

**UNIVERSITY OF ROCHESTER FACULTY SENATE
MINUTES OF THE MEETING OF
APRIL 10, 2018**

Members present:

Members absent:

Ex officio Members present:

I. WELCOME FROM THE SENATE CHAIR

Curry: Some of you may know that earlier in the year, Kevin gave me the world's smallest gavel, made out of an AA battery and a piece of plastic – cable tie. More recently, he went to eBay and we now have an official Senate gavel.

Okay, welcome to the meeting; I'm going to talk for as long as my voice allows me. Here's our very long agenda for today. We think we can get through it – it all depends on how much discussion there is for some of these items. I will start with the chair's report.

We have the results from the Senate and UCTP elections. There were 2 openings on the UCTP and these were school specific – Susan McDaniel from SMD and our own Kevin McFarland from AS&E have been elected to the UCTP. Congratulations! And we had a very robust Senate election this year – it was very exciting – and these are the senators who have been elected for the upcoming 3-year term which would start around June 1, July 1.

I think we've got a great group of people – bringing in some new people, bringing back some experienced people; it's very encouraging for us who have really been trying to generate more interest and participation in faculty government. This to me is extremely gratifying. Yes?

Unidentified speaker: I just want to say that I think the reason we had so many people engage in Faculty Senate is because now it does something.

Curry: Yeah, I think it's a very good showing. Thanks to everybody who ran and congratulations to everybody who's been elected.

We did mention that this university search committee for the next president was about to be convened and the trustees were starting to work on this. As you know, we solicited nominations and we received 33 nominees from across the university and the Senate ranked them. The SEC then made a list of 10 faculty members from that list of 33 and then Kevin and I had one long meeting and a couple of follow-up conversations with the president and the provost, not only about the Senate nominees for that committee, but all of the faculty on that committee.

The ones that we nominated we had checked to see if they would be willing to serve; the ones that the administration was coming with, they hadn't yet had the opportunity to check with everyone so there was still some work to be done. But in the end, we are going to have a committee list sent to the trustees of 12 rank and file faculty and 4 deans. This is designed to have distribution across the university.

To some extent, there's a little bit of tenure, non-tenure, junior and senior, but mostly tenure-track senior faculty, and 7 of the 12 came from our process. We're very happy that the process was really collaborative.

They are in the process now of confirming who's going to be the faculty member to serve as the chair, and then membership of the whole committee including student and staff representatives as well as the chair should be announced by the end of the week. This was very fast, but extremely important and we're very happy that senators were willing to rank the nominations so quickly and help generate nominations.

Forgive me if I don't know if we've talked about these things before because things have been swirling around like crazy, but President Feldman has taken a real initiative to help address some of the concerns we've brought about how all of the different proposals and initiatives and suggestions brought about by this year's events will be taken up by the university – things that the Senate has been working on, things that the commissions have proposed, things that the students have proposed, things came out of the White report, and other suggestions.

What he's decided to do is take the presidential diversity council and its implementation committee and re-name it the University Diversity and Equity Committee. We worked pretty hard to make sure that 'equity' was in there because we don't want this to be sort of just in a diversity 'ghetto' – pardon the expression – where things are only seen as diversity issues and not broader issues of equity, which I think we understand a lot of issues of governance to be.

Until a separate Chief Diversity Officer position is established, Rich is going to work in this capacity himself. He's also created an executive committee of this UDEC and Kevin is serving as a representative from the Senate Executive Committee on that and I think the committee has already had a couple of meetings. In fact, the announcement that came out yesterday about how we're doing in relation to the 90-day deadline that Mary Jo White set in her report, some of that work has been articulated by the UDEC.

There isn't officially on a website yet, but this is the charge that Rich circulated as this was being formulated. This is the charge: to collaborate, share best practices, identify priorities, goals and requirements and report on progress, review recommendations and ideas coming from various committees, and that ultimately a new Chief Diversity Officer would continue these efforts. And the executive committee functions, I think there's something like 35 people on this

committee, so to have a smaller group that can move things forward more quickly.

A lot of what we're going to be working on today has to do with revisions to the faculty handbook, proposed revisions to the faculty handbook that we've been discussing, thinking about, or working on all year. Last time we mentioned the need to change a lot of the language – well, sporadic language across the faculty handbook and the charter to make the language gender inclusive.

This is not something we felt really needed to have a formal vote, but we wanted to make sure the Senate officially ratified this, and likewise it won't be brought to the trustees as a request for a formal approval, but it will be something we let them know is going to happen. It's somewhat administrative but it's also a highly principled administrative change.

As you know, we've worked to get agreement from the president, provost and the Board of Trustees to have faculty members as representatives to many of the various committees of the Board of Trustees. What we've proposed is that faculty members have more than just the term in which they're serving – more than a one-year term – and the faculty members will either be coming from the Senate or senate committees. We propose to make revisions to the charter so those representatives can be kept on as ex-officio members of the committee or the SEC, whichever committee they came from.

Basically they would be ex-officio in those bodies, which would enable them to have an articulated relationship with the group from which they came. Making charter revisions has to happen – we have to bring this forward again, which we'll do on May 8th. Again, fairly administrative but it is a change that needs to be made within the charter.

We will also look at, for the second time, the revisions to the faculty grievance policy that have been proposed, having another discussion of the proposed revisions to the intimate relationships policy, both of these we need to vote on in order for these to be brought by the president and the provost to the Board of Trustees.

Later this year, what's left of it, and probably into next year, we will be discussing faculty governance aspects of the handbook including creating standards for unit faculty councils, which are either non-existent or uneven across units. That's probably a much larger conversation. We are not pushing to get that through this year.

Okay, we have two remaining meetings scheduled after today. Next week will be another week where we will be aiming to vote on anything we want to get to the Board of Trustees. By May 8th, it's almost too late, if I'm being candid, with the exception of the charter.

We're going to have a check-in with Rich Feldman on how things are going and we are going to have a report from Provost Clark on a salary study of faculty. Kevin and I had a

meeting with him today and he's actually drilling down on the data quite deeply. I think he's committed to bringing a robust report and also the follow-up that will entail.

Are there any questions or comments about anything that I've gone through?

Our next report is LaRon's on the faculty club committee. Ready?

