

EXECUTIVE COMMITTEE MINUTES

Present: Baesu, Bearnese, Billesbach, Boudreau, Eklund, Kolbe, Kopocis, Krehbiel, Minter, Paul, Weissling

Absent: Lott, Zuckerman

Date: Tuesday, September 20, 2022

Location: Nebraska Union, Big Ten Conference Room

Note: These are not verbatim minutes. They are a summary of the discussions at the Executive Committee meeting as corrected by those participating.

1.0 Call (*Minter*)

Minter called the meeting to order at 2:32 p.m.

2.0 Associate to the Chancellor for Institutional Equity and Compliance Marc Pearce

2.1 Updates on any changes with Title IX Regulations/Procedures

Associate to the Chancellor Pearce stated that since meeting with the Executive Committee last year, three new investigators have been added to the office, two full-time investigators and one who does work as an investigator but mostly will work to find informal resolutions to a complaint. He pointed out that if parties are agreeable to finding an informal resolution they do not have to go through the investigative process but noted that the downside to informal resolutions is that they can be very time consuming and not always productive which would require starting over with the investigative process. However, having someone who can manage the informal resolution process will increase the effectiveness of them. He pointed out that if the new Title IX regulations go into effect as currently proposed, this will further increase the ability to do more informal resolutions which would in turn provide more flexibility to the IEC office.

Associate to the Chancellor Pearce reported that the IEC office experimented with different types of decision makers for complaints noting that previously Title IX matters were resolved with a hearing board composed of members from the Student Conduct Board who have had Title IX training. He stated that under the new regulatory framework the hearings have become more elaborate and complex and although board members received additional training, one case was resolved by bringing in an outside law firm. He stated that the process went very well but the cost was prohibitive. As a result, an Emeritus Professor from the Law College has been retained to serve as our professional Title IX hearing chair and this person will provide expertise to the hearing board with the result being that there will be consistency on how cases will be resolved. He noted that several cases have been heard using the Emeritus Professor resulting in more timely decisions being made and the arrangement is much more cost effective. Billesbach asked if the Emeritus Professor serves chiefly in an advisory role or would they make decisions on the case. Associate to the Chancellor Pearce stated that the decision is made by the hearing board, and the Emeritus Professor chairs that board and

participates in making the decision. The decision must be by a majority vote of the board. In certain cases, procedures allow for a single decision-maker (as opposed to a board), but we plan to use a board rather than a single decision-maker. Billesbach asked if the Emeritus Professor serves as a resource person for the hearing board. Associate to the Chancellor Pearce stated that the Emeritus Professor is a member of the board. The Title IX Coordinator, Meagan Counley, and General Counsel are also resources for the board, but the board makes its own independent decisions.

2.2 Has annual reporting been conducted?

Minter noted that members of the Collaborative were interest in annual reporting and asked whether this would be possible. Associate to the Chancellor Pearce firmly believes that there should be annual reporting and he is working on it, but he is taking time to make sure that the information that will be provided is clear. He pointed out that it is harder than he realized to define the right level of detail without identifying the parties involved.

Kolbe asked if there was a federal mandate similar to the Clery Act on sexual misconduct cases. Associate to the Chancellor stated no, but there could be some overlap with the Clery reporting depending on whether the incident was considered a crime. He stated that he is concerned that some people may not understand the difference between Clery Act reporting and Title IX reports.

Kolbe stated that it would be helpful for the campus to know where some of the incidents are occurring, whether they are on-campus in university housing or off campus. He noted that this information could help us to focus where we need to put more attention on training. Associate to the Chancellor Pearce stated that this information is available to his office, and it is used to focus the office's efforts. He noted that sometimes it works well, and more training is created for people in the identified location, but sometimes they hit roadblocks due to limited access. Weissling asked if some of the relationships we have with groups on campus keep us from having an impact in sexual misconduct training with those groups out of a sense of maintaining relationships.

Associate to the Chancellor Pearce said that when roadblocks occur, he will work to address them and address concerns with higher-level administrators if needed.

Minter stated that she understands the concern to report in ways that maintain the confidentiality of those involved (and why, if the number of a particular case type is low, that could be an issue), but it would be helpful to show that the institution is keeping track and is working on resolving cases. She pointed out that people not knowing what is going on creates a problem and having an annual report would help to make people aware that the university is taking actions and considers sexual misconduct to be a serious issue. Associate to the Chancellor Pearce stated that having an information void is a problem and persuades him to have an annual report, even if some people may take some things from it out of context. He noted that last fall was an example when there was little understanding about the Title IX office and how it works and processes cases. He pointed out that these cases must be totally confidential, but he thinks a general report which would be available to the public and the media would help.

