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# Minutes of the Regular Meeting of the Academic Council

Thursday April 22, 2010

Craig Henriquez (Chair, Academic Council and Professor of Biomedical Engineering and Computer Science): Welcome, to all the rest of you. As I just mentioned, we have the new Council members here today and we had a little orientation to Academic Council explaining what we do and how we work. So I would like to welcome everyone and Happy Earth Day! I realized, coming in, if there is a time and a place to appreciate the Earth it is April in North Carolina (laughter). It's a beautiful day and I hope you've had a chance to enjoy it.

Again, I want to welcome the new Council members, and want to thank you for your willingness to serve and for offering your opinion over the next couple of years on the issues that will face this University. Before we move to the approval of the March 18 minutes, which is one of the things we do at every meeting, I want to remind everyone that we will have a reception, this is not a usual event, this is somewhat of an unusual event, to welcome the new members and also the newly elected members of ECAC. That will be outside this hallway after the meeting. It will be a long meeting, so I think you will enjoy the food. I hope that you will be able to stay, otherwise my kids are going to be eating hors d'oeuvres for the next month – at least that's what I've been told (laughter).

We are going to end the meeting in executive session, which means that if you are not a faculty member, you will be asked politely to leave. We are going to actually go through the Honorary Degrees for 2011 at that time. There is good news — for those who are asked to leave, there is wine at the end of the meeting (laughter).

We have a full agenda, and I will try to keep my remarks short as best I can. I am going to move to the approval of the March 18<sup>th</sup> minutes.

[Minutes were approved by voice vote without dissent.]

[Attendance sheets](#) are being passed around, so the new members, you are supposed to initial those. I reminded them and I will remind you all that if you have three or more unexcused absences, we will have to boot you out of Academic Council, which is not a very pleasant process and we hope we don't have to do that. And as I mentioned, the primary reason for doing this, or at least letting Sandra know ahead of time that you're not going to be here, is that we need to have a quorum for many of the votes that take place, and we need to know that ahead of time. So if it happens to be that everyone gets stuck in England because they can't fly across the Atlantic, we need to know that ahead of time and we will reschedule the meeting accordingly.

Today, we are going to be doing a lot of things, and one of the things we will be doing is electing the new members of ECAC and also the Faculty Secretary.

### *Faculty Secretary Election*

So we will go to the Faculty Secretary first. The Faculty Secretary's primary role is to provide the minutes for these meetings and the ECAC meetings. The Faculty Secretary is also an ex-officio member of ECAC. I, along with the other members of ECAC, would like to thank [John Staddon](#), who is here. John has been our Fa-

culty Secretary for the past five years and is also the official photographer of the Council (laughter). According to our bylaws, the Faculty Secretary of the Academic Council is nominated by ECAC from the ranks of the University faculty and the faculty emeriti. ECAC would like to put forward John Staddon for re-election to this position. John's bio was in the materials that were sent to you. I need to ask before we go forward, are there any other nominees for Faculty Secretary? Any nominees that you present must have agreed ahead of time before this meeting to serve as Faculty Secretary. Hearing none, I would like to offer the name of John Staddon as Faculty Secretary for the coming academic year and ask all in agreement to say aye. Opposed? Abstentions? Congratulations John. (applause).

### *ECAC Election*

Our next item is the election of the new members of ECAC. With the agenda, you should have seen the brief bios, and if you haven't seen them already, there are a few copies available on the front table. The Executive Committee members are elected for two-year terms. Before I go any further, I want to recognize the three members of ECAC who will be stepping down this term. Stan, who is here. Stan Abe from Art, Art History and Visual Studies, is also going to be continuing on the Council. So thank you for doing that. Ana Barros, Pratt, is Ana here? And Amy Bejsovec, Biology. She's hiding in the back. While you are all not done, we still have a few meetings to go, your terms end in June, I wanted to thank you all personally for your service and your counsel over the past year. The Academic Council really doesn't get a chance to see the effort and work it takes behind the scenes to get the monthly meetings in preparation. But Stan and Ana and Amy have shown remarkable dedication to Duke and to faculty governance and I have really enjoyed working with you all, and will miss working with you.

I also would like to acknowledge the members who have one more year on ECAC. [Ann Brown](#) who is there in the green, [Marie Lynn Miranda](#) who is also our Vice Chair, and [Suzanne Shanahan](#) who is not here. They will be continuing for one more year. We have asked Professor Susan Lozier and Professor Kathy Nightingale to be the counters for today's election. They will also distribute the ballots. I should remind you that only elected members of the Academic Council can vote, not alternates. We will announce the winners at the end of the meeting.

Our bylaws state that ECAC shall prepare a ballot with two nominees for each open position, and circulate that information prior to the meeting. I will now read the names of the candidates and ask each to stand when I call your name:

Jennifer Brody is one of the names, but Jennifer couldn't be with us today. She is in African and African American Studies. Bill Seaman, back there, Art, Art History & Visual Studies. Steven Baldwin, Chemistry.

Steffen Bass, from Physics. John York, Pharmacology & Cancer Biology, and Larry Zelenak from Law... [[Steffen Bass](#), [Larry Zelenak](#) and [Jennifer Brody](#) were elected].

### *Acceptable Use Policy*

We will move on to our next agenda item. The next two items actually do not involve a formal vote from Academic Council, though some approval would be helpful, particularly to Tracy Futhey, the Vice President of the Office of Information Technology, would like our blessing on this Acceptable Use Policy. I hope you had the chance to read the background material. In essence, this policy replaces an existing policy that was created about thirteen years ago. Since the old AUP was created with regard to our use of computing technology and our responsibilities in using computing technology, and the University's responsibility, a lot has changed in the world of computing since 1997. It has changed in terms of legal, and regulatory and compliance issues; it has changed in the way we interact with computers.

This new AUP policy is to be put in place to try and fill in the gaps – particularly in the area of e-discovery, which some of us are actually aware of, where Duke may be required to provide certain data or emails that exist on University-held servers. So the emails that you conduct your business with...in certain cases the University may be required to present that to authorities under subpoena or for some investigation.