II. UPDATES ON THE FACULTY CLUB – LARON (NELSON)

(Nelson): Okay, so I chair the faculty club subcommittee for the SEC. It includes Judy Smetana, (Udo Fain), Joe Eberly, Phil Lederer, and Ignacio Franco. We've been meeting with the administration since September of last year to talk about the issue which was really moving the Faculty Club from the former space in the Frederick Douglass Building to where it is now, particularly moving it without any faculty input and significantly downsizing it – a 60 percent reduction in space.

Much of our initial conversation has been about, from the administration's perspective, how to make it a nicer dining room, a better dining experience, and what we tried to convey to them is that we're not focused on a better dining experience but reclaiming what was lost which was a space for an intellectual community to be able to come and gather.

Right now, you've got to get your plate, eat, and then leave because other people are waiting to sit down to eat. We went from having a social place for faculty to gather to having a very small dining room. I think it's only been in the last two meetings with Rob Clark that was acknowledged.

They finally acknowledged that was our goal and the administration was willing to work to figure out how to restore that which was taken away in a way that I think most of the committee members felt was a complete disregard – no input from faculty. Even the proposal that was circulated by email, it was not our committee's proposal; it was the administrations' proposal without us even seeing what they were going to do.

So the progress has been slow and step by step – Judy can attest to that. The latest conversation we had was that the acknowledgement – to restore what we had cannot be accomplished in the current space, so a lot of our conversation has been about annexing some of the student space that's on the other side of that wall to get more space to curate things like a sitting area or a reading room or a coat room or even access to bathrooms. Right now, there are no bathrooms near the faculty club space – you have to go one floor up.

The current conversation is that it's a 3 to 5 year plan before they can give us what they've taken back to us in terms of the former faculty club space. There was a discussion that it might mean new construction; facilities leadership could not identify a space on campus that facilities controlled versus

some school or department controlled that they could repurpose for the faculty club space.

It could involve trying to negotiate space from some other department to turn into a faculty club, which could have its own challenges, or find a way to construct more space which would take time and a significant capital contribution. They were talking about in excess of \$1 million to be able to construct the faculty club space that we used to have in the Frederick Douglass Building.

And there has been concern about – I won't say 'shady' but unclear – about the use of the space in the Frederick Douglass Building so all the space is assigned to someone. There's concern among the committee that not all the space is fully utilized and there could be potentially a trade of spaces so somebody who's not using that much space can take the current faculty club space and the faculty club can be put someplace else.

That's been met with resistance but we have a couple more meetings to try and figure out what we can do about it. It's very clear nothing will happen this year in terms of getting close to reclaiming the space; what they have agreed to are some small, interim changes like – even the small changes we have now were met with resistance.

Initially we said this waiter or waitress service where they come and take your order is very slow; people who are coming to lunch between classes, they don't want to have to sit down and wait for somebody to cook food. They said 'We can't change that at all'. That took us 2 meetings and a direct conversation with Joel when he was here, to say this has to stop.

That wasn't an easy change to make – we had to convince them this was the wrong service model, so they went with the buffet service model, which they said was impossible to do. All along they've been saying 'This is impossible to do'. The second thing we asked for was a salad bar when we asked for the buffet service. They said that was impossible to do, there wasn't enough space, there has to be a certain amount of square footage around the salad bar to be able to service it, and so on. Now they're saying it's possible to include a salad bar, but we won't get that until the fall.

So small steps.... Rob's presence on the committee, Rich hasn't been involved because he's been occupied with other things, but Rob seems to be much more supportive about restoring the old faculty club, even acknowledging he's not been to the faculty space that we call the Faculty Club right now because it's just – he doesn't want to walk into a room full of people; he wants to sit down and have a conversation with people here himself or be there for a while with colleagues.

So we'll get a salad bar. They will take down- there's a wall that separates the front dining space from the back dining space so that wall will be removed so there's better flow through it – that's partly because the salad bar will be against

the back wall or side wall that's in the second dining space, so that will narrow walking through that particular door, so they'll widen it so people can flow through it.

Then there's a separate conference room we've noticed, that's in the very back and we don't have access to through the faculty club. The plan is to cut a hole and install doors so the additional conference room space that is currently cut off can be reserved if you want to have private meetings, or if it's not reserved, it can be open to more people.

This is important because in part of this, the concern was that nobody used the faculty club – it's too expensive, the service is too slow, and it's too sterile. Now because of some of those modest changes, there are too many people and it can't accommodate the folks that want to be in there.

It's become clear they need a different solution and one that allows the faculty club to function in the way it was initially utilized when it was in what is now the Burgett Intercultural Center.

The other thing too, that I see is () dining has been something we've been pushing for. Right now, the Faculty Club operates on an undergraduate student schedule, so when the undergraduate students are in, the Faculty Club closes, even though faculty are here year-round, graduate students are here year-round – that's not been something they've embraced, but that's something we've continued to push, saying 'You need to find a different solution. You can't expect us to go eat in The Pit for 3 months when the undergraduates aren't here. There should be a way to support the Faculty Club year-round.' You have a question?

Unidentified speaker: This is from an online participant; could you just describe where the Faculty Club is now?

Nelson: It is on the first floor of the Frederick Douglass Building; it used to be where Barnes & Noble bookstore once was. When you come into the Frederick Douglass Building off the plaza, it's the first door to your left. It doubles as a late-night café for students, so it's not exclusively a faculty club space. That's part of the issue why they didn't want to move it – because it serves a separate purpose in the evening time. Yes?

Unidentified speaker: So they said there isn't any available space anywhere, so the fraternities, which I have a problem that we still have fraternities here, considering some of the things that went on – who owns those spaces? Who owns those buildings? Wouldn't it be nice to have a river view? That would seem like an optimal place where you would have the bottom part a faculty club and the top part for visiting professors.

We've talked about this; when people come, you have to move them off-site and all around and it's really tragic. If there was a place where they could stay. I say let's get rid of the fraternities.

Nelson: Part of the challenge has been the people we've talked to at university facilities think within their footprint – they're thinking about what they control. We brought initially the fraternity quad or other spaces and the answer is 'We don't control that space. If you want to have Hawkins Room, you have to talk to library people. We don't have anything to do with that.'

