

Minutes of the Meeting of the Academic Council
Thursday, April 18, 2019

Don Taylor (Chair, Academic Council / Sanford School of Public Policy): Thank you, everyone, for coming. We have beautiful weather outside, finally. I appreciate everybody being here. Classes end Wednesday and then we have one more meeting this semester on May 9. Just a couple of announcements and things to point out. As I'm sure you saw, Mary Pat McMahon, Dean of Student Affairs at Tufts, has been named as the next Vice Provost / Vice President for Campus Life. [applause] I particularly want to thank the faculty who served on the search committee. Emily Bernhardt (Biology) was Chair, Mark Anthony Neal (African and African American Studies) who is on ECAC was on the committee, Steffen Bass (Physics), David Boyd (Global Health), John Brown (Music), Erica Field (Economics), Christina Gibson-Davis (Sanford School of Public Policy), and Liliana Paredes (Romance Studies). So lots of faculty input there. So we appreciate that. [applause]

Interviews are currently underway, literally, like yesterday and today, for the next Vice President for the Office of Institutional Equity. So hopefully, if things go well, we'll have an announcement about a transition in that role relatively soon. Again, faculty are crucial in this process. Larry Zelenak (Law School) who is an ECAC member is the Chair, Craig Henriquez (Biomedical Engineering), who is a former Academic Council Chair and

member of the Council is on the committee, Laura Lieber (Religious Studies), Viviana Martinez-Bianchi (School of Medicine), Tom Metzloff and Ashley Rosette (Fuqua School of Business) are members of this search committee. Also, breaking news: Dean Smith is going to be the head of Duke University Press. [laughter] There is a fellow who is the head of Cornell University Press whose name is Dean Smith. Does he understand what his name means here? [laughter]

Speaker: He actually writes books about sports.

Taylor: Oh, he does. Okay, good for him.

Ed Balleisen (Vice Provost, Interdisciplinary Studies): His dad coached basketball!

Taylor: Okay, I'm grateful for this. If he had no idea, it would be a rough beginning. Who chaired this committee?

Balleisen: Josh Sosin, Classical Studies.

Taylor: I'm sorry, I didn't know that this was going to be completed. So, thank you, Josh. Were there other faculty on the search committee?

Josh Sosin (Classical Studies): Eight others.

Taylor: Eight other faculty. Okay, so lots of faculty on these search committees. Another big announcement: last week was Duke's commitment to move to 12-month stipends for all PhD students, effective in fall 2022. We've talked about this in the Council. We talked about a lot of ancillary issues. This Council and the faculty will hear about this over the next coming months. Valerie Ashby (Dean, Trinity College of Arts and Sciences) wasn't able to be here today. She and some other folks may be addressing the Council on May 9 to give you some early thoughts about what she's thinking about in terms of process for that. This is a vital thing for the intellectual life of the university. The announcement is the beginning, not the end. So there's a lot of hard work to be done.

The ECAC election is currently in progress. The members of the Council for 2019-20 should have gotten the materials. There are six candidates running for three spots. Those candidates are:

Carla Brady (Clinical Sciences),
Sherryl Broverman (Biology),
Warren Grill (Pratt School of Engineering),
Beth Hauser (Basic Sciences),
Marin Levy (Law School),
and Jack Soll (Fuqua School of Business).

So three of those six will be elected and the results will be announced at the May meeting. The continuing members are:

Kerry Haynie (Political Science / African and African American Studies) will be the Chair,
Mark Anthony Neal (African and African American Studies),

Victoria Szabo (Art, Art History and Visual Studies),
Ellen Davis (Divinity School),
and Lisa Keister (Sociology).

APPROVAL OF THE MARCH 21 ACADEMIC COUNCIL MEETING MINUTES

Taylor: The next step is to approve the March 21 meeting minutes. They were posted with the agenda. Does anyone have any questions or corrections?

[Minutes approved by voice vote without dissent]

YEAR-END REPORTS FOR THE ACADEMIC PROGRAMS COMMITTEE, UNIVERSITY PRIORITIES COMMITTEE, GLOBAL PRIORITIES COMMITTEE AND ATHLETIC COUNCIL

Taylor: Members of the Council received the annual reports for UPC, APC, GPC, and the Athletic Council as consent items. Some faculty sent questions, fairly detailed questions that we shared with the Chairs and they were followed up and dealt with. So we're not going to talk about them here. There was a bigger set of questions posed to the Athletic Council, so Linda Franzoni, who is the Chair of the Athletic Council, is going to address those. Christoph Guttentag, the Dean of Admissions, is here. After that, if somebody has questions about the other committee reports, that will be in order as well.

Linda Franzoni (Chair, Athletic Council / Mechanical Engineering and Materials Science): Thank you, Don. I'm the Chair of the Athletic Council. This is my first year as Chair and I've learned a lot of lessons along the way. First thing to know is that our Council has three other

committees. We have a Compliance Committee, an Executive Committee, and an Academic Committee. These are subcommittees of the Athletic Council. We have had one committee meeting of each of those held in the fall. We have three more meetings that are yet to come. So your report is about, essentially, half of our work, because we still have these other three meetings that are scheduled before the end of the semester. With that, the questions that were raised based on the report were, first of all, regarding concussions and injuries. So I had mentioned that that was a topic that we put on the long list of possible agenda items and that was one of the things that we decided not to address this year. The reason for that wasn't just based on the comment by our student member that club sports had a good protocol. It was also that we have covered the topic of concussions for many meetings in the past under Jim Coleman's leadership as Chair. So in terms of the varsity sports, we know a lot about what's going on, the protocols, and things of that nature. The question was whether we should or should not focus on club sports. We learned some things about how things are handled in club sports as well as varsity. I'm going to basically read some responses I got via email from Jeff Bytomski, who is the healthcare provider for varsity athletes, and Dr. Kenzie Johnston, who is the healthcare provider in club sports. So this is on the topic of concussions and injuries. In addition to why, the person also asked whether or not we monitor, follow up, and whether there is a registry. All of those are going to be addressed here.

