

## Minutes of the Regular Meeting of the Academic Council

Thursday March 22, 2012

Susan Lozier (Chair, Academic Council/Nicholas School of the Environment): Welcome to the March Academic Council meeting – I hope everyone is enjoying these beautiful spring days and if there's a thunderstorm, I hope you are managing to escape those.

From my email earlier this week, you know that we are on a tight schedule for Academic Council business today because the annual faculty meeting will commence today at 4:00 PM. I hope all of you are planning on staying for that event. It will feature an address by President Brodhead, and we will have a reception immediately following. I hope you are going to be able to stay for that reception as well.

Before we move to our approval of the February meeting minutes, I'd like to note that this meeting will be the last for some of our colleagues on this Council. I would like to thank all of you for your service and commitment to faculty governance and to this university, and I hope that you will consider serving again on this Council in the future. As you know, you are always welcome to attend these meetings and your advice, input, and opinions will always be welcomed and valued.

I would now like to call for approval of our February meeting minutes. [Approved by voice with no dissent].

### *Duke Kunshan University Resolution*

At this point, I will turn to our only other item on the agenda today which is the discussion of, and vote on, a Council resolution that was introduced at our February meeting. At a Council member's request and with the approval of ECAC, the vote on this resolution will be conducted via a written ballot. At the conclusion of our discussion today, these ballots will be distributed to Council members. My main goal today is to devote what time we do have to a discussion from the floor of this resolution and so my remarks here will be quite brief.

ECAC drafted this resolution to allow for further consideration of academic programs for the DKU campus, one of which is a Master's of Science in Global

Health, which is waiting in the wings. ECAC drafted this resolution in consultation with APC, UPC and the chair of GPC. All of you saw the resolution at the February meeting, you were sent the resolution with the agenda, and I will pull it up now for everyone to see as well.



The resolution reads:

**Duke Kunshan University (DKU) is a major academic initiative of Duke University. As part of that initiative, the Academic Council is prepared to consider graduate program proposals at DKU that lead to Duke degrees or Duke credit, and that are designed to be reviewed within a two or three-year window with metrics of success approved by the Academic Programs Committee.**

**The Academic Council's endorsement of academic programs comes with the expectation that University expenditures on DKU will be within the bounds communicated to the Council in February of 2012, that meaningful changes to Duke's financial commitment and/or risk be clearly communicated to the Executive Committee of the Academic Council and to the University Priorities Committee, and that academic freedom for all members of the DKU com-**

**munity will be diligently protected, monitored and reviewed with the appropriate faculty bodies.**

It is important to note three things about this resolution:

1. This Council, if the resolution is passed, would be approving Duke degrees, not DKU degrees. In this regard there is one minor change that I want to note from the resolution that was presented at the February meeting. At the request of Ruth Day, Chair of the Arts and Sciences Council, the word “graduate” was added as a modifier to acknowledge that the programs approved by this body are graduate degrees, which is meant to include professional degrees as well as those administered by the Graduate School. Earlier this month, the Arts & Sciences Council unanimously passed a resolution on the approval pathway for undergraduate education programs in the global context. Quoting Professor Ruth Day, “the goals of this resolution are to foster the creation of new and innovative undergraduate curricular initiatives and also ensure the best practices of faculty oversight.”

2. The second thing I would like to note about this resolution is that the Council has a very firm expectation on DKU expenditures and on academic freedom.

3. Finally, this resolution is intended to convey a strong faculty role in the development and review of DKU academic programs and finances.

With that I will now open the floor for discussion on this resolution.

*Questions*

Karla Holloway (English): I don’t know if it would have been appropriate, but I thought about introducing a motion today that would make it clear that until we had some guarantee or understanding about what academic freedom meant on that campus, this Council would not go forward with any more resolutions or votes on DKU.



But I didn’t want to be obstructive: what I want is some clear understanding of the view that I think this Council has.

I don’t understand the SIP funds or how many buildings there are or costs incurred, but I do think that the faculty does have a unique stewardship over the is-

sues of academic freedom. So, I wonder if whoever might speak for DKU would give us a guarantee as clear as possible and as detailed as possible about the principles of academic freedom that we’re not willing to negotiate, that will stand in the same way they stand in Durham, North Carolina as they do in Kunshan.

Lozier: Thank you, Karla.