So right now, we're trying to do those things as you said and think outside of the box and look at these other places; that would be a different political challenge, to figure out how to explore whether or not it's possible and then figure out how we can secure it. It's about having them not just think about what's in their control, but having them think about a space on campus that could possibly be used for the Faculty Club space. I made a note to ask about the fraternities again.

Unidentified speaker: Thank you.

Nelson: You're welcome.

[applause]

McFarland: One of the many glamorous jobs of the Faculty Senate. Thank you for taking that on. Let's move on to handbook revisions; I will say we are barely hanging onto a quorum so if any senators try to leave, expect to be tackled on the way out.

III. NON-SUBSTANTIVE REVISIONS TO THE FACULTY HANDBOOK – KEVIN MCFARLAND

McFarland: The first thing I'd like to start with is a discussion of gender-inclusive language. This is proposed by the senate members of the commission in a report to the senate on March 6. The basic issue is that the faculty handbook is filled with language which is not as gender inclusive as it could be. It makes many references to she or he or her or his, and we prefer gender-neutral pronouns like they, their or them.

This is not a substantive change to the handbook; it does not change any regulations – it simply is a change of language and as such, we are allowed under the terms of the handbook to make non-substantive changes, meaning corrections in language like this, correct spelling mistakes, correct grammatical mistakes and so on.

However, we thought this one was comprehensive enough that we wanted to be on record as a senate as ratifying a change, although the senate executive committee could just do it. So on behalf of the executive committee, I would like to ask that the senate ratify this change, and I would like to ask that we do so without dissent. Are there any objections?

No objections noted, so the senate has ratified this change. I'm sure all the others will go as quick.

[laughter]

IV. REVISION TO THE SENATE CHARTER – KEVIN MCFARLAND

McFarland: All right, item 4, charter revision for continued service of faculty representatives to Board of Trustees committees. We've discussed this at previous – at the last Senate meeting, I believe.

As a reminder of what the issue is, the Board of Trustees, through negotiations with the president and Senate Executive Committee, have received a proposal that there be faculty representatives to Board of Trustees committees – not all of them, but the ones where it makes sense to have faculty representatives.

These representatives are primarily elected from senate committees; in one case, they come from members of the senate- that's the health policy committee. The membership – we've largely selected members from the senate committees; I believe the budget committee and the benefits committee still have to select one individual each. At that point, we will have a whole slate of members and those are coming up in the next weeks. Then the process is the SEC ratifies them, and we let the Trustees know and make sure it meets with their approval.

In this plan, we want some continuity because often these committees meet twice a year so it seems a little silly to have people serve annually because they won't have any memory of what the issues are. We've proposed three-year terms and the current representatives would serve until May 2020 and then we would have new representatives selected to overlap with old representatives at the May 2020 Board meetings.

However, that creates a problem with the senate structure, which is that members who are selected for a committee may have their terms expire and then they would lose contact with that committee, which is clearly not desirable, so we want to have representatives in that situation continue to serve ex-officio, without votes – which is by the way the tradition in the senate charter at the moment; most individuals who serve ex-officio are without vote – so they would serve on the committees that made them members of the committees of the Board of Trustees, if that was all clear.

So for example, the Academic Affairs committee chooses one representative to the board of Trustees academic affairs committee – that happens to be April () who's been nominated, and let's imagine that her term ends in spring of 2019. I don't know when it ends, but then she would continue to serve one more year ex-officio on the Academic Affairs committee without a vote to keep contact until the next person is elected. Okay?

As we were going through the charter, we noticed two other things: we do not have gender inclusive places in the charter and we would like to adopt that, and there is one usage error that I could not leave there when I saw it. Right now we're using the British English 'insure' instead of 'ensure' in one place, and in complete disclosure, it turns out the New York

Times Style Guide prefers ‘insure’; however, almost every other reference I can find likes ‘ensure’.

How does the charter get revised? Here’s the relevant language from the charter. Basically what it says is that the same senate has to pass a motion to revise the charter twice. In between the two votes, we have to send it to the units, the different faculties of the university for comments.

This is a fairly clunky procedure; I think it’s clunky because if there is a really substantial change, you want checks and balances against the senate deciding to vote itself in for life, for example – or vote itself to change membership every meeting. Clearly you want this system of balances. We don’t view this as a terribly controversial change, but nevertheless, we have to follow the same somewhat clunky procedure in order to do this.

Here are the changes we’re proposing specifically, and they’re on the handout that you’ve received. The first one is in the composition of the senate section and it simply notes that a faculty representative to the Board of Trustees will continue to serve as members of the senate ex-officio without vote. Then in the organization of the senate, it talks about committees and has parallel language, and finally in the executive committee, it has again parallel language where in each case, it’s saying that the person who is serving as a representative to a Board of Trustees committee will continue to serve ex-officio.

This will have the biggest impact on the Senate Executive Committee, where this could add as many as – no, it’s more – it could add as many as 4 ex-officio members without votes. To remind you, there are 8 elected members with votes and 6 unit members without votes, so it’s – plus up to 2 previous chairs. It’s not a small body as it is and this makes it slightly bigger.

Okay, so this is a committee motion from the Senate Executive Committee to adopt this, so it doesn’t need a second. If there are any comments or discussion about this? Would anyone like to call the question?

We have a second to call the question; any objection to moving to a vote? I see no objections. Does anybody need a secret ballot? Nobody has requested a secret ballot. All senators in favor of adopting these charter revisions, please raise your hands. Tell me when you’ve got it, Ann. Yes?

Any opposed? Any abstaining? Okay, it’s unanimous and we only need the number for the vote. You’ll see this again on May 8th.

V. PROPOSED CHANGE TO GRIEVANCE POLICY IN FACULTY HANDBOOK – KEVIN MCFARLAND

McFarland: This is the second discussion and it’s eligible for a vote. Here is the document you’ve see before; there have been no revisions since the previous discussion on – do I have

that right? There have been no revisions since March 20th. The summary of the proposed revisions has been presented before; basically it expands grievances concerning tenure decisions, which is currently in the handbook, to decisions concerning re-appointment and promotion of any faculty member eligible to vote in Senate elections. That is a much broader category than was originally specified.

It broadens the grounds of appeal of tenure from procedural irregularities to include violations of academic freedom. The committee has made reference to the definition of ‘academic freedom’ from the AAUP; this is the definition of academic freedom that the AAUP has – I won’t run through it because we’ve seen it before, although I’m happy to discuss it and answer questions.

