



I. Call to Order, Adoption of Agenda

II. Approval of Minutes – February 26, 2018 Meeting

III. **Guests**

President St. Amand

Provost Sue Ott Rowlands

Faculty Regent Richard Boyce

Deana Karam, Staff Congress Liaison

Representatives from Legal Affairs and Human Resources to discuss and take questions on how harassment complaints are handled at NKU

IV. **Officer Reports**

President Matthew Zacate

Vice President Carol Bredemeyer

Secretary Laura Sullivan

Parliamentarian Tamara O'Callaghan

Faculty Advocate Phil McCartney

Graduate Council Chair Steve Crites

V. **Committee Reports**

University Curriculum Committee Richard Fox

VOTING ITEM: Approval of changes to the Early Childhood Education BA, non-certification track (<https://nku.curriculog.com/proposal:2049/form>).

VOTING ITEM: Approval of changes to the Post-Master's Certificate in Nursing (<https://nku.curriculog.com/proposal:1919/form>).

Budget Committee Janel Bloch

Benefits Committee Debra Patten

Professional Concerns Committee Ken Katkin

TEEC Chris Lawrence

General Education Committee Steve Weiss

(continued)



VI. Unfinished Business and General Orders

VOTING ITEM: Recommendation to revise the Faculty Handbook (see memo: *Withdrawal of Application for Promotion During RPT Process - Revised* dated 1-MAR-2018).

VOTING ITEM: Recommendation from the Executive Committee on how to resolve conflicts in the current final exam schedule (see memo: *Proposed fixes to conflicts in the current final exam schedule* dated February 21, 2018).

VII. New Business

VOTING ITEM: Recommendation to oppose adoption of the Consensual Relationships policy currently under review (see accompanying memo: *Consensual Relations Policy* dated 15-MAR-2018).

(Note that there are also two new voting items in the committee reports.)

XIV. Adjournment

FACULTY SENATE MEETING
March 26, 2018

Members present: Janel Bloch, Carol Bredemeyer, Robert Brice, Kathleen Carnes, Steve Crites, Christine Curran, Jacqueline Emerine, Irene Encarnacion, Richard Fox, Yaw Frimpong-Mansoh, Kathleen Fuegen, Steven Gores, Lisa Holden, Morteza Sadat Hossieny, Vanessa Hunn, Stephen Johnson, Ken Katkin, Christopher Lawrence, Kimberly Gelbwasser Lazzeri, Gisele Lorient-Raymer, Ellen Maddin, Phil McCartney, Carrie McCoy, Jonathan McKenzie, Marcos Misis, Deborah Patten, Jeanne Pettit, David Raska, Toru Sakaguchi, Ron Shaw, Erin Strome, Laura Sullivan, Lynn Warner, Steven Weiss, Matthew Zacate

Members absent: Kebede Gemene, Rich Gilson, Francoise Kazimierczuk, JC Kim, Jennifer Kinsley, Marc Leone, Ban Mittal, Ljubomir Nacev, Tamara O'Callaghan, Gabe Sanders, Cory Scheadler, Sharon Vance

Guests: Richard Boyce (Faculty Regent), Deanna Karam (Staff Congress Representative), Erica Bluford (Student Government Association Representative), Grace Hiles (Faculty Senate Office), Alar Lipping

The meeting was called to order by Senate President Matthew Zacate at 3:01 pm with a quorum present.

The agenda was adopted as distributed at this meeting. The minutes of the February 26, 2018 meeting were approved.

Guest Reports:

- **Faculty Regent (Richard Boyce):**
 - The Board of Regents (BOR) met on March 14. Morning presentations included a compliance update from Dawn Bell-Gardiner (Compliance Officer) and Joan Gates (Vice President of Legal Affairs and General Counsel), a budget update from Mike Hales (Chief Financial Officer), and a College of Health Professions update from Dale Stephenson (Dean) on the Nurse Advocacy Center for the Underserved and the Nurse Anesthesia program.
 - The BOR approved faculty reappointments, promotions, and tenure, Emeritus appointments, and Honorary degrees.
 - They also discussed housing, parking, and meal plan increases, and will discuss a tuition increase at their next meeting on May 2.
- **Provost (Sue Ott Rowland):**
 - She will make her recommendation for two new Regents Professors tomorrow.
 - The Faculty and Staff Honors and Awards celebration is on April 26, 4 – 6 pm. This is a chance to celebrate those recipients, as well as those faculty receiving tenure and promotion and Emeritus faculty.
 - She announced that Arne Almquist, Associate Provost for Learning Sciences & Technologies and Dean of the Library, will be leaving for a new position at Lamar University as Dean of the Library. His last day is June 30.
 - Information on next year's reappointment, promotion, and tenure process is forthcoming.
 - Her office is working on the budget and waiting to see if there will be caps on tuition.

- **Staff Congress Liaison** (Deanna Karam):
 - At their last meeting, Holly Vasquez (Pro-Card Administrator), described proper procedures for procurement use. They also discussed proposals for housing, parking, and dining increases.
 - Employee Appreciation week begins this week.
 - Starbucks will be closed for renovation following commencement until August.
 - Election bylaws were changed with more details on who can run for the first time.
 - They are seeking clarification on local mileage restrictions.
 - The Travel Wagon will remain in the Student Union for now due to its popularity.
 - There will be a double-header promotion for employees.
 - Other items discussed included tuition waivers and reserve lot requests.

- **Human Resources Representatives/Legal Affairs** (Lori Southwood/Co-Interim Chief Administration Officer and Chief Human Resources Officer, Rachel Green/Director of Employee Relations and EEO, Joan Gates/ Vice President of Legal Affairs and General Counsel, Sara Kelley/ Associate General Counsel, Ann James/Senior Associate Dean of Students):
 - Lori Southwood provided an overview of sexual misconduct policies and procedures, stating that many individuals are involved in the process—those with her today and Kathleen Roberts (Senior Advisor to the President for Inclusive Excellence) who was not able to attend this meeting.
 - There is a policy in place with various reporting avenues. Each complaint is evaluated on the specifics of the situation, including what process the complainant would like.
 - Offices do not necessarily handle each complaint the same way due to the situation/type of complaint. For example, the intake process will differ if the complaint goes through a chair/dean than if it is a Title IX complaint. Legal Affairs and HR individuals regularly meet to decide how each situation should be addressed.
 - Complaints are tracked by the university and the process has become more formalized over time through software. This has helped with documentation and the problem that some Senators mentioned, that some complaints in the past have been made without being addressed.
 - Lori Southwood asked that any follow-up questions or concerns be addressed to her or a member of her team.

