

Professional Concerns Committee Minutes for Oct 20, 2016

**SU 109
3:15 pm**

Members in Attendance: K. McErlane, S. Alexander, K. Schwarz, K. Ankem, K. Katkin, J. Farrar, S. Weiss, G. Newell (substitute: Cynthia Thomas), L. Wermeling, D. Drees, , H. Ericksen, B. Buckley, M. Carrell, S. Nordheim, M. Torres, A. Miller, K. Fuegen, S. Neely, J. Hammons, J. Gilbert , T. Bonner, B. Zembrodt

Members Not in Attendance: Y. Kim, A. Watkins, K. Sander, S. Finke, B. Puente-Baldoeda.

Guests: Provost Sue Ott Rowlands, President Geoffrey Mearns, Faculty Senate President Michael Baranowski

- 1. Call to Order.** The meeting was called to order at 3:15.
- 2. Adoption of Agenda.** Agenda was adopted
- 3. Approval of Minutes from PCC Meeting of Oct 6, 2016.** The minutes were adopted.
- 4. Chair's Report and Announcements**

Policy Flow: In both the NKU Faculty Senate Constitution and the Statement on Government of Colleges and Universities (Appendix C of the NKU Faculty Handbook), the NKU Board of Regents recognizes the formal role of Faculty Senate in NKU's system of collegial governance. However, NKU's current administrative "policy on policies" nonetheless excludes Faculty Senate from any formal role in the university's policymaking process. The present exclusion of Faculty Senate from the university's policymaking process has caused clashes between faculty and administrators. In Spring 2016, one such clash (over the "academic freedom" provisions of the NKU Values and Ethical Responsibilities Statement) twice was aired before the Board of Regents. Accordingly, on April 27, 2016, on the motion of Regent Virginia Fox, the Board of Regents directed the administration to work with the Faculty Senate to develop a revised "Policy Creation, Revision, and Communication Policy" to recognize the role of Faculty Senate in the university's policymaking process. On Oct 20, 2016, Faculty Senate President M. Baranowski & PCC Chair K. Katkin met with the Provost to review a draft revision of the policy flow process that would respond to the Regents' directive by providing a place for Faculty Senate in the policy flow for the university's promulgation of academic and hybrid academic/administrative policies. K. Katkin reported that this draft revision looked like a positive step in the right direction. He said he hoped to soon bring it before the PCC.

Staff Roundtable: Several times a year, Staff Congress Members meet with administrators for a Q&A Session in which administrators answer questions that have been submitted in advance by Staff Congress Members. The questions and written answers are posted on Staff Congress's Web Site. K. Katkin attended the most recent Staff Congress roundtable on Oct 11, 2016. Questions related to a variety of topics including faculty, parking. This year's questions and written answers will be published presently on the Staff Congress website.

Consensual Relations Policy: NKU Director of Inclusive Excellence Kathleen Roberts has nearly completed work on a draft Consensual Relations policy which will be presented to PCC at a near-future meeting, most likely on November 17.

Further Faculty Handbook Revisions: Going forward, the Provost has also asked PCC to review the NKU Faculty Handbook provisions that govern: (1) tolling of tenure clock; (2) substantive standard for promotion in non-mandatory year; and (3) whether RPT review should be biennial rather than annual.

Data Management Committee: Dr. Samantha Langley-Turnbaugh is seeking a representative from Faculty Senate to serve on an administrative subcommittee on data management. This is a subcommittee of the data governance committee that is being convened in order to develop a research data management plan for the university (required by NSF & NIH). The subcommittee will focus on policies and practices for maintaining the privacy and security of data being used for academic research.

Gag Order:

Guest: *President Mearns (invited).*

President Mearns shared his perspective on the motion that was filed by university counsel in a pending lawsuit filed by an NKU student. The president acknowledged the Senate's right to comment on the motion, either through a formal resolution or through candid conversations. The president stated that there were two reasons why university counsel filed the motion: first, to protect the federal privacy rights of other students; and, second, to preserve the integrity of the judicial process. The president stated that he respects the role of the faculty in upholding the values and guiding principles of the university. After speaking for several minutes, the president answered questions from some of the members of the committee.

K. Katkin noted that in denying the university's request, Judge Bertelsman found that a gag order was not needed to protect the privacy rights of other students or to preserve the integrity of the judicial process. Another PCC Member noted that although the faculty does not know the facts of this case, it is difficult to think of any set of facts that could possibly justify suppression of a campus rape victim's right to talk about the institution's response. K. Katkin said that the university could properly have sought to shield certain documents (including transcripts of depositions) from public disclosure, and/or to redact student names from those documents, without seeking a general gag order.

5. New Business

- Discussion Item: **Intellectual Property Policy**

Vice Provost for Graduate Education, Research and Outreach Dr. Samantha Langley-Turnbaugh had a scheduling conflict and was forced to postpone her presentation of this item until the next PCC meeting, on Nov 3, 2016. Accordingly, today's Agenda item on Intellectual Property Policy will thus be postponed until the Nov 3 meeting.

- **Discussion Item: Reviewing Centers & Institutes**

Provost Ott Rowland reported that the administration has initiated a notice-and-comment policy proceeding to adopt policies to establish, review and discontinue centers and institutes. She presented the proposed draft policy to PCC, and asked whether PCC would like to ask questions or provide input. Several PCC Members raised suggestions or concerns. K. Katkin requested that PCC Members put their questions, concerns, and suggestions about this policy into writing. He said that he would put this item on the agenda as a voting item at the Nov 3 meeting, and that in order to facilitate discussion at that meeting, he would like to collect and distribute all such comments received from PCC members with the Agenda for that meeting.