In addition, the committee notes it did not touch the part of the grievance policy related to Policy 106 violations; this is work that’s ongoing in a separate sphere. There’s a Policy 106 committee; the commission has been discussing also revisions to Policy 106, so that part is unchanged.

There’s also a section related to general grievances. Think of those as workplace issues. For example, salary, space and other resources, so the existing procedure is there, but in the revision there’s an additional procedure if the decision is a violation of academic freedom. The complainants would now be able to request an investigation of the same sort- basically a peer hearing that then reports to the provost.

Finally, an important addition, the outcome of the process, if this is followed, will be communicated back to the complainants and any respondents and also to the UTCP in the form of a report.

All right, Michael.

Scott: Michael Scott. Policy 106 is the HR policy on – how’s it phrased? Harassment and discrimination.

McFarland: Yes. Okay, this is our second discussion; it’s eligible for a vote. There have some discussions in the various faculty meetings that we’ve had but nothing that seemed to demand a change to the policy. It’s the motion of a senate committee so it doesn’t need a second to come before you to approved, so therefore it’s open for discussion or comment. Or for someone to move to call the question.

Second? Many seconds. May I ask for a unanimous consent to call the question at this point? Nobody objects. Does anybody request a secret ballot? Please, no. Okay, I see no request for a secret ballot.

All senators in favor of the motion to revise the faculty handbook grievance procedure, please raise your hands. Tell me when you’re ready. Okay, all opposed? Any abstentions? No opposed, no abstentions. We just need to get a count – we still have a quorum so the motion passes unanimously. Thank you.

We need to thank the committee for their work; this was a very hard one, it's actually been going for 2 years. The committee this year did a lot of work, including many meetings with members of the administration- particularly the deans – to try and address their concerns about the policy. Thank you very much. Thank you in particular to Tom and Karen.

VI. PROPOSED CHANGE TO INTIMATE RELATIONSHIPS POLICY IN FACULTY HANDBOOK – KEVIN MCFARLAND

McFarland: Okay, our last item, a little early – I'm pausing to check the time because of the chair of the committee says he'll be here in 1-2 minutes. I'll do the explanation.

So the last item is a change to the intimate relationships policy; this is our third discussion of this matter. We previously brought it before the senate on February 27th and then on March 20th. Each time it's come before the senate, we've had revisions in response to the discussions.

In addition, after the discussion in the senate on March 20, there was a proposal that we should have faculty forums, where faculty could come and ask questions of the members of the committee that developed the policy, and offer suggestions.

There were further revisions as a result of the discussions that took place in those forums, although not all suggestions were adopted, as one might imagine. So this is a proposal that represents the motion of the senate committee. I have a summary which I think is worth going through, of all the changes since the March 20th discussion, and many of these are in response to things that came up in either the forums or the last time it was presented.

So in the exceptions paragraph, several senators took exception to the characterization of the exceptions as 'rare' so that word was removed.

There was a lot of discussion about how this applied to the medical center where people in the same department can, in fact, be working in vastly different facilities and never have any contact with each other and therefore, how can they be presumed to have academic authority just because they were in the same department?

Well, maybe I should read it in its entirety; the sentence now reads 'Generally it is assumed that faculty exercise academic authority over all students in their department or program. However, there are circumstances and academic structures within the university where the assumption of academic authority may not be fitting – for example, in cases of some secondary faculty appointments or informal affiliations or in the distributed departments and programs in the School of Medicine and Dentistry. In such cases, it is left to the department chair and cognizant dean to define appropriate

domains of academic authority. However, if there is uncertainty on the part of the student or faculty member, academic authority should be assumed or clarification about the existence of academic authority should be sought from/determined by department chair and cognizant dean.'

So that's the language that may be a little elaborate, but it reflects the concerns that were brought forward at the forums and in the senate.

In the definition of 'intimate relationships', we added the word 'non-familial' to the characterization of sexual dating and/or romantic relationship. Familial relationships fall into a different category.

The preamble was generalized to include discussion of faculty-faculty relationships in which there may be a power imbalance in academic authority.

The exercise of academic authority section contains a list – the new version includes tenure and promotions; these are two things that point to another revision in the second policy. This one was generalized to any member of the university community from the previous version, which was just students. The reason that was done was that it was pointed out that the current policy actually has exactly this language. This is meant to preserve language in the existing policy and not accidentally weaken the current policy, which is not the intent of the committee.

So what it now says in 3.c.2 is that faculty are now prohibited from entering into intimate relationships with any member of the university community over whom they exercise academic authority as defined above. That's very, very similar to the sentence that exists now in paragraph 3 of the current policy.

And then, finally, policy 3 had a similar generalization added which I'm not reproducing here. Everybody, if they would like, should have a copy from the handouts over there.

Any questions about the changes? I will do my best to answer them, although I'm not a member of the committee. Yes, Jack?

Werren: Jack Werren, Biology. The non-familial phrase that was added is possibly a little bit problematic. For instance, there will be partnerships that will be not familial, particularly if we're not talking about various relationships which people have long-standing partners or newly developed partners; that doesn't come under non-familial unless that's clarified to identify that.

McFarland: Any on the committee who would like to comment on that? Sorry to put you on the spot.

Unidentified speaker: I'd welcome suggestions, I guess. I know we struggled with how to most clearly define what this means without –

McFarland: And just to point out, I think that should probably refer to 3.d, that does have discussion of immediate family members. The idea is to take that category out from this part and move it into 3.d – that’s the intent. Am I stating that correctly?

Unidentified speaker: Right. I think that’s correct. A variety of people asked us to divine when is it’s a relationship, what constitutes a relationship and – we struggled with that. I don’t know what people expect us to put there. We’re hoping that people will be reasonable about this; that’s a piece of it. This was, I think, intended to distinguish from the second section, so –

Unidentified speaker: I don’t have this in front of me, but I want to know what’s the situation when you have two people that are married in the same department where one person’s the chair and the other person is a faculty member. How does that play out? Does the power position get null and void because ()? Would it be seen as favoritism or whatever – that kind of thing?

Unidentified speaker: This would cover that now – that is the intent. Is that what you’re asking?

