation are involved, or does this violate sexual conduct? "Discouraged" is used a lot as a word, but that word in this document should have an intent statement behind it. Clearly spell out the intent of the document and then spell out the rules of the document.

Sukits: Your (Schmidhofer) example was a power position. This is very dangerous and would violate sexual misconduct. It is not consensual. Regarding nebulous language, in Section B, paragraph 1, the language says hostile environment and significant distractions. These are common words but are subject to much interpretation. It may be better to change to "impeding educational mission," or stronger language. This can be measured.

Bircher: I would stipulate that the committee was well-intentioned. This is in the policy to an extraordinary degree. The committee also was naïve with respect to abuse of this policy. It has a good objective, but the language allows for policy abuse and interpretation by parties involved, or a third party.

Kirsch: The policy was focused on consensual relations.

Bircher: This presumes consensual relations. What if that allegation is incorrect?

Kirsch: The policy intent is to recognize that conflicts may arise and how to manage that related to supervision and evaluation situations.

Bircher: You are assuming the relationship is occurring.

Bonneau: The policy creates third parties to make allegations against their peers and subject them to problems. Why do we need the 4th paragraph section A, or that related section in part B? The ideal policy would have removed the last paragraphs of hypotheticals in each section.

Bircher: Include in the policy how to address a false claim. The Dean can intervene unconstrained but does not allow due process by the accused.

Wilson: We have had a lot of comments from TAFC today. There are other committees that have talked about this. Do any of the other committees want to add anything?

Taboas – Student Admissions, Aid & Affairs reviewed the proposal. We noticed two things, 1) there's a positive to having mandatory reporting. It protects you when things don't work out in the relationship. 2) For clarification, who are faculty and who are students? Post docs, are they faculty or are they students? That affects the reporting criteria. Maybe separating the policy to address faculty/students versus faculty/faculty, faculty/staff.

Cole: Too much wording, as you read through section A, you get the feeling you are finding ways to allow for faculty/students to have relationships under certain circumstances. If we are going to say it's not permitted, say it in fewer sentences. If it happens, there are sanctions. Define the reporting structure, at no place does it say who we report it to. If that is clarified, it would make much more sense.

Kirsch: The policy does not ban all faculty/student relationships. What it prohibits is relationships where there is evaluation/supervision or potential likelihood.

Cole: When would a faculty member not be considered a supervisor over a student?

Kirsch: It's a large diverse university that is why not all student relationships are not banned.

De Vallejo: Who are we to preempt a relationship, any kind of relationship is potentially dangerous.

Kirsch: The focus is on a faculty member who is evaluating a student.

Tananis: I think it's important to clarify the language every time this is being spoken about. I don't see the relationships being banned, it's when you are a position of power. That may not happen, but we have seen bad situations when it has happened. The University can't prohibit relationships, but they can prohibit one person supervising one person or another. I think it is appropriate, that is what happens in the power struggle. There are opportunities for disruption due to the power issue. We are not here to decide if a relationship is ok or not ok.

Rohrer: I think this is about power and balance. The first sentence on page 3- B. Generally speaking, consensual relationships between co-workers who work closely together or between a supervisor and subordinate can be extremely risky and are usually ill-advised. That certainly applies to the supervisor/subordinate relationship and

I would eliminate the word “usually”. It may not apply to the relationships between co-workers who do not have that power and balance.

Kovacs: Prohibited and consensual relationships in the same document is confusing, it obscures the goal of the committee. It should be separated out. In many of the instances related to prohibited relationships it would be covered under sexual misconduct. I would feel uncomfortable supporting a document that has “prohibitive relationships” in it.

Marra: EIADAC discussed this document on two occasions. Overall there was agreement on the policy, a few questions on what the punishment should be and if post docs are considered faculty. We are here to protect our students. As a parent, it’s nice that faculty have to disclose a relationship with a student. In general the intent of the document is good and the committee should be commended, but there still needs to be clarification.

Spring: The scope at the beginning provides a rationale for this policy. We have heard people say we are in agreement with the policy, but it would be more powerful if it was simpler. If we look at section B – Consensual Relationships – third paragraph, if that is all things that don’t need to be said because they fall under different policies and if the first paragraph in essence repeats the scope of the policy, then you are left in essence with one paragraph in section B. I don’t think it weakens the policy, I think it strengthens it. I think people are in agreement with the intent of the policy.

De Vallejo: The intent is there, we have to protect against a hostile environment.

Wilson: In essence we want to approve the policy, but not as it currently is written. Do you think it would be practical to take the suggestions back and see if changes can be made?

Connelly: I want to respond to the one comment regarding false claims. False claims can always be brought up – this policy does not increase or decrease that possibility. What it does is send a message about the climate here at the university.

Bircher: The concern regarding how to deal with false allegations I think could be answered in a sentence or two, you could link to a specific policy or procedure if there is a false claim. What protects us from Dean’s discretion?

Connelly: That would be different than every policy we have. It would depend largely on your status. Are you faculty? Are you staff?

Spring: I’m not sure if I was falsely accused who would I turn to? Is there a normal procedure? Within the policy might there be some statement that deals with concerns/issues might be addressed to……. It might articulate where they may fall.

Kirsch: I understand the points that are being raised. At this point we could take the comments we heard and go back to the committee and discuss and try to address the issues.

Wilson: I think that is a great idea, there has been a lot of things brought up, a lot of good suggestions. I hope you can get the committee to implement some of the items brought up today. I have confidence you will be able to do that.	
<u>Announcements</u>	
No announcements	
<u>Adjournment</u>	
The meeting was called to an end by President Wilson.	Adjournment at 4:40 pm.

Documents from the meeting are available at the University Senate website:

<http://www.univsenate.pitt.edu/faculty-assembly>

Respectfully Submitted,

Susan Skledar, RPh, MPH, FASHP

Senate Secretary

Professor, School of Pharmacy, Department of Pharmacy and Therapeutics

Members attending:

Betru, Bircher, Bonneau, Borovetz, Cole, Costantino, Dahm, Danford, Deitrick, De Vallejo, Donihi, Fort, Guterman, Hartman, Jacob, Jones, Kaufman, Kaynar, Kear, Kiselyov, Kovacs, Landsittel, Lyon, Marra, Molinaro, Morel, L. Nelson, Olanyk, Phillippi, Rohrer, Schmidhofer, Skledar, Spring, Stoner, Sukits, Taboas, Tananis, Weikle-Mills, Wilson, Withers

Members not attending:

Adams, Bilodeau, Clark, Cohen, Frank, Gleason, Gold, Goldberg, Harries, Helbig, Horne, Irrgang, Kanthak, Kelly, Landrigan, Leers, McLaughlin, Muenzer, Mulcahy, Munro, S. Nelson, Schmidhofer, Scott, Smolinski, Swanson, Thorpe, Velankar, Vieira

***Excused attendance:**

Beck, Becker, Bratman, Czerwinski, Dewar, Flynn, Gaddy, Henker, Labrinidis, Loughlin, Mulvaney, Nardone, Rigotti, Triulzi, Van Nostrand, Yarger

Others attending/guests:

Amato, Barlow, Blee, Bonner, Connelly, Fedele, Gentz, Kirsch, Pittler, Seng

*Notified Senate Office