Officer Reports:

- **Senate President** (Matthew Zacate):
 - Voting for Faculty Regent begins today and will be active until 6 pm on Monday, April 2. There are four candidates—Michael Baranowski (A&S), Doug Feldmann (Education and Human Services), Sara Runge (Education and Human Services), and Teresa Huber (Health Professions). Biographical information for each nominee is on the website.
 - Administrator surveys are active; feedback provided is useful for upper administration.
 - There will be two faculty openings on the NKU Residency Review Committee starting in fall 2018. This committee rules on residency status change requests of current NKU students. Most of the committee work occurs via email, with about 10-15 cases over the course of the semester (usually at the beginning of the semester). The term is typically three years and training/guidance are provided. Please pass on the information to any colleague who might be interested in serving.

- **Faculty Advocate** (Phil McCartney):
 - He continues to work on ongoing harassment issues and faculty complaints.
 - How campus accidents are handled is a concern. It seems that HR and Legal Counsel have improved the process over time, although these situations can be complicated when it comes to workman's compensation.
- **Graduate Council Chair** (Steve Crites):
 - The Council finished the review of graduate policies and determined the rationale for what they plan to change. Sharing programs has been a good experience and will lead to continuing cooperation.
 - Suggested policy changes will go through the policy process.

Committee Reports:

- **University Curriculum** (Richard Fox):
 - There are two voting items--one is a program with a substantial change; the other is a certificate program also with a substantial change.
 - **VOTING ITEM:** Approval of changes to the Early Childhood Education BA, non-certification track (<https://nku.curriculog.com/proposal:2049/form>).

APPROVED.

 - **VOTING ITEM:** Approval of changes to the Post-Master's Certificate in Nursing (<https://nku.curriculog.com/proposal:1919/form>).

APPROVED.

 - The English 291 designator will change to 102 for the fall catalog.
 - All submitted changes are now complete for fall 2018 catalog.
- **Budget** (Janel Bloch):
 - There were several guests at the last Budget Committee meeting. Andy Meeks (Director, Business Operations & Auxiliary Services) reported on changes in dining and parking fees. He also discussed the process for soliciting the RFP for a new food service provider; Chartwell's contract is up in two years and a bid will be put out at that time. Mike Hales (Chief Financial Officer/CFO), gave a budget update and Kim Scranage (Vice President, Enrollment and Degree Management) and team gave a presentation on data (Part 1). Part 2 on strategies to generate enrollment will occur at the next budget meeting.
 - A budget priority survey will be available soon with a quick turnaround time for responses.
 - Senator Bloch also serves on the Administrative Central Unit Budget Allocation Committee, a group that will review budget proposals.
- **Benefits** (Deborah Patten):
 - Senate President Zacate, previous Benefits chair, was invited to speak to the committee about the history of the faculty development award evaluation too. The evaluation form does not completely align with the award application. Small work groups will be assigned to address the issue with the task probably to continue into next year.
 - Faculty Senate Scholarship awards for dependents is due Friday, April 6. The application is available from the Senate website and it must be printed and delivered to the Faculty Senate office, AC 105.

- Committee bylaws will be examined for potential updating.
- **Professional Concerns** (Ken Katkin):
 - Senator Katkin is considering attending an upcoming statewide American Association of University Professors (AAUP) meeting.
 - Tim Ferguson, Chief Information Officer (CIO), adopted 16 PCC suggestions of 18 for the Acceptable Use Policy.
 - Senator Katkin met with the Provost and representatives from the Office of Graduate Education & Research regarding the new policy on research misconduct. They agreed to rescind the policy and PCC will discuss an improved version.
 - Senate Bill 1 is a concern as it weakens tenure; it is not in NKU's interest even if it somewhat solves the pension problem. However, House Bill 200 remains a good bill.
 - The Early Childhood Center (ECC) issue has not had positive results. Faculty Senate approved a resolution in May 2017 in support of the need for the ECC. With the decision to close the Center, it is clear that collegial governance was not adhered to. A written response should be provided to Senate as to why the recommendation was not followed.
 - PCC has struggled with how to address the current budget situation overall and come up with a unified faculty position. It is difficult to discern, with such a tight timeframe and budget items examined out of context, whether an item is too costly or not. The administration has been quickly accommodating with providing any requested budget information; however, without a broader understanding of the process and context, it is challenging to assign value to budget items.
- **TEEC** (Chris Lawrence):
 - A faculty development workshop was held on March 13, from 12 – 1 pm, on solving ethical dilemmas.
 - The survey of Chairs and members of RPT committees is complete. Data will be compiled that will inform recommendations to the Provost on improving evaluation procedures.
- **General Education** (Steve Weiss):
 - Overall, this has been a rewarding year for the committee. The committee is wrapping up its course reviews; there are two more to do. There will be another call to submit a GenEd course in late spring. Senator Weiss will provide a list of all new courses once finalized.
 - They are also working on recommendations for proposers on how submissions may be improved.
 - A full cycle of GenEd assessment is near completion. The final two Student Learning Outcomes (SLOs) will occur in the fall (Science and Technology, Personal Responsibility and Community). They saw phenomenal success with artifacts turned in. There will be a workshop this semester to cover the last two SLOs.
 - An email is forthcoming inviting faculty to participate in the scoring of the artifacts collected for the assessment of Critical Thinking and Communication SLOs in June. Up to 50 faculty are needed for scoring; there will be a stipend for participating and lunch will be provided.
 - Senator Weiss said that three faculty in his department (Communication) will be leaving this year and the positions are unlikely to be filled based on the budget situation. He

discussed this with the committee and said that he is willing to forego release time as chair to take on course/s in his department.

