

Senate Council
May 3, 2018

The Senate Council met in special session at 2 pm on Thursday, May 3, 2018 in 103 Main Building. Below is a record of what transpired. All votes were taken via a show of hands unless indicated otherwise.

Senate Council Chair Katherine M. McCormick called the Senate Council (SC) meeting to order at 2:04 pm.

1. Old Business

a. Proposed Changes to Administrative Regulations 6:2 (“Policy and Procedures for Addressing and Resolving Allegations of Sexual Assault, Stalking, Dating Violence, and Domestic Violence”)

The Chair suggested that a motion might assist in discussion. Brion **moved** to discuss the proposed changes to *Administrative Regulations 6:2* (“Policy and Procedures for Addressing and Resolving Allegations of Sexual Assault, Stalking, Dating Violence, and Domestic Violence”) and Grossman **seconded**. After a few comments, Grossman offered a **substitute motion**, to suggest the SC put the proposed changes to AR 6:2 on the Senate agenda for May 7 with no SC recommendation. Tagavi **seconded**.

During discussion, the Chair read an email she received from General Counsel Bill Thro, which included his assertion that the revisions maintained the current structure as much as possible and because the procedures were currently in an Appendix, the revisions kept that format. The Chair further explained that Thro asserted that there was no legal or policy significance to designating the procedures as an appendix or as another section of the regulation or as a separate stand-alone regulation.

Below is a list of the various concerns held by SC members; some concerns were held by many while other concerns were held by only the speaker or by one or two individuals.

- Tagavi objected to the use of the word “victim,” saying that the term could be prejudicial and in some instances the terms “complainant” or “complaining witness” would be more appropriate.
- Tagavi objected to language in Section (Appendix) VIII.F.18 that indicates the Hearing Panel only recommends sanctions. He also objected to the language in Section (Appendix) VIII.F.19, stating that it was inappropriate for the Provost, Vice President for Human Resources, or Associate Provost for Student and Academic Life to modify any sanction determined by the Hearing Panel.
- Brion expressed concern that even if a complaint was found to be without merit and the person accused was not officially accused or notified, the original complaint would still be kept on file and the individual would not know about the accusation or that records related to the accusation existed.
- Tagavi stated that the regulation seemed to supersede language in the Governing Regulations about due process for faculty.
- Wood wondered if the language in Section (Appendix) VIII.F.18 and F.19 allowed the individuals named therein to overturn not only a sanction, but also a determination of responsibility.
- Osterhage worried that the language in Section (Appendix) VIII.F.16 requiring a unanimous decision from a panel would discourage people from coming forward with complaints.

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- Brion objected to Section (Appendix) XI and stated that the language should be changed to acknowledge the need to vet with faculty, staff, and students, prior to amending either the regulation or the appendix.
- Tagavi suggested avoiding the word “rape” and instead using “sexual assault.” If “sexual assault” was used, someone who was found responsible for sexual assault would suffer enough without also being labeled a “rapist.”
- Bird-Pollan suggested that the language in Section (Regulation) IV.U and IV.W be modified to indicate that the nominations should be done in consultation with the college faculty.

Given the time, SC members began discussing the best way to move forward. Grossman noted that Cross had been compiling a list of the concerns being discussed and wondered if SC wanted to endorse as long as certain changes were made, or endorse only after the changes were made. Brion suggested that the issues gaining the most traction among SC members were not necessarily huge changes, but rather were additions and clarifications. She said SC could vote to endorse if the additions and clarifications were made. She asserted that the revised regulation was better than the current version, but some wordsmithing was needed. Grossman and Cross supported Brion’s comments.