Unidentified speaker: Yeah, because there are departments and there are schools that have married couples in the same department.

Unidentified speaker: Well, it means they have a management plan, right?

Unidentified speaker: Yes.

McFarland: It seems would be the best possible amendment for the situation. It’s really depending on what the specific reporting relationship is, so -

Unidentified speaker: I will add that the committee, as recently as this weekend, were discussing this and family relationships were intended to be part of this section. It was not clear to me that they were intended of this – Kevin brought this out, as evidenced that the previous version did not cover that. My conversations with several members of the administration and HR were that the faculty were not typically part of this possibly – that it would most normally be under the nepotism policy and it belonged there.

That said, in some conversations yesterday, we recognized that with everything we’re trying to do, there are complexities here that – what we mean by – in the nepotism policy it’s currently focused on employment issues and supervisory employment issues, so voting on tenure may be an employment issue but there are other things that may happen that isn’t an employment decision but is another thing that may come up, so there may be ways that it was interpreted that that part of it fell here, while the supervisory piece stood in the other place.

I will say that we aren’t sure that we are yet sure. It belongs somewhere, and we do recognize there are and welcome dual-career relationships; that is expected and it’s part of why the ‘rare’ goes away, especially when we’re talking about faculty and we are hoping people are going to spend their careers here, relationships may develop, but then they need to be managed. People need to be aware of them – the cognizant deans need to be aware of them, perhaps the department chair, perhaps another authority, to make sure there is a management plan and they aren’t voting on tenure if there is tenure.

Unidentified speaker: So you’re feeling it should be just housed in one area so that it’s clean and people don’t have to go searching about to figure it out?

McFarland: The nepotism policy doesn’t really acknowledge the concept of academic authority, right? It talks about a different set of issues. It’s an HR policy, so at the time we were working on the revision that you’re seeing here – which is not very old – that was one of the discussions that came up. It was a point of significant conversation with the Office of Counsel. In the end, we maybe agreed to lightly disagree about this and put it in the policy here. I think the Office of Counsel may have preferred not to have it here; the committee wanted to have it here because – well, that was the decision at the time.

The committee wanted it there in order to govern these relationships, and it is in our current policy.

Unidentified speaker: We didn’t want to go down some bad roads again with somebody claiming one thing over the other; we thought it if was in one area, really clean and well defined.

Nelson: The second to the last paragraph, there’s only – it looks like a loophole because it says if there’s uncertainty on the part of the student or the faculty member, academic authority should be assumed and clarification for this should be sought. I don’t know why you would say ‘seek clarification from the dean’ when the decision is left up to the dean and the department chair.

If you say ‘I’m sure you don’t have authority over me, so we don’t have to do anything’, it should really say ‘At all times you should consult with your supervisor or dean’ – that one part throws it off for me.

McFarland: I think the text, the intent is to say that you should presume authority or you should talk to somebody who can clearly say to you there’s no academic authority. That’s really what it’s trying to say. Clearly, they’re trying to satisfy a lot of situations.

Curry: MJ Curry. That’s actually connected to my observation which is I think it’s important to recognize that a lot of the value of this kind of language and explicitness is to bring to the attention of people who may be assuming what they’re doing is fine, is not fine, so – this is the problem with reasonable people assuming other people will behave reasonably. Sometimes things have to be spelled out and I

think in this context, I would err on the side of spelling some things out a bit more and there's a provision in all of these places for a management plan. Nobody is prohibited from having relationships, except with undergraduates. Has it changed?

Scott: Two things. I was trying to remember a moment ago was number 3 there was about – the addition of the word 'non-familial' and that is just to segregate out section 3.d, so family relationships are covered in the policy. In case anybody missed that.

With respect to the question about whether it should be exclusively faculty-student relationships or more broadly addressing relationships with members of (audio garbled), I lean fairly strongly towards what's on the screen now for 3 reasons. One is that it is consistent with the current wording and I like keeping that, rather than abandoning it. Two, it is in practice extremely hard to draw a sharp line between employee-employer relationships and employee-student relationships. Sometimes it's clear, but we have a lot of people at this university who are, in some sense, students or trainees but who are also drawing a paycheck, and trying to figure out which of those go in one pot and which go in another pot. It's extremely difficult and I think kind of a hopeless task.

And third, the HR policy is quite narrowly about legal issues; it's trying to make sure the university is consistent with the letter and intent of the law and with what is expected of other organizations like this. The faculty handbook is about professional principles; it's about the standards we expect of the professorate and it's okay with me if both of those documents happen to touch on a similar subject as long as there is no conflict between them, and to the best of our knowledge, there is no conflict between them.

McFarland: Thank you, Michael. Jack?

Unidentified speaker: Two related issues. Back to the non-familial, as we said it creates a problem for partnerships which may not fall under the category of 'familial'. Although it was apparently put in there for the clause 3.d., in fact, without that sense, we're in a sense prohibiting sex between husband and wife in the wording of (audio issue) if they have authority over each other.

McFarland: I don't think that's correct. (audio issue). I think you're –

Unidentified speaker: I'm just doing a straight reading of what is actually here. To complete the thought, 3.c.3, I would suggest rather than saying 'exacting academic authority', I would simply say 'having academic authority'. If it's already pre-existing, then 'having' is a clarification of that. But 3.c.3 basically deals with the issue – a relationship cannot develop; a person is prohibited from having academic authority over any member of the university community with whom they currently share an intimate relationship. That goes to the heart of it. And that avoids a lot of these other issues about what

constitutes a family member versus a partner, and things along those lines.

I would just point out the document would probably be a lot cleaner that way.

Unidentified speaker: We did experiment with a half a dozen different ways of parsing this and all the ones we came up with this, other than this, had problems.

McFarland: Yes?

Unidentified speaker: I'm a little worried about the generally (serious) nature of the wording as a whole. I fear it will drive a lot of relationships underground; it's all a matter of balance, I agree. If you go too far one direction, then people who are having casual relationships will simply hide them because it's prohibited or there's this elaborate procedure.

You know, faculty are prohibited from entering into intimate relationships with anyone they exercise academic authority over, and now we've got it back in tenure and promotion. So if you're – if you have the idea of dating a faculty member in your department and you're of a higher rank, that – it looks like you're doing something bad. In fact, all you're trying to say is that needs to be disclosed. The problem is not – you actually miss the disclosure if you don't allow for the possibility...