Peter Lange (Provost): We are just getting up the language. As the Council is aware, we have had slides showing the exact language of the principles regarding academic freedom several times, and if you wish, I can read that again.

Holloway: I thought they were in negotiation?

Lange: No, they are not in negotiation. They are in the document which has been submitted to the ministry for approval. The ministry has indicated nothing regarding any desire to change any of those principles and if they did communicate any desire to change them, that would have a direct effect on our ability to go forward.

Holloway: That’s what I’m interested in.

Lange: We would not go forward without further consultation with the committees of the faculty. I’ll come back to that point in a minute. Were the ministry to request changes to those fundamental principles of academic quality which we have shown to the Council on several occasions, the committees with which we have already agreed that any such changes would be discussed would be the Global Priorities Committee, the Academic Programs Committee, ECAC, and eventually the Council. Is that responsive? Do you want me to read them or not?

Holloway: I can pull them up as well. What I understood was that was a document that was submitted to the government and was awaiting a conversation about it?

Lange: We don’t intend to have a conversation about it.

Holloway: Good.

Lozier: The last line of the resolution is really intended then to ensure that there is faculty involvement if there is any issue that arises about academic freedom. And just to reiterate, I think it was in both the November and December meetings where those principles of academic freedom were read to the Council. Other questions?

Paula McClain (Political Science): When Jim Roberts made his presentation – and I guess I just want clarification – is the tuition from these degrees going to Duke or is it going to DKU? And if it is going to DKU are we then by default approving degrees for DKU?

Lange: Let me answer the second question first. The answer to that is no, we are not by default awarding degrees for DKU. We are awarding Duke degrees and those are the only degrees which are currently contemplated to be awarded.

With regard to the tuition, the tuition will be applied against the expenses at DKU of delivering the courses through which Duke degrees or credits will be awarded. There are expenses in DKU that are expected to exceed as you know the amount of tuition gain and the tuition will be applied against those expenses, and if

there is a subsidy necessary the subsidy will be split fifty-fifty, as you have seen before and as we have discussed many times.

McClain: But for the MMS from Fuqua which will be part here and part there, is the tuition split or does it all go to DKU?

Jim Roberts (Executive Vice Provost for Finance and Administration): The model is set up so that all of the revenue and all of the expense for the 3-2 program is



in the DKU model. That means that the tuition will pay for the faculty at Duke during that period. When they are here it will cover all of the financial aid, administrative expenses, etc. The tuition is going to cover the full cost of the program.

Lange: Paula, if I understood your two questions together, your concern is that somehow the collection of the tuition and the application of the tuition in the cost of DKU would somehow end up conferring DKU degrees, and that is absolutely not the case.

Prasad Kasibhatla (NSOE): I have a couple of questions, one on academic freedom. I was wondering what



members of DKU would be included. Is it, for example...if we had visiting Chinese scholars who are teaching there, does that cover them? That was one question. What is the "all" there mean?

And the second has to deal within the bounds, the expenditures within the bounds, because my understanding of the market is that there is a range. There was an 80th percentile, there was a 95th percentile, I'm assuming there is a 99th percentile. So, what do the bounds mean, I guess, is the other question?

Lozier: We talked about this as well. But we thought it would really be unwise for us to say within 10% of the estimate because we are planning – on the other thing we have in there – any changes to this financial commitment we would communicate to the Executive Committee of the Academic Council.

In that regard, we are hoping that Council trusts the Executive Committee to make these decisions on what is reasonable and what isn't reasonable. So, the Monte Carlo simulation absolutely shows that there is a spread. And part of the reason we asked for that is that we wanted a way from the expectation that if the expenditures weren't exactly \$38.4 million, then we would say 'well, that wasn't what we expected.'

Kasibhatla: So, can you assume what the profits are? Is it 80th percentile, 90th percentile?

Lozier: I would say we would have an expectation that's within the 80th percentile. As for your first question, all members of the DKU community, I would expect that we would have, if there was an invited speaker to the campus, that we would expect that speaker would be able to freely speak on any matter. But Peter, do you have anything to add?

Lange: Anytime anybody is performing something for DKU, they will be part of the DKU community and these principles would apply.

Berndt Mueller (Physics): So, I asked a similar question when we approved a previous degree, but I would like now to pose it in a more general context.

