

NORTH CAROLINA STATE UNIVERSITY
Minutes of the Faculty Senate
Regular Meeting No. 5 of the 69th Session
November 1, 2022
3:00 p.m.

Regular Meeting No. 5 of the 69th Session: Hybrid Meeting

November 1, 2022

Present: Herle McGowan, Chair of the Faculty; Maria Collins, Associate Chair of the Faculty; Carolyn Bird, Parliamentarian; Senators Ange-van Heugten, Aurbach, Bernhard, Blessing, Breen, Carrier, DePerno, Edmisten, Friend, Ghosh, Hakovirta, Koch, Kuznetsov, Lee, Lunardi, Marchant, Morant, Narayan, Phukan, Reiskind, T. Robinson, W. Robinson, Roland, Scalise, Stallmann, Taveirne, Tourino, Verhallen and Zagacki

Absent: Senators Allen, Edwards, Hergeth and Jacob

Guests: Katharine Stewart, Senior Vice Provost for Faculty and Academic Affairs; Timothy Danielson, Associate Vice Chancellor of University Human Resources; Shawn Troxler, Deputy General Counsel; Allison Newhart, Vice Chancellor and University General Counsel

1. Call to Order and Announcements - Herle McGowan, Chair of the Faculty

Chair McGowan called the fifth meeting of the sixty-ninth session of the NC State Faculty Senate to order at 3:00 p.m.

Chair McGowan made the following announcements:

- Red and White Fest is on November 2, 2022 from 11:00 a.m. through 2:00 p.m. at Miller Fields. Wear red and drop by for food, games, and team competitions <https://redwhiteweek.ncsu.edu/featured-events/>.
- Midterm elections begin in one week. You may vote early at any early voting site in your county.

2. Approval of the Minutes, Regular Meeting No. 4 of the 69th Session, October 18, 2022 - Maria Collins, Associate Chair of the Faculty

Associate Chair Collins called for a motion to approve the minutes for Regular Meeting No. 4 of the 69th Session Faculty Senate held on October 18, 2022. A motion was made and properly seconded and the minutes were approved unanimously.

3. Chair's Remarks - Herle McGowan, Chair of the Faculty

Chair McGowan gave the following remarks:

“In my remarks today I would like to address the unexpected wellness day this Thursday. I’ve actually struggled with what to say in a short amount of time so that we can get to our discussion on academic freedom and free speech. After many stops and starts, I’ve decided to keep it simple and to the point: be flexible and be kind. Kind to your students and to yourselves. This wellness day represents a temporary pause in time—and to be honest, how often do you wish you could just pause time—that both students and instructors should be able to benefit from. If that means giving an exam you wrote to be an in-class test as a take-home exam instead or if that means removing a topic or homework assignment from your course schedule...whatever accommodations you have to make to save work for your students and yourselves in light of this time off...go ahead and make them. To be clear, I don’t think any of these suggestions are good long-term pedagogical practices, but that’s not what we are talking about here. We are talking about a short-term response to a crisis, a crisis that has been increasing in scope for years, exacerbated by COVID. Remember March of 2020, when everything changed so quickly and we were all just struggling to stay afloat? Many of our students are still feeling like that. At the same time, many of the buffers in place to address the chaos of the pandemic have been removed. This wellness day is an attempt to provide some breathing room for students who desperately need it. Not every student does need it--not every student is in crisis--but let’s focus on supporting those who are, or who are teetering on the edge.”

Chair McGowan went on to say, “I want to end by acknowledging that a single day off is not enough; I hope the university is making long-term plans to better proactively address mental health concerns in the future, for all members of the campus community—students, faculty, and staff.”

4. Provost’s Remarks and Q&A

Katharine Stewart, Senior Vice Provost for Faculty and Academic Affairs

Dr. Stewart provided the following wellness resources:

- The State of Wellness Open Forum November 1, 2022, 6:00 p.m. - 7:00 p.m., in Talley Student Union. Students will have the opportunity to talk about the challenges they are facing, learn about global resources available to them and share ideas.
- On November 3, 2022, there will be many wellness activities available to faculty, staff and students.
- Talk and Treats is an exclusive event for faculty. It is also on November 3rd at 9:30 - 11:30 a.m. in D.H. Hill Jr. Library Faculty Research Commons and from 1:00-3:00 p.m. at Hunt Library Faculty Research Commons.

Dr. Stewart also provided the following updates on ongoing leadership searches and announcements.

The open searches for the deans of the Colleges of Agriculture and Life Sciences, Engineering, and Sciences are now underway. The nomination committee for the Colleges of Agriculture and Life Sciences search is chaired by Steve Lommel, associate dean and director of the N.C. Agricultural Research Service, and William Neal Reynolds Distinguished Professor

of Entomology and Plant Pathology in the college. The nomination committee for the College of Engineering search is chaired by Ruben Carbonell, Director, Kenan Institute for Engineering, Technology and Science, and Frank Hawkins Kenan Distinguished Professor of Chemical and Biomolecular Engineering in the college. The nomination committee for the College of Sciences search is chaired by Kathryn Meurs, Randall B. Terry, Jr. Dean of the College of Veterinary Medicine.

Additional information about these searches may be found at provost.ncsu.edu.

Question and Discussion

Question: What wellness support is happening for distance colleagues and those who are disabled and unable to attend in person events?

Katharine Stewart: The Office of Faculty Excellence always makes available consultations by phone or Zoom to any faculty member. The Faculty and Staff Assistance Program (FASAP) is also available for remote consultations.