Another issue is attending to password security. There are some of us who don't think of their password as being very important. But the password is an entryway into the computing system at Duke. It is also an entryway into a lot of information about all of us. Now that we have Working@Duke, where our paycheck and everything is done electronically, your userID and your netID are actually portals to that information. So it is important, it is imperative, that you keep your password secure. If you believe it has been violated in some way, you need to change it as rapidly as possible, and keep your passwords as strong as possible. This AUP tries to emphasize that point. Paul Horner, from OIT, is here to answer any questions should you have on the Acceptable Use Policy. Are there any questions on this policy at this time?

### *Questions*

Steffen Bass (Physics): It says in the first paragraph



that the purpose of this document is to establish and promote ethical, legal, and secure use of computing and electronic communication. Now, when I go to other educational or governmental institutions and I use one of their computers, I first get this flash screen which is a lot more specific about what is meant by ethical or legal use. For example it tells me “You cannot spend five hours a day trading on E-Trade” or “You cannot look at pornography” (laughter) etc. Nothing of that sort is on that here, which may leave the user somewhat ignorant of what is ethical or legally correct use of the system or facility. Is this on purpose? Is it that Duke does not care if I do five hours of day trading per day, or is there something which should actually go in here?

John Board (Electrical and Computer Engineering): I am on the faculty of Pratt and also serve as the Associate CIO. I am working with Tracy Futhey, and wrote both the original words, in 1997, and also had a hand in the re-crafting. All of the examples you gave are not IT issues, those are HR issues. And we are trying to be very careful about not putting HR policy into an IT document. We also try explicitly not to enumerate things that are known to be bad because they are illegal or otherwise against other policies. So it is a conscious decision not to attempt to enumerate the bad things one could do with a computer (laughter).

Henriquez: Any other questions? And if you could tell us your name.

Roxanne Springer (Physics): So, I think it is pretty clear that we all understand that information is subject to



search warrants, legal subpoenas, and also that there is a chance that a mistake will be made, someone will accidentally hit forward and send all of your emails to the *New York Times*, or that you might get hacked. So my questions have to do more with what is specifically under Duke’s control? What Duke decides is its own policy. So if I may consider this particular point that I am extracting from a sentence, you can tell me if I am misinterpreting it. But one of the sentences that bothers me, there are two of them: “Duke may find it necessary to access in disclosed information a computer and network users account to protect Duke’s legal interests.” You propose that that be Duke’s policy? Do you agree with that statement?

Board: I would say that that is typically a statement of fact of how our University Counsel’s office works. In writing the AUP, one of the reasons we felt it necessary to redraft the 1997 wording, which has a very good statement about our privacy statement, is that it is simply not true anymore. There are any number of reasons where Duke, acting in its own self-interest, has acted through Counsel’s office, not by any sort of arbitrary, “I think that I should be able to read your email to see if you are working hard enough,” no, through a very controlled process in the Counsel’s office. Nonetheless, Duke will decide that it is important to preserve information for possible future use or possible present use. And we know through events that we have lived through, that they will not hesitate to do that, even on a large scale, if they believe that it is in Duke’s interest to do so. And so that was in fact, one of the prime motivators that caused us to put this language in here, just to let people know that you really cannot assume that your information is fully private. And if you really want to have personal information, don’t put it on Duke’s servers. Keep your personal email account separate, we have no interest or authority to compel you to reveal your personal information, information stored on a personal account, short of a full-fledged legal suit.

Springer: May I continue? So this isn’t a choice that apparently Duke’s University Counsel has made, and the Faculty can choose to agree with it or voice its objections? Who decides what is in Duke’s legal interests?

Board: Not IT people (laughter). I would defer to Peter, but that is what we employ the Counsel’s Office to do.

Peter Lange (Provost): I can only say in the instances where this has arisen... [there] has been a decision which has been taken as Counsel, coming to the senior leadership of the University and recommending a policy, and there then being a thorough discussion – which at the time, as I recall, also included ECAC in that discussion – about what the policy should be with respect to that matter.



To just be a little clearer on what John was saying, there are circumstances in which the anticipation of a lawsuit, a reminder of the public press, you don’t read anything about Duke in this, in which the anticipation of a lawsuit can compel you to save people’s emails for fear

that if the suit is filed and you have destroyed the emails, the fact appears as a willful act to avoid the consequences of the suit. What happened in those cases is that a very careful policy was elaborated such that, for instance, as I recall, the email was collected by a third party and only the third party, and they collected it as a mass, they didn't go in email by email, they mirrored whole drives, and they just put those whole drives essentially in a storage and a further action was required, coming back to the same decision makers, before those emails can be entered, and they can be entered. In other words, before someone could look at the content of an email, they would have to come back again to request or discuss that decision.

Springer: Is there any reason not to codify that in the policy? That there is in fact this third party oversight? Or that you do invoke some sort of faculty oversight such as ECAC before you take this step?

Lange: Well, I would say two things. First of all, I think it would be very hard to write. But second of all, I could imagine a circumstance where there could be a difference of opinion with regard to that matter, even among the faculty. Since some faculty members might be directly implicated, and other faculty members might not. That would require a fairly complicated decision in which ECAC would be consulted, but I am not sure that we could give a decision...

Board: And there is a time constraint issue as well, things have to be done quickly.

Springer: A colleague of mine brought up the issue of having perhaps a FISA [Foreign Intelligence and Surveillance Act] analogue, where there is a body that actually gives its stamp of approval on some sort of warrantless wire tapping and could be consulted.

Henriquez: In terms of ECAC's oversight of this sort of process, that would be very, very difficult to do and craft. With regard to legal implications, my understanding is that this is not an unusual situation. I think there are a lot of situations now where email is being collected and as John said, I think the choice of faculty member is either to put that information on Duke's servers or to use another server that Duke doesn't have control over, like if you want to use all of your mail through G-mail, not through Duke, then Duke would not have the ability to get that information. Google could have the ability to get that information (laughter) so I think that is effectively the choices that we have.

Springer: Will the employee be informed should such information be accessed or disclosed?

Henriquez: I think that Paul is the expert on this.