Lozier: To see if we give the same answer? (laughter)

Mueller: No, I would like a different answer in some sense (laughter). For me, the critical word in that second paragraph is the word 'monitor.' Ultimately, if we want to avoid anything serious or controversial to occur, we need to have a monitoring mechanism. And my question is whether there's an intent to have a general University mechanism that does this collectively for all programs? Or that when programs come up for approval or realization, that each program presents specifically for that program a monitoring scheme. How do we do that?

Lange: I would anticipate that in general we will have a general monitoring framework, just as we have on our own campus by the way. We have issues occasionally of academic freedom on our own campus of various sorts. We don't have a specific mechanism in every school or every department.

The faculty itself is one of the monitors; the administration monitors, and others in the community monitor. And I would anticipate that we would have a similar thing at DKU.

Remember, this is going to be a small community for quite a while, so the issue of monitoring, so to speak the far reaches, will not be a major issue because there won't be any very far reaches. So I would anticipate that the fundamental principles of academic quality that we've outlined will be provided to every member of the community. And that every member of the community then becomes part of the monitoring mechanism and can report if there are issues that they have concerns about

and report those to the appropriate faculty or administrative officers as happens on our own campus.

I think to ask each program to provide a monitoring mechanism is actually a less effective method. Experience matters a great deal in these matters. It's like federalism. There are certainly some things that you just don't want federalism because otherwise the standards vary across each state, and that variation across each state actually creates more difficulty rather than greater oversight.

Holloway: But, I would think that given the reason that these concerns are coming up repeatedly around academic freedom is that this is a particular and very unique situation that might require something different than a set of expectations that both a small number of members of that community whether they are on campus or in the airport in Beijing or Shanghai would be able to anticipate what are the consequences, what are the protocols, what we will do in case?

So, I don't think that it's reasonable to compare that to what we do in the U.S. because our concerns are that we have some measure of good faith in processes that are well practiced in the United States and on this campus. But, we have no measure or faith in the practices and in the concerns that bring this issue to this Council.

Lange: So, let me say one thing about that and propose one thing because I'm doing this on the fly. But, what you say is completely true.

So, first of all, I still believe the community monitoring is absolutely essential. I believe that we should



actually build into the charge. We don't do this explicitly here, but we could do that explicitly and I think it would be wise to build into the charge of the Vice Chancellor, who is the chief academic officer of that campus, that he or she has direct responsibility for assuring that these standards are met and is expected to report, we could say annually, to the Academic Council as well as to the Board of DKU itself on the state of that set of concerns. So, that would be an added mechanism.

There's nothing in the charge of the provost here or any of the deans that explicitly says 'you're responsible for assuring academic freedom on the campus,' because as you say, it is deeply embedded in the culture and so would be an expectation. I think since what you said makes sense to me, that we should probably just explicitly build that. We could even build into the charges that

adhere to each key academic officer on the campus. So, that the Associate Deans who are monitoring the graduate programs or the undergraduate programs, as well as the Vice Chancellor.

But we can work that out, and I'm happy to pledge that we will work that out with ECAC about which specific officers in the organizational chart to see how that is explicitly part of the charge and I'm happy to have that built in that it would be an expectation of the annual report on the state of affairs.

Holloway: Let me just respond that that gives me confidence that you are able to come up with such a concrete plan on the fly, as you say. But also, a bit worrisome that we haven't thought this through before so that it's already in process and plan. What other thing might we come up with today that we can say 'oh, we'll put that in the plan too?' Or if we don't come up with something today, we won't put it in the plan. So let me say I appreciate the specificity of it and what I think is probably a good process that you've come up with -- I'm a little bit concerned that we're both doing it on the fly.

Lange: Well, let me a bit challenge that. I actually believe that the community standard is the most powerful, the embedding of that standard into the community, is the most powerful guarantee about that of academic freedom itself. I am less wedded to administrative oversight as being the instrument as compared to the degree to which it was built into the culture. Now we have thought about the former. That was my first answer. You question whether that was sufficiently strong, and so in my taking your query seriously, I added a further condition. It's not that we haven't thought about it. You and I don't entirely agree. And I personally do well to take your viewpoint on the matter. So, I think that's what happened and I think that's constructive.

Lozier: Karla, I also think as the Chair of the Council, I also take some responsibility on the part of the Council, or ECAC, as well because, admittedly, we have this word in here "monitored." And there have been some discussions about that, but nothing has really jelled into thinking about what that means other than we need monitors and a few discussions in APC as well. So, in addition to what Peter said about adding the language to the job description for the Vice Chancellor, I'll also say that I will take this up with ECAC and ask the chair of APC to lead discussions and come up with faculty input that would be what we would expect for that monitoring.