Regarding monitoring: Dr. Bytomski said he has both electronic and paper records of our concussion baseline testing and

history as well as treatments. All athletes are baseline tested, which includes cognition, balance, and vestibular/ocular testing. The cognition testing is done with a neuropsychologist, so that's for varsity sports. For our club sports, baseline neurocognitive testing is done for impact sports, and that is actually 21 out of 34 club teams that are baseline tested. I think it's over 1200 student athletes. The baseline data are used to make decisions about whether or not students may return to their club sport following an injury or a concussion. The clinical assessments that are done at the time of the injury in club sports are the same as those for varsity sports and those assessments are all kept in the students' health records, which are accessible by all student healthcare providers. There is no registry for student athletes who are at risk or who have had a brain injury and both Dr. Bytomski and Dr. Johnston agreed that having a registry is not the standard of care. So this is not something they are interested in doing. But the medical records are available.

The questioner wondered also whether there was a correlation between the risk of injury, not necessarily concussions, and I interpret that to mean both the number of injuries as well as the severity of the injuries, whether there was a correlation between that and the ranking of the opponent. So, for example, they cited Alabama. The answer that I got from the medical staff was, there is no correlation. As we have increased our competitiveness, they have not seen a correlation in terms of the risks for severity of injuries.

So then the question was, are there any meaningful trends or takeaways? And the comment I got back – this is agreed upon

by Dr. Bytowski and Dr. Johnston: concussion risk is actually lower than it has ever been due to many factors, including rule and equipment changes. So about four years ago, you may know, the NCAA passed legislation requiring schools to submit concussion protocols, so this has been recent in the last four or five years. So they are seeing the effects of the rule and equipment changes, baseline testing, coach and athlete education, and our diagnosis and management protocols. The average injury risk percentage of concussion injury is 4.8% in football and 2.6% across all athletics. Dr. Johnston – this is over in club sports – believes that the biggest impact has actually come from coach and athlete education, which has resulted in more students coming in to be evaluated than would have come in otherwise. Also, if anyone is interested, I don't know who submitted the question, but if there is interest in this topic, they did give me a journal article that was co-published in the Journal of Sports Medicine and the Journal of Clinical Sports Medicine. It's a very recent article, January 2019. It's titled "American Medical Society for Sports Medicine Position Statement on Concussion in Sport." So if you have an interest in this topic, you can email me and I'll send you the journal article. It's very informative.

We also had a question addressed to the Athletic Council that had to do with whether or not student athletes could report harassment or mistreatment by coaches or teammates in a confidential manner. In the Athletic Policy Manual, there is a formal student athlete grievance policy and I'm just quoting from that with a few ellipses. "From time to time, a student athlete may feel that he or she is being mistreated or treated unfairly by his or her coach. In addition to the

university committees available to all students, the university has established a grievance procedure to provide the student athlete with an avenue to express his or her concerns. This process is not intended to interfere in issues of playing time, etc...." so coaching decisions, "but it is intended to provide recourse for student athletes who feel that they are subject to serious mistreatment." The procedure consists of multiple steps. It is written in the Athletic Policy Manual, which you can get online. These steps include, in addition to meeting with the coach, it also includes possibly meeting with assistant or associate athletic directors, and then also the final step is asking the Faculty Athletic Representative for a hearing. Then the Faculty Athletic Representative would convene a committee of faculty from the Athletic Council and this would be heard as a grievance in that manner. Obviously, student athletes also have all of the other available resources – the student Ombuds and whatever the other procedures that all students are entitled to. In addition to that, in case you did not know, student athletes are invited to have exit interviews, so at the end, in their senior year, after they're done with their sport, we have exit interviews and the faculty members of the Athletic Council are encouraged to participate in these exit interviews. In fact, we would like to have a faculty member and an Athletics person in the room with the student when we're conducting these verbal exit interviews. During these interviews, the student athletes will occasionally report on coaching issues or problems that they've had. The seniors often want to disclose this information because they are no longer on the team, so the coach doesn't have any control over their playing time or things of that sort. And the seniors feel

a responsibility to help their younger teammates so they do feel free to express these concerns to us in the exit interviews. In addition to that, there are anonymous surveys that we also administer, or the Athletics Department administers at the end of the season. There are questions on those surveys that pertain specifically to mistreatment or harassment. If serious misconduct is reported on an anonymous survey, it will ask the student to provide their name so that that can be followed up on. If the student athlete does not provide their name, the sport is still known, and follow up questioning will occur. Depending on the seriousness of the mistreatment or harassment allegations, they will be referred to campus for investigation, as Athletics and the Athletics Council is not an investigative or an adjudicative agent. For an example, we did have some allegations of abuse in women's basketball a few years ago, and those were referred to Kyle Cavanaugh's office [Vice President, Administration] and they were followed up and there was an investigation. So this does happen this way. Student athletes also feel comfortable talking to their athletic coordinators. These are people they see daily. And also to senior administrators in Athletics who oversee their sport. So there are senior administrators that oversee the coaches and therefore also the sport. And they are likely to share their concerns that way.