I mean, some of us will be here for 40 years. Most marriages end in divorce or its 50-50 now and this is the larger employer in the region, so it's a bet that faculty members will get together. That has to be envisaged to say –

[crosstalk]

It's like it's prohibited, and then there's an exception for those people who just couldn't follow the rules, is the way it sounds. I think we actually have to think practically that – there are a number of cases where people actually married colleagues, and we're also operating with the model of lifelong monogamy so people are – what is a committed partner? Right? That's down under 3.d, so once you make a commitment you move out of the category of the first part of 3.c and into the category of 3.d.

Well, standing by the banks of the Genesee and performing vows... I don't know.

McFarland: If I could make a comment, because this very issue came up in one of the forums and one of the discussions was trying to normalize the procedure and avoid exceptions. I think the idea that this should be handled as a routine thing was well received, and I think that's been welcomed by the administration. It's to simply say that you should have an explicit conversation if you're going to do this, and what steps you're going to take to manage it. It's not to stigmatize.

Unidentified speaker: And your example of how we all do a conflict of interest disclosure every year, routinely – just tick the box and normalize it. Not make it – anyway....

[crosstalk]

Lerner: Amy Lerner, BME. I guess I would follow what Tom was saying and ask, in your response that it's fine; we just want to manage it. Do you feel the same way for students? Or are you saying that because it's faculty? For me, it was challenging, as you know, because the conversation is different when it's a student. We do use similar language in undergrad and for graduate students; it's prohibited in both places.

We could consider changing the language. Would you still feel the same way that you do if it was an undergraduate student? As long as you tell us, it's okay. Do we really feel the same way? Should this be the same policy for both? I don't know and I think when the committee did our initial deliberations we were really focused on faculty-student; we recognized that when you're talking faculty-student, there are some complications to this.

We hadn't been thinking about a long-term faculty relationships that are expected to occur. I think every time we say – I agree with you, it shouldn't be a big deal. We should have templates in place like the conflict of interest form. We should facilitate this process but I think if we're going to include it all in one policy, pull together like this, do we really feel the same way – that it's all okay, just go and get a template – with the undergrads too? Are we really ready for that?

Unidentified speaker: Just to respond to that; it's like a Rubik's cube. By restoring the language with anybody in the university community and by putting tenure and promotion back in with all the other forms of authority, we've created a new problem in that breaking out – there really is a () attitude towards forming relationships with undergrads, absolutely. For graduate students, pretty much too, but then you have your post-docs and other various – so as the authority is less, that shifts over – maybe it does involve saying 'Here's a policy on students, here's a policy on faculty over whom you have authority' and that is actually something you expect is going to happen. You want to facilitate people feeling comfortable and being open about it.

If you write it too harshly then people will hide it until something goes wrong and then they'll be -

McFarland: I want to come around to some other people.

Unidentified speaker: I'm not a senator. I'm (), Neuroscience in the medical school. I'm relatively new here – I haven't even been here a year yet, and this line, 3.c.2, I find extremely problematic for the reasons that have been brought up. I think we need to envision the following scenario: Let's say 2 junior faculty are hired at the same time. They don't know each other previously but they enter into a relationship

and they get married. Once advances faster than the other and now one has authority over the other in terms of tenure and promotion, but honestly, new faculty coming in, they may never see this, they may never have read it, but yet they go and check that check box on their yearly conflict of interest. They're in total violation of this. Somebody could pull this out and get them kicked out of the university.

This is a major concern. I think we need to somehow separate out faculty-faculty interactions or at least make the wording a lot more specific because I think you're opening up a big can of worms when you say you may not enter into a relationship with anyone. Who has authority over another person is actually going to evolve over time when you talk about faculty. I feel like that's a very problematic –

McFarland: Just to be clear, your example is actually 3.c.3. I don't want to go all lawyer on you; in that case, you're accepting authority over the person and that shouldn't happen. We shouldn't accept that.

Unidentified speaker: So you're relying on the 'entering into' –

McFarland: And we do need to prohibit that. But we don't mean to prohibit the case that you cited. Just to be perfectly clear.

Stone: Randy Stone, Political Science. I just want to push back against Jim's comments. I think we should not immediately assume that sexual harassment doesn't happen among faculty members. There's – sexual harassment, and the reason I raise that is that an important reason for having it in the intimate relationships policy is to protect the victims of sexual harassment.

Unidentified speaker: When did we ()? I missed that.

Stone: The point is that junior faculty can be very vulnerable, so this power issue is potentially just as relevant between senior engineering faculty as it is between faculty, students and graduate students. So I think it's very important that we have a policy that covers both cases. Perhaps with some nuances. But I think it's very important that the policy covers both cases.

The example that comes to mind is from my alma mater – you may have seen the article in the Chronicle of Higher Education recently about Jorge Dominguez who was a serial harasser of junior faculty at Harvard and who explicitly used his power over their tenure cases to try to extort sexual favors from them.

That's an extreme case, right, but that's why we're concerned about this kind of power (band) and why it's so important that all of this be above board and that when power does become an issue in consensual relationships, there be a written end for it, and I think that's really what this requires.

McFarland: So Michael, and then Charlie we'll come back to you.

Scott: I'd like to push back against the notion that 3.c.2 is (arched); I don't think it is at all. I don't think it has anything at all to do with () relationships or prohibiting sex between people. It's about prohibiting conflicts between personal and professional relationships. So 3.c.2 does not say you can't have a relationship with another faculty member; it says you can't enter into a relationship with a faculty member over whom you have authority, and the solution to that is very simply – you eliminate the authority. Then you can have a relationship. That's the same thing with graduate students. You're not prohibited from having a relationship with a graduate student; we have junior faculty and graduate students who've established a relationship that are perfectly fine. But, doing it in a situation where one has professional authority over the other is not okay, and the solution is very solution and is a management plan that eliminated the professional authority.

I see no reason to be concerned about harshness or driving relationships underground here. It just says if you want to have a relationship with somebody, then make sure neither one of you has power over the other in the workplace.