Paul Horner(OIT): The answer to that question is yes. In all of those situations the employee will actually be told that it is their responsibility to assume the role of what is actually called a *data custodian*. So Duke's collection of this data is actually co-incidental to the employee, and by employee I mean staff or faculty, that is their job to preserve this data. Duke is almost coincidental to insure that this data is preserved.

Springer: Is there any reason not to put that in the policy to assure people that they will in fact be informed?

Horner: Let me offer you my personal opinion on this policy. I think a policy should succinctly convey information in as concise a manner as possible to provide, if you will, a sense of what we are trying to do in this regard to describe Acceptable Use. As the first question went to about acceptable use, if you start putting in examples and other descriptions, we're getting into HR areas. This is talking about a bare-bones Acceptable Use Policy. Additional materials or policies may be needed to clarify individual aspects of what I hear you're describing, which may be the actual method used to provide this data. I think those could be appropriate follow-up policies. I think the year that I have spent trying to get this policy adopted and going through eleven different committees, I have heard these questions over again, and I respect all of them, but they become moot unless I can have this policy and then create others under it. Otherwise we end up with a policy that reads almost from A-Z trying to anticipate every possible event.

Springer: Well maybe it will help to give an example of what someone might be concerned about. There is a statement that says – and again I am just extracting to make points – “Duke may in its reasonable discretion view information records. For example, for the proper functioning of Duke, or for internal investigations.”

Horner: Yes. I see that sentence. Yes.

Springer: There seems to be a conflict of interest. If, for example there is a labor dispute between Duke as an entity and an employee. As an example, I want to know...I don't think that anyone would intentionally or as part of a policy abuse this, but I want to know if there are checks on potential abuse and as an example, you can't disclose or open (unauthorized, anyway) medical files. There are sanctions against that. But in this instance, if somehow medical information were available on an employee's Duke computer, either because in the past they had communicated with a physician or whatever information downloading, who knows? – websites, if Duke or someone who wants to abuse this ability felt like trawling through that, they could potentially come up with some damaging information about that employee and possibly use that.

Horner: If I may, you have now crossed over multiple technical platforms so let me try to put it all into



concepts. If this data resides on your PC, it will be very difficult for a central authority, your IT department to

view it unless you are on the network. If it is in an email account or some other centralized service, yes, I think part of what John tried to describe in the beginning – what this statement says, the one that is marked up – the actual policy. It's an acknowledgement and a reporting to say yes this material is data, the service that is essentially provided, there are certain administrative functions that IT personnel perform that may coincidentally expose your data to view. That is just a simple fact that those people have access to these systems. They sign non-disclosure agreements, they sign confidentiality agreements. When we reach these situations where the data must be collected, as Peter described, it's also not just turned over, it's *preserved*, because we are under legal requirement to do so, or anticipated legal requirement to do so. Some of the data that is in these emails, then, that may be preserved, email being only one example of this data that may be preserved, it's not turned over to anybody, it is kept from being deleted. Nothing is turned over, when you were asking about controls, it goes through my office, to me personally, I have to turn this data over to somebody.

I also regularly get into situations where I am asked to provide data, and the joke becomes after a while my most frequent response is "no" because there is no reason for the data to be disclosed, whether it be a suspected, if that's the right word, or discussed honor code violation of a student or some other situation. Part of my job, I even joke I'm part magistrate. I don't have a law degree, but I need to consult with the Law School I guess once in a while to understand things, but I talk regularly with the Counsel's office to see how I should do things.

All I can assure you is that this is taken very, very seriously – it comes down to following Duke's desire to protect the data and protect everybody's privacy. That is my personal motivation, that is the motivation of OIT who administers this. This also applies to the health enterprise, I have a separate IT organization over there. We are talking about if Duke is compelled to do something. We are not talking about, and I mean with an f, not a ph here, not a fishing expedition trying to find harmful data about somebody.

Springer: In that case, why not leave the language in its 1997 form, where you don't include the language about Duke's own internal investigations, you really do keep the language specifying several statutes?

Horner: I think the '97 document conveys an impression but it doesn't acknowledge the technology and the reality of the technology which I also described. I don't know that email was that prevalent of a technology to most people in 1997, it may not actually have been used that much by people. That's my answer to that question. It's the prevalence of the technology, now it's more widely being used now.

Henriquez: Let me just give some context here. This Acceptable Use Policy has really gone through a lot of discussion and I think at some level we have to say this is the best we can do. I think a lot of these are legal issues that are outside of the IT components, and this is what IT has to do if they are compelled, if they are subpoenaed for information that is contained on Duke serv-

ers, they have to make it available. I think as faculty users of the IT at Duke, we have a choice. We can either use it or not use it or delete things that we think could be potentially damaging.

This policy makes us aware of those issues and we need to be very vigilant in terms of what we put on Duke's servers if we think that at some point it could become problematic. I know that my perception of this policy – I changed a lot of the way I do things. I told this to Paul and John, I kept my password the same probably for the last twenty-five years, and I realize this is probably a really bad thing to do, because of how much new information that is now being accessible through my password. So I think we need to think very hard about how we deal with information and what information is available in this Acceptable Use Policy, it just makes us hyper-aware that a lot of things are now available and could be used in a legal sense or even an institutional sense.

Richard Hain (Mathematics): I have several questions and some of them have been partially addressed. One is about scope, one is about procedures. I am one of the people who have [had] documents held, so it is not hypothetical. The university has all of my email sitting somewhere. I think I know where it is, but nobody is sure. I have asked several people before coming over. [The University has] all of my email going back to the 1980s. There is a question of scope. You have all my files since I have been using a Unix system since the late 1980s, I would have liked to have seen scope cut down. A lot of us have other professional duties, which have nothing to do with Duke. Should those files be accessible to Duke? They are not part of Duke's business. Are they accessible to Duke's Counsel Office?

Board: If they are stored on Duke's servers, at the end of the day then yes.

Hain: Where do I store it otherwise? It is part of my professional duties. If I can't store them at Duke, where do I store them? Some of them are connected with the National Science Foundation; they won't store them for me.