Unfinished Business and General Orders:

- **VOTING ITEM:** Recommendation to revise the Faculty Handbook (see memo: *Withdrawal of Application for Promotion During RPT Process - Revised* dated 1-MAR-2018).
 - Practical considerations are resolved by the following proposed amendments to Faculty Handbook Sections 3.2.6. (regarding the applicant) and 3.2.7. (regarding the department chair).
 - A sentence should be added to the end of 3.2.6 to read:
“After receiving a negative recommendation from the committee, the applicant may elect within three business days to withdraw the application and terminate the RPT process.”
 - The following should be inserted at the beginning of 3.2.7:
“No sooner than three business days...”

APPROVED.

- **VOTING ITEM:** Recommendation from the Executive Committee on how to resolve conflicts in the current final exam schedule (see memo: *Proposed fixes to conflicts in the current final exam schedule* dated February 21, 2018).

APPROVED.

New Business:

- **VOTING ITEM:** Recommendation to oppose adoption of the Consensual Relationships policy currently under review (see accompanying memo: *Consensual Relations Policy* dated 15-MAR-2018).

APPROVED.

- The following resolution was approved by Faculty Senate:

The Faculty Senate opposes the adoption of the proposed “consensual relations” policy in its current form. The Faculty Senate remains willing to work within the system of collegial governance to amend Section 16.9 of the NKU Faculty Handbook. If the proposed policy is adopted as an administrative regulation without Senate consent, however, the Senate will oppose future initiatives to amend Section 16.9 to bring it into conformity with the administrative policy.

Other:

- Senator Encarnacion announced that there will be a march across campus on Friday, March 30, 11 am – 12 pm in celebration of Cesar E. Chavez Day.

Adjournment

The meeting was adjourned at 5:01 p.m.

Respectfully Submitted,
Laura A. Sullivan
Secretary

MEMORANDUM

To: Faculty Senate

From: Professional Concerns Committee

Re: Withdrawal of Application for Promotion During RPT Process – Revised

Date: March 1, 2018

At our meeting of February 15, 2018, PCC voted to recommend to Faculty Senate that the Faculty Handbook be amended to allow a faculty member to withdraw the application for promotion and/or tenure after receiving a negative recommendation from the departmental review committee. On February 26, 2018 Faculty Senate discussed this recommendation. During this discussion, several Faculty Senators raised practical concerns about whether the ten-day window for withdrawal recommended by PCC was too long. In particular, Senators were concerned that in the ordinary course, department chairs often take action on an RPT Committee's recommendation sooner than ten days after receiving such a recommendation.

Because the intent of PCC was to recommend that a faculty member should be allowed to withdraw an application before the department chair takes action, the Senate moved to remand the item back to PCC for clarification. Specifically, the Senate expressed a sense that the applicant should have only three business days to withdraw the application after receiving a negative recommendation from the RPT Committee, and that the Handbook should also specify that the department chair should not make any recommendation until those three business days have passed.

Accordingly, to implement Senate's directive, PCC now rescinds its earlier recommendation, and replaces it with the following revised recommendation:

Proposed Amendment to Faculty Handbook Section 3.2.6:

To enable a faculty member to withdraw the application and materials after receiving a negative recommendation from the departmental review committee, a sentence should be added to the end of current Faculty Handbook Section 3.2.6 that would read:

After receiving a negative recommendation from the committee, the applicant may elect within three business days to withdraw the application and terminate the RPT process.

As amended, Section 3.2.6 would thus read:

3.2.6. DEPARTMENT/SCHOOL COMMITTEE: VOTING AND REPORTING

Each member of the committee shall have one vote. Each member is required to vote on each matter before the committee. A member who has not reviewed materials submitted by the applicant or fully participated in the committee

discussion of the applicant cannot vote on that applicant. The recommendation of the committee shall be reported in writing to the department chair or school director and must be characterized as either unanimous or non-unanimous. The recommendation of the committee will reflect the committee's deliberations and must be signed by all committee members. In cases where the committee vote is not unanimous, support for both positive and negative votes must be included in the recommendation. In the case of a tie vote, the committee's recommendation will be deemed a positive recommendation. A copy of the recommendation will be given to the applicant. **After receiving a negative recommendation from the committee, the applicant may elect within three business days to withdraw the application and terminate the RPT process.**

Proposed Amendment to Faculty Handbook Section 3.2.7:

To ensure that the department chair does not take action on a recommendation from an RPT Committee before the applicant has time to withdraw the application and materials after receiving a negative recommendation from the departmental review committee, the words **"No sooner than three business days. . ."** should be inserted at the beginning of current Faculty Handbook Section 3.2.7. As amended, Section 3.2.7 would then read as follows:

3.2.7. CHAIR/DIRECTOR

No sooner than three business days after receipt of the committee recommendation, the department chair or school director shall make a recommendation to the dean in writing. The chair or director may consult with the department or school committee prior to making a recommendation, but not with committee members individually. As part of his or her deliberations, the department chair or school director may meet with the applicant to aid in his or her decision. The reasons for the department chair's or school director's recommendation, whether positive or negative, shall be included in the recommendation. The department chair or school director shall forward his or her recommendation, the department or school committee's recommendation, and the applicant's file to the appropriate dean. A copy of the department chair's or school director's recommendation shall be given to the applicant and all members of the department or school committee.

CONCLUSION

The PCC recommends that Faculty Senate should approve the preceding amendment to Sections 3.2.6 and 3.2.7 of the NKU Faculty Handbook.

MEMORANDUM

To: Faculty Senate
From: Professional Concerns Committee
Re: Consensual Relations Policy
Date: March 15, 2018

In late February, the NKU administration released a proposed draft policy on “Consensual Relations.” The PCC discussed this draft policy proposal at its Meetings of March 1, 2018 and March 15, 2018. For the reasons set forth in this Memorandum, the PCC recommends that Faculty Senate adopt a resolution of opposition to adoption of the proposed draft policy in its present form. Going forward, the PCC recommends that Faculty Senate work with the NKU administration within the system of collegial governance to consider amending Section 16.9 of the NKU Faculty Handbook, which governs consensual relations.

