

**Minutes of the Senate Anti-Discriminatory Policies Committee for 5 December 2008
6061 Forbes Towers**

In Attendance: Mark Lynn Anderson, Anthony Bauer, Andrew Blair (for Patricia Beeson), Deborah Brake, Lynn Fitzgerald (Chair), Susan Hansen, Dorothy Hawthorne-Burdine, Rodney Jackson, Emilia Lombardi, Carol Mohamed, Paolo Palmieri, and Vijai Singh.

Absent Elected Member: Cindy Popovich.

Excused Elected Member: Randi Koeske.

Lynn Fitzgerald called the meeting to order at 9:34 AM.

After a minor correction to the November 2008 minutes, Dorothy Hawthorne-Burdine moved to approve the minutes. Vijai Singh seconded the motion, and the minutes were so approved.

The meeting began with a brief announcement that, of the twenty-five individuals who attended the fall training session for Allies Network, only two were faculty members (with Cindy Popovich being the only CAS faculty member to attend). The committee agreed that something more must be done to promote this important training to faculty. The committee will revisit the issue next term.

Lynn Fitzgerald reported that after reviewing the various spring schedules of ADPC members, only a couple of timeslots appeared convenient for all elected members of the committee. After a brief discussion, the committee agreed to meet on the third Friday of each month at 9:30 AM, with the next meeting scheduled for Friday, January 16. Chair Fitzgerald mentioned that Forbes 6061 will likely remain the committee's venue for the foreseeable future.

Mark Lynn Anderson briefly reviewed the events that led to the committee's decision last year to rewrite its mission statement. Anderson distributed the current mission statement, as well as the statements of several other Senate committees. He also distributed an experimental draft of a new statement, asking members of the committee to e-mail him feedback, ideas, and/or alternative statements in response. At the next committee meeting, Anderson will report on the feedback he receives. Singh asked when the current mission statement was written, and whether there were any other responsibilities of the committee codified elsewhere or documented by the Senate. Anderson replied that he assumed the current statement to have been created when the committee was first formed. He also stated that, after initial research, it appears the committee has never been under any specific obligations to the Senate. No one present had ever encountered any such stated charge or description of duties for the ADPC.

Deborah Brake reported on the recently proposed changes to the University's sexual harassment policy. These changes are in response to the decision by the Third Circuit Court of Appeals that found Temple University's sexual harassment policy in violation of First Amendment guarantees. Senate President John Baker had sought the committee's input on the proposed changes to the University of Pittsburgh's sexual harassment policy, and Brake sent a detailed letter of concern to the Senate on November 24. While her letter clearly indicated that it represented only her own thinking and position on the proposed changes, it was also circulated to members of the ADPC for consideration.

Brake provided copies of the proposed policy changes to the committee, and she reviewed those parts of the new policy that she finds unnecessary or particularly problematic. Brake maintains that the new policy was created in “rush mode,” and that the changes go too far in correcting the First Amendment problems in the policy, ultimately extending First Amendment protections to sexual harassment that is far removed from protected “speech.” Brake agrees that the court’s decision leaves the existing sexual harassment policy vulnerable to challenge. However, the recently proposed changes to our University’s policy overcompensate in their goal to bring policy inline with First Amendment protections. Most of the problems are with the revisions to Section III. A. and III. B. of the policy. Brake agrees that it was necessary to remove “purpose” from the definition since the policy cannot attempt to regulate any individual’s intentions, but she is troubled by the escalation of requirements that must be satisfied before conduct can be prohibited under the policy, particularly the application of a “severe or pervasive” requirement to even “non-speech” forms of harassment and the requirement that the harassment “objectively and subjectively cause harm.” In addition, she is troubled by the requirements in subsection B, which go much too far in protecting any harassment in a university setting, even types of harassment that receive no First Amendment protection whatsoever. She proposes that more time is needed to carefully craft a policy with language consistent with the First Amendment while not placing unreasonable restraints on the institution’s ability to prevent and address sexual harassment that interferes with the rights of students, faculty, and staff.

Susan Hansen informed the committee that the Senate had, in fact, already passed this policy with the understanding that alternative language will be considered later. Whether there will be an opportunity to implement changes to the policy remains to be seen, however. Hansen also mentioned the administrative fallout from this change and all future changes, such as the need to incorporate these changes into the sexual harassment training sessions. Hansen also mentioned the issue of harassment through electronic media, though Brake believes that any sound harassment policy would necessarily already cover such harassment without the need for special provisions. Brake mentioned that the next move might be to look to see how those groups and institutions with a long track record in harassment policy are responding to the court’s recent decision, groups such as the American Association of University Professor (AAUP) and the American Association of University Women (AAUW). Hansen asked about Temple University’s response to the decision, but Brake replied that, based on her information, Temple was not a model for other universities and had simply reverted back to their earlier 1992 policy.