Lange: If I can answer the scope question. I think that we need to be aware of the distinction between what is *held* and what is *viewed* because it is very relevant in this case. The reason that more is held because in anticipation of a lawsuit, you don't know what will actually be sought. And therefore we hold it but it is not disclosed. If we were sued, then our legal council would absolutely seek to narrow the scope of what could be actually looked at to the narrowest degree possible. But the difficulty is that unless you ask ahead of time, if we narrow the scope and then we are sued and information that is outside of the scope that we have narrowed it to is actually relevant or deemed relevant to the suit, then we are again in the position of having destroyed evidence. I am just explaining that the scope of what is held and the scope of what is disclosed are two different matters that come under different processes and the second is clearly subject to the party-counter-party court issue there would be if someone actually sought the material. So the reason this scope is so large is that since you can't antic-

ipate the suit, you don't know what to hold and what not to hold.

Richard Brodhead (President): It is not that the University has any desire to hold or to store or to read materials of faculty members. It is that there is new technology that we all use to do our business. It means that the University now has a role willy-nilly that it didn't use to have and that is where it arises. I think that Peter gave a very sharp description of the reality of it. We don't keep it because it is our intention to offer as much as possible, it would always be our intention to offer as little as possible but the nature of discovery is that you can't anticipate it and you don't want to have the whole matter become: did you or didn't you destroy the evidence?

Hain: So I want to continue. Who is going to keep this data?

Lange: At the moment I believe it is a third party, that is my understanding.

Hain: Then the next question is, what assurance do we have that this is properly handled? I would advocate that it would be properly encrypted so that nobody can view it until the time comes, when it needs to be...

Lange: Paul, you may have the details to this. I don't have the details to this.

Horner: There are two answers to it. Part of the answer Dr. Lange gave us is correct, but for the most part, as Dr. Brodhead said, it sits on our servers, and as I said already, we just prevent it from being deleted. If you get what's called a *Preservation Order*, which is not a copy order. OIT in the sense operating the email server. I am using email as an example.

The legal process that comes down to us having to produce data, being Duke, whether it is the medical side or the campus side, requires data to be preserved. When you are notified that you're a data custodian that is what you are told: on the matter at hand do not delete data regarding this. It doesn't say that you can't delete some other data; it says on the matter at hand, don't delete this data.

Now when I worked in internal audit here at Duke we would get blank orders saying don't delete anything at anytime, but that is different. So it is the matter at hand and whether it is a lawsuit that you might be involved with or some other action that Duke anticipates being involved in. The preservation order you receive from the Counsel's office specifies the limit, as you said to the scope, the limit to what you are to preserve. But the law has seen fit to hold employers responsible, especially if they maintain these systems, to then say: You must make sure your agents, your staff, your employees, your faculty, also do not destroy this data, so preserve it. But we have to turn it over if, as Dr. Lange said, we are ordered to turn it over.

Hain: But the answer is not precise enough. You just say you are keeping it. Are you keeping it in the person's email where they may delete it? My guess is no, you are keeping it on backup tapes? Are you copying it to some file system? And if you are copying it somewhere, is it encrypted to keep prying eyes away?

Horner: It is still maintained in a similar method, and I am talking email now, it is still maintained in a similar method and structure as the original email was. Almost like a shadow system.

Hain: But is it encrypted?

Horner: It is no more encrypted or non-encrypted; it's held the same way the original data was.

Hain: Which means that prying eyes can look at all of my email from 1988 or something. If you encrypt it, you can just decrypt it and get the original things back. You can encrypt a file system.

Horner: It is kept as secure as the original data.

Hain: But the original data would reside in my home directory where I have password access and I can set up something to see if anybody logs in. But if you move it somewhere else, whoever has access to that machine or file system can read those files. And so for example, I, like many people keep backups of my tax returns in my home directory. And you say maybe I shouldn't do that but that means that they are there and if you store them improperly somebody can read my tax returns.

Horner: I understand. But you skipped technologies on me. I am talking email and the file server. If I get a preservation order which typically deals with emails, it's an email server. What you are talking about is data files and tax returns and spreadsheets and Word documents, preservation order may not pertain to those kinds of files. Each of these is very specifically tailored preservation orders.

Springer: Actually I believe this preservation order was beyond simply emails, any files related to the la-crosse case.

Hain: I think all of my home directory is somewhere. All my files.

Horner: I am talking in general. I am not citing any specific examples because there are also some lawsuits where it's a snapshot of a point in time and it's looking for very specific items and the Counsel's Office, if they ask for the data receive the data.

Hain: Do I have that it has been properly stored and kept away from prying eyes? It would be easy for you to encrypt it and have the keys properly guarded somewhere so that nobody can go snooping around.

Susan Lozier (Nicholas School of the Environment): To me listening to this, the best assurance you would have is to not store personal information on the Duke server. I still think what they are talking about here is anything that is related to Duke business and your position as a Duke professor. I am listening to all this and thinking that the best assurance is not to store tax information or any personal information on the Duke server.

Hain: Well what about other information I have, tenure files, anything that you have handled, all sorts of tricky personnel issues if you are a departmental officer, all that stuff. It's all in there.

Board: I would say this is the reason we have all IT personnel sign a confidentiality agreement. It is a terminable offense for them to violate that. That is our ulti-

mate level of security, that we trust the professionals that we employ to manage our data.

Hain: I trust mine, but why can't the stuff just simply be encrypted? It's a very simple question. It's a standard routine and if you read the newspapers, companies are required to encrypt a lot of this information now. So why can't Duke encrypt this stuff that is being kept?

Board: I am not saying they can't.

Hain: But why can't you say that they will? (laughter)

Board: Because my boss is not here to allow me to say that (laughter). And I don't want to commit her to that. My point is that there is a side of me that is trying to understand your concern, if you have the data stored already by whatever means you do, and I store it in an identical means, how does it become less secure?

Hain: Let me give you an example. I got an email the other day from the Math Sciences Research Institute in California. So I spent a couple of months there last year and they just found out that somebody broke into their computer system into a path that they believed was secure and contained the social security numbers and other personal information data of everyone who has been there. At the time, had that data been properly stored, which means encrypted, then there wouldn't be a problem. But it was not encrypted and so that information is apparently out there.