McFarland: I just want to make one observation. One of the things we heard when working on the grievance policy – I think this will resonate – were a lot of concerns from the deans that we were putting in a policy that was too comprehensive, that would be too clunky, that there would be too many cases grieved as academic authority, and one of the things that we said is 'Okay, let's trust the faculty - because it is the faculty on the UTCP who have to make a judgement about whether the case has academic authority – to do this job reasonably.'

I think one of the things we're doing here is trusting the deans to do a good job implementing the exceptions, right? You know, if in fact we go through this process and it turns out it becomes very hard to do a good job and we need to revise the policy, then maybe we should revise the policy.

I think there's a presumption on the part of the administration that the faculty will do a good job with their part of the grievance policy; maybe we're making a presumption that the administration will do a good job with their part of this. Maybe there's a parallel. Joanie, I'm sorry to put you off for so long.

Rubin: That's okay. We had a very constructive conversation in the forum that we called and I would like – Mark is here now, right? Instead of just saying that the committee got some suggestions that were rejected, I wonder if we can have some more transparency and say what those suggestions were, and why they were rejected? Those suggestions came partly from Jack – maybe you want to reiterate your part or have Mark summarize it, but I just want to air this.

Unidentified speaker: Of course I commented on an earlier version of this policy and that's why I wanted time to assimilate the changes, but the basic idea doesn't change that much. I would just like to say that the idea that the policy doesn't say it prohibits these relationships and that it's simply a matter of establishing a management plan, I think that's where we want to be.

I don't think it's accurate to say that this doesn't prohibit it since clause 3.c.2 specifically says it prohibits. There is a power dynamic. In the real world of relationships, what we're suggesting here is that people say 'We would like to enter into a relationship; now let's go to the dean and say 'We want to enter into a relationship; can we now divest any authority so now we can have sex?' I mean, it's just not a practical, real world solution.

But again, there's a very simple solution to this in my opinion and you just go on the issue of academic authority. So what you prohibit is having academic authority and then you specifically say 'If a relationship develops, academic authority must be removed and a management plan must be put in place.' You solve so many problems this way without getting into people's bedrooms. I think that's a very practical solution.

McFarland: May I try to synthesize what I hear you saying – read it back and see if it makes sense? So a couple ways to address this, you can imagine adding to the end of – I think it's primarily 3.c.2 that you're concerned about – that, something like 'as defined above, without divesting themselves of that academic authority' or 'without creating a management plan to remove that academic authority'. And you could change exceptions to a section that says 'management plans'. Would that - ?

Unidentified speaker: I'm not sure. In the version that I drafted I simply added a statement about a management plan must be developed in 3.c.2.

Rubin: I thought you wanted to take that out.

Unidentified speaker: No, what I wanted taken out is 2.c.2. That wouldn't be necessary if we – 3.c.3 basically prohibits having academic authority with people who have an intimate relationship and then of course it needs to be put in there, a management plan must be developed. They have to divest themselves of academic authority. But this is saying they have a relationship, whereas the idea that they don't have a relationship and yet they're going to go to the dean and ask for permission to have a relationship, and then divest themselves – from a real world standpoint, it makes a lot more sense.

If you get rid of 3.c.2, really it's accomplished with the next clause. You don't have to talk about whether it's a familial relationship or any of these things.

McFarland: Okay, I think I understand what you're saying. I think that doesn't address the point that Andy and Michael are

bringing up regarding the possible coercive issue, right? There may be other places –

Unidentified speaker: The purpose of this is to develop intimate relationship plans and we will have highly effective sexual harassment policies. It's very difficult for somebody in a position of authority with an effective sexual harassment policy to be trying to intimidate people into having sex with them because that will ruin their career.

The power differential is dramatically changed if we have an effective sexual harassment policy, but this policy is not about that. This policy is about intimate relationships and how to manage them.

McFarland: (Jeff), do you have any comments?

Unidentified speaker: I'm not sure I have anything much additional to say from what Michael said, but the difference between 2 and 3 is what came first – the relationships or the academic authority. So 2 is addressing the case where academic authority is pre-existing and 3 is the other way around. I'm not sure that you can cover all test cases with just one of those. That's what our thinking was.

McFarland: If any senators are going to leave, I'd like to ask that you give the chair a 10-minute warning before you have to go so (audio issue). I think MJ had a couple comments.

Curry: I do. I thought one of Karen's many important points was the point about junior faculty not reading the faculty handbook, which is actually incumbent on faculty as it would be if you were in a new workplace to find out what the rules are, but I just think this is important for how we induct new faculty here. I know the university's made a lot of effort in the time I've been here with new faculty orientation, blah, blah, but it also comes down to department and unit culture.

I would encourage anybody who is responsible for bringing in new faculty into your department or unit – and we are now introducing this in the orientation for new faculty, but they're overwhelmed with having stuff thrown at them on day one. This is not just 'Oh the handbook's there' – it's like the law; if you don't read the law, you're still bound to the law. I think this needs to become a document that people really consult enough that they're familiar with it.

I just want to respond to your comment about sexual harassment. As far as that's concerned, the key question is, how do you make anyone who is harassed feels safe disclosing the harassment? That's fixing the harassment and discrimination policy in various ways that's being discussed by that committee, and you're not just reporting to a chain of command that has this conflict of interest about protecting the institution.

You have to have separate bodies of peers, you have to have people who are trained to go with you and so far. I think it's actually a bad idea to muddle up that relationship. We think 'intimate relationship policy' – that is primarily designed to

govern, it sort of stigmatizes sex as necessarily somehow (Rated) which is why you have – and the current handbook doesn't spell out sexual harassment; it just points you to a chart. I think that needs to be fixed next year once we have these models from Yale and other places, which I think are going to be more effective in dealing with the abuse of power than trying to write it into this part.

McFarland: Let's give Randy a chance to comment and then Joanie.

Stone: It strikes me that our conversation so far has abstracted from the case that we're really talking about, the Jaeger case, that motivated a lot of these discussions. In that case, a key part of the defense is 'Well, these were all intimate relationships that were consensual and in accordance with the intimate relationships policy', and I think that is always going to be the defense.

If you want to protect people from sexual harassment, I think you have to make it easier to get the harassers on something. One of the ways you do that is you create some hurdles to having officially recognized, consensual relationships, so they can't come back afterward and say 'Well, that was a consensual relationship all along'. We could say 'But where was the management plan? Perhaps it wasn't a consensual relationship and it actually violated policy'.