Chair Fitzgerald summarized recent committee’s most recent inquiries, and she suggested possible ways to proceed on these issues. She first recounted last year’s evaluation of the University’s emergency evacuation policies, as well as the reports to the committee from Disability Resources and Services (DRS) and from Environmental Health and Safety. The ADPC concluded that there presently existed no policy problems, but there is a difficulty in disseminating policy information to employees. It is quite likely that very few individuals at the University are familiar with their workplace evacuation plans. Fitzgerald recommended that the committee pursue advocating the formation of safety committees for each building, committees that would be required to meet annually to review and evaluate evacuation plans and preparedness. Carol Mohamed mentioned that this issue might be profitably pursued with Jay Frerotte, Chair of the Environmental Health and Safety Committee. Part of emergency preparedness should include CPR-trained individuals at work sites and the availability of automated external defibrillators

(AEDs) in every building. Mohamed said that the campus police may be responsible for the smaller campus building. Emilia Lombardi mentioned that several University offices are in non-Pitt buildings. Fitzgerald pointed out that, as is the case with UMPC (which leases several buildings), the emergency evacuations plans have to be worked out with the leaser. Hansen brought up the problem of some emergency alert technologies causing particular individual distress, as is the case with the bright stroboscopic lights used in Posvar Hall and other buildings to alert the deaf and hard of hearing. Hansen pointed out that around thirty-percent of the population are adversely affected by strobe lighting (affects that can include nausea, headaches, and disorientation).

Fitzgerald next summarized the committee's recent work on the status of disabled students, particularly students with mental disabilities and brain injuries. Again, the committee found that the services available for these students more than satisfactory, but the problem remains of making interventions in cases where students fail to identify as disabled. Mohamed asked whether faculty were fully aware that they can consult her office for ways of dealing with students who appear to be struggling with their studies. Hawthorne-Burdine recounted the story of a recent student failure that resulted when faculty realized too late that the student had a disability. Mohamed reminded the committee that students have the right to self-nominate or not, and Singh pointed out that any University policy designed to probe such conditions was highly problematic. There is little anyone can do for a disabled student who chooses not to self-identify as disabled.

Fitzgerald then brought up Katherine Seelman's proposal to pursue and promote universal design strategies so as to maximize access and diminish the need for "special accommodations." Fitzgerald proposed that the committee recommend, in conjunction with Seelman's expertise on this issue, the implementation of universal access for campus computing. Mohamed suggested that CIDDE might be able to provide information on the "impacts" of such a transformation.

Finally, Fitzgerald recounted the information the committee received from Patricia Beeson and Carol Mohamed on faculty diversity. Despite a satisfactory and improving performance in the hiring, advancement, and retention of women and minorities, Hawthorne-Burdine questioned whether faculty are adequately attuned to diversity issues. She suggested that the committee might make diversity awareness an important part of its agenda. Hawthorne-Burdine asked whether we couldn't seek to make diversity training a mandatory requirement for all supervisory staff, much like the current requirement for sexual harassment training, since the two issues are parallel.

Several members of the committee cautioned strongly against pursuing mandatory training, stressing that the issues of sexual harassment and diversity sensitivity were not, in fact, parallel issues. Anderson pointed out the harassment training sought to address particular acts of conduct in the work place, while the sort of multicultural training being proposed sought to accomplish a far more difficult and easily contested "appreciation" of difference. Brake pointed out that harassment training was principally a legal protection for the institution, and that there is reason to believe such training may even increase the possibility of harassment by providing false assurances of worker sensitivity through the "certification" process. Rodney Jackson pointed to three interrelated problems: the sheer vastness of "diversity," the question of what cultural orientations such training would cover, and the question of who gets to decide—all highly contentious issues. Lombardi mentioned that the School of Public Health regularly holds roundtables on diversity, while Hanson and others mentioned that the promotion of various diversity events was

far more likely to be effective in promoting awareness than mandatory training, since the latter can quickly lead to backlash and resentment. While the issue of mandatory diversity training is simply un-pursuable, the committee decided to temporarily table the issue of how to promote diversity awareness among the faculty.

The meeting was adjourned at 10:56 AM.

Submitted by Mark Lynn Anderson.