Henriquez: Let me, since we have a very big agenda and it is going to take us past five o'clock now, I believe the quiche is melting outside (laughter). At this point I was hoping we would accept the Acceptable Use Policy and move forward but it looks like there are some questions that still need to be ironed out and I think that as these questions are sort of critical, the encryption question is something that needs to be discussed further with Tracy Futhey, then we can do that and bring this back to Academic Council in May for some sort of formal acceptance of the Acceptable Use Policy. If that is okay – Marie Lynn?

Marie Lynn Miranda (Nicholas School of the Environment): Can I suggest we follow a strategy as we did with the Kunshan campus debate that occurred, which is that if there are these additional questions that people are raising, if they could be put into writing and forwarded to Craig as Chair of Academic Council and then he can forward those to Tracy and the other people who are involved so that we can get preliminary answers back.

Henriquez: Right. And then those will be written out and sent directly to you so that by the time we are here in May we are further ahead in this process. Let's do that. I think this was a very good discussion, a somewhat unanticipated discussion. I think that the issues that you raised here were important and ones I think we need to tighten up a little bit.

It's a tricky issue because it involves what IT has to do and what the legal side has to do and the question is whether or not we are doing everything according to the best policy and the best practice possible. So we will move on. Julian Lombardi is here from OIT. I don't expect this to be quite as controversial (laughter) but you

never know. He is going to tell us a bit about e-Learning Roadmap and Blackboard.

### *e-Learning Roadmap and Blackboard*

Julian Lombardi (OIT): I will speak quickly!

Change is coming with respect to our course management system offering here at Duke. 2012 is, in effect, the end of days around our current implementation of Blackboard Version 8. That means that we are going to need to be moving on to another technology. Whether it is offered by the company called Blackboard or not, or whether it is an open-source solution of one of several that are out there in the market right now. The fact is that the change is imminent. Therefore, what we need to do is to transition from our current course management system to something else. Not-to-change is not an option.

So it's important to keep in mind that the e-learning landscape is very different than what it was in the late 1990s. The tools were monolithic, the tools that we es-



established and that we use now were essentially provided by vendors. They were monolithic systems that were deployed with limited

functionality and now the sophistication of our users is far greater and we now employ a whole variety of tools in addition to the course management system.

Things like AdobeConnect, WebFiles, WebAccess, Skype, Google Docs, all of these things are now part of essentially the ecosystem of learning tools and tools that we use in the delivery of our courses. Recognizing this, companies such as BlackBoard are re-architecting their next generation products and so now there is an instability in the marketplace. There is essentially an opportunity for us to take a look at what our strategic needs are as an Institution in light of our move to a more global posture and the idea that we are moving into an environment where we have education happening at great distances, it is time to assess our tools and services that support one of the most important things that we do here at the Institution.

So, last year I commissioned a group called the eLearning Roadmap Group. The eLearning Roadmap Group is led by several individuals: [Ed Gomes](#) from Arts and Sciences in the back of the room here, [Samantha Earp](#) who is our Director of Academic Services with the Office of Information Technology, and [Amy Campbell](#) who represents the Center for Instructional Technology, are leading this group. The group consists of individuals from the various schools and those individuals who provide the technology that we use in teaching and learning.

They have been asked to make a recommendation around our functional needs moving forward, our tech-

nical needs, our strategic needs, and to do an analysis of cost for any new implementation that we engage in. The group has been involved in a variety of activities and those are outlined on an informational website which is at [elearning.duke.edu](http://elearning.duke.edu). There you will see the activities that have taken place over the past year, which are considerable, and which have involved reaching out to a number of bodies on campus.

We have been in touch with I-Tech, we have had open faculty discussions, made presentations at the Arts and Sciences Council, Nicholas School of the Environment, faculty focus groups, and many activities. Many of which are supported by the Center for Instructional Technology, so this activity has been going on.

What we are essentially trying to understand are what are the uses that faculty have for technology and how does technology best support the need that is on campus here? We are going to take that information and fold it into a larger consideration of how we move forward strategically with our eLearning support infrastructures. From an OIT perspective, trying to understand how we can make the right decisions about supporting most of the need that happens here on campus, moving forward.

So this group is analyzing this situation and it continues to do analysis throughout the summer and into the fall semester. We would very much welcome continued further input from faculty on this process and there are a number of events which are scheduled and there are actually open office hours where you can drop in and have conversations if you are concerned about these changes – and those are all posted again at the [elearning.duke.edu](http://elearning.duke.edu) site. So there are a number of ways to contribute moving forward.

Now in terms of the decision making process, the eLearning Roadmap Group will provide a recommendation of what system or systems we should be deploying, moving forward, based on all of the input that it has received. I will forward that report with a recommendation onto Tracy Futhey. Tracy will, in consultation with Peter and Tallman, arrive at a decision with the input of the Deans. And then we will decide on how we will move forward in terms of the implementation and hopefully we will have a new course-management system in 2012.

It may be that that new system is still called BlackBoard, but the key is, it is a fundamentally different technology in the next version of the BlackBoard product. So, that's the eLearning Roadmap Update and I have abbreviated my presentation to respect your time. Are there any questions?

### *Questions*

Garnett Kelsoe (Immunology): So are these established products now that you are looking at or are these evolving products? If so it is kind of like Jell-o isn't it?

Lombardi: It is. It's really an ecosystem of interoperable components. We are looking at the evolution of the BlackBoard offering to something that is completely different in terms of how it is put together.

There is also the emergence now of two open source solutions. One of these is called Sakai and the other is called Moodle and if we look at the SHYMPs and all of the other institutions that are out there that we consider our peers, it really appears to be that a third of them are considering using BlackBoard, a third of them are considering Moodle, and a third are considering Sakai. And so what we are trying to do is inform ourselves to make the best decision on what new technology we will be engaged in. Yes. Question?

Kelsoe: Is there any consideration of integrating the systems in the Medical School with the systems of the University?

Lombardi: That is not at the center of our conversations now (laughter).

Kelsoe: May I take that as a no?

Lombardi: Ed, do you want to?

Ed Gomes (OIT): We have representation from all of the schools including the Medical Center and the School of Nursing, etc. We are all engaged in trying to get to the point where we will hopefully be using the same technology; and so whether it is an integration of the existing technology that they have made some unconscious decision to continue to support currently, or whether we will get a system that can meet their needs, that will allow them to migrate from that tool to one that's centrally managed. That is part of their conversation.