5. Drug/Alcohol-Free Workplace Reg - *Tim Danielson, Associate Vice Chancellor of University Human Resources*

Mr. Danielson had previously presented the Drug/Alcohol-Free Workplace Regulation for faculty feedback, so he briefly provided a reintroduction to the regulation and then opened the floor for discussion.

Question: Have you considered getting the input of those who struggle with drug and alcohol addiction?

Mr. Danielson: It is unknown whether any of the current members of the workgroup are in recovery or have a substance abuse issue. We did not intentionally seek out individuals here at the institution who are in recovery in order to get feedback from them, but we may have done so unintentionally through this socialization process and through the process of developing the regulation.

Question: Do you have an idea of how long this type of policy from other institutions has been in place and what kind of feedback and challenges/problems those institutions have encountered with having that policy in place?

Sarah Lannom: The Ohio State's policy has been in effect since 1992; Purdue's policy has been in effect since 1998.

Tim Danielson: The response from the universities is that the policies have not been litigated and have been effective.

Question: Do the policies have the same feature of taking a person off-campus for testing or are they doing it in some other manner?

Tim Danielson: Purdue's reasonable suspicion testing and post-accident testing occurs offsite.

Question: We know that people can be readily referred for treatment of substance abuse for the Faculty and Staff Program. Are there statistics on how readily they can actually obtain that treatment and how effective it is? Is it available affordably?

Tim Danielson: There are utilization statistics on how frequently the FASAP program is utilized, but I'm not sure if it is categorized by a particular topical area, like substance abuse.

We intend to insert regulation language that describes the fact that at the conclusion of the first year of the regulation, we will bring a committee together that will include HR, OIED, Office of Faculty Affairs, Office of the General Counsel, and EHS to evaluate the effectiveness and efficiency of the regulation, as well as, whether or not it is being equitably applied and accomplishing its intent.

Question: What proactive measures are taking place to ensure equitable application?

Tim Danielson: The reasonable suspicion testing area talks about the pathway of getting to the decision that a test is in order. There is also training that will be available to supervisors; there's very specific training that will be required of the witness pool, which is a more confined group of individuals.

Comment: I think it would be important to have faculty representation included in every review that takes place. It is a positive step to have part of the policy regularly reviewed, and the composition of that panel should also indicate a faculty representative.

Question: Is this replacing the current regulation from August 15, 2015?

Tim Danielson: I believe this is a new and additional regulation.

6. Academic Freedom

The Origins and History of Academic Free Speech, Shawn Troxler, Deputy General Counsel Presentation followed by an open discussion of faculty questions or concerns

Mr. Troxler's presentation, *Free Speech at the University: Academic Freedom and the First Amendment*, is not to be construed as legal advice. It is a general overview of the laws and the policies.

UNC Policy 1300.8 is the Policy on Free Speech and Expression within the University of North Carolina System. The policy addresses seven topics:

- Affirmation of Commitment to Free Speech

- University's Role in Public Policy Controversies
- Free Expression at Constituent Institutions and Access to Campus
- Unprotected Speech
- Dissemination of Information
- Disciplinary Action
- Compliance.

The policy states, "The University supports and encourages freedom of inquiry for faculty members and students, to the end that they may responsibly pursue these goals through teaching, learning, research, discussion, and publication, free from internal or external restraints that would unreasonably restrict their academic endeavors."

As it relates to public controversies, institutions cannot take action that require students, faculty, or administrators to publicly express a given view of social policy.

Mr. Troxler went on to say that generally, faculty, staff and students are free to hold events, invite speakers, and hold their own rallies across campus, but they are subject to university policies of how those events, rallies, and speakers take place.

Question and Discussion

Question: We are in an environment where there is a lot of denial of science. How does this relate to when a faculty member is speaking out of their discipline and science and may be expressing opinions counter to some of the popular discourse around science or the denial of science?

Mr. Troxler: It depends on the context, where they are speaking, is it a matter of public concern? Then you have to think about what is the impact on the university? Is there one? Is there an impact on the department or faculty? Then you have to balance the interest there. This is a specific hypothetical; we would need a specific example.

Comment: My concern is that in our normal course of teaching we could be accused of indoctrinating our students.

I'm also concerned about legislators imposing orders on its university faculty such that we have to take a certain kind of stance on the the Holocaust, on slavery, on church and state separation, diminishing all of those things. We already see it happening in Florida, Ohio, and Texas. My bigger concern is what happens if things go a certain way and we have a legislature that wants to start imposing a curriculum on us? What do we do?

Mr. Troxler: I may not be the right person to answer your second question because once the legislature does something or puts something in place, we won't be consulted on that. At the end of the day, the legislature will do what they feel is in the best interest of the UNC System.

Question: Is there precedent for a University challenging a state mandate?

Mr. Troxler: Nothing specific comes to mind.

Question: If a faculty were sued for overstating or indoctrinating, what University resources are available to faculty? Does the university have legal resources available to defend faculty?

Mr. Troxler: There is the Defense of State Employees Act that states that if employees are sued in their individual capacity that the university provides their defense in that matter and pay any judgment due. There are caveats to that, such as the AG's office would have to approve that defense. It is ultimately up to the AG's office discretion as to whether the defense of that State employee will take place.

7. Old and New Business

8. Issues of Concern (IOCs) - *Herle McGowan, Chair of the Faculty*

Chair McGowan reminded those in attendance that faculty Issues of Concern can be submitted at any time to a senator or to the Office of the Faculty Senate via email at Faculty_Senate@ncsu.edu

9. Adjourn

Chair McGowan adjourned the meeting at 4:22 p.m.