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On February 22, 2018, the NKU administration released a proposed draft policy on “Consensual Relations.” The PCC discussed this draft at its Meetings of March 1, 2018 and March 15, 2018. The PCC recognizes that Section 16.9 of the NKU Faculty Handbook—which governs consensual relations between faculty members and students—may be in need of revision. The PCC and the Faculty Senate are willing to work with the Provost’s office to achieve a mutually satisfactory revision to Section 16.9. Adoption of the proposed draft administrative policy, however, would violate the NKU Faculty Handbook and would create more new practical problems than it would solve. Accordingly, as discussed herein, the PCC recommends that Faculty Senate vote to oppose the adoption of the proposed policy. Moreover, if this policy is first adopted without Senate approval, the PCC recommends that Faculty Senate should vote to oppose any subsequent amendment to the NKU Faculty Handbook that would bring the Handbook into conformity with this policy.

BACKGROUND

In November 2016, the NKU administration released a proposed draft administrative policy on “Consensual Relations.” In the policy flow routing information listed at the top of the draft policy, the checkbox for “**REQUIRES Professional Concerns Committee REVIEW**” appropriately was checked. Accordingly, at our meeting of January 19, 2017, NKU Senior Advisor to the President for Inclusive Excellence & Title IX Coordinator Kathleen Roberts met with PCC to receive faculty input and to seek PCC’s recommendation. As noted in the Minutes of that meeting (appended to this Memorandum), the PCC expressed a number of concerns with the November 2016 draft policy, and did not approve its adoption. At the conclusion of this meeting, Ms. Roberts stated that she would redraft portions of the draft policy to reflect some of PCC’s discussion. She requested that PCC members with suggestions for inclusion should send written comments to her or to the PCC Chair.

Thirteen months later, on February 22, 2018, a revised draft “consensual relations” policy proposal was released by the administration for notice-and-comment on the Policy.nku.edu Web Site. During the thirteen-month interim, there was no further communication about this issue between the administration and Faculty Senate. Moreover, the revised proposal was never presented to PCC or Senate. In fact, although PCC had never approved its predecessor, the policy flow routing information listed at the top of the revised draft policy released in February 2018 no longer contained any checkbox for **“REQUIRES Professional Concerns Committee REVIEW.”**

The Proposed Policy Violates The NKU Faculty Handbook

Section 16.9 of the Faculty Handbook (appended to this Memorandum) governs consensual relations between faculty members and students or other NKU employees. Section 16.9 contains few blanket prohibitions on such relations, instead choosing to rely primarily on a system of confidential disclosure and mitigation of harm. For example, Section 16.9.3 governs consensual relations between faculty members and students who are enrolled in their classes. It says:

Consensual relationships in situations involving direct supervision (e.g., between a faculty member and student in his/her class, or between a faculty member and student he/she is supervising in independent laboratory research, or between a supervisor who has the power to evaluate, promote, or grant raises and his/her employee) should be avoided. If such relationships arise, arrangement should be made to remove one of the parties from the supervisory situation or to have evaluations of the supervised party made in another way. For example, in the case of faculty and student, the student should be placed in another course or be paired with another thesis or laboratory instructor. In cases where this is not possible, the department chair or the dean of the college should determine the best means for impartial evaluation of the student’s work after consulting with the parties involved. Consideration should be given to having another faculty member evaluate the student’s work. Faculty members should also remove themselves from other situations (awards committees, etc.) in which their decisions may reward or punish students with whom they are currently (or with whom they have been previously) involved.

The proposed draft policy, in contrast, would flatly prohibit all consensual relations between faculty members and undergraduate students, including relationships that involve no such direct or indirect supervision. And it would also subject faculty members who engage in such relations to disciplinary action up to and including termination. In these and other respects, the proposed administrative policy could lead NKU faculty members to be disciplined for conduct that Section 16.9 of the Faculty Handbook expressly tolerates. Indeed, in some instances, the proposed administrative policy could lead NKU faculty members to be disciplined for making disclosures to their department chairs that Faculty Handbook Section 16.9.3 expressly requires them to make.

While the PCC understands that the acceptance of consensual relations codified in Section 16.9 may reflect more lenient standards of a prior era than are optimal today, we are dismayed that the administration has proposed to address this concern by adopting an administrative policy that would violate the NKU Faculty Handbook, rather than by forthrightly proposing to amend the pertinent language of the Handbook. If the proposed policy is adopted, then NKU administrators will be called upon to take action that is inconsistent with the Faculty Handbook.

Proposing To Adopt A Policy That Violates The Faculty Handbook Is Uncollegial

The Preamble to the NKU Faculty Handbook states that:

This Faculty Handbook is intended to define the rights and obligations of the Northern Kentucky University administration and faculty members. All of the material in this Handbook has been approved by the Northern Kentucky University Board of Regents and, as such, constitutes official University policy.

By this language, NKU administrators must respect the rights and obligations of NKU Faculty Members as defined in the Faculty Handbook. Proposing to adopt and enforce administrative policies that violate those faculty rights and obligations breaches this duty of respect. Similarly, the preamble to the Statement of Collegial Governance at NKU (set forth in Appendix C of the Faculty Handbook) states that:

All colleagues in the system, regardless of their respective roles as faculty or administrators, have an obligation to honor and support the decisions reached through the collegial process.

Section A.1.7 of the Statement of Collegial Governance at NKU likewise reaffirms that:

Colleagues are bound by the decisions relating to or affecting matters which are reached through collegial processes.

Notably, every provision of the Faculty Handbook (including Section 16.9) reflects a decision that has been reached through the collegial process. Accordingly, NKU administrators have an obligation to honor and support the decisions that are codified in the Faculty Handbook. Promulgating administrative policy proposals that would require those Handbook provisions to be routinely dishonored violates this duty of honor and support. And if the present draft “consensual relations” policy proposal is adopted, its subsequent enforcement would regularly cause additional breaches of administrators’ obligation to honor and support decisions reached through the collegial process that would remain codified at Section 16.9 of the Faculty Handbook.

If an NKU academic administrator (or faculty member) believes that a provision in the Faculty Handbook should be amended, the Faculty Handbook itself provides a collegial process for making such an amendment. Specifically, Section 15 of the Faculty Handbook provides:

Amendments to this Handbook may be proposed by any member of the full-time, tenure-track or tenured faculty, by a department chair, by a dean, by the provost, or by the president. The proposed amendment must be in writing and must be accompanied by the rationale for the change; it must point out all sections of this Handbook that would be altered or deleted if the amendment were to be adopted. The proposed amendment and supporting documentation must be presented to the Faculty Senate Executive Committee and to the provost, simultaneously, for the purpose of initiating the amendment process.