Bill Seaman (Art, Art History, and Visual Studies): Will it be a priority so that work that is currently done for courses can migrate into the system?

Lombardi: Migration is extremely important and we recognize the stress that this transition causes. It's happening anyway and it's not anyone's decision to change, the change is inevitable, but we recognize that there is a lot of dependence on the course-management systems and that the disruption caused by a migration is something that we need to pay a lot of attention to and make sure that we apply resources to make that as easy as possible for everyone.

Gomes: Just a follow-up to that, and I know that this is time-sensitive, but this group will continue to function in a role that goes beyond the recommendation that Peter and Tallman and Tracy will make, in order to sort of shepherd the process of whatever migration needs to happen to make sure we have the appropriate allocated resources, the appropriate training, talking about the infrastructure



needs, etc. So we understand that that is a huge process – and that report will determine the next phase that that news group will continue to move forward with the process.

Henriquez: Thank you Julian. I urge everyone to let other faculty know about this process. A lot of times

when there is a change in technology it has a large impact on how we do business, how we are able to interact with our students and so it is important to get involved early on in this process and I urge you to pay attention and listen and read and look at that website that Julian mentioned today.

### *Masters Advisory Council*

Next on our agenda is Dean Jo Rae Wright of the Graduate School who will be reporting on the Masters Advisory Council. Just a little background: for those of you new to Academic Council, you may not be aware but there has been a recent surge in the number of Master's programs – many of which are outside the purview of the Graduate School. The reasons for this surge are varied – some have been created to generate new revenue for the school, some have been created to meet a demand from the outside and some have been created to foster a relationship between students and faculty to engage in projects of mutual interest. We will actually see examples of all of these today.

Since spring of 2009, there have been three Masters' programs presented and approved by the Council, two from Fuqua and one from Engineering. Today we will hear from four more: two new Master's degree programs from the Divinity School, one from Medicine and one from the Graduate School – bringing the total number to seven.

This upswing was anticipated in part because of the "economic dislocation" – that is actually now the technical term for what happened last year: we were 'economically dislocated' (laughter), and the Provost approached ECAC last year to set up an ad-hoc Committee on Masters' programs to get a better handle on the process of creating these programs and trying to develop some sort of uniform approach for evaluating and reviewing those programs and maintaining Duke's standards. So Dean Wright is going to tell us about that process and what the product of that is, which is a Masters Advisory Council.

Jo Rae Wright (Dean of Graduate School): Thanks Craig. I am pleased to have the opportunity to summarize briefly for you what is a nine-page report, posted on the website, that was presented to the Provost in December of 2009.

I just wanted to be sure that everyone is on the same page about the language that is used in this report. We focused on two kinds of Masters programs: Research Masters are the ones that have the research component or convey the concept of research methodology to students and they are largely enrolled by students who intend to go onto graduate school or conduct some research that a Master's degree will help with. Those programs are currently administered by the Graduate School, and that administration includes program development, the initial step for review, and the review that goes on every five to seven years as part of the department review process.

The professional programs are those that are designed to educate students in a professional area, they

include internships and prepare them for the workplace and are often taken with the intent of moving to a non-academic position.

Anecdotally, I think that we are seeing in the Graduate School more master's programs that I would say are sort of a hybrid between these two. I think that Duke is quite nimble and flexible about these programs, which is a great advantage for us.

Let me just give you a few facts and figures about the state of the Masters program in 2009 [slides]. These are the research masters programs administered by the Graduate School and there are about 477 Master's students enrolled in these programs which span many schools and include many departments in 2009. The professional Masters programs I am showing here actually exclude nursing and the clinical research training program for complex reasons and you can see that there are about 3,300 professional Masters students, but I'd ask you to note that about half of them are in the Fuqua School, equal amounts in the Fuqua Daytime Program and the other MBA programs.

I thought it might be useful for Academic Council to see the trends that we are seeing in applications, offers, and the number of students coming to the programs at Duke, and I thank the Deans for providing these data.



You can see that there has been a steady increase in applications to the research Master's Programs and growth as well in the number of admissions; and I should preface this by saying these trends, this interest in Masters education, is a national trend, it is not something that is unique to Duke. The Master of Engineering Management has seen a dramatic increase in the number of applications, but you'll note that their increase in the number of matriculants has not grown nearly as quickly and I should also say that these numbers include as applicants people who make a rather informal inquiry to the program, and are then evaluated for fit. So not all of these are formal applications, but I think this illustrates quite clearly a growing interest in the professional masters programs, especially this MEM, the Master of Environmental Management, has seen some growth as well although the numbers are a bit more stable in that program and this is the Nicholas School program.

Likewise, the two Masters programs in the Sanford School are rather stable in terms of the number of students who have applied and the number who matriculate.

With that background, let me briefly summarize the report that the committee did for Provost Lange. The Committee met for the first time in May of 2009 and presented the report to Peter in December of 2009. We met as an entire Committee four times. There were three subcommittees, on Finance, Professional Degrees, Academics, that met multiple times. We also sought and received input from a variety of offices including ECAC.

The Committee was enormous and included Deans, staff, and good representation from all of the Schools. This is included in the report. I realize that you don't have time to read it but it is posted on the website.

The recommendations of the Committee were that the Provost would appoint and oversee what we now call the [Masters Advisory Council](#), fondly known as MAC. The MAC members will be recommended by Deans and the signature institute Directors. The administrative support will come from the Office of the Vice Provost for Interdisciplinary Studies and the leadership will be rotating and appointed by the Provost.

The functions of MAC will be to advise on development of new professional programs; the research programs will remain in the purview of the Graduate School both for development and for review. I should say from where I sit as Dean of the Graduate School that part of the rationale for charging MAC with this function is that we see increasing requests from faculty who are interested in starting new programs. We want to provide the resources and a group of people who can provide advice and information about what is really entailed in starting a new program so that the faculty understand what is required.

MAC will also make recommendations to the Provost and the Deans on charging and sharing tuition, cross-listing courses and financial-aid issues. These are increasingly important issues for cross-school programs and interdisciplinary programs which are a focus of a lot of our Masters programs.