M. Carrell offered two suggested edits to the centers & institutes document: (1) On page 2, under “definitions,” (third line), change the word “most” to “normally”; and (2) on Page 2, sixth line, insert the word “only” between “may” and “offer.”

- **Information Item: Non-Attendance Reporting Policy**

Provost Ott Rowland answered questions about the non-attendance reporting policy. She said that faculty could also be notified if students were dropped for nonpayment.

6. Old Business

- **Voting Item: Tenure During Phased Retirement – Faculty Handbook Amendments.**

Without dissent, the PCC recommended amending Section 11.8 of the NKU Faculty Handbook (“Tuition Waiver”) to now provide as follows:

11.8. TUITION WAIVER

Each full-time regular faculty member may take up to six (6) credit hours of NKU course work per semester/entire summer session without being required to pay tuition. Each full-time regular faculty will be provided with a tuition waiver benefit of six (6) semester hours of NKU course work each semester for the faculty member’s spouse and each dependent. “Full-time regular faculty” is defined as tenured full-time faculty, tenure track full-time probationary faculty, and non-tenure track renewable full-time faculty.

Analogous tuition waiver benefits shall be made available to temporary non-tenure track full-time faculty members and to part-time faculty members, and may be made available to spouses and dependents of such faculty members. Specific details of tuition waiver benefit programs may vary from time to time. The current NKU Tuition Waiver Benefit policy shall be maintained by the Department of Human Resources and shall be published on the Human Resources website (<https://hr.nku.edu/benefits/waiver.html>).

This amendment leaves the first paragraph of current Section 11.8 unchanged. This paragraph describes the tuition-waiver benefits available to full-time regular faculty members and their spouses and dependents. The amendments to the second paragraph provide that tuition waiver benefits will also be available to temporary non-tenure track full-time faculty members and to part-time faculty members, and may be made available to spouses and dependents of such faculty members. These amendments authorize the administration to determine the details of benefits for such faculty members and their spouses and dependents, and to change those details from time to time without further need to amend the Faculty Handbook. **The proposed amendment will be recommended to Faculty Senate.**

- Voting Item: **NKU Seeks Gag Order** (3 attachments with hyperlinks).

Earlier in today's meeting, President Mearns addressed PCC about this item. (President Mearns left the meeting after addressing the PCC, and was no longer present when PCC took up this discussion of the item). Separately, President Mearns also provided K. Katkin with some factual corrections and some requests for wording changes to the draft resolution that had been distributed to PCC on Oct 6. Every change requested by President Mearns was incorporated into the revised version of the draft resolution that was distributed with the Agenda for today's (Oct 20) PCC meeting.

The Provost asked whether she should leave the meeting. K. Katkin said that she was welcome to stay. K. Katkin opined that the meeting is a public meeting, and that a primary purpose of PCC and Faculty Senate is to enable the faculty to be heard by the administration. The Provost accepted K. Katkin's invitation that she stay in the meeting, but said that she would not speak during the discussion of this item.

On Oct 18, U.S. District Judge William Bertelsman denied the university's request for a gag order against an NKU student. Judge Bertelsman found that a gag order was not needed to protect the privacy rights of NKU students or to preserve the integrity of the judicial process.

Discussion ensued about how the PCC should proceed. In light of the President's statements and/or Judge Bertelsman's ruling, should PCC continue to pursue this item? If so, should Senate and PCC action be delayed until the conclusion of the pending litigation so as not to influence the outcome of the case?

Discussion turned to what the faculty would hope to accomplish by passing this resolution. The following goals were suggested by various PCC Members: (1) to express the sense of the faculty that the university committed a serious wrong by seeking to prevent a student from speaking publicly about the university's response to her campus sexual assault; (2) to fulfill our responsibility to promote and interpret the values set forth in the NKU Values & Ethical Responsibilities Statement and other campus policy documents promulgated through shared governance processes; (3) to fulfill the special role of the faculty in protecting and promoting freedom of speech (and academic freedom) on campus, which includes an obligation to speak out against censorship; (4) to defend students' rights; (5) to avoid communicating through silence that the faculty condones the University's efforts to censor a student; (6) to reduce the chances that the university will seek gag orders against students or faculty members in the future.

Discussion turned to reasons not to issue a resolution. The following reasons were suggested by PCC Members: (1) a resolution would cause unnecessary conflict with the university administration; (2) the faculty is not in a position to second-guess the university's litigation strategy; (3) because the court has already ruled against the university's request for a gag order, a faculty resolution would be superfluous; (4) a resolution might harm the university, either monetarily or reputationally.

K. Katkin said that it seemed to him there are two issues: (1) whether the PCC should recommend a resolution?; and (2) what should the resolution say, if one is recommended? A PCC Member raised a parliamentary objection to severing these two questions from one another. In response to this objection, parliamentarian S. Weiss said that since this item had already been adopted on the Agenda as a voting item, it would be improper to take another vote simply on whether to continue working on it. Rather, the voting item on the Agenda itself should be discussed and then voted.

In light of S. Weiss's resolution of the parliamentary question, at 5:30pm K. Katkin requested that the vote be postponed until the next meeting. K. Katkin noted that while PCC had engaged in significant discussion on whether or not PCC should recommend that Senate adopt a resolution, there had not yet been any discussion of the content of the resolution. J. Farrar moved to postpone the vote to allow adequate time for discussion of the content of the resolution. The motion was seconded. The motion to postpone the vote until the Nov 3 meeting carried by a 9-7 vote. The item will be returned to the Nov 3 Agenda as a voting item, with discussion of the content of the resolution to precede discussion about whether to adopt the resolution.

The meeting was adjourned at 5:35pm.

Respectfully submitted,
Belle Zembrodt