The Executive Committee may refer the proposal to a committee, which shall report its recommendation to the Faculty Senate. Proposed amendments to this Handbook must be considered by both the Faculty Senate and the provost prior to action by the Board of Regents.

The preamble to the Faculty Handbook also makes explicit what Section 15 implies:

All changes or revisions to the Faculty Handbook must be approved by the Faculty Senate and the Board of Regents.

In sum, the Faculty Handbook contemplates that amendments shall be made only after due deliberation, careful drafting, and consensus-building. Adoption of the proposed draft administrative policy on “consensual relations” would effectively amend Section 16.9 of the Handbook, but would do so without complying with any of the essential elements of Section 15. In particular, the proposed policy falls short of the Section 15 requirements in each of the following respects:

- Not proposed by a department chair, dean, provost, or president.
- Not accompanied by the rationale for the change.
- Doesn’t point out all—or any--sections of this Handbook that would be altered or deleted if the amendment were to be adopted.
- Was not presented to Faculty Senate Executive Committee.
- Approval of Faculty Senate has not been sought.

To be sure, Section 16.1.1 of the Faculty Handbook acknowledges that “[t]he Policies that appear in this Handbook are those ordinarily published in a faculty handbook and are representative policies. They are not intended to be all-inclusive.” And Section 16.1.2 further provides that “[a]dditional policies will be adopted from time to time that also require faculty participation or compliance, such as policies set forth in the Student Handbook, including the grade appeal and sexual harassment policies.”

But the language of Sections 16.1.1-2 necessarily refers to policies that cover subjects that are not addressed by the Faculty Handbook (such as grade appeals). This language does not provide the administration with *carte blanche* to ignore the Faculty Handbook or to effectively amend it without complying with Section 15. To the contrary, Section A.1.8 of the Statement of Collegial Governance at NKU makes clear that:

All colleagues are bound equally by the results of the system and seek to implement those decisions. Of course, a colleague is free to seek to change policy within the collegial system. Leaders of the faculty (e.g., president, provost, senate president, deans, chairs.) have a particular responsibility to implement the decisions of the system.

The Provost thus has a particular responsibility to oppose the adoption of administrative policies that would undermine or contravene decisions that have been made within the collegial system and that have been codified in the Faculty Handbook. To fail in this particular responsibility is to undermine the system of collegial governance at NKU.

Adopting A Policy That Violates The Faculty Handbook Is Ineffective

In addition to being uncollegial, promulgation of administrative policies that contradict or contravene the Faculty Handbook is also likely to be impractical and ineffective. When such policies are adopted without amending the Handbook, the result is that the university's policies become self-contradictory, and thus fail in their essential purpose of facilitating compliance. For example, a faculty member considering pursuit of a consensual relationship with a student in a separate academic unit might consult the NKU Faculty Handbook to determine whether such pursuit is permissible. The Handbook, after all, purports "to define the rights and obligations of the Northern Kentucky University administration and faculty members" and to "constitute[] official University policy," and it contains a provision entitled "Consensual Relations."

In such a case, the faculty member would learn from Faculty Handbook Section 16.9.4 that a consensual relationship with a student in a separate academic unit "can have negative consequences" of which the faculty member "should be aware . . . and should enter relationships with caution." Based on this language, the Faculty member would reasonably conclude that such relationships are discouraged but not prohibited at NKU, and might proceed to pursue such a relationship despite the admonition. If the primary purpose of the proposed administrative regulation is to deter faculty members from seeking to form such relationships with students, then this purpose would be more effectively served by amending the Faculty Handbook than by quietly adopting an administrative regulation that is in conflict with the Faculty Handbook.

Enforcement of an administrative regulation that violates the Faculty Handbook also would be ineffective and problematic. To be sure, the NKU officials who promulgate and enforce administrative regulations likely will seek to enforce the policies they have promulgated, including against faculty members. But the deans, chairs, and faculty committees who are more directly involved in disciplining (or reviewing the performance of) faculty members all will remain duty-bound to apply the Faculty Handbook, which is intended to define the rights and obligations of the Northern Kentucky University administration and faculty members and which remains the most authoritative source of official faculty policies. Indeed, the Faculty Senate would admonish any faculty committee—including an RPT Committee or a peer disciplinary Committee—never to prioritize a university administrative policy above contradictory language in the NKU Faculty Handbook. Accordingly, adopting administrative regulations that are in conflict with the Faculty Handbook creates an unnecessary and undesirable incoherence about what NKU's policy actually is. This incoherence likely will lead to unpredictability of outcomes. Nothing good can come from the confusion.

Principles for a Revised Section 16.9

As noted above, the Faculty Senate understands that the acceptance of consensual relations currently codified in Faculty Handbook Section 16.9 may reflect more lenient standards of a prior era that no longer are appropriate today. We note that Section 15 of the NKU Faculty Handbook provides a procedure for amending the Faculty Handbook, which can be initiated by any faculty member, including a department chair, dean, provost, or president. We invite any interested administrator of faculty rank to initiate this procedure to propose an amendment to Section 16.9.

We recommend that—like current Section 16.9—the proposed amended provision should continue to apply only to faculty members, in our capacities as teachers and as supervisors. As we believe is currently the case, a separate policy should govern consensual relations among staff, or between staff and students. While the two separate policies might substantially overlap in substance, separate policies are needed to protect both the integrity of the Faculty Handbook as the authoritative repository of policies that define the rights and obligations of faculty members, and the role of the Faculty Senate in our system of collegial governance. “Hybrid” rulemaking of the type exemplified by this policy proposal is destructive of both ends. Its use has as increasingly caused unnecessary and counterproductive dissension between faculty and administration, even on subjects—including the present one—in which the substantive views of faculty and administration may not be very far apart. Abandoning the use of “hybrid” notice-and-comment policymaking in all instances where the subject matter at issue is addressed in the Faculty Handbook would improve the effectiveness of NKU’s maintenance of academic policies and procedures and would improve the health of relations between faculty and administration relationships and the quality of governance documents.