Questioner: I'm not quite sure if this is covered under the same principle in that report. But, so much of academic and scholarly work now is dependent upon free and unfettered access to the Internet. And in much of China, I'm assuming any access to the internet at DKU is going to be through Chinese servers, monitored by the government. How is that going to work, for instance, if I were there and I was very interested in the Dalai Lama's website which I don't think anybody else likes actually (laughter)?

Lange: So, the Dalai Lama seems to come up in these conversations a lot! (laughter). I didn't really

know that we had so many people who were committed to the Dalai Lama...

So let me first read the condition and the fundamental principles that pertain to this, which is: *Library resources and services will be available to all DKU faculty, staff, and students without limitation.* That is the condition that would be built into it. The current intention is to have a VPN which would enable us to actually go outside the firewall. Now, on the campus, could the Chinese government step in and block our VPN? They could and if they did, it would be a violation of this principle and then it would invoke the discussion we've had over the last twenty minutes.

Garnett Kelsoe (Immunology): So, if we go forward, and we have already of course invested considerably in this, I think the concern that is behind many of the questions is: if in fact the firewall is re-instituted, are we as an institution, really willing to walk away from the deal, leaving an awful lot of money in the People's Republic of China?

Lange: Okay, well, that's always the question. The question of will is an interesting one (laughter). I would say the following. First of all, the amount of resources that will be committed at the opening, while not small, is not huge. We have spent substantially more on others...

Second of all, because of the mechanisms I have evoked, it would not be simply the administrators that have a stake, right? It would also be the faculty that would be heavily involved (in this conversation). So, you know, because we just talked about a series of mechanisms that would involve the faculty if such a matter arose. And the matter on the table might be, 'should we withdraw from the DKU undertaking?'

The third point I would make is it should be remembered that the Chinese also have a substantial stake in us not walking away. So they have invited us to do this and they are doing it because they have a significant stake in the delivery of a particular type of education in China which they believe will improve the quality of education in their country.

So, for them to create a situation, I'm not saying they wouldn't do it, I'm just saying there are stakes on both sides and theirs is not small either. But ultimately, it's a question of when such an incident arose, we would have a discussion and then decide what to do and then we have the courage of our convictions.

Kelsoe: That was my question exactly – do we have the courage of our convictions?

Lange: And, you know, but it's not my convictions you're questioning. Or raising that question about, I don't mean your questioning. It's not mine. It's not the president's. It's a collective which includes myself and the president – or the provost and the president. But it also includes the Academic Programs Committee, it also includes the Global Priorities Committee, it includes ECAC, it includes the Academic Council if it came to that – and it also includes the Board of Trustees.

Kelsoe: So, Peter, let me ask you: does this mean that all of these groups would have to agree to a direction of action in the event, for example, that the Chinese gov-

ernment decided to limit your access to the Dalai Lama's website (laughter)?

Lange: Well, I was just there last night and uh... (laughter). You know, I think the answer to that is that I would expect out of those conversations a relatively consensual position would emerge.

If you're asking me whether every single person or every single committee would have to agree, I'm not sure I would say that. I would certainly think that the Board would have to agree. I certainly think that the Academic Council and ECAC would have to agree. But we could have disagreements among those, but often those things get worked out. We have other things about which we have substantial controversy. I could name you things in the health system about whether or not we should participate in certain forms of research. We've had very searing discussions across the University about some of those at different times. They go on. There's not an agreement about it from everyone. And eventually the decision is made based on what seems to be the consensual opinion after all those discussions take place.

Kelsoe: So, should we take this draft as a sort of general set of guidelines then for looking toward



the future and how our response would be to issues of finances and issues of academic freedom?

Lange: I'm not sure what the distinction you're making is between -- the general set of guidelines, rather than?...

Lozier: You mean this resolution? That's what you're saying?

Kelsoe: Within 20% of finance rule predictions, so we were actually setting, I think the question was boundaries. And I think all the questions come back to how sure are these boundaries to be determined?

Lange: You know, again, to come back to your question. Let's take on the finances. There's going to be lots of moving parts. So, the programs, for instance that we have talked about in the past, we've already talked to you about the fact there are other programs being proposed. So obviously, when we go within these boundaries, we're talking about a general set of guidelines which can be discussed.

