

Professional Concerns Committee

Minutes for February 17, 2022

Virtual Meeting (on Zoom Conferencing Software), 3:30 pm

Members in Attendance: T. Cata, W. Darnell, K. Fuegen, R. Gall, B. Green, P. Hare, J. Herman, J. Kaiser, K. Katkin, K. Munte, M. Nakamura, M. Providenti, M. Whitson

Guests in Attendance: K. Ankem, J. Bloch, M. Cecil, G. Hiles, P. McCartney

Members Not in Attendance: S. Alexander, L. Dynan, N. Grant, B. Karrick, A. Miller, G. Newell, H. Riffe, G. Sun, J. Washburn-Moses, M. Washington

1. Call to Order, Adoption of the Agenda

- a) The meeting was called to order at 3:30pm. The agenda was adopted unanimously without changes.

2. Approval of the minutes from the January 20, 2021 meeting

- a) Draft minutes from the January 20 meeting were approved without dissent.

3. Chair's Report and Announcements

- a) Senate Report: Senate met at the end of January.
 - i. The President indicated that the Governor has proposed fully funding CPE's request for performance funding and \$500 million for asset preservation. The House has proposed \$700 million for asset preservation and a lesser amount for performance funding. NKU would use asset preservation funds to renovate the Natural Science Center.
 - ii. The Provost thanked the faculty for our teaching efforts during the first three weeks of the semester as classes transitioned to online or hybrid.
 - iii. Early enrollment numbers are good. Fall to spring retention is 89.7%. Headcount up 187 students over last spring. Accelerated online enrollment drove that increase. There has been an increase in applications and commitments from international students (up from about 40 to 110 on campus). Most of these international students are in their first year.
 - iv. The Provost is concerned about students being dropped for non-payment. Efforts are underway to help these students so that they can remain enrolled.
 - v. Staff Congress passed a resolution urging the administration to raise staff salaries. The survey findings include many of the same issues raised by faculty over the years: salary compression and a lack of a significant raise since 2009. Many staff have left NKU in the past several months.

- vi. Our Faculty Senate president provided a report. A task force will be formed to examine 300-level courses in Gen Ed, graduation requirements at benchmark institutions, and the number of students who transfer in. Richard Fox and Kimberly Weir will chair this task force. He is seeking volunteers from Education and Health and Human Services.
- vii. Administrator evaluations are forthcoming.
- viii. If you want to serve on the committee for the Faculty Senate award, contact John.
- ix. The Faculty Senate Award is given to a senior student who has demonstrated exceptional skills and productivity in an independent study project. An independent study project is defined as a faculty-supervised research or scholarly work that has as its goal the publication, presentation and/or exhibition of the results. The project should be conducted outside of a formal classroom and last at least one semester, preferably longer. The Faculty Senate sponsors this award.
- x. During the most recent PCC meeting in January, Chair Fuegen mentioned some bills in the KY legislature that are concerning to higher education personnel. These bills addressed gender or sexual diversity training or counseling, teaching about race, sex, and religion, immigration status, and mandatory vaccinations. Those House bills (14, 18, 231, and 57) are stalled in Committees. It seems that there is little appetite to take them up this session.
- xi. Nonetheless, KY HB 51 was passed in the House Education Committee on Tuesday. It will go to the House for vote and then the Senate. It would:
 - 1. Amend KRS 199.896 to provide that the license or certification of a child-care center shall not be refused or revoked for refusing to require facial coverings;
 - 2. amend KRS 199.898 to provide that parents and guardians of children enrolled in licensed, certified, or publicly funded child care facilities have a right to refuse facial coverings on behalf of their children without any retribution;
 - 3. create a new section of KRS Chapter 158 to prohibit requiring facial coverings on any public school premises, on school-sponsored transportation, or at a school-sponsored event;
 - 4. create a new section of KRS Chapter 164 to prohibit requiring facial coverings on property owned, leased, or operated by public postsecondary education institutions;
 - 5. provide exceptions for healthcare licensing board requirements imposed prior to January 1, 2020, and clinical research settings.
- xii. A proposed amendment would “retain all original provisions except remove the prohibition of masking policies at public postsecondary education institutions.” (Proposed by a representative from Louisville).
- xiii. Faculty Advocate Phil McCartney presented a statement regarding the Values and Ethical Responsibilities Statement:

1. I believe our current Values & Ethical Responsibilities Policy should be enhanced to reinforce the University's commitment to ethical behavior by all members of the university community, and to offer a means of addressing allegations of violations of the policy that protects all individuals. That is especially important when there is a disparity in power between the individuals.

If the university does not provide mechanisms within the university that its community members trust as a means of addressing ethical violations, the impact will be to encourage individuals to seek justice by going to media outlets and attorneys.