This wasn't asked, but it's kind of a natural follow up: how are coaches evaluated? Just so you know, the coaches also have a PEP form, the same PEP form that we all love on campus. In addition to the team's athletic and academic performance, the student athlete input is also sought out and considered, which

includes the evaluation of team culture and the student athlete experience on the team.

So those were two broad questions – one that was about the concussion and injury, the other one on mistreatment. The third question that we had addressed to us – and let me just also say, our agenda item for the next meeting of the full Athletic Council is wellness. And we are going to focus on mental health, nutrition, training, a holistic approach to the welfare of the student athlete. So that is our spring meeting, and I'm sure that if there are issues with concussions, it will come up at that meeting. So our last question – and there may be more from the floor – but the other question that was submitted to us was related to the news that has come up recently on admissions of student athletes. So I invited Christoph [Guttentag], rather than hearing things from me, I thought you might rather hear from the Dean of Undergraduate Admissions, to address the question: how have risks in admissions to students with presumptive athletic qualifications been addressed? So that was the way the question was worded, I think you can interpret it however you'd like. And I'll come back up if there are any further questions for the Athletic Council.

Christoph Guttentag (Dean, Undergraduate Admissions): Thank you, I think, for the opportunity to be here. [laughter] Obviously this is something that has been in the news and I would say, there's nothing I know in depth more than what people are reading in the paper. I think what's been in the papers has been pretty transparent, if not occasionally salacious. I would say a couple of things. We've had a system in place for a long period of time that

requires the Admissions office vetting of recruited student athletes multiple times in the process. There's a vetting that occurs early in the process when a coach has a list of recruits. There's a second vetting that occurs when the student actually applies. There's a lot of communication between coaches and Admissions, and in the Admissions office there are four of us with specific responsibilities for specific sports. Every varsity sport at Duke, every sport, is assigned to one of four senior Admissions officers, of which I am one. Those relationships have been ongoing for a while. Also, and importantly, every sport also has an administrator in the Athletics Department who is responsible for that sport. In other words, there is a pre-existing, if you will, additional review of the activities of the sport, of who is on the roster, who is playing, that has preceded all of this, that has long preceded all of this. So there is a certain amount of review that has already happened. And, at the same time, as is the case at other schools, there have been a number of meetings between the Athletics Department, Admissions, University Counsel, to look at what the processes are that we have in place. What, if anything we should be doing differently, how we can make things, if you will, a little safer for everyone? So there's that. The other thing that I think that's worth mentioning is in all these relationships, all these processes, there is a certain amount of trust. Sometimes people, as we've seen, with institutions that we would not expect, there's always the ability to abuse trust. And there have been enough relationships that have been established within the Admissions Office, within the Athletics Department, between those two entities, for us to feel comfortable that people are doing the right things in the

right ways. And, at the same time, we're not unaware that some of our peer institutions might have felt comfortable saying the same thing only to be surprised that's not the case. However, there has been no evidence and nothing that I've heard outside of what any of you have heard – I've not heard, seen of any evidence or any suggestion that any Duke Athletics Department employees or any Duke Admissions employees have played a role, been compromised, done anything inappropriate. So let me stop there. What can I tell you that I haven't already told you?

Steffen Bass (Physics): It's very simple to conduct a test of all your past athletic admissions to see how many of these have ended up on athletic team rosters and for how long a period of time. By conducting these tests, you could presumably see whether there are any red flags out there, because that's essentially how you could have found any of those instances that were reported in the press. Have you done such a test?

Guttentag: Yes, and everything matches up. And occasionally it will happen that somebody does not appear on a roster that one would have expected would, so for every one of those cases, and there aren't very many, for every one of those cases, the due diligence was done and there was a legitimate reason that we're all comfortable with why that could have been the case. So yes.

Emily Klein (Nicholas School of the Environment): Do you have a sense, for example, in the Yale case, what we're doing differently that allowed the Yale case to happen? In other words, how are we different?

Guttentag: How to say this? We have some journalists here. I'm happy to comment off the record. It's not going to be anything surprising. And I'll tell you why. Because I am hesitant to say something about another school that I can be quoted on.

[Bre Bradham [Chronicle Reporter] agreed]

[These 60 seconds of the conversation are not included in these public minutes]

Mark Anthony Neal (African and African American Studies): Since you're here, I'm curious – and it's only a very small number, but the number of students who reclassify as high school students to come to Duke to compete. What kind of dynamics are at play within Admissions around those students? And I'm not sure everybody understands how that works.

Guttentag: It happens occasionally. There are no cases this year, at least that have been brought to my attention, but it does happen occasionally that there are students who are recruited athletes who can reclassify from juniors to seniors and essentially come early. In all of those cases, and frankly, in all of the cases in the particularly high profile sports, which is where it tends to happen, there is a lot of conversation between the sport, the coaches, and myself, because I'm personally responsible for men's and women's basketball and for football. So there is a lot of conversation and the same standards are applied in the sense of, is this student ready academically, is this student ready psychologically, to be a part of the Duke community? So that's always part of the conversation, that's something that we tend to be pretty careful with. It's not something that I take lightly and it's

not something that happens without a conversation with me personally. Thanks for the opportunity and thanks for your time.