Similarly, on the issue of academic freedom, I think the president has said on several occasions, 'we are in a situation in which we are engaging with a culture and a political system which does not share our values, but in

which we believe that we can carry on programs that adhere to our values.'

That doesn't mean we expect there will be no sources of controversy. And it doesn't mean that any source of controversy would necessarily lead to a rupture in the relationship; it means that you have to make an evaluative and judgmental decision at the time when some incident arises and we have described the process for reaching such a collective judgment as an institution about how to proceed given what's happened. Does that answer your question?

Kelsoe: I think you've answered me perfectly well. Thank you.

Patrick Wolf (Biomedical Engineering): I was wondering if the timing of this motion relative to the vote that's going to happen in China, and could we even start a program without the vote that's going to happen in China, and if that's true, then if we could not start a program over there before we get the approval, shouldn't we have the approval first before we talk about starting programs?

Lange: The answer to that is the reason we need this resolution now is because we have some very substantial demand from people and it's growing every day – I've had two requests a day from people who want to develop programs. We do not feel that we could even properly begin developing programs with individuals if we are constrained by the previous resolution of the Council which limited us to one program, the MMS in China. So, this is an enabling piece of legislation. Remember, every program has to come back here for approval if it's for a degree. And every undergraduate cluster, or program, or whatever you want to call it, would have to go through the process that was outlined through the ECAS resolution. So, the reason for this resolution now is as an enabling resolution, so we can go forward to really plan with our faculty in an open and fair way. Because we have been questioned, on the other hand, 'how can you be discussing this program when you don't have Council approval?' So we're sort of caught with one over the other.

Lozier: I think actually Pat's question is not so much 'Why are you putting this resolution before the programs', but, more, 'Why would we be even bringing the programs forward before DKU is actually established?'

Lange: Because the time frames are not the same. We might get an approval at a time frame that would still allow us to recruit students, but would not in an appropriate way, allow us to develop programs, get commitments of faculty time, get commitments of graduate student time, do any hiring that might be necessary. Those time frames don't perfectly overlay each other, and therefore, we feel this is the right time to do this so we can develop the programs, but we can't proceed with the programs until we get the MOE approval.

Lozier: Because different components have to be done in parallel rather than in series...

Martha Putallaz (Psychology & Neuroscience): I was just wondering about a clarification question – in all

the discussions I've heard about, academic programs or budget financial discussions, only Duke University has been mentioned. Is that the case or is it also possible that other universities, other educational entities, might use our campus to offer programs or there might be tuition? I don't know, broader discussions of Duke University. And if that is ultimately a possibility, is there an approval process for that that has been worked out?

Lange: The answer to that is longer term, that's certainly feasible. In fact, if there is ever a DKU undergraduate degree program we would anticipate that that would be in collaboration with other universities. For that to happen however, of course, we would have to have the regular approval processes. It's not like this is the only time anything about DKU will be approved, much less at this institutional level. And after all, we're only approving an enabling resolution as I said earlier. So, I would anticipate there will be collaboration.

Now, the issue of whether other schools can come and use our campus will depend on how much we're using our campus and whether we think that's a wise decision or not. But, that would be a prudential decision. I don't think that's a matter, in and of itself, of principle, but even that would require approval. But it's a physical facility.

Dona Chikaraishi (Neurobiology): I have a procedural issue, and wanted to ask whether the verbatim transcript with this discussion could be appended to the minutes of the meeting?

Lozier: Yes – the minutes of the meetings are always a verbatim transcription. Any other questions? Concerns?

If there are none, we will now proceed to the vote. Nan Jokerst, from Pratt, and Fritz Mayer, from the Sanford School, are going to distribute ballots and be our counters. So if you are a current Council member, please identify yourself by raising your hand. If you were just recently elected, you are not yet an official member of the Council, so current Council members please raise your hand for a ballot. I'm going to ask to have your attention back. We will proceed to vote and Fritz and Nan will continue and collect those ballots, and we will announce the results before we leave today.

The March Academic Council meeting is now adjourned. I now turn the podium over to President Brodhead for the start of the Annual Faculty Meeting.

[The resolution was approved by a majority with 52 voting yes, 5 no and 1 abstention.]

Respectfully submitted,

John Staddon

Faculty Secretary, April 5, 2012