

**Professional Concerns Committee
Minutes for Oct 6, 2016**

SU 109
3:15 pm

Members in Attendance: K. Schwarz, K. Ankem, K. Katkin, J. Farrar, S. Weiss, G. Newell, L. Wermeling, D. Dreese, A. Watkins, H. Ericksen, B. Buckley, K. McErlain, A. Miller, K. Fuegen, S. Neely, B. Zembrodt, S. Finke, B. Puente-Baldoceca.

Members Not in Attendance: K. McErlane, S. Alexander, Y. Kim, M. Carrell, K. Sander, M. Torres, J. Hammons, J. Gilbert, T. Bonner.

Guests: Provost Sue Ott Rowlands, University Counsel Joan Gates

- 1. Call to Order.** The meeting was called to order at 3:15 p.m.
- 2. Adoption of Agenda.** The agenda was adopted
- 3. Approval of Minutes from PCC Meeting of Sept 15, 2016.** The minutes were approved.

4. Chair's Report and Announcements

K. Katkin reported that Vice Provost for Graduate Education, Research and Outreach Dr. Samantha Langley-Turnbaugh has completed a draft Intellectual Property policy which will be presented to PCC at the Oct 20 meeting. In addition, 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 in November. 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.

K. Katkin also reported that 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).

At the previous PCC Meeting on Sept 15, 2016, a number of questions were raised about the processes and procedures for reporting student non-attendance during the first week of classes, particularly for online classes. At that meeting, the Provost asked PCC Members to put their questions in writing, so that a compilation of questions and answers could be distributed to PCC Members and other interested parties. A number of questions were subsequently submitted. The Provost has now provided written answers to those questions. The questions and answers will be distributed to PCC with the Agenda for our next meeting on Oct 20. The Provost said that the AAPC will presently review non-attendance reporting policies to respond to faculty concerns.

Questions arose concerning how much money will be returned to NKU as a result of the Kentucky Supreme Court's decision that the Governor's impoundment of two percent of our 2015-16 budget was illegal. At the September meeting of the Faculty Senate, President Mearns announced that this decision should cause slightly less than one million dollars to be returned to NKU on a one-time basis. It is not clear when this money will be returned. The University will use the money to replenish "rainy day" reserve funds that were raided to fund the university's operations when the governor impounded the money.

The Northerner reported that the university paid about \$10,000 to the digital printing company Olympus Group to redesign the University's mascot, "Victor E. Viking." The University of Louisville student newspaper reported that the U of Louisville Faculty Senate passed a resolution urging Governor Matt Bevin to appoint the necessary racial minorities to the U of Louisville Board of Trustees. *The Richmond Register* reported that Eastern Kentucky University's Faculty Senate voted overwhelmingly to reject a new health insurance plan that would raise premiums for ECU faculty and staff members between 200 to 400 percent.

The Open Enrollment period for health insurance and other benefits at NKU will open soon. Information sessions are being held on campus this month.

The Provost announced that a proposed policy on how Centers and Institutes should be established, reviewed, and discontinued has just been released for review. The Provost invited the PCC to submit comments in this proceeding.

Several other administrative policy proposals also are currently under review. One such policy concerns dependents and companions of faculty members who accompany the faculty member on education abroad programs. K. Katkin inquired whether PCC should weigh in on the proposed policy. No PCC Member spoke in favor of doing so. PCC will not take up the matter.

Another policy currently under review before AAPC concerns Gen Ed certification for transfer students. This is an admissions policy. S. Weiss noted that the Gen Ed Committee of the Faculty Senate (which he chairs) recommended the policy to AAPC. The proposed policy will allow transfer students to "waive out" of having to take a second English course required of other NKU students. S. Weiss said that goal of this proposal is to develop pathways for more students to come to NKU and to remain here until graduation. The Provost commented that students are taking too many credit hours to degree. A student with an associate's degree from Community College would be disadvantaged by a requirement to take more Gen Ed courses here. The problem is that if students have completed gen ed requirements at another institution, they face difficulty completing major courses here due to pre requisites, time. NKU is working on developing articulation agreements with community colleges.

5. New Business

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

The NKU Faculty Handbook currently provides that faculty members undergoing phased retirement must give up tenure at beginning of retirement. The Handbook also states that only tenured faculty members may serve on promotion and tenure committees. Accordingly, faculty members undergoing phased retirement do not ordinarily perform committee work or serve on promotion and tenure committees. However, in some small departments it is difficult to constitute an appropriate RPT committee without including faculty members in phased retirement.