Minter noted that conducting an annual report involves serious time implication and asked if he has enough staffing in the office to write a report. Associate to the Chancellor Pearce stated that he believes he has the necessary staff and reported that he hired an Extern from the Law College this summer who reviewed other institutions' reports and began building a framework for how we might want to structure our report. A staff member has recently been trained in recordkeeping software and has also learned analytic skills which will assist in developing the report.

Eklund asked if the IEC office reads and interprets national, regional, state, and local trends including what occurs in dorm life, Greek life, etc. Associate to the Chancellor Pearce stated that while they do have access to this kind of information, it would be a question for Title IX Coordinator Counley as she is a member of a national association of Title IX officers and attends the national meetings.

Billesbach asked if there is some sharing of information with the UNLPD so that security could be increased if there appears to be numerous incidents in specific locations. Associate to the Chancellor Pearce stated that anonymous information is provided for the Clery Act but there is a latency period associated because some of the information could be identifiable for individuals. He pointed out that a lot of it depends on the reporting that an individual chooses, noting that an individual filing a complaint can choose to go to the police, to Title IX, or both. He stated that if they should go to law enforcement the Title IX office would coordinate with the police but our investigation would be a subsidiary because we would not want to interfere with a criminal investigation. He stated that if there is a dual process, there is a management protocol that can vary slightly from case to case. Billesbach asked what would happen if the Title IX office received complaints that harassment was occurring in the same place on campus. Associate to the Chancellor Pearce stated that his office will act to protect the campus if there is some threat that can be addressed expeditiously and where people's health and safety are at risk.

Weissling asked if the Title IX office would ever tell a faculty member not to talk to the police. Associate to the Chancellor Pearce stated that a Title IX officer would not say this, but a faculty member's personal attorney might. He stated that the Title IX office's responsibility is analogous to the judicial system, and it only conducts investigations. He reported that if someone on a Title IX team was advising faculty/staff/student on what to say to law enforcement, corrective action would be needed to rectify the situation. He noted that the CARE office has advocates and they may tell someone to go to the police or not and would explain to the individual what is likely to happen and walks them through the process. He pointed out that the Title IX office can provide information on the different resources on campus that people can utilize but it cannot provide counseling support to individuals. He noted that the Title IX office is a neutral setting that conducts arbitration.

Associate to the Chancellor Pearce stated that when a person reaches out to the Title IX office the first step is to let that person know what the other options are and how to

connect the CARE, CAPS, EAP, or the UNLPD. He noted that the Title IX office will offer to call CARE if the student chooses to work with an advocate, and IEC will coordinate having an advocate present. When requested, an advocate usually comes to the Title IX office to help the individual from the beginning of the process. He stated that a letter is sent to the reporting individual providing a full comprehensive list of resources that are available to them. Weissling asked if the letter is sent whether all reports are acted on or not. Associate to the Chancellor Pearce stated that all known individuals impacted would receive the letter, but if an anonymous report was made, they obviously cannot send a letter. He stated that if the office is made aware of someone who has experienced sexual harassment/assault/discrimination they will immediately contact them to first explain why they are being contacted, what the person's reporting options are, and what the Title IX office process is. Weissling asked how long this process has been happening. Associate to the Chancellor Pearce stated that it was happening before he even worked with the office. He noted that the outreach letter has been tweaked occasionally and he has worked with Dean Vail of the College of Journalism and Mass Communication about how to restructure the letter in order to have better impact on how the person can be helped.

Minter asked if there was any ongoing review or assessment of people's experience with the Title IX office. Associate to the Chancellor Pearce stated that under the current regulatory framework the zone of discretion is quite narrow because of legal restrictions but the office has been trying to make improvements. Minter asked if there are restrictions that prohibits the office from contacting an individual once an investigation is completed. Associate to the Chancellor Pearce stated that the bigger concern, especially for someone who has experienced sexual assault, is that you don't want to bring the incident up again for them. Kolbe pointed out that how a case is resolved could skew a person's response if they were surveyed.

Weissling asked Associate to the Chancellor Pearce if he felt that there is a general sense that the campus community has confidence in the Title IX office and the work that it does. Associate to the Chancellor Pearce stated that he would expect 90% of people would say they don't know because an annual report has not been available and if they don't have any interaction with the office they wouldn't know. He stated that developing the annual report is a major priority for him and it is a first step in helping the community to understand the Title IX office and what it does.

Baesu stated that she understands the issue of confidentiality but asked what metrics are used for assessing the work of the office and to what extent does the office get involved with cases of sexual misconduct/harassment. Associate to the Chancellor Pearce stated that he is more interested in each individual case rather than looking at data trends. He stated that he checks to see if the hearing is optimizing the experience for the people involved and whether a case is taking too long noting that he will jump in to correct things if there are any irregularities occurring. He pointed out that he sits in on all of the case reviews to see how the cases are progressing and whether improvements in the process can be made.