Bifurcating the current proposal into separate faculty and staff policies would also reduce (but not eliminate) the need to define who is covered by each policy. The current proposal uses the generic terms “faculty,” “student,” and “staff,” but does not define those terms. But at NKU, many students are on work-study, many staffers use their tuition waiver benefits to enroll in classes, and some staffers without faculty rank teach credit-bearing courses. The Faculty Handbook applies only to people (including adjunct professors) who have faculty rank. An amended Section 16.9—like the present provision—therefore would not need to define who counts as a faculty member to whom the policy applies. An amended staff policy, in contrast, would benefit greatly from explicit provisions explaining how the policy applies to work-study students or to staffers taking classes. Such a staff policy might usefully provide that a staff member who teaches a course is subject to Faculty Handbook Section 16.9 in her capacity as a teacher.

If current consensual relations policies are to be tightened, the Faculty Senate also recommends that the draft proposal’s definition of “extended family member” be further liberalized to encompass virtually all consensual relationships—including more casual ones than contemplated in the current draft proposal—that pre-date both parties’ arrival at NKU. Without this change, some NKU staffers and faculty members might be obliged to discourage people in their social circles from taking courses at NKU, for fear of running afoul of the policy. Conversely, treating pre-existing dating relationships the same as pre-existing marital or extended family relationships would not seem to be in conflict with any of the purposes or policies underlying the proposal.

CONCLUSION

For the reasons described herein, the Faculty Senate opposes the adoption of the proposed “consensual relations” policy in its current form. The Faculty Senate remains willing to work within the system of collegial governance to amend Section 16.9 of the NKU Faculty Handbook. If the proposed policy is adopted as an administrative regulation without Senate consent, however, the Senate will oppose future initiatives to amend Section 16.9 to bring it into conformity with the administrative policy.

Appendix A

Professional Concerns Committee Minutes for Jan 19, 2017 SU 109 3:15 pm

Members in Attendance: K. McErlane, K. Katkin, J. Farrar, S. Weiss, L. Wermeling, Y. Kim, A. Watkins, H. Ericksen, B. Buckley, M. Carrell, B. Mittal, S. Nordheim, M. Torres, A. Miller, K. Fuegen, J. Hammons, J. Gilbert, B. Zembrodt, B. Puente-Baldoceda

Members Not in Attendance: S. Alexander, K. Schwarz, K. Ankem, G. Newell, D. Dreese, K. Sander, S. Neely, T. Bonner, S. Finke

Guest: Provost Sue Ott Rowlands, Kathleen Roberts

4. New Business

- ☐ Discussion Item: **Consensual Relationships Policy** (Guest: Senior Advisor to the President for Inclusive Excellence & Title IX Coordinator Kathleen Roberts).

Kathleen Roberts presented a draft consensual relations policy and sought faculty input. As drafted, the consensual relations policy would be inserted into the current sexual misconduct policy (as section 7), rather than be promulgated as a separate policy. The draft would prohibit all romantic relationships between faculty members and students, except within marriage. It would also prohibit most romantic relationships between faculty members and staff members. Workplace relations between spouses and family members are governed by a separate nepotism policy.

Significant discussion ensued. Many PCC members expressed concern about the lack of clarity in the current draft about which relations between faculty and staff (or faculty and other faculty) are permissible, and which would be prohibited. The draft policy uses the phrase “power differential” but many PCC members thought this phrase was unclear, and some thought it was inappropriate. Some members thought the real problem involves power and control. Others thought it involved conflict of interest. PCC members debated whether consensual relationships were properly grouped with sexual misconduct, or, alternatively, whether a separate policy should be created. Several members proposed that Faculty and staff should have a way to report relationships reported with one another, so that workplace reporting arrangements can be revised to avoid conflicts of interest.

Because faculty and staff members can take courses at NKU, it was suggested that the draft policy’s definition of “students” needs to be clarified. Discussion also ensued as to whether graduate students should be categorized separately from undergraduate students under this policy. Several PCC Members suggested that if the policy goes into effect, it should make some provision for pre-existing relationships.

Kathleen Roberts said that she would redraft portions of the draft policy to reflect some of PCC’s discussion. She requested that PCC members with suggestions for inclusion should send written comments to her or to K. Katkin.

Appendix B

NKU Faculty Handbook Sections 16.9-16.10.

16.9. STATEMENT ON CONSENSUAL RELATIONSHIPS

16.9.1. GENERAL

Consensual relationships are relationships in which both parties appear to have agreed to the partnership. The consensual relationships that are of concern to Northern Kentucky University are the amorous, romantic, or sexual relationships between faculty and students and between supervisors and employees. Although consensual relationships, by definition, are desired by both parties, they can nevertheless have consequences that are decidedly undesirable, both to the parties involved and to the University as a whole. The following statement is offered for the protection of members of the University community and for the health and productivity of the University in general.

16.9.2. POTENTIAL HARMS FROM CONSENSUAL RELATIONSHIPS

It is a generally accepted ethical principle in our society that one avoids situations in which one makes official evaluations of relatives, family members, spouses, or other persons with whom one has an intimate relationship. Such a relationship, combined with a responsibility for evaluation is considered a “conflict of interest.” In this sense, the objectivity of a faculty member evaluating a student with whom he/she is involved would be considered suspect. Likewise, the fairness of a supervisor evaluating an employee with whom he/she is involved would be considered questionable. Evaluations made under such circumstances may threaten the credibility of a university’s educational mission as well as the reputation of its working environment.

Because of the inherent power differential between faculty/staff and students, and supervisors and employees, there is also a danger that consensual relationships may evolve into coercive ones. The line between consent and harassment is a fine one, and perceptions of this boundary may not necessarily be shared. Thus it is possible that a party involved in what was believed to be a consensual relationship may become involved in what turns out to be a case of sexual harassment. There have also been cases in which parties involved in consensual relationships have been charged with sex discrimination.

