

Faculty Senate Minutes
April 5, 2004

Senators Barry Anton, Kris Bartanen, Bill Beardsley [Chair], Terry Cooney, Alyce DeMarais, Julian Edgoose, Bill Haltom, Suzanne Holland, Paul Loeb, Sarah Parker, Karen Porter, David Tinsley

Senate Chair Bill Beardsley called the meeting to order at 4:05 pm.

Minutes Minutes of the Senate meeting of March 22, 2003 were approved with these emendations:

Location	Draft Minutes	Revised Minutes
¶ 1 on p. 2	Maxell	Maxwell
¶ 2 on p. 2	document	documents
¶ 4 on p. 2	Speech can simply be misunderstanding and he is troubled by a policy prohibiting harassment being extended to everything on campus.	Any speech-act can be misunderstood, and he is troubled by a policy prohibiting harassment's being extended to all communication on campus.
¶ 6 on p. 2	must	"must"

Special Orders Senator Haltom relayed the following communication: "I respectfully suggest that the Senate update the faculty on the status of the so-called "privacy" documents (4 documents total) and the 'weapons policy,' all of which the Senate was helping to revise last year. I respectfully suggest that the Senate update the faculty on the following issues: report from the child-care task force; open files for tenure-cases; making Veterans Day a university-holiday."

In response to this contribution to "The Faculty Senate Suggestion Box," Senators learned that proposed improvements to the wording of the four policies had yet to reach the President's cabinet, so the policies as worded remain on the web and presumably remain operative. **Chair Beardsley** announced that he would look into the status of the policies. Regarding open files, senators believed that that issue had not been raised in the Professional Standards Committee. The Senate sent the Veterans Day issue to the Curriculum Committee, which decided against the proposal; the Senate adopted the calendar thereafter, so that proposal currently rests. **Chair Beardsley** promised to investigate the status of the Child-Care Task Force.

**Old
Business**

The Senate resumed its discussion of a draft of a unified campus policy banning harassment. **Chair Beardsley** asked about apparent discrepancies between definitions of harassment under the current "Sexual Harassment Policy" and under the drafted "Campus Policy Prohibiting Harassment." **Senator Bartanen** replied that the school's attorneys had stated that the same general standards applied to sexual harassment and to other sorts of harassment. However, the attorneys also observed

There is a seeming tension in the draft between the reasonable person standard, which blends language from the EEOC guidelines, and the guidance provided by the Office for Civil Rights. . . . The OCR language can be reconciled with that of Title VII because Title VII establishes both an objective person test and a subjective test for the evaluation of a hostile work environment. The objective question is whether a reasonable person in the complainant's position would find the environment hostile and the subjective question is whether than complainant actually perceived the environment to be hostile. Both tests must be met in order for the complainant to establish a severe or pervasive hostile environment."

Chair Beardsley responded that the faculty do not necessarily want to extend language regarding sexual harassment to other kinds of discriminatory harassment because certain protections of accusers and of accused under one may be inapposite to the other. **Senator Bartanen** noted that the drafters of the new policy would also have the option of using the language from the Office of Civil Rights for discriminatory harassment and language from the Equal Employment Opportunity Commission [Title VII]. She stated that the drafters would reconsider and redraft.

Senator Tinsley expressed concern that the existing draft does not distinguish rumors or overheard remarks from formal reports or explicit complaints to supervisors, which might induce supervisors to err on the side of over-reporting. He pronounced this especially disconcerting regarding problematic speech-acts. **Senator Cooney** supposed that faculty cannot be expected to adjudge the substantive truth of charges but must relay information that they receive. **Senator Bartanen** observed that passing information along moves matters into official channels. She further observed that the proposed unified policy **does not** constrain academic freedom or conversation and **does not** concern "comfort level" concerning controversies but **does** apply to patterns of repeated, focused, discriminatory actions that make people feel utterly uncomfortable

Senator Tinsley also noted that a single action found to have created a hostile environment might result in dismissal or another severe sanction. **Senator Bartanen** stated that a single violation would have to be outrageous to lead to dismissal or severe sanction(s). She then remarked that informal resolutions of complaints might concern education but formal complaints would have to go through adversarial adjudication governed by rules. **Senator Cooney** elaborated that some single act would have to meet the requirements of Chapter 5 of *The Faculty Code* and that the Professional Standards Committee and the President would consult attorneys before imposing severe sanctions.

Senator Edgoose wondered whether the Faculty Senate and drafters had thought through consequences of proposed policies for disempowered, discriminated-against students, staff, or faculty. **Senator Bartanen** affirmed that anticipation of consequences for all of the campus community must be painstaking.

Senator Holland reminded all present that, even if members of the campus community were mistaken in their assessment of the policies, the policies might stifle the free play of perspectives and ideas and thus should be well designed and carefully considered. **Senator Bartanen** replied that the chilling effects should not be over-estimated: the new policy would concern communications **targeted** at vulnerable parties and other abuses of power and perhaps would cover patterns of shabby treatments of others. The drafted policy would **not** circumscribe academic freedom or the free flow of ideas or expressions.

Senator Bartanen thanked the senators for their contributions and said that she would take the Faculty Senate's points back to the drafting committee.

**Vale-
diction**

Chair Beardsley distilled from the ether the devout wish of the senators to adjourn. Adjourn the Faculty Senate did.

Reporter

William Haltom