

Minutes of the Meeting of the Academic Council  
Thursday, January 19, 2017

**Nan Jokerst (Chair, Academic Council /  
Electrical and Computer Engineering):**

Welcome, everyone and thank you for being here today -- I would like to call the meeting to order. I hope all of you had a restful and enjoyable holiday season and that the new year and the start of our spring semester are going well for you so far.

***APPROVAL OF THE NOVEMBER 17<sup>TH</sup>  
AND DECEMBER 1<sup>ST</sup> MINUTES***

**Jokerst:** Let's get started by approving the minutes from our November 17 and December 1 meetings, which were both posted with today's agenda. Are there any corrections or edits to these minutes?

*(Minutes approved by voice vote without dissent)*

***REPORT FROM THE NOMINATING  
COMMITTEE FOR THE NEXT CHAIR OF  
THE ACADEMIC COUNCIL***

**Jokerst:** We have a lot on our agenda today so we're going to move forward very rapidly. I'd like to welcome Kerry Haynie, a member of our Council, and a former member of ECAC, when I served on ECAC as well, who is the chair of the nominating committee for the next Academic Council Chair. He will present the candidates for the election of the next Chair of this body for the 2017-19 period.

**Kerry Haynie (Political Science /  
African and African-American Studies):**

Thank you Nan. Good afternoon and happy new year. According to the bylaws of the Academic Council, any member of the university faculty who has given consent is eligible to serve as Council chair. The bylaws also state that the Executive Committee of the Academic Council shall appoint a five-person nominating committee to nominate two persons for chair of Academic Council. In addition, the bylaws state that additional nominations may be made from the floor. The other members of the nominating committee are Thea Portier-Young from the Divinity School, Erika Weinthal from the Nicholas School, Tina Williams from the department of Psychology and Neuroscience, and Chris Woods from the School of Medicine and Global Health. I thank each of them for their service and the close attention they gave to our work. I must say, I've been on a number of committees here at Duke, and this has been the best one by far. We had just one meeting (laughter) and our work was done. Before the committee considered any potential candidates, we reviewed the criteria and the duties of the Academic Council Chair. Some of these duties include convening and chairing the Executive Committee of the Academic Council, which meets once a week during the academic year. The Chair serves as an ex officio member on the University Priorities Committee, the Academic

Programs Committee, the Global Priorities Committee; and serves on a Board of Trustees Committee, and various other committees. Twice a year the Chair reports to the Board of Trustees on the activities of this Council. The Chair has regular contact and conversations with our President and Provost and with the Executive Vice President. I'm not done yet (laughter). The Chair serves as the University Faculty Marshal and participates in undergraduate and graduate convocation, Founders Day, baccalaureate and commencement ceremonies. As we all know, shared governance is a core value of our university. We are fortunate that for many years we've had senior administrators who have taken this seriously and treated the faculty as serious partners in forming the mission and the goals of the university. None of us should take this for granted. The Chair of the Academic Council is an important position for the faculty and for the university. The Chair of this Council is the face, the voice, and the embodiment for the faculty writ large. Given the importance of these duties and responsibilities, the nominating committee decided that the best representation of the faculty would be a person with a history of active engagement in a wide variety of faculty and university affairs. We thought such experience was particularly important, given that the new Chair will be taking office at the same time as a new President will be taking office. Maybe I should say Presidents? We thought it was important that we look for someone with a wide array of experience at the university. We all should be happy to know that there is a deep pool of faculty colleagues who are able and willing to serve as faculty leaders. In one sense, this made our job much easier, to have a wide pool from

which to draw. On the other hand, it made it difficult because we had so many good choices. A very impressive pool. The two colleagues that the nominating committee presents to you today as candidates for our next Chair are Ellen Davis and Don Taylor. Ellen and Don, please stand (applause).