Unidentified speaker: Quick response. In that case, the stuff happened in the first three years he was here and it was harassment in many cases and no one felt comfortable telling the chair of the Department of Graduate Studies about it. They learned about it 10 years later. There's got to be – you've got to find a safe place where people can report this stuff outside the chain of command. That's – that has nothing to do with this policy.

Rubin: I just want to second what Tom said previously. By observing there are other forms of harassment besides sexual harassment and sometimes it's hard to tell the difference between one that has a gender or sexual dimension and what's just bullying. I think that those behaviors belong in the other policy.

Unidentified speaker: I'd like to call the question on this.

McFarland: Second? We have a second on the floor to call the question; does anyone object to voting?

Unidentified speaker: To end the debate or to vote? I would like to comment on this of voting on a policy that was just put into place less than a day ago.

Rubin: I'm objecting to calling the question.

McFarland: Then that requires a vote. All in favor of cutting off debate? Okay, all opposed? Okay, that passes, so then we would proceed to a vote.

All in favor of adopting the motion of the intimate relationships committee to modify this policy as it currently exists? Just to be clear, a vote ‘yes’ is a vote to accept the copy of the policy from the committee, the copy that you have in your hands, if you picked up the handout.

Curry: I just want to clarify that we’re not adopting the policy; we’re proposing the policy from the senate to go to the – this is not going to go into effect because we voted on it; it still has to go to the Board of Trustees and there’s still going to be some time for discussion. That doesn’t mean we’re going to bring it back to re-open it; Jeff was saying it went into effect yesterday. It’s not in effect - won’t be in effect when we vote on it – it has to be approved by the Board of Trustees.

McFarland: MJ is raising a point of order, so I will explain one more time to reiterate. What MJ said is correct; the senate voting is a motion of process. The provost has to bring it before the Board of Trustees – or the president and the provost bring it to the Board of Trustees and the Board of Trustees have to vote to adopt it. That’s what would happen next if we vote to approve the policy.

Are there any questions about procedure? We can’t have substantive discussion because we’ve called the question and moved to a vote. Amy, do you have a procedural question?

Lerner: Yes. So, it’s not clear to me – does it go to counsel, if they have -

McFarland: It’s already been. If they have more questions, then they can bring it up. The president and the provost can bring it back to the senate and say ‘You need to make a revision’ – those are all possible steps.

Lerner: Okay, but they do have a chance. I just want to make sure it’s in the model they’re operating under –

McFarland: We’ve been in pretty close communication but if something changes at the last minute, they have an opportunity to review it and they can ask the senate to reconsider it at that point.

Lerner: Okay, thank you.

McFarland: Any other procedural questions? Okay, we’ll move to a vote. Now let me clarify what the vote is. Yes means we adopt the policy as written on the handouts when you came in; no means not to adopt the policy and people, of course, may abstain. With that, all those in favor of adopting the policy from the senate? Okay, all opposed?

Unidentified speaker: 23 yes, 3 opposed, and abstentions?

McFarland: One. Okay, with that the policy passes. I’ve been waiting to do that all year. Thank you very much to the committee for developing the policy and putting in all the hard work.

With there, is there any other business any member would like to raise before the senate? Sure, Jack, you may make a comment to the senate even though you’re not a member.

Unidentified speaker: I think this is the swan song on what I consider to be an important issue for the faculty senate going forward. I’m talking about procedures that provide more community involvement and reduce the hastiness. For instance, this policy was made available one day ago and now it’s been voted on and I think that – I made the joke with you that we’re modeling ourselves after the US Congress and I’m not so sure that’s a good idea.

It makes sense to, if you’re going to have a policy you’re going to vote on, you should at least have a period of time where the community can see what that policy is, and you can reflect on that policy and all the ramifications of it. That can easily be instituted with just a one-week rule or allow electronic voting over a period of time.

I think going forward the senate should work hard to revise the policies and make it much more inclusive for the community if the community wishes to be involved. I think these hasty, rushing through policy decisions – it’s not conducive to that. That’s all I want to say.

McFarland: Thanks for your comments.

Rubin: And I just want to say that’s the only reason I voted against the policy. I think we need to protect the people who experience sexual – intimate relationship violations. But I wanted to have more discussion.

McFarland: Any other comments?

Unidentified speaker: I just want to be clear; I thought there would be room for error in understanding it so we would have it written and then somebody explain what it meant. That shouldn’t happen before we review this in private – so that said, wordsmithing, semantics, putting things in different areas as somebody said before, and I don’t want to say the whole community and staff, but maybe it needs to be parsed out a little bit and be crystal clear. We’ve gone down the slippery slope before and gotten into trouble. We just don’t want that to happen.

McFarland: We’ll take volunteers for next semester.

Lerner: More to the point, in some of our commissions work, we have seen policies from other universities that are not only policies but then they have procedures to follow those policies. I think that our next step for a lot of this stuff is a procedure and some templates and so forth. I would welcome you to contribute to reviewing those. I think the good news is those may not have to be fixed and voted on necessarily because they should be allowed to be tailored in an appropriate and reasonable way and will develop over time, but I would welcome your help in drafting those procedures.

Unidentified speaker: Like MJ said, it needs to be explicit so there isn't that second guessing.

Lerner: I agree.

Nofziger: I think really a process that provides education and clarity and examples and discussion in the open, like our training that never ends. There's no judgment; it's just 'this is how it will work'. Just something for everyone to understand.

Nelson: LaRon Nelson, Nursing. This goes to MJ's point too. This can't just be 'we have a policy' but it should be part of the culture and ensure people understand it. I think it needs to be more than just adopted, but to make sure everybody understands it all the time.

McFarland: MJ?

Curry: I would just like to say, in recognition of the hard work the committee has done including the graduate student members, I don't see this as a hasty revision of the proposal. I also think that the suggestion that Joanie made to have forums, while they were not hugely attended, resulted in some revisions. We – I think given all of the things that have happened this year and the desperate need to make sure that we did revise the policy in ways that addressed not just the White report but the circumstances we find ourselves in particularly this year, I think it's a strong mischaracterization to call this hasty.

McFarland: Okay, if there's nothing else, meeting adjourned.

End of Recorded Session.

Respectfully submitted,

{ name }

Secretary, Faculty Senate