Franzoni: I think, also, in the interest of time, let me just give you my email address, and if anybody has questions for me, or suggested agenda items for next year, anything like that, feel free to email me. Franzoni@duke.edu.

Taylor: Any questions for any of the other committees? [pause] Let me thank Doug Campbell, who chaired APC this year, Lori Benneer, who chaired UPC, Kirsten Corazzini who chaired GPC, and then Linda who chaired the Athletic Council. Let's thank them. [applause]

Can I have a motion to approve the consent agenda item and accept the reports?

[Reports approved by voice vote without dissent]

DISCUSSION OF REVISIONS TO FACULTY GOVERNANCE (OMBUDS, FACULTY HEARING COMMITTEE AND A POTENTIAL FACULTY PROFESSIONALISM COUNCIL)

Taylor: Now we're going to have a discussion of various revisions to different types of faculty governance. I'm basically going to give you a brief report on the Ombuds and the Faculty Hearing Committee, and then Abbas Benmamoun [Vice Provost, Faculty Advancement] is going to come and talk some about a faculty professionalism council after that.

In terms of Ombuds, Tom Metzloff became the Ombuds two years ago. ECAC has consulted with him widely through

those two years and ECAC is intending to suggest him for re-appointment to another two year term as Ombuds at the May 9 AC meeting. After consulting with Tom and with Vince [Price, President] and with Sally [Kornbluth, Provost] and other folks, the volume of cases to the Ombuds office has increased somewhat significantly. So we have decided that we need a second Ombuds. The second Ombuds that we're going to have is going to be a School of Medicine faculty member. Ann Brown [Vice Dean, Faculty, School of Medicine], in consultation with Dean Mary Klotman, is undertaking the process to identify a School of Medicine faculty member to serve as Ombuds. There is a chance that we will have that faculty member identified in time for the May 9 meeting, but there's probably a good chance that we will not. So ECAC's intention is to offer Tom for re-appointment by the Council at the May 9 meeting, and then ECAC will act on behalf of the Council over the summer to approve the School of Medicine Ombuds. So the Ombuds is a work in progress. But we feel like, and the President agreed, that we need a second Ombuds.

The second item is the Faculty Hearing Committee, which is laid out in Appendix N [of the Faculty Handbook] – I'm going to have nightmares about appendices when my term is over. [laughter] The appendices will never go away. The Faculty Hearing Committee in Appendix N needs to be updated. It needs to be modernized. But it is so much easier to say that it needs to be updated and modernized than it is to update it and modernize it. Because when you start changing it, it talks to so many parts of Duke. Other parts of the Faculty Handbook, to OIE, it turns complicated very quickly. We had hoped – I had told

you earlier in the semester that we were going to bring a beautiful, clean version for this meeting and discuss it, but basically, we're just not ready. We were trying to get a draft to you to talk about at this meeting, and we just decided it wasn't ready. ECAC was just not comfortable. Two former Chairs of the Faculty Hearing Committee raised many questions – the questions were outstanding. So we're going to keep working on this. I think the plan is going to be to offer a document that's probably still going to be in draft form at the May 9 meeting. And probably over the summer, even after the – you know, we're going to have a new Vice President for Institutional Equity – we started thinking, you know, it probably would make sense for that person also to be able to have some input here. So the hope is that there will be a changed set of procedures for the Faculty Hearing Committee by October 1, and that is when the Faculty Hearing Committee is reconstituted. The term runs from October 1 to September 30. I also told you I thought we were going to do it in April and May. So it could take longer, but that's what we're going to try to do. Any comments about those two items? Ombuds or FHC?

Okay, so just a couple of framing comments about the professionalism council idea. Ann Brown presented on that back in November. We've talked about it. Everyone knows, we've read in the media about one of us being accused of mistreating one of our students. While this is a case that we can't talk about because it's a case that's underway, I think none of us on ECAC, or nobody that's been on the Faculty Hearing Committee or nobody that's taken a close look at this thinks that the procedures that we have now are what we need. We

need to come up with a better set of procedures and again, it's easier to say that aspirationally than it is to get the details exactly right. So Abbas is going to talk about a next step in some of this conversation. We're going to have a new Vice President of Campus Affairs. We're going to have a new Vice President of Institutional Equity. And we're going to be talking about the Faculty Hearing Committee over the summer. So it's a good time to try to think comprehensively about all of these things. Basically, I had to check my personality impulse when I get close to deadlines to start jamming and pushing to try to get things done. So I had to kind of let go of it. So I officially now have let go of it. [laughter] Somebody else is going to have to carry it the next few steps. Big picture: what I think we're after with a professionalism council is when we have bad behavior of faculty, and we know from our surveys that about one in five members of our community have reported being harassed in one form or another. I think we're probably pretty confident that's an undercount. We know for sure that we, faculty, are disproportionate producers of the harm. So we're going to have to lead the way in changing the culture. It's going to have to start with us. We're going to have a professionalism council and some structures that each of us actually have to be activated in our own place where we are to speak up when we see things that are inappropriate. We both need to work on these structures and we all also need to start holding each other more accountable and to help each other out. So I think really the notion of a professionalism council is, what are we going to do when there's something that does not rise to the level of the legal definition of harassment but it is still behavior that is unacceptable? How are

we going to do something about that? To me, that's what the professionalism conversation is about.