Ellen Davis is the Amos Ragan Kearns Professor of Bible and Practical Theology at Duke University Divinity School. She holds degrees from the University of California in Berkeley, the Church Divinity School of the Pacific, Oxford University, and Yale University. She is also the recipient of five honorary degrees. Ellen has served three terms on the Academic Council; in the last of these she was on ECAC. She is currently a faculty representative on the Human Resources Committee of the Board of Trustees. Ellen chaired the search for a Divinity Dean in 2010; in 2013-14, she was a member of the search committee for appointment of the Provost. This most recent year, Ellen served as Vice-Chair of Duke's presidential search committee.

Don Taylor is a Professor in the Duke Sanford School of Public Policy, and has secondary appointments in the Schools of Business, Nursing, and Medicine. He earned three degrees from UNC Chapel Hill, including a Ph.D. in Health Policy and Management from the Gillings School of Public Health. Don has served multiple terms on the Academic Council and was a member of ECAC from 2013-15. He served as a member of the Duke Presidential Search Committee as well this most recent time around. Don is currently the Chair of the University Priorities Committee (UPC) and a member of the Business and Finance Committee of the Board of Trustees. He was a member of the Duke Faculty

Diversity Task Force during the 2014-15 academic year, and directed the Benjamin Newton Duke Scholarship from 2007-2012.

Please join me in thanking Don and Ellen for agreeing to serve as candidates for Chair (applause).

At this time, the committee will entertain nominations from the floor (pause). Hearing none, Madam Chair, I think the work of the nominating committee is done. Nan will now explain the process of our election and what happens going forward.

**Jokerst:** Thank you, Kerry, and the nominating committee. We have two great candidates. As I said to them, I call it Sophie's choice but only good options we have in this case (laughter). Later this month, each of you, our Council members will receive an email from Sandra with a link to a Qualtrics survey through which you will vote for the next Academic Council Chair. It will contain the bios, photos and statements of interest from the candidates to help inform your vote. The result will be announced at our February 16<sup>th</sup> meeting and the next Chair will take office on July 1<sup>st</sup>, 2017.

One of the topics that we will discuss later in our meeting today is how to encourage participation in Academic Council from a broad array of faculty. Of course, since you are present here at our meeting, I am preaching to the converted already, but I'd like to ask you to encourage your colleagues to consider personally engaging in faculty governance through our Academic Council or through one of the committees that enable faculty input on our campus.

Later this month, we will begin the process of electing our Academic Council members for next year. All faculty who are eligible to serve will get an email from me asking whether they are interested in participating as a candidate for our Council election. In order to be included on their school or division's ballot, the faculty member needs to opt in, which you have all done yourselves. I sincerely hope that each of you will opt in again should your term end this May and I also hope that you will encourage your colleagues to opt in as well.

As a Council, we have dealt with some weighty issues and significant programs this year, and one might imagine that we are in for a lighter term this spring in Council. On the flip side, we've got a highly proactive ECAC, and ECAC wants to pay attention to opportunities, challenges, and emerging trends that preclude any thoughts we might have had of rest and relaxation. We're in for another exciting semester. Our Council is in an excellent position to perceive, dig into, and discuss Duke at the institutional level, and ECAC will be continuing and having with you proactive discussions. We will explore committee formation this spring to look deeper into some of the challenges that face us and opportunities that present themselves to us here at Duke.

Today, in particular, we will be discussing two topics that will have an impact on all of our faculty, and particularly on our Non-Tenure Track Regular Rank faculty. We have a proposal to revise the Faculty Handbook regarding Non-Tenure Track Regular Rank faculty that serve under the Provost, and we will have ECAC member Josh Sosin organize our second Council discussion on faculty governance, where we will focus on representation.

Before we move on to that, first, we will discuss a new proposed master's degree in interdisciplinary data science.

### ***PROPOSED NEW MASTER'S DEGREE IN INTERDISCIPLINARY DATA SCIENCE***

**Jokerst:** We now welcome Tom Nechyba, director of the Social Sciences Research Institute and a professor in Economics, and his partner in crime, Robert Calderbank, director of the Information Initiative and a professor in electrical and computer engineering, computer science, and math. They will be presenting today a proposal for a new master's degree in interdisciplinary data science.