The Provost initially suggested that the Handbook be modified to provide that faculty members undergoing phased retirement agree to give up tenure at the end of the phase, but retain tenure status and rank during the phase. Some faculty members, however, expressed a preference not to serve on RPT Committees during the period of phased retirement. In response, the Provost then suggested that faculty members be allowed individually to choose whether to relinquish tenure at the beginning of the phase and thereby eschew committee service, or to retain tenure throughout the phase and thereby be eligible to be assigned to serve on RPT Committees. The Committee thought this was a good suggestion. K. Katkin said he would redraft the proposal to reflect it. A question then arose whether faculty members' rights to withdraw savings from TIAA-CREF retirement accounts during the phase would be affected by the retention of rank and tenure. Both the Provost and K. Katkin said that they thought this would not be a problem, but promised to check with Human Resources and then report back. The item will be redrafted and brought back. **S. Neely made a motion to table the vote, seconded by K. Schwarz. All were in favor. Vote postponed to next meeting.**

- Voting Item: **Tuition Waiver Benefit – Faculty Handbook Amendments.**

By unanimous vote, 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**

At its previous two meetings, the PCC discussed the possibility of recommending that Faculty Senate should adopt a resolution stating the faculty's disagreement with the University's decision to seek a judicial gag order against a student sexual assault victim. At the present Oct 6 meeting, University Counsel Joan Gates addressed the PCC to discuss this matter. Ms. Gates stated that because the university has been sued by the student at issue and is in the middle of active litigation, Ms. Gates was constrained in her ability to talk about the details of the underlying case. However, Ms. Gates wanted the PCC to understand the considerations that led the University to seek a gag order against a student.

First, the University wanted all the parties involved in this matter—including the University itself—to stop talking about the merits and allegations of the case~~is ease~~ to the press until the case is tried. Ms. Gates said that the student's attorney has been engaged in an active campaign to present one side of case to the media.

Second, Ms. Gates noted that other students' privacy rights are at issue. The University cannot discuss the plaintiff's ~~mis~~allegations, as the University needs to protect students' privacy rights. The Order requested by the University would apply equally to both parties. The plaintiff's attorney has manipulated the court by not following its rules and processes. But the University's side has not been able to be heard.

In sum, Ms. Gates stated that seeking a gag order was necessary to balance First Amendment rights, non-party student privacy rights, and due process. Because of other things that led ———up to this moment, Ms. Gates believes a gag order is necessary.

A PCC Member asked whether the university has over-reacted. Ms. Gates replied that the -University believes the plaintiff's counsel is trying to use media pressure to raise the settlement value of the case. NKU is trying to ———defend our ———students' privacy and protect the integrity of the judicial process.

Another PCC Member commented that seeking to gag a student from talking about the university's response to a campus sexual assault does not seem to be in alignment with the University's stated ethical values, nor representative of the views of faculty members who want students to be able to speak openly about their experience at NKU. Ms. Gates replied that the University wants a fair trial and does not want the case to be tried in the media where the rules of evidence do not apply ~~media to be the court~~.

A PCC Member asked whether the University could seek a gag order against the plaintiff's lawyer but not the student? This PCC Member noted that secrecy enables sexual assault to thrive. What message is being sent to other students about using the university's processes to address campus sexual assault? A gag order is inconsistent with our values. For the student, the request for a gag order is like a second assault.

K. Katkin then read some emails he received from NKU faculty members in support of a Senate resolution. Further discussion ensued. One PCC Member asked why the University should not be allowed to use tools that are legally available in order to win a case? Another PCC Member replied that "legal is not moral," noting that just because the University might have a right to do something, did not mean that it was right for the University to do it. K. Katkin noted that the draft resolution contained no legal analysis and offered no opinions about law.

K. Katkin then reported that President Mearns told K. Katkin that a Senate resolution now would harm the university's legal position in the student's still-pending Title IX action against the University. Accordingly, President Mearns requested an opportunity to address PCC before any vote is taken. For this reason, K. Katkin asked PCC to postpone the scheduled vote to allow President Mearns the opportunity to address PCC at our Oct 20 meeting. Discussion ensued. One PCC Member opined that waiting until after the court case is decided before issuing a Faculty Senate resolution would defeat the purpose of the resolution. The Provost noted that the faculty and the administration are privy to two different sets of facts, and queried how the faculty can judge the administration's actions without knowing all the facts. A PCC Member replied by asking what possible facts could make it acceptable for the university to seek a gag order against a student? Another PCC Member asked: what about transparency? What about being accountable to the public?

J. Farrar made a motion to postpone the vote until our next meeting. It was seconded by B. Buckley. The motion carried. The vote will be postponed until the Oct 20 PCC Meeting, and President Mearns will be invited to address PCC at that meeting.

- Discussion Item: **Summer Schedule Realignment** (3 attachments). Intersession, eight week, five week, break, another five week. Between two five weeks there is a 10 week. Avoids overlapping sessions. Everyone seems pleased. K. Katkin thanked the Provost for responding quickly and beneficially to concerns that were raised by Faculty Senate on this matter.

The meeting was adjourned at 4:45