Abbas Benmamoun (Vice Provost, Faculty Advancement): Thank you, Don. That's a really great way of phrasing the issue. So the question really for us is, how can we, as faculty – because universities are interesting organizations where you have faculty governance and faculty really shape the institution, help shape the institution, how it is run. Part of that is also helping foster a climate where everybody who sets foot on our campus feels welcome and respected. That's really the challenge for us. The discussions we have been having is that, what do we need to have in place to address the full range of conduct that might not be consistent with our values, with our standards? What we want to be as an institution. So when you look at that, look at structures, you look at policies and guidelines, you look at procedures, and you look at expertise within units, for example, what kind of skillset you want in Chairs, you want in Center Directors, you want in Deans and others. We would like this to be part of the conversation. We welcome your input. So to start the conversation, let me just outline what if we were to decide to have some kind of council, that is staffed by faculty? It is a peer to peer conversation about conduct. What would it look like? We welcome your input on that.

You're probably familiar with this iceberg if you saw the National Academies consensus study on harassment in higher education. [refers to slide] They talk about this iceberg. By the way, I highly recommend that report to everybody. It is rich in research and evidence-based recommendations. So most of the

institutions have mechanisms in place to deal with conduct that violates, let's say, a particular policy or law. Most of them. Now, things can be uneven in terms of how people are satisfied with that, how things are done. But, you know, if you have an issue with, say, a clear case of harassment discrimination, something that is a protected group, we have laws and guidelines in place to deal with that and we have compliance officers that deal with that. But a lot of the conduct that happens sometimes does not arise to that level but it is still destructive for our environment. The question then becomes, how do you deal with that? And what role should faculty have in that? So about the iceberg, that's the behavior that meets some standards of legal violations or policy violations. Below the iceberg is like day to day interactions or behaviors that are destructive but might not meet that standard.

So there are some definitions here, [refers to slide] but there may be debate about these things as well. So what could be potential misconduct? Conduct inconsistent with our standards, ethical and professional, disruptive behavior in, let's say, faculty meetings, or interactions with students and others, bullying colleagues, these kinds of power dynamics that you get, disrespectful conduct with students, mistreating students, faculty, and staff. Staff are also an important constituency in this as well. And conduct that is violating university policies and guidelines. So most faculty conduct concerns that do not rise to policy violations get addressed at the department level or the unit level. OIE might get involved, our office might get involved, the Dean's office might get involved, to try to resolve some of those issues early, at the unit level. But we don't

have any formal mechanism at the university level, at the campus level here, at the Provostial level to address concerns of that type, that do not rise to policy violation, but it is still something that you don't want to see. We want to hold each other accountable to that kind of behavior.

The other thing that we need to do better at, and this could be one mechanism, but there could be others as well, is that when we deal with individual cases, say you have a situation where it is this power asymmetry and somebody is feeling bullied, disrespected, undermined, when you deal with that situation at the department level or the school level or the campus level, what other things should we be doing? For example, many of these issues sometimes are just the tip of the iceberg of other things going on in the unit. At the moment, we don't have a good mechanism of going back to the units and saying, let's have a conversation about this. Now, we have resolved this incident, but this may not be an isolated incident. This would be something that is just an example of other incidents that may not get reported. So how can we foster that kind of better climate within the academic units? There are a lot of conversations going on across the nation about this aspect. How to circle back to the units and address issues so that we can be more proactive than just being in the reactive mode when there is a crisis and then we all scramble to try to deal with it. So we thought this could be another part of the conversation as well, and maybe could be folded into whatever initiative we decide at the end. Some kind of peer-driven structure that we want to put in place.

So suppose we decide to set up a faculty professionalism council. Let's put that aside for a moment, the debate about terminology and names and things like that and focus on just having a peer-driven structure in place. We want this setup to complement the structures and mechanisms existing within the university, those in academic units. What we don't want to see, let's say, for example, is Chairs or Deans sending everything up to this campus level rather than dealing with these issues at the local level, if you can deal with them. Because it is important for us that local leaders deal with those issues at their end. Part of it is that it is their responsibility. The other thing is that you know your units better than anyone. You know your constituency. You know what kind of language to use. You know what best practices exist within your discipline and things like that. So we want these things to be addressed at the local level first. But if they cannot be addressed at the local level, then you can send them up to the Dean's office or to the Provost's office.

The other reason why we want to set up something like this is to provide consistency. At the moment, with those issues that are below the iceberg, there is no consistency with how we deal with them. So, for example, some people may have a conversation with the individual faculty, but there is no follow up with documentation so that when that issue comes up again, we can go back and say, look, this is now starting to become like a pattern and we need a different approach to this problem. So we want to have some consistency in place to deal with these issues. Something I should clarify is that while we are having this conversation, we are already doing some work with some units. We are working with Chairs to

develop a skillset to deal with these issues, to have practices in place. When we do these workshops, we bring in people from OIE, we bring in people from Legal Counsel, from HR, people with expertise, the Ombuds office, so that Chairs know that we have resources available here on campus to take on these problems because we want people to take on these issues and we are willing to support them in that.