- xiv. Senate voted to approve a new Master's degree in Educational Leadership. The degree will lead to KY school principal certification. All courses are in existence and currently being taught.

b) The Faculty Senate Executive Committee: met on Monday.

- i. KY SB 138 pertains to the teaching of race, sex, and religion in K-12 schools.
- ii. KY HB 487 would restrict teacher preparation programs from addressing these issues.

Both bills are in committee.

- iii. Members of the EC shared views regarding the possible removal of the mask mandate in the future. There was no consensus.
- iv. Executive Committee members talked a lot about faculty disengagement. There has been a lot of attention directed toward improving student, faculty, and staff well-being. Chair Fuegen asked whether anyone is tracking the impact of these initiatives. EC discussed whether there is any effort to ascertain how widespread disengagement is at NKU.
- v. Executive Committee members talked a lot about how to evaluate teaching effectiveness. TEEC is ascertaining whether companies that provide SEI software provide a mechanism for removing comments that are discriminatory. Some do, some don't. There was widespread agreement among members of the EC that we must move beyond relying on SEIs as the primary measure of teaching effectiveness. We need to supplement SEIs with other measures, e.g., self-evaluations and peer assessment.

4. New Business: Discussion of what a university closure means

- a) Does cancelling in-person classes and events preclude holding activities online?
Can faculty expect anything of our students on days when the university is closed?

BACKGROUND: There was uncertainty about cancelling the last meeting – the

university closed due to weather but the committee meets remotely. However, some members might experience electrical or internet outages due to the weather. Other faculty on campus expressed confusion about what exactly closure means. Does closure include online? What can be expected of students? Does anything continue as scheduled?

The Provost commented that there is a closure policy. If we are closed, we are closed. The policy could be looked at to determine if we could have a more adaptive approach taking our remote capabilities into account.

DISCUSSION:

-- Some faculty have a class cancellation policy in their syllabi. Students could be assigned a video to watch asynchronously (since cancelled class days are not rescheduled). The same course material needs to be covered even if classes are cancelled.

-- Would be useful if there were a university wide policy that said there could be a policy set for a class by an instructor?

-- Law school doesn't cancel but switches to asynchronous learning for those who can be present. The University policy could be revised to support this.

-- Provost – Chase's policy is different than the university policy.

-- Question: Do we want a policy that enables some things to go forward or should a snow day just be a snow day?

-- Course expectations allow for due dates to shift or pause. People often have addition concerns during closures (e.g. child care). Flexibility and understanding will be important.

-- There is support for the idea that a snow day is snow day. Keep it simple. "Pivoting" for closures adds additional stress on faculty.

-- The Provost: a group, including faculty representation, will discuss this issue to see what flexibility could be provided.

-- Concerning one day per week classes – snow days have a big impact. Instructors need a way to retain that time.

-- Suggestion that the closure policy allows asynchronous options to keep a class on schedule.

-- Snow days are good for the soul. A revised policy should give faculty the discretion to deal with the closure.

ACTION:

PCC looks forward to being involved in creating draft revisions of the closure policy.

5. Old Business: Discussion of proposed policies: copyrights, inventions and patents
 - a) How does these draft revisions compare to the current intellectual property policy (Handbook, Appendix F)?

BACKGROUND ON COPYRIGHT:

The main concern about the copyright policy is the creator of a "traditional work" (e.g. books, articles, sculptures, poems, etc.) is required to grant the university a perpetual royalty free license. This has caused concern. Concerns have been

expressed to Senate and IP Policy Committee, and will be posted to the policy website. PCC has expressed that the draft revision of the copyright policy is better than the original. Still not clear if the creator would get recognition if it is a work for hire.

DISCUSSION:

- The concept of work for hire is that the university would be the author, not the creator.
- Traditional works of scholarship or teaching materials (including syllabi, assignments, assessments, etc.) should not have an automatic non-exclusive license (the draft policy would provide this license).

BACKGROUND ON PATENTS AND INVENTIONS:

Some faculty make discoveries that are patentable or could be commercialized. If the conversation about intellectual property doesn't happen at the outset of a project, the university, faculty, and students might lose the opportunity to reap benefits. According to the draft policy students have the right to their inventions unless enrolled in a "research intensive" course.