The proposal and supporting documents were posted with your agenda. Today we will have a short presentation and discussion, and we will vote on this proposal at our February meeting.

**Tom Nechyba (Director, Social Sciences Research Institute):** Thank you for allowing us to present this proposal. The "us" here is the Social Sciences Research Institute and the Information Initiative of Duke. We will refer to the Information Initiative as iiD and, recognizing that this also signifies for a number of you a class of mental health drugs (laughter), that's SSRI. Let me begin by articulating the objectives that we have in mind. We would like to, obviously, address a market demand, but we'd like to do it in a way that is creating a distinctive intellectual approach that's rooted in Duke's comparative advantage and that invites the partnerships across Duke. We would prefer not to do this in a silo. And that complements and doesn't compete with other units and other initiatives at Duke. We, of course, would like to do it in a financially-sustainable way and leverage the infrastructures and

the networks that we already have in place in SSRI and iiD. In terms of the demand for data science, I think everyone recognizes the certain demand for this as data explodes in the world and these are just some of the programs that popped up in just the last few years around the world and, of course, also, in the United States (refers to slide). The thing to note about most of these programs is that they are housed in disciplinary homes or that they are focused on particular domain areas like business or health. I think that's what's providing a unique opportunity for Duke to create a distinctive intellectual approach. In this approach, we've been inspired a great deal by the success by the data+ program. The data+ program is run out of iiD with support from SSRI and a number of other partners around the university and it's essentially a ten-week summer program, very intensive program, where teams of undergraduates and graduate students and post-docs, with faculty supervision and external partners create data science products by the end of the summer. So each of the columns in this chart represents one data+ team from last summer. So we looked and we said, what are some of the skills that they used in these teams? Of course the dark squares indicate that those teams in those columns used those particular skills. We see lots of skills being used. No one is going to be the expert in every one of these skills. When we think about how to train data scientists, this gets us to think about having students dive deep into some of these pools of skills, but have a very broad awareness of all of them and how they connect to one another and to apply them to all the various domains that are emerging in which data science is becoming so crucial. To us, data science really is an interdisciplinary and team-based exercise and so that's how we've tried to structure

this program. Just to give you an example of the domains that we've encountered in just data+, and I'll give you four of them, but I could list 20 of them just to illustrate the breadth. From energy and the environment, to public policy, to humanities, to health, and, again, lots of other examples we could offer. All of those domains, when data science is applied, share something in common. Something we call the data-to-decision cycle. If you take these skills, you can group them into three categories. Marshaling data, analyzing data, visualizing data. That forms the core of our program. We take this and see these as steps in a cycle that take you from data to decisions and when you arrive at decisions you refine those by going back to the data and again going through those steps. When we think about our curriculum, we think of those as representing the core courses of the curriculum. That's what everybody's going to take. But then they get to dive deep into electives that deepen them in terms of tools and electives of the domains in which they would like to be data scientists. So when we look at the curriculum, everyone starts with these core courses that focus on that data-to-decision cycle. We'll have boot camps that run concurrently with these courses for students who have some gaps and need some additional training to succeed in those courses and become ready for electives. We have a year-long data dialogue seminar that is already running in iiD and has been successful for a number of years in bringing together both academics and practitioners in data science, both to illustrate the breadth of data science, in terms of its applications, but also to create new networks that will be advantageous to our students. The rest will be filled out by electives and a team-based capstone project. And by team-