Baesu asked how many Title IX complaints end up in a lawsuit and what is the Title IX office's involvement with a lawsuit. Associate to the Chancellor Pearce stated that he does not know how many lawsuits occur because these are handled by the University's General Counsel office. He noted that the General Counsel office would coordinate the defense and he would only appear if he was contacted. He stated that it is possible that other members of the university could also need to provide an affidavit or otherwise participate in litigation and pointed out that the Title IX office does not do any litigation work in connection with any cases. Weissling asked if he could say whether UNL has more or less litigation cases than our Big Ten peers. He stated that he is not necessarily made aware of a lawsuit unless he is named in the complaint. He pointed out that lawsuits can sometimes help make advances in improving how things can be done. Weissling asked if the university were found to be a fault in a lawsuit would his office be informed so changes could be made. Associate to the Chancellor Pearce stated that he would be notified if the office was out of compliance with university policies or federal regulations. He noted that the office has to keep track of all of the legal developments with Title IX regulations and comply to the best of its abilities.

Ross stated that a number of students told her that they did not take the online sexual harassment training because they thought it was terrible. She asked what kind of education the Title IX office is providing to the campus community to explain the true difference between the CARE office and the Title IX office. Associate to the Chancellor Pearce noted that he previously stated that when a person comes to the office it is immediately explained to them what the purpose and role is of the office. He stated that the new training for in-person peer trainers is being led by the CARE office and he has been working with them to help keep the curriculum consistent with university policies, but the in-person training will not replace the online Title IX training. He pointed out that the in-person peer training will not be done annually like the online training because it is for new students only. He stated that the in-person training focuses primarily on prevention rather than educating people on what would be considered sexual misconduct. He noted that the online training does explain CARE and talks about what conduct would be a violation of Title IX regulations. He stated that the online training is a way to get information to everyone in the campus community although just 50% of the people have completed the training and only 41% of the students have completed it. He stated that he wants to work with other offices to see what could be done to ensure that all students complete the online training with one idea being to put a hold on registration until the online training is complete.

Weissling asked about the concerns that our own campus experts have said about the online training program and how it can be triggering for victims. Associate to the Chancellor Pearce noted that there is an opt out version and the IEC offers a supplemental in-person training for faculty and staff on responding to sexual misconduct reports. Information and registration for the training is available at : <https://www.unl.edu/equity/sexual-misconduct-response-workshop-faculty-and-staff>. He noted that the training specifically covers the CARE office and how they are involved in the response process. He noted that there has been criticism about the on-line training, and it is being assessed and stated that Central Administration contracted with the

company and the training is required on each of the campuses. He reported that the Collaborative reviewed the program before the university contracted it and the current Chancellor's Commission will be asked to review different processes for training in the future noting that they might find another training program that is better.

2.3 Have suggestions outlined in the Collaborative on Sexual Misconduct Committee Report been enacted?

Associate to the Chancellor Pearce stated that he has been working closely with the Chancellor's Commission for Prevention of Sexual Misconduct to implement some of the recommendations made by the Collaborative. He pointed out that most of the changes would be originated out of the Student Affairs office and he is helping them with making some of the changes. He stated that he believes Vice Chancellor Bellows provided information on some of the changes to EVC Ankerson who shared it with the Senate Executive Committee in July.

Associate to the Chancellor Pearce reported that President Carter issued Executive Memorandum 44 which states it is a requirement "for every individual in our university community is rigorously trained and has the resources needed to ensure a safe, welcoming, and inclusive culture for all members of our community." He stated that all students will be required to do in-person peer training. He reported that Title IX Coordinator Counley spoke to the peer educators being trained and will visit with them again.

Associate to the Chancellor Pearce reported that if President Biden's changes to the federal Title IX regulations are enacted there will be significant new changes, not only to the processes for investigations, but also for reporting requirements. He pointed out that there will be a short window to train the community on these changes with the actual regulations being approved in May and going into effect in the fall. He stated that IEC will need a lot of help to educate the campus on these changes.

3.0 Announcements

3.1 Staff Senate Coordinator

Minter introduced Joann Ross from the Staff Senate. Ross stated that she now has a split role serving as the Staff Senate Coordinator and as an Honors Faculty Fellow. She noted that the N2025 plan called for the creation of a Staff Council and the Senate was developed by a growing group of staff members who worked for over two and a half years to establish the Staff Senate. She stated that the Staff Senate Exploratory Committee worked to create bylaws and to determine the structure of the Senate since there are many staff members working in a wide variety of roles. She pointed out that the Staff Senate will have representation from the office service and managerial/professional staff, as well as non-voting representatives whose home unit is in Central Administration but who work at UNL. She stated that the Staff Senate is also representing Post Docs, although they are also non-voting members. She reported that elections to the Staff Senate will take place from October 31 until November 22 and the new senators will be announced prior to the holiday shutdown with the first meeting held in January.