So we want to set up some kind of faculty-driven structure and mechanism to address this kind of unprofessional conduct. And probably this council itself may follow up with units with some recommendations. In some places, you have the equivalent of OIE when you have a finding, you send a memo to the units that says, these are the issues that have been uncovered in your unit. So that the leader of that local unit can work with the others on campus to address the broader climate issues. But this professionalism council can also probably do that kind of work as well, focusing on the faculty angle since they know that component very well, and talk about long term and short term strategies.

So, the charge, the mission of this new setup of the council: evaluate complaints about or allegations of potential faculty misconduct. Refer to the council by the Deans to the Provost. So the idea here is that you start at the local level, probably at the department level if you're focused on the department, but there are centers and institutes and others. The department may refer from there to the Dean and if there is no resolution at that point, or they feel that they need the expertise of peers, faculty, then that might come to the Provost's office. This council would look at the complaint and would have

expertise in the room to decide whether this could potentially be a policy violation and therefore does not belong in the council. It should go somewhere else. That is very important to have that kind of triage function to sort through the various incidents. Because Chairs might not be equipped with that kind of knowledge and familiarity with the law to be able to decide, well, this is harassment, but this doesn't rise to the level of harassment. I always tell faculty and Chairs, leave that to the experts to decide. That is very important. Pick up the phone, talk to somebody, give them the full story so that they can help you assess the situation that you are in. So some cases may end up being referred to a separate body. Let's say, for example, OIE, or, in the case of research integrity, to another office. And they deliberate on those. If the determination is made with the support of experts that this belongs in this council, then this council would have a debate about it, a conversation, hear from all the parties, gather the necessary evidence, and then provide recommendations to the Provost. It is an advisory council. It doesn't make decisions. For a decision, we have to go to the Provost. With the professionalism council in Medicine, they go to the Dean with their recommendations and suggest interventions and include possible sanctions. So there is some kind of accountability system in place. Because this is something that people have been talking about. We need some enforcement mechanism. We need some accountability measures in place to deal with that kind of conduct that is disruptive to the environment.

Membership: again, this should be peers, this should be owned by the faculty. Maybe five to seven senior faculty

members, tenured faculty members, who are secure in their position to be able to deliberate on these issues and provide recommendations. They would serve as voting members. This is almost verbatim from what they have in the School of Medicine. They would be appointed by the Provost, but I'm sure the Provost would consult with the Deans and with the Academic Council and others. My office, the Office for Faculty Advancement, would serve as an ex officio member of the council. The council would be sitting there because we know the issues that are common around campus as they relate to the faculty. We have those relationships with the Schools and with the Chairs. We also do various awareness and education programs. So we can incorporate some of that information that we get there into our work so that we can do more prevention and have more informed workshops and resources for the faculty. And then ad hoc faculty members are included when their subject expertise is required. Let's say, for example, we are dealing with an issue that we feel that not all the members of the council have expertise in. We might pull in a faculty member who has expertise in this, a senior faculty member, so that any recommendations will be based on information and expertise. Other possible ex officio members could be legal counsel. It's important to have that kind of input because they can advise you and say, you know, better send this to OIE, or it should be dealt with in a different system. An HR representative, because in many cases you are dealing with employment issues so it is important to have people with that kind of expertise. And other possible ex officio members, the University Ombuds, OIE representative, and the relevant Dean when we are dealing with a case from a particular school. So basically, this is in

terms of membership. The council will meet as needed and our office will provide staff support. So this is just a draft. People have been talking about this idea, so we thought we could help by putting something on paper here for conversation purposes only at the moment. You want to see something like this. Is this the right structure for it? Is this the right mandate for it, the right charge? Who are other people who would like to be involved in this, and things like that? I would welcome your input.

Douglas Campbell (Divinity): I think it's a great idea, because this is a gap that we've seen when we've been reviewing programs and units [in APC]. There is really nothing we can do, much less that we can do. What we need is a robust central procedure where some of these issues can be resolved or at least worked on. How will the council manage compliance? If a faculty says, I just don't want to come to the meeting. I'm wondering how we can encourage compliance without being referred. And I'm also wondering if it's going to be case-driven or climate-driven? So a Dean could say, without pointing the finger, we've got an issue in this department. Could you come and advise us in a proactive way rather than just a reactive way? Would that be within your agreement?

Benmamoun: I will answer by using the parallel of the School of Medicine, the council that they have in the School of Medicine. At the moment, my understanding is that it is case-driven. You bring a particular case to them and they deliberate. It is not, let's say, I have this climate issue in my unit, could you come and help us with that? But I see, actually, in my view, it is very important to have senior faculty, leaders on campus,

involved in this project, who can also advise us on climate issues. Because it is a lot of work that we can do in that area. For compliance, whether people can show up or not, we have Sally here.

Sally Kornbluth (Provost): Just a couple of comments about this. One is, this advising unit does what your office does to some extent anyway. But in some ways, this formalizes a sort of informal thing that goes on anyway, but actually provides faculty input. So there are many times a Dean will come and say, this has happened. What is my range of options? What can I do with this? And having faculty discuss it and be able to advise is important. When you talk about compliance, the group can discuss the circumstances as reported by the Dean, as reported by colleagues regardless. I would think that someone who is requested would want to tell their side of the story. But if they don't want to show up, it's irrelevant in terms of the ability of the group to recommend some sort of sanction. The other thing I will say though, and this came up in the Project IX report, which is the external folks we had who came and looked at OIE in particular, in a way, we need to wait for the new OIE director and how these things then percolate. Because it would be good to have a central referral point that says, yes, this is a legal case. This needs to go through OIE. Yes, this is actually something that should be in Student Conduct. Yes, this is something that should go to a professionalism council. So I think we want it to bubble up through the Deans, as Abbas had said, but I also think there needs to be some way that someone who really knows what the landscape is can triage it. Like, you really need to talk to an Ombuds. This is not a faculty council thing. So that's one thing.