The MAC will serve as a resource for APC and other committees and make recommendations to the Provost and to the Deans about the review process and the timing of the review for the professional programs. The MAC will also provide an annual report on enrollments, serve as a liaison to student services so that we can anticipate the needs of the students as the programs are being developed to ensure that they have adequate resources, make some recommendations on work and pay and other issues as charged by the Provost. I will stop and would be happy to try and answer any questions.

Lange: Maybe I can clarify one point. You will notice that the MAC is not displacing the function of APC, ECAC, and Academic Council in approving the degrees. What this is designed to do, is to assure that the new degrees that are brought forward meet with all of the quality and service – essential provisions before they come forward to APC, ECAC – and so the MAC is in a sense designed to smooth and improve the process which is prior to the formal review which happens both by APC and by the Executive Committee of the Graduate School degrees, and by APC in that case. And when the five-

year, three-year, whenever the review period is, APC will again play that role. So the MAC will be learning, of course, during that review process, what might be used to then inform future degrees that are produced. This is not a displacement, this is actually intended to be alongside and to improve that process before they come up for formal approval.

### Questions

Fritz Mayer (Sanford School): Just a point of clarification, Peter mentioned this in passing.

What is the relationship between the MAC and ECGF, exactly how do the two bodies interact?

Wright: They are distinct, although I imagine they will be populated by some of the same people so there will be good communication between the two. The ECGF is the Executive Committee of the Graduate Faculty, which is an elected body advisory to me for Graduate School issues – is the first step in the review and approval of a new program that then goes to APC, then to ECAC and then to Academic Council and the Board of Trustees.

The non-research Masters programs, the professional programs, do not go through ECGF, they go straight to APC. MAC will be the advisory to either body, but largely I would think to the formation of the new professional Masters programs, and I should add that one of the issues that was brought up to the Committee was the fact that APC sometimes felt like they did not have the knowledge to evaluate new professional programs; and, for example the MAC would be advisory to them about some of those issues. Did that answer your question? ...Thank you.

Henriquez: While we don't have to formally vote on this, I want to give the Provost the support of the Academic Council to move forward with the MAC and to work with ECAC in determining the faculty representation on the MAC, so may I have a motion to approve the creation of the MAC? [The motion passed without dissent.]

So now that you have heard the background on the process of dividing schools and programs and the creation of new masters programs and their assessment, we are going to hear from three schools, maybe... They are seeking formal approval in May. So the process is that you hear the presentations, you read the material, you get to reflect on it (not as long as usual), you have a few weeks to reflect on it, ask questions, send us questions and then you will be asked to vote in the May meeting.



You should know that all these proposals have gone through what I call the gauntlet of committees from the local level all the way to the University level and then to us. So we are the last step in the process. They have been reviewed and re-reviewed, some of them have been about a year in the making and so there are a lot of iterations and so when they come here, they are well-formed and ready to launch.

I have asked each of the Schools, or the people responsible for these programs, to give an ‘elevator’ pitch. So we are going to be judging them on their ability to quickly tell us what the program is about and we can have a few quick questions, you can reflect on it, and then we will move on to the next one. So the first one is Liz DeLong, the Chair of the Department of Biostatistics and Bioinformatics, regarding their proposal for the creation of the Masters Degree in Biostatistics.

### *Masters Degree in Biostatistics*

Liz DeLong (Chair, Biostatistics and Bioinformatics): We’ve actually been a part of Jo Rae’s search now for over two years. We have a meeting of our Curriculum Committee every two weeks, we have been doing this for two and a half years. We have three compelling reasons why we are presenting this Masters Degree. The first one, I don’t think you have to look far to find, is that there is a huge demand for statisticians now, and in particular biostatisticians. We work in the Medical Center, we are desperate for Masters Biostatisticians. So one reason we want to do this is number one, it is good for the Department to have graduate students to further research and to train the new generation, but we also need to hire Master’s people and we like the idea of producing ones who are highly skilled and high performers. So that is our first compelling reason.

A second compelling reason is we don’t have a program now. We have no such program, so we can start de novo. There are some things we noticed are lacking in traditional programs, they focus on the analytic side of biostatistics, they don’t focus nearly as much on the communication and the biology that are really necessary for us to perform our jobs well. In particular, our Masters students sometimes have real communication problems, even though their analytics are terrific.

So a third reason why it is compelling for us to have this program is that we are embedded in a medical school. Most of the programs existing now are exclusively Public Health or just Arts and Sciences departments, so they don’t have the access to the medical investigators that we have that should attract students and also give them the relevant experiences they need to perform their jobs. I will be glad to take your two questions (laughter).

Henriquez: Pretty good. We have a winner (applause, laughter). Next we are going to hear from Richard Hays, the George Washington Ivy Professor of New Testament in the Divinity School will also be serving as the Dean of the Divinity School for the next two years, regarding their interest in creating not one, but two

new masters degrees and one new doctoral program, and I believe it is a record for the most new programs presented by one individual at one time.

### *Masters & Doctoral Degrees in Divinity*

Richard Hays (Divinity School): So, this may be a slightly longer elevator ride (laughter). First of all, welcome to all of you here to the Divinity School. We are delighted to have the Academic Council meeting here. Let me see if I can do this briefly. Traditionally, the Divinity School has had programs that serve one of two functions. We are either engaged in the on-campus residential training and formation of students doing the MDiv degree and preparing for ordination and ministry in the churches. We have also trained students who are pursuing a track through the MTS degree and onto the PhD and ThD degrees who will be doing academic teaching in the future.

The purpose of the new degree program proposals we have is to try to expand the impact and outreach by reaching some new constituents and populations who will be interested in one way or the other in the study of theology.

The first one that is the easiest to explain I think is the [Master of Arts in Christian Studies](#). That is to be a one-year residential, on-campus program that will serve two purposes. One is for students coming out of undergraduate programs who want some kind of post-graduate exposure to the study of theology, but who don’t intend to go into any sort of professional ordained ministry. So it is a sort of toe-in-the-water program. This program also, however is going to be of considerable use for students in other professional degree programs in the University who would like to combine the study of theology with the study in their own fields; and we have already had particular interest, especially from the medical and



nursing schools, in a program we propose to run in Theology and the Healing Arts; so that medical students, for example, in their third year, their research year, of their program could pursue that degree in addition to their medical or nursing degrees.