Krehbiel asked how many Senators will be on the Staff Senate. Ross stated that hopefully there will be 50-55. Minter pointed out that the Board Regents Bylaws lists Post Docs as faculty and asked why they would be on the Staff Senate. Ross pointed out that the Staff Senate Bylaws are written that any group not represented on the Faculty Senate or by ASUN could be on the Staff Senate.

Krehbiel noted that there are office people in county offices who work with the Extension office pointing out that some of these individuals are not employed by the university but are doing university work. She asked if they would be included on the Staff Senate. Ross stated that the Extension offices will be included, and staff can nominate and vote for representatives and serve on the Staff Senate. Griffin stated that the complexity of IANR can create challenges and the question would be whether the county employees could be included since they are technically not university employees. Bearnese pointed out that approval might be required from the county commissioners to let a county employee serve on the Staff Senate.

Ross reported that announcement of the Staff Senate elections will be coming out with several email messages and there will be some news items in Nebraska Today prior to the elections.

Kolbe and Minter and the rest of the Executive Committee stated that they were all very supportive of the Staff Senate and suggested that there be a motion presented to the Faculty Senate at its October 4th meeting saying it supports the creation of the Staff Senate. Minter stated that she would draft a motion.

3.2 Change in National Scholarship Recruiting States

Kolbe reported that UNL's national scholarship recruiting efforts are dropping New Jersey and the new group will now include California, Colorado, Texas, Kansas, Missouri, Illinois, Minnesota, Michigan, and Wisconsin. He noted that eligible students from these states will be able to receive in-state tuition if they qualify for the Ruth Leverton Scholarship. In actuality, the program essentially can bump those qualifying students up to a Beadle Scholarship allowing us to more fiercely compete for high achieving out-of-state students. Eklund asked if this is effective now. Kolbe stated that it is, and it should help us with recruiting.

4.0 Approval of September 13, 2022 Minutes

Minter asked if there were any further revisions to the minutes, hearing none she asked for a motion to approve the minutes. Kopocis moved for approval and the motion was seconded by Kolbe and approved by the Executive Committee.

5.0 Unfinished Business

5.1 Professional Code of Conduct

Minter reported that she will be editing the Code with the feedback she recently received and will share it with the Executive Committee for review.

5.2 Memo to Administrators Reminding Them of Faculty Senate’s Involvement In Action on Academic Matters that Affect More than one College

Minter stated that she has drafted a memo to go to administrators reminding them that Board of Regents Bylaws state that the Faculty Senate is to act on academic matters that affect more than one college. She noted that the recent approval of requiring experiential learning was not brought to the attention of the full Senate. She stated that the document is in her One Drive folder for the Executive Committee to review.

6.0 New Business

5.1 Proposed Revisions to the Procedures to be Invoked for Significant Budget Reallocations and Reductions

Minter reported that the Academic Planning Committee recently approved some changes to the Proposed Revisions to the Procedures to be Invoked for Significant Budget Reallocations and Reductions. She reported that the changes were made to modernize and clarify the budget cutting procedures. She stated that the Faculty Senate and ASUN will need to vote on the proposed changes and if both groups approve it will go to the Chancellor for approval. The Committee discussed the proposed revisions. Billesbach moved and Eklund seconded presenting the proposed changes to the Faculty Senate at the October 4th meeting. Griffin pointed out that the Senate would then vote on the proposed changes at the November 1 meeting.

5.2 Faculty Survey

Minter noted that at the Executive Committee retreat in August the Committee discussed creating a faculty survey to be conducted every year or every other year on how faculty are experiencing their work environment and work climate. She stated that she looked at Cornell University’s faculty survey which is posted online and Washington University’s survey. Paul pointed out that the Committee first needs to focus on the constructs of the survey and what information it wants to obtain. Minter stated that she would share the information she has gathered with the Executive Committee and asked if a subcommittee should be formed. The Executive Committee agreed that a subcommittee to develop the survey would be helpful.

The meeting was adjourned at 5:01 p.m. The next meeting of the Executive Committee will be on Tuesday, September 27, 2022, at 2:30 pm. The meeting will be held in the Nebraska Union, Big Ten Conference Room and by Zoom. The minutes are respectfully submitted by Karen Griffin, Coordinator and Signe Boudreau, Secretary.