But I think once we kind of get that landscape in place and there's a more robust referral, something like this could be very helpful in an advisory way to set the bar across all the schools among, what kind of behavior merits that kind of sanction? I will say that the Medical School has received very few actual cases. Every case I've heard about is one that I think most people would recognize as having gone through all the local channels, many conversations, and has been pushed to the extreme point where the Dean needed to do something but she needed to see if faculty were in agreement, and the faculty could recommend something that seemed like, if you will, punishment that's actually proportionate to the crime, and not just drawn out of thin air.

Sina Farsiu (Biomedical Engineering):

May I ask, so from what I am understanding, if there is a policy violation, then it will be dealt with differently. Here we are talking about the cases that no policy has been violated. So my question is, why not then change the policies and add these issues as a policy? It's a bad action that someone is doing. Why not have a well-defined policy, so everyone would know that in the future, or after this particular case, it would be something for the future cases of not happening. Because in a very non-ideal world, you can assume that every action then can potentially be prosecuted. What is the mechanism for setting a policy, based on this?

Benmamoun: In this situation, when you're talking about climate, it is very difficult to come up with a policy that catches all kinds of behavior that is airtight. So what you want is to allow for, let's say, some general guidelines on

conduct. And then when you have some behavior that comes close to that line but doesn't cross it, you have some other mechanism to deal with that. I'm not a lawyer, but my understanding also within the policies that we have, especially on discrimination and harassment and things like that, there are some clear guidelines, there are some protected groups with definitions and all that. And those might not catch everything that happens on the conduct front. So that's the kind of thing, when you still do not reach that kind of threshold, but you get close to it, we need something in place. A lot of times, when you work in this space, a lot of behavior has something to do with people who might not have intended it. What you do as the Chair or the Dean, you pull people aside and you say, that's not how we want to conduct ourselves as members of this community. But sometimes the person might persist in that and then that reveals that there's something else going on. Then you need to have some other mechanisms of dealing with that.

Kornbluth: Well, you'd have to have a pretty good imagination. We're not going to have a list of things like, don't throw Snapple bottles at your graduate students. I mean, seriously, these are the kinds of things that happen. There are the general categories, but I think there are things that – well, that one might be policy – but there are things that happen that are just not concrete but that everyone would view as really being a bad thing to do in the community. That's the question. Can you really capture those? And maybe you can. Maybe things occur and you say, this is something we want to codify and say never do it again. But there may be things that fall through the cracks there.

Farsiu: My only comment is that not with this administration, but in the country that I come from...

Kornbluth: It can be abused.

Farsiu: Things were abused and the whole ruleset of the university faculty was basically laid out because they were not following the policies, the undefined policies.

Kornbluth: Fair enough.

Benmamoun: That's a very important point and this is why we say that these things have to be referred to the Provost through channels, and hopefully you'll have checks and balances at every level. So at the departmental level, and then at the Dean's level and at the School level. And then at the campus level, you have a group of peers who would watch for that kind of thing, that it is not just to silence people or prevent us from having robust debates about important issues, but you can have those debates where you are respectful to others. You have to find a way to thread that needle.

Sosin: I like very much where this is heading. There are a couple of points that I like a lot that were either explicit or implicit in what you said. One that triage happens at the other end of the phone line, the person picking up the phone shouldn't be trying to figure out, is this the right person to call? I point to what I gather has been successful, it's always worked great for me when I've used it – DukeReach for students. Where there's just one number and I call it. If there's something that I can do, they generally let me know. If there are decisions that have to be made about what the proper course of action is, they make it. It's great. They

often get back in touch with me. So something like that where the triaging is happening on the other end, and where there's a single email address or a single phone number, is working great. One component of that, though, is that bad behavior doesn't happen only during business hours and DukeReach is staffed. So I don't know how well that comports with a faculty staffing model here. But the other thing I want to mention, I don't know if this is where Doug was heading with comments about climate, but we've mentioned climate several times. Climate is often that sort of intractable thing, but climate is also sometimes the accumulation of a number of acts that don't quite rise to the level of actionable or breach of policy. Which, in the aggregate, can signal something really quite bad. One of the ways that bad actors get away with it for a long time is knowing where the line is and generally not crossing it. So one of the things that this seems particularly valuable for, but where I hear loud and clear, your anxiety about it being abused, is a point of collection for the smaller things that aren't assault, but nevertheless, the accumulation of them can be badly unhealthy.

Benmamoun: Definitely, I agree with that. And on the idea that there is some central place that people can call. Like DukeReach for staff or faculty. That is something that some people have mentioned as well. One has to think about how to do that. But whether there are actually places where people report to us where the triage is done or not, that depends really on the expertise of the person on the end of the line. So that question still remains about having people with the right expertise, legal counsel in some cases, OIE people who

deal with compliance issues and harassment and discrimination, and others, research integrity and things like that. It's always important, even when somebody calls you, to check with the relevant experts before you can advise on a particular course of action.