16.9.3. CONSENSUAL RELATIONSHIPS IN SITUATIONS INVOLVING DIRECT SUPERVISION.

Consensual relationships in situations involving direct supervision (e.g., between a faculty member and student in his/her class, or between a faculty member and student he/she is supervising in independent laboratory research, or between a supervisor who has the power to evaluate, promote, or grant raises and his/her employee) should be avoided. If such relationships arise, arrangement should be made to remove one of the parties from the supervisory situation or to have evaluations of the supervised party made in another way. For example, in the case of faculty and student, the student should be placed in another course or

be paired with another thesis or laboratory instructor. In cases where this is not possible, the department chair or the dean of the college should determine the best means for impartial evaluation of the student's work after consulting with the parties involved. Consideration should be given to having another faculty member evaluate the student's work. Faculty members should also remove themselves from other situations (awards committees, etc.) in which their decisions may reward or punish students with whom they are currently (or with whom they have been previously) involved. Likewise, in the case of a consensual relationship between a supervisor and an employee, the employee should be transferred to another work unit or, if that is not possible, the supervisor of both parties should determine the best means for impartial evaluation of the employee after consulting with the parties involved.

Consideration should be given to having an outside evaluation of the employee's work. In all situations of direct supervision, a consensual relationship should be reported to the faculty member's or supervisor's executive officer (e.g., department chair, unit director). Such notification may help insure that arrangements for unbiased evaluations are made and may help prevent later misunderstandings about the nature of the situation. Notification and any subsequent action taken should remain confidential insofar as the confidentiality is consistent with state and federal law.

16.9.4. CONSENSUAL RELATIONSHIPS NOT INVOLVING DIRECT SUPERVISION

Although less problematic, consensual relationships in situations not involving direct supervision (e.g., between faculty and students in separate academic units or supervisors and employees in separate work units), can have negative consequences. For instance, the campus reputation of both parties may be affected by the knowledge of the relationship or by speculation about it. Also, there is the possibility that one may suddenly be placed in a position of responsibility for or called upon to evaluate another. For instance, a student may change majors and join the faculty member's department or a faculty member or supervisor may be asked to serve on a campus-wide admission, awards, or grievance committee. Members of the University community should be aware of such potential problems and should enter relationships with caution.

16.10. NEPOTISM

Northern Kentucky University seeks to employ or promote the best-qualified person for a position. Therefore, decisions on selection, salary, promotion, and all matters pertaining to faculty employment will be made without regard to the relationship of an applicant or one employee of the University to another or the relationship of an applicant or employee to a member of the Board of Regents. No person shall be employed or promoted to a faculty position if the result would be that a head of an administrative unit and a member of his/her immediate family by blood or marriage would be members of the same administrative unit; in the University's best interest, however, exceptions may be made to this policy upon the recommendation of a majority of the members of the administrative unit, subject to approval by the provost and the consent of the president. Relatives by blood or marriage include parents and children, husbands and wives, brothers and sisters, brothers- and sisters-in-law, mothers- and fathers-in-law, sons- and daughters-in-law, uncles, aunts, nieces and nephews, and step relatives in the same relationships (see 16.9, Statement on Consensual Relationships).

MEMORANDUM

To: Faculty Senate

From: Executive Committee

Re: Proposed fixes to conflicts in the current final exam schedule

Date: February 21, 2018

The problem

Inspection of the full-semester Final Exam Schedule for fall 2017 and spring 2018 reveals a number of conflicts (that is, situations where it is theoretically possible for a student to be enrolled in two classes that have final exams scheduled during overlapping time periods). These are highlighted in the table below.

Fall 2017-Spring 2018 Final Exam Schedule – reformatted w/ conflicts highlighted

Time of Exam	Saturday (S)	Monday (M)	Tuesday (T)	Wednesday (W)	Thursday (R)	Friday (F)
8:00 – 10:00 am		Classes at 9:00 MWF	All sections ACC 200 & 201	Classes at 8:00 MWF	Classes at 8:00 TR	Classes at 7:00 MWF 7:00 TRF
10:10 am – 12:10 pm	Classes at 9:00 S	Classes at 11:00 MWF	Classes at 9:25 TR	Classes at 10:00 MWF	Classes at 10:50 TR	Classes at 12:00 MWF
1:00 – 3:00 pm	Classes at 12:15 S	Classes at 2:00 MWF 2:00 M	Classes at 12:15 TR	Classes at 1:00 MWF	Classes at 1:40 TR	Classes at 2:00 WF 2:00 F
3:10 – 5:10 pm		Classes at 4:00 MWF	Classes at 3:05 TR 3:20 T	Classes at 2:00 MW 2:00 W	Classes at 3:20 R	Classes at 3:00 MWF
4:30 – 6:30 pm		Classes at 4:30 M 4:40 MW	Classes at 4:30 T	Classes at 3:20 MW 3:20 WF 4:30 W	Classes at 4:30 R 4:45 TR	Classes at 4:40 WF 5:00 MWF
6:45 – 8:45 pm		Classes at 6:15 M 6:15 MW	Classes at 6:15 T 6:15 TR	Classes at 6:15 W 7:45 MW	Classes at 6:15 R 7:45 TR	Classes at 6:15 F

The conflicts in the fall 2017-spring 2018 Final Exam Schedule evidently came about with the creation of new standard class meeting times in July 14, 2016 (see accompanying document entitled “New Standard Class Meeting Times Guide-07142016.pdf”). In addition to the new times, some class meeting times were shifted, adding other conflicts.

Why should the faculty senate act?

This is a good opportunity for the senate to contribute meaningfully to improving university operations as authorized in section I.B.4 of the senate constitution: “[One purpose of the faculty senate is to] evaluate university policies, programs, and practices and recommend such improvements as seem warranted.”

Proposed changes to the final exam schedule

Guiding principles used when adjusting the exam schedule to remove conflicts were (1) making as few changes to the current schedule as possible, assuming that the previous version of the schedule was free of errors, (2) ensuring that each final exam is scheduled for one of the days that the regular class meets, and (3) matching the time of the exam to the time of the class as closely as possible.

The conflict that is most difficult to resolve is the one arising due to the creation of the MWF 5:00-5:50pm class. Fortunately, it appears as though there are no sections of this class in spring 2018, so that these changes can wait until the fall 2018 schedule. Furthermore, there appear to be no sections of the 4:40 WF class, which also simplifies the fix for the spring 2018 semester. As such, resolution of the final exam conflicts can be done in two stages, minimizing disruptions caused by mid-semester changes to the exam schedule of spring 2018.

Stage 1. Conflict resolution for spring of 2018.