DISCUSSION:

- A problem that needs to be addressed in the policy language is when students are assisting in faculty work. If a student is making a small contribution, that shouldn't hold up the whole patent. In the case of student-driven research, the student should hold the rights.
- There is an effort to build research experience into courses – what if something patentable comes out of it? Examples ranged from biology (cancer research), chemistry, and technology events at the university (application building).
- Consensus: We need to think more broadly about how students are engaged in research projects and university events. We need a more nuanced way to express what rights they would retain.
- The proposed changes would reduce faculty share of revenue generated. Why? The old policy doesn't take any money from a faculty member under a certain threshold, the new policy takes a cut immediately.
- While the revenue split is typical for R1 institutions, it is not justified at NKU. Other institutions would use this revenue to staff offices that support faculty making inventions or patents.
- Under the current policy, the faculty keeps 100% if the revenue is less than \$5000.
- Under the old policy, faculty only get 25% when revenue is over \$100,000.
- Provost: this should be addressed. NKU doesn't have a large support structure for this, most revenue would be at the lower amounts, NKU doesn't need to take 40% of \$5000.
- It would incentivize patenting if the university took less.
- There is a responsibility for innovators – complete IP disclose form within 30 days after the work is completed, innovators must report "promptly" to the office of graduate education research, and outreach. The expectation is that these

disclosures must be made before dissemination, like at a conference. The office of graduate education will determine what to do with the discovery. Is this OK?

- The faculty member can file the form if they think there is something they can commercialize. Presumably the cut to the university is to provide assistance in commercialization. Filing the form should be in the faculty member's self-interest.
- In the past there have been instances where the university has told faculty not to present a discovery – this created considerable concern.
- There are some changes to the appeals process.

ACTION: K. Fuegen will draft a summary of concerns raised in PCC and submit them as a comment on the policy website. PCC members are encouraged to bring additional concerns to the chair.

6. New Business: Discussion of proposed revision to values and ethical responsibilities policy

- a) The draft revision includes three new sections: reporting suspected ethical or compliance violations (VIII), whistleblower protection (IX), and investigating reported alleged illegal or dishonest activity (X).
- b) Does the policy convey the University's commitment to ethical behavior by *all* members of the university community? Are whistleblowers afforded sufficient protection? Could interactions interpreted as non-collegial represent a violation of this policy?

BACKGROUND:

The Faculty Advocate expressed the following concerns:

- The new policy undermines the use of the policy that has been in place, creates a new category for whistleblowers (community member who reports illegal or dishonest activity).
- How do you define "dishonest" activity? There are concerns reported to the Faculty Advocate that are not illegal, maybe not dishonest, but certainly troubling.
- The changes are limiting the usefulness of the policy and faculty should be concerned. Often times the problem involves a power imbalance, someone of high authority, and department Chairs have suggested to leave such problems with powerful people alone.
- Retaliation seems to have occurred when issues have been brought up. The policy needs to be enhanced or left in place without changes. We don't want to see faculty bringing issues forward being told they are not "whistleblowers" under the policy and hence the protections do not apply.
- Troubling issues: "you must contact HR immediately if you are being retaliated against." What is immediately? Is a week too long?
- This policy needs more time to be considered. Many issues that have come to the faculty advocate that have been surprising. We need an effective way to deal with this internally and not leave faculty with the only options in seeking an attorney or speaking to the media.

-- The Faculty Advocate urges faculty to look at this policy in great detail.

DISCUSSION:

-- Alleged “illegal” or “dishonest” activity is not addressed in the current policy – it only appears in the new parts. It is not appropriate to have a policy that regulates “honesty.” The policy should address investigating ethical and compliance violations.

-- The Faculty Advocate suggested a positive change – we should include a statement about the expectation that a faculty member’s work will be evaluated impartially and conscientiously. The evaluation of their performance should address the true merit of the work. This language aligns with the policy that says university community members are expected to show respect for students as individuals and make every effort to foster honest academic conduct and ensure the evaluation of student work reflects that work’s true merit. However, the proposed changes undermine the usefulness of the policy.

-- Question: What problem is there that this language is trying to solve? What defect in the current policy is this trying to remedy?

-- The whistleblower section could provide protections for those reporting “ethical or compliance” rather than “illegal” or “dishonest” violations.

-- Research misconduct could fall under this policy.

-- Improvements could be made:

(a) Language about evaluating others could be rephrased with language from the Handbook. The Handbook language on evaluating people going up for RPT is better. We are told to exercise our “best professional judgment.”

(b) There is no way to determine if someone is accepting their fair share in the governance of the university.

(c) Teaching and conducting research ethically is in other policies and the Handbook. See IRB, etc. The new parts of this policy are redundant.

(d) How is collegiality operationalized? Does it need to be enforced with a policy? What happens to a faculty member who makes an unpopular decision and then is seen as uncollegial?

-- It is generally uncollegial to accuse someone else of being uncollegial. If someone has violated a more specific policy, then they can be accused of uncollegiality. But, on its own, without a more specific claim, the person making the claim is probably the one being uncollegial. There should be a blanket rule that on its own, an accusation of uncollegiality is not a valid claim.

ACTION:

J. Bloch will extend the comment period for this policy. PCC will continue this discussion in March.

7. Adjournment

a) The meeting adjourned at 5:00pm.

Submitted,
M. Providenti, Secretary