Nan Jokerst (Electrical and Computer Engineering): I think this is particularly important for Duke because, as we've discussed previously in this Council, we don't have a hostile environment standard currently for harassment. So harassment has to have a demonstrated negative impact upon the person to be classified as harassment. So as a result, we can have a hostile environment, but if the people are surviving the hostile environment, we don't have a policy violation. So I think this is really important because we need some way to address a hostile environment. So I think this is a good first step.

Benmamoun: I agree.

Mark Goodacre (Religious Studies): I really welcome this as well. I think it's very encouraging. One aspect I think that has come through in recent stories in the Chronicle and Inside Higher Education is that the students who are complaining in those cases feel that they exhausted structures and mechanisms. We have structures and mechanisms, and I think the complaint is that the structures and mechanisms are only as good as the people who are enacting the policy or at least the attention to that particular complaint. One aspect I wonder if we need to add to our thinking on this is, this is very much focused, quite rightly, on faculty and faculty advancement. But one of the issues that has arisen in these recent cases, at least in my department, is

that the students making the allegations feel let down. They feel let down by Duke. One of the things about the sanctions and about the feedback from this kind of process is that I think we need to think about, how do we show ourselves to be supportive to our students? How do we get the message across? It's not just about climate and culture. It's about individuals not feeling let down by Duke. All of us, whether at the departmental level or anywhere else. And could we think about how we can feed back some of that support to our students? Because there are people who are leaving Duke who feel they have not been listened to. There are people still at Duke that feel they are not being listened to. If we can think about some of that while we're thinking about our colleagues who are actually engaged in that.

Benmamoun: You raise a really important issue. I spent two days talking with people just about that topic. How we circle back to people. What takeaways do we take from incidents when something happens? And you have two parties, what do you do? How do you circle back to the affected parties and to the larger community about that and make sure that people understand what those findings or non-findings are? And what other things you might be doing as a community. For example, when you have a complaint and there is a finding that somebody was harmed, and then we deal with that particular incident, but we also need to circle back to the community and say, here is what we need to be doing, especially if we realize that it is really a symptom of a larger problem. That should go for staff, faculty, and students. It should be a community effort in that regard. This is something that all universities are grappling with. There are

constraints in place, and I hope these people appreciate that. There are constraints in place because when you are doing these investigations into these matters, there are laws and policies that govern what you can say and what you cannot say. But, that should not prevent us from talking about the overall climate issues that are uncovered by those issues and involve the whole community in conversation about them. It validates people when they are really hurt. Go and circle back to them and engage others. But this is all a collective effort. Student Affairs, Student Life, HR, with regard to staff, all of us have to be involved in this and we need to be better coordinated on that level. But this is one of the most important things. It can be hurtful when you feel that nobody is paying attention to you and that you are not being heard. But this is everybody. Every institution that I know is grappling with the same issue.

Edna Andrews (Slavic and Eurasian Studies): I wanted to say that Abbas's office is already doing wonderful workshops that are under-utilized. I think that the proactive is, can we stop many things from happening before they happen by educating our colleagues about better behavior? The formats that Abbas's office uses is scenario-based and I think it's a powerful venue. It's not painful. The interactions are good. Faculty get to talk to each other as well and I just want to mention that while I support all of this, I also think that you've already started a very big ball rolling for proactive training, but not training, but interactions with faculty to consider scenarios that are controversial that do not rise to the level of a crime, but can make life very unpleasant. So I think more of those, and finding a way to get the faculty to buy in to doing this, not just the people that

already understand, but maybe the ones who don't understand. Because the sessions are not painful. They happen frequently. You feed people. [laughter] I just think that you already are being aggressively proactive, and that that's a wonderful way to build a context for the next step.

Benmamoun: You are very kind. Edna has actually been a partner with us. We do this with all our workshops, actually. We try to make it a peer to peer discussion. So we bring in the faculty experts to run our workshops and lead them. For example, Edna led one for us as a linguist herself, on how to navigate a diverse linguistically and culturally environment. We had a good crowd there and we had a really very robust discussion. We welcome everybody.

Just one last thing. Claudia (Gunsch, Associate Vice Provost, Faculty Advancement) is here. Next Thursday, we have two events that day around the National Academies consensus study on sexual harassment in higher education. In the morning we have a workshop for Chairs with one of the authors of that consensus study, Lilia Cortina from the University of Michigan, and we have a number of faculty and Chairs on the panel. So we invite Chairs, DUSs, DGSs, to come to that workshop. In the afternoon, we have a panel discussion with a short presentation first by Lilia Cortina again, and then we have a panel, Sally will be on that panel, Valerie Ashby, and Don will be moderating the discussion. And we really want to have that as a community conversation about what kind of environment we want to have here where everybody feels respected. You have to register, so please do register. Space is

limited. That's always a good way to get people to sign up. [laughter]

Taylor: Thank you. At ECAC next week actually, Abbas and some folks from the Counsel's office are coming and we're going to start talking about all these things we've been discussing together.

We are now going to go into executive session and we will adjourn straight from executive session. If you remember, last time I said we were never going to come out of executive session, that was understood to be a deeply painful way to spend a Thursday. [laughter]

[Executive Session for the purpose of discussing the Honorary Degree candidates for Commencement 2020]

[Meeting adjourned]