So that is the on-campus residential one. The other two programs are for us much more novel and innovative. These are programs that we envision running, using a model that has been pioneered by the Fuqua School of

Business for having brief, intensive periods of residency then combined with learning on a web-based platform that would extend over a subsequent period of some weeks.

The first of these is to be called the [Master of Arts in Christian Practice](#). This is a degree program designed chiefly for people who may be engaged in various positions on church staffs where they are not required to have a Master of Divinity, they are not required to be ordained, but it would be very helpful to them to have more theological training. For example, people who are in charge of youth ministries or various sorts of educational ministries in the churches. The great advantage of this program is that it would not require them to quit their jobs and move to Durham to do the program, but they could do it through this place-and-space model using internet technology, web-based technology, to allow them to do the studies, having them be away from their home base only for a short period of time, say for three times a year.

The third and final program is the [Doctor of Ministry](#) degree which is designed for pastors in churches who are already out of school, who have done the MDiv, they have some years already serving in ministry and want to do more in-depth study in their professional field, but again, without having to resign their positions and relocate to Duke. We envisioned this as being a professional doctorate that would require at the least three, and perhaps in many cases, four years, for students to complete this program. Again on this place-and-space model of intensive residential segments, combined with subsequent web-based programs. Both of these last two we conceive of as being delivered in cohorts that would focus on particular areas of interest that would draw students here to participate. So that is the general design, and I would be happy to take any questions. Yes?

### Questions

Bass: Since you are looking to branch out to new clienteles in the creation of these degrees, have you ever considered the case of a Master's degree of Judaic, Buddhist, or Islamic studies?

Hays: The problem is that as you may or may not know, the Divinity School at Duke University is chiefly a school of Christian theology. We have, in the Department of Religion, programs in Islamic Studies and Judaic Studies. I have not heard of the Religion Department conceiving of expanding these two non-residential constituencies. But the Divinity School doesn't actually have the faculty resources to support programs in non-Christian religions at this time.

Bass: You have hired a Muslim Chaplain.

Hays: We have hired a Muslim Chaplain now as a member of the Divinity School faculty and he is teaching courses in the Divinity School and we are delighted to have him, Abdullah Antepli. He is a delightful addition. Next year he is going to be teaching, for example, a course on Jesus and Mary in Islam. I'd love to take it myself (laughter).

Question: How big do you expect these programs to be?

Hays: We have kicked around some numbers, I wonder if I could refer that to Associate Dean David Toole who is sitting in the back of the room here.

David Toole (Divinity School): For the residential one-year degree we are projecting 25 students currently. It could grow a little bigger than that but that is where we are starting. For the place-and-space Masters we are looking at about twenty students a year, but the way that people are matriculated we do end up with about forty students at any one time once you enter the second year, and for the doctoral degree, about 15 students a year, and you end up with about 60 students in one place or another in that program. So altogether it puts us around 100 to 125 new students but only 25 of those are residential.

Question: The reason I ask this question so, are you doing this with an expansion of faculty resources or with your existing resources?

Hays: No, the design of the program involves the hiring of a number of new faculty over the next three years to be able to support it. We could probably run the one-year residential Masters using existing faculty resources, but these new place-and-space programs will require the hiring of additional faculty, and we have built that into the budget for both programs. Thank you. (applause)

Henriquez: Last, but certainly not least, is Stan Abe from Art, Art History, and Visual Studies presenting his elevator pitch for a Master in Fine Arts which will be coming out of the Graduate School.

### *Master in Fine Arts*

Stan Abe (Art, Art History, and Visual Studies): Thank you very much Craig. The MFA in experimental and documentary arts will be a two-year terminal degree offered by the Department of Art, Art History, and Visual Studies, the Center for Documentary Studies, and the Program in the Arts of the Moving Image. Ours is a program where students will engage with documentary expression, experimental media, and computational technologies to produce innovative hybrid forms of artistic expression which embrace new approaches to history, memory, community, interactivity, and the archive. The combination of the experimental and the documentary arts, from 16-mm film to the latest programming code will result in a unique and distinguished MFA degree – I really don't think that something like this exists in the



United States.

The MFA in Experimental and Documentary Arts will attract accomplished students and artists with advanced and demonstrated intellectual and creative skills. Those accepted into the program will have the ability to develop sophisticated projects with a high level of artistic expression. As a terminal degree, the MFA will prepare students for careers in higher education, teaching in film, digital media, documentary arts, and art departments among others. These are the traditional kinds of positions for those with an MFA, but we also anticipate graduates will become web designers, and developers, publishers, multimedia producers, entrepreneurs, and great thinkers.

Ours will be the only MFA in the country which combines experimental film and computational art production with documentary studies. This is a very unusual combination. The foundation of the program is the synergy of experimental and documentary practices, which has a seminal relationship stretching back to the early twentieth century. With its purposeful balance of theoretical inquiry and production, the MFA is distinctive, and we think timely. We will produce artists and intellectuals who will bring new experimental forms of creative expression, the community life, and the public realm.

Our goal is to admit fifteen students per year beginning in the Fall of 2011, thirty students in residence from the second year forward. Thirty students at any given moment. We anticipate this would have a significant impact on Duke, on the undergraduate teaching, the undergraduate community. Many of these students are going to be TAs and be contributing to undergraduate education as well as producing and displaying, exhibiting their own creative works, all through the University during this time and so it is going to have a really great impact I think. The faculty in each of the three sponsoring programs are very excited to initiate the first MFA program at Duke University and we very much hope to receive the blessing of the Academic Council. Thank you. Questions? (applause).

Henriquez: Excellent job all...We do have one more item. I am going to call our meeting into Executive Session. I'll announce to those folks present who the ECAC winners are, and I hope everyone can stay. There's food and wine outside.

**[Executive session]**

Respectfully submitted,

John Staddon  
Faculty Secretary, May 4, 2010