based project we don't mean that the master's students are going to form teams and do projects, but rather that they're going to be embedded in teams like the data+ teams except more intensive and longer-run, where the faculty research that's being done, often with outside expertise coming in, often with undergraduates involved, where our students play a critical role in that program. We've built in this optional fourth semester and we've done that, in part, to balance being competitive with other data science programs that are shorter than four semesters, but at the same time giving incentives to get a richer experience. So we've introduced this 75% tuition waiver for the fourth semester. We'd like to offer this curriculum in partnership with schools, departments, and faculty. So for the core courses, we're inviting faculty from engineering, from math, from sociology, and from SSRI. For the team-based projects, we've already set these. We envision them as faculty research projects, so we want to invest in faculty research, have annual RFPs to curate those projects for the coming class of master's students to be involved in. For the electives, we imagine partnering with departments and schools, again, through RFPs that invite through funding mechanisms that I will talk about in a minute to either tweak current courses, to make them attractive to our students while also being attractive to the home departments, or create new courses that will be similarly attractive across both. We've looked at the curriculum just within Arts and Sciences. If we look at the classes that are already being offered, we see both electives that are in the bucket of advanced tools and electives that are in the bucket of domain knowledge. So we see lots of opportunities for collaborating just within Arts and Sciences and I recognize that there are lots of others that

we could put up. We're going to have our students take five of those electives, a minimum of five, at least two of them from each of those buckets. We've also looked at synergistic programs at the master's level elsewhere and identified a number of those and, in fact, are working collaboratively with them to connect our programs and in some cases share our courses, and that's already an ongoing process. We've taken three years to come up with this proposal, so we've had a chance to curate lots of support. I think that's important because of a financial model that we have that underlies this program. We envision ourselves in iiD and SSRI to provide the basic infrastructure for this program, but then to really fund the partnerships with the departments and the schools through the courses that we offer with the faculty through the research that we fund and with the students to enrich their experience. If you look at the budget proposal that's in our proposal, you can sort of see how the dollar is split. There's the infrastructure that takes some money, that's actually a relatively small part of the budget, in part because of lots of infrastructure that's already in place that I'll mention in a second. The bulk of the budget is actually going to funding these partnerships. We think it's financially sustainable with a class that starts with 20 students and works its way up to 30. The kinds of students we look for: recent undergraduates who have pieces of what it takes to be an effective data scientist, but who need to fill in gaps and who need to put those pieces together. Or, young professionals who have encountered data in their professional lives, see the power of that data, and need to put that together in a program like this. With prerequisites, they are comparable to the prerequisites that other data science programs have, with the exception that we also

emphasize strong English language skills because of the team-based nature that relies so much on communication. Finally, I mentioned that we already have a lot of infrastructure in place. That's our case for SSRI and iiD actually being the vehicle through which we can create these partnerships. We're co-located in Gross Hall and we have a track record now of several years of collaboration on a number of things, including creating networks of partnerships that are different across our two units, but complementary. And then there are lots of other infrastructure pieces that are there that I would talk to you in great detail about if you gave me the rest of the time, but we have ten minutes. Going back to the objectives, I think we are addressing a market demand, we are differentiating ourselves in that marketplace with a very unique intellectual approach that's very much Duke: interdisciplinary team-based science. We are, throughout our financial model, inviting partnerships across Duke, to complement, not to compete. We think we have a model that's financially sustainable, and part of that story is the leveraging of the infrastructure that's already in place. Thank you very much. And Robert is here as well and we're happy to answer any questions.

**Jokerst:** Questions for Tom and Robert?

**Mike West (Statistical Science):** There's a bullet missing, right? Where are the graduates going? What are your goals in terms of placement? I understand the market demand and we're very supportive, of course, but I think for the broader community it's really important to bullet that. What is the long term impact five years down the road, ten years down the road?

**Nechyba:** In terms of where the students are landing? Again, we see this quickly expanding use of data science in lots of sectors that traditionally have not been relying on data science. So that includes the nonprofit world, that includes the government sectors, including local governments. They increasingly are relying on data to drive their decisions. It certainly includes the business world, although that is not our primary focus, but we certainly imagine having students placed in the business world, particularly in places that are beginning to use data. The icons that we think of that are data-heavy: the Googles and so forth of the world. But data is being used increasingly in businesses that we typically would not associate with data science. So we imagine, because we have this emphasis on training students for engaging in lots of domains, them to be placed in lots of domain areas in the real world.

**Cam Harvey (Fuqua School of Business):** As you pointed out in your report, the closest comparable is NYU's program. It is multi-disciplinary, it is three to four semesters. But there is one significant difference, and that is, in the NYU program, one of the required courses is Machine Learning, whereas you can graduate with the Duke degree avoiding a Machine Learning course. I'm just wondering if you can comment on that omission. I know the general concept is introduced in a couple of other courses, but nowhere to the same degree of emphasis as NYU. Could you explain the logic of that?

**Robert Calderbank (Director, Information Initiative / Electrical and Computer Engineering / Computer Science / Math):** I think that one of the electives that we're particularly interested in is Machine Learning. In fact,

it's one of the functions of the data analysis course. On the one hand, it's the reimagining of what the linear algebra curriculum is going to look like. On the other hand, it's elements of Machine Learning. The idea is that students will graduate from that and many of them will be very interested in taking subsequent Machine Learning classes.

**Nechyba:** I would say, we have a group of faculty currently from a number of the synergistic programs that are working through the details of these core classes that we mentioned in broad terms in the proposal. In that process, one of the needs that has emerged is actually a Machine Learning course at the master's level that we know there's enormous demand for, we know advanced undergraduates would have an enormous demand for that, and we're actually prepared to next year pilot with these synergistic programs. That simply doesn't exist right now. So we're actually hoping to introduce more Machine Learning into the curriculum that hopefully will benefit our students but also other students.

**Charles Becker (Economics):** My question goes along with Cam Harvey's question. I see a huge bottleneck at what's now Stats 602, Bayesian statistics course, that keeps many people from Machine Learning, which is Stats 561-571. Is there some additional capacity for this?

**Nechyba:** That's where I think the financial model really helps, because we are actually explicitly setting aside funds. You can think of it as roughly, in terms of how the budget was arrived at, \$4,000 per student seat that our students would take in one of the elective courses. So you can see how the resources have been set aside to create the capacity. I realize that there

are those bottlenecks and so that's been explicitly put in.

**Craig Henriquez (Biomedical Engineering):** This looks like a great proposal. In fact, it looks so great, I think there's going to be tremendous demand beyond this master's program for some of the classes you offer. When you're at 30, you're at that sort of magic number in terms of how much you can manage or the number of students you can manage. What happens if I send 20 BME students to your classes? Are you able to handle that?

**Nechyba:** This is an issue that came up, actually, the most important issue that came up, when we talked about this in APC. A number of discussions have resulted from that discussion in APC, including Jennifer (Francis, Vice Provost, Academic Affairs), and I've been talking about ideas of how we can leverage the materials for this program to create pathways for graduate students around Duke to benefit from that. So the idea that we're currently working on is to create a summer institute of intensive, one-week boot camps, essentially, where the materials that we develop in collaboration with lots of others, we'll repackage those and we'll make those available, particularly for doctoral students and students in professional programs at Duke. We could, in principle, imagine opening that to outsiders and charge them and actually make it financially sustainable. So we're working out a model where we're trying to be forward-looking. To be honest, before the APC discussion, we hadn't thought about that enough. But we're thinking now about creating alternative pathways that actually might work better than semester courses for at least some subsections of our graduate students and offer those, as I

said, in the summers. That's perhaps a partial answer, but it's something we're increasingly worried about.

**Henriquez:** Right now you're going to actually restrict the access to these?

**Nechyba:** We're going to pilot a number of these core classes next semester so we're going to learn a lot next year. Our program won't start until fall of 2018. So we have a year to pilot a number of ideas and see where that capacity is really a crucial issue.

**Lee Baker (Cultural Anthropology):** I have one question in terms of iID. They've done such a great job in terms of including undergraduates. Sometimes with master's