The following table resolves conflicts that remain after removing the non-existent 4:40 WF and 5:00 MWF classes. There are two changes. (1) The 2:00 MW class was moved back to the M 1:00-3:00pm time slot, which was its location in the previous version of the final exam schedule. (2) The 4:30 T class was moved to the later exam time of 6:45-8:45 pm. It should be noted that the standard 4:30 T class runs until 7:15 pm so that students in that class cannot also be enrolled in classes that start at 6:15 pm; however, there are a number of non-standard sections that run between 4:30 pm and 6:00 pm, for which the change in the table below may create conflicts.

Time of Exam	Saturday (S)	Monday (M)	Tuesday (T)	Wednesday (W)	Thursday (R)	Friday (F)
8:00 – 10:00 am		Classes at 9:00 MWF	All sections ACC 200 & 201	Classes at 8:00 MWF	Classes at 8:00 TR	Classes at 7:00 MWF 7:00 TRF
10:10 am – 12:10 pm	Classes at 9:00 S	Classes at 11:00 MWF	Classes at 9:25 TR	Classes at 10:00 MWF	Classes at 10:50 TR	Classes at 12:00 MWF
1:00 – 3:00 pm	Classes at 12:15 S	Classes at 2:00 MWF <u>2:00 MW</u> 2:00 M	Classes at 12:15 TR	Classes at 1:00 MWF	Classes at 1:40 TR	Classes at 2:00 WF 2:00 F
3:10 – 5:10 pm		Classes at 4:00 MWF	Classes at 3:05 TR 3:20 T	Classes at 2:00 MW 2:00 W	Classes at 3:20 R	Classes at 3:00 MWF
4:30 – 6:30 pm		Classes at 4:30 M 4:40 MW	Classes at 4:30 T	Classes at 3:20 MW 3:20 WF 4:30 W	Classes at 4:30 R 4:45 TR	Classes at 4:40 WF 5:00 MWF (don't exist)
6:45 – 8:45 pm		Classes at 6:15 M 6:15 MW	Classes at <u>4:30 T</u> 6:15 T 6:15 TR	Classes at 6:15 W 7:45 MW	Classes at 6:15 R 7:45 TR	Classes at 6:15 F

Stage 2. Conflict resolution for fall of 2018 and later.

Two possibilities are presented. Option 1 results in classes that meet back-to-back at 2pm and 3pm on MWF having final exams that are back-to-back on Monday at 1pm and 3:10pm. Option 2 rearranges exam times so that such a back-to-back situation does not arise. Enrollments in classes should be examined by the Office of the Registrar to see which option leads to the fewest number of students who will have back-to-back final exams. Again, these options only eliminate conflicts among classes scheduled in standard time slots.

Option 1. New exam times in underlined bold.

Time of Exam	Saturday (S)	Monday (M)	Tuesday (T)	Wednesday (W)	Thursday (R)	Friday (F)
8:00 – 10:00 am		Classes at 9:00 MWF	All sections ACC 200 & 201	Classes at 8:00 MWF	Classes at 8:00 TR	Classes at 7:00 MWF 7:00 TRF
10:10 am – 12:10 pm	Classes at 9:00 S	Classes at 11:00 MWF	Classes at 9:25 TR	Classes at 10:00 MWF	Classes at 10:50 TR	Classes at 12:00 MWF
1:00 – 3:00 pm	Classes at 12:15 S	Classes at 2:00 MWF <u>2:00 MW</u> 2:00 M	Classes at 12:15 TR	Classes at 1:00 MWF	Classes at 1:40 TR	Classes at 2:00 WF 2:00 F
3:10 – 5:10 pm		Classes at <u>3:00 MWF</u>	Classes at 3:05 TR 3:20 T	Classes at 2:00 W <u>3:20 MW</u> <u>3:20 WF</u> <u>4:00 MWF</u>	Classes at 3:20 R	
4:30 – 6:30 pm				Classes at 4:30 W <u>4:40 MW</u>	Classes at 4:30 R 4:45 TR	Classes at 4:40 WF 5:00 MWF
6:45 – 8:45 pm		Classes at <u>4:30 M</u> 6:15 M 6:15 MW	Classes at <u>4:30 T</u> 6:15 T 6:15 TR	Classes at 6:15 W 7:45 MW	Classes at 6:15 R 7:45 TR	Classes at 6:15 F

Option 2: Alternative that avoids back-to-back 2pm MWF and 3pm MWF exams on Monday

Time of Exam	Saturday (S)	Monday (M)	Tuesday (T)	Wednesday (W)	Thursday (R)	Friday (F)
8:00 – 10:00 am		Classes at 9:00 MWF	All sections ACC 200 & 201	Classes at 8:00 MWF	Classes at 8:00 TR	Classes at 7:00 MWF 7:00 TRF
10:10 am – 12:10 pm	Classes at 9:00 S	Classes at 11:00 MWF	Classes at 9:25 TR	Classes at 10:00 MWF	Classes at 10:50 TR	Classes at 12:00 MWF
1:00 – 3:00 pm	Classes at 12:15 S	Classes at <u>1:00 MWF</u>	Classes at 12:15 TR	Classes at <u>2:00 MWF</u> <u>2:00 MW</u> <u>2:00 W</u>	Classes at 1:40 TR	Classes at 2:00 WF 2:00 F
3:10 – 5:10 pm		Classes at <u>2:00 M</u> <u>3:00 MWF</u>	Classes at 3:05 TR 3:20 T	Classes at <u>3:20 MW</u> <u>3:20 WF</u> <u>4:00 MWF</u>	Classes at 3:20 R	
4:30 – 6:30 pm				Classes at 4:30 W <u>4:40 MW</u>	Classes at 4:30 R 4:45 TR	Classes at 4:40 WF 5:00 MWF
6:45 – 8:45 pm		Classes at <u>4:30 M</u> 6:15 M 6:15 MW	Classes at <u>4:30 T</u> 6:15 T 6:15 TR	Classes at 6:15 W 7:45 MW	Classes at 6:15 R 7:45 TR	Classes at 6:15 F

Recommendation

The executive committee recommends that the senate review the proposed changes and, if found satisfactory, vote affirmative to a resolution to recommend that the proposed changes be sent to the Provost to pass along to the Office of the University Registrar.