Cross indicated that the SC should raise concerns about use of the word “victim” and that it should be modified with “alleged” when used, although there were some instances where “complainant” or “complaining witness” would be more correct. He stated that he knew that revocation of degrees was not an easy discussion and wondered if it should be included in the motion. Bird-Pollan suggested that if revocation of degrees were to be discussed, it should be within the context of possibly removing it as a possible sanction for any situation, not just removing it as a possible sanction in cases of sexual assault, stalking, etc. Cross accepted her suggestion and went on to say that he was making a formal motion to amend Grossman’s motion to send the proposed changes to AR 6:2 to the Senate without a recommendation. Cross **moved** to amend the motion so that SC would encourage Senate to endorse the proposed changes to SR 6:2 with the following four caveats for senior leadership:

1. The references to “victim” that must remain should be modified with the descriptor “alleged.” [Regulation & Appendix: the word “victim” occurs throughout and some instances may be more appropriately described by using “complainant” or “complaining witness.”]
2. Clarify that the Provost, Associate Provost for Student and Academic Life, and the Vice President for Human Resources may reject or amend a recommended sanction, but may not reject or amend a finding of responsible or a finding of not responsible by either the Sexual Misconduct Hearing Panel or the Sexual Misconduct Appeals Board. [Appendix, VIII.F.19, page 18]
3. Clarify that the entirety of the regulation, including the appendix, will not be amended without first consulting faculty, staff, and students. [Appendix, XI, page 20]
4. Clarify that the college faculty representatives for the Sexual Misconduct Hearing Panel Pool are appointed by the dean after consultation with the faculty council. [Regulation, IV.U]

Brion **seconded**. Tagavi asked about disallowing the Provost, Associate Provost for Student and Academic Life, and the Vice President for Human Resources from overruling or modifying any finding of

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responsibility or recommendation sanction from the Hearing Panel or Appeals Board. Cross indicated that sort of change required a motion, second, and vote.

Tagavi **moved** to amend Cross's amendment to the motion so that the entire Section (Appendix) VIII.F.19 would be deleted. The motion **died for lack of a second**.

After additional comments, a **vote** was taken on Cross's amendment to Grossman's motion, to change from "put the proposed changes to AR 6:2 on the Senate agenda for May 7 with no SC recommendation" to "encourage Senate to endorse the proposed changes to SR 6:2 with the following four caveats for senior leadership: the references to "victim" that must remain should be modified with the descriptor "alleged." [Regulation & Appendix: the word "victim" occurs throughout and some instances may be more appropriately described by using "complainant" or "complaining witness."]; 2. Clarify that the Provost, Associate Provost for Student and Academic Life, and the Vice President for Human Resources may reject or amend a recommended sanction, but may not reject or amend a finding of responsible or a finding of not responsible by either the Sexual Misconduct Hearing Panel or the Sexual Misconduct Appeals Board. [Appendix, VIII.F.19, page 18]; 3. Clarify that the entirety of the regulation, including the appendix, will not be amended without first consulting faculty, staff, and students. [Appendix, XI, page 20]; and 4. Clarify that the college faculty representatives for the Sexual Misconduct Hearing Panel Pool are appointed by the dean after consultation with the faculty council. [Regulation, IV.U].

The motion to amend **passed** with eight in favor and one opposed. A **vote** was then taken on the amended motion, to encourage Senate to endorse the proposed changes to SR 6:2 with the following four caveats for senior leadership: the references to "victim" that must remain should be modified with the descriptor "alleged." [Regulation & Appendix: the word "victim" occurs throughout and some instances may be more appropriately described by using "complainant" or "complaining witness."]; 2. Clarify that the Provost, Associate Provost for Student and Academic Life, and the Vice President for Human Resources may reject or amend a recommended sanction, but may not reject or amend a finding of responsible or a finding of not responsible by either the Sexual Misconduct Hearing Panel or the Sexual Misconduct Appeals Board. [Appendix, VIII.F.19, page 18]; 3. Clarify that the entirety of the regulation, including the appendix, will not be amended without first consulting faculty, staff, and students. [Appendix, XI, page 20]; and 4. Clarify that the college faculty representatives for the Sexual Misconduct Hearing Panel Pool are appointed by the dean after consultation with the faculty council. [Regulation, IV.U]. The motion **passed** with seven in favor and two opposed.

The meeting was adjourned at 3:06 pm.

Respectfully submitted by Katherine M. McCormick,
Senate Council Chair

SC members present: Bird-Pollan, Blonder, Brion, Cross, Grossman, McCormick, Osterhage, Schroeder, Spear, Tagavi, and Wood.

Prepared by Sheila Brothers on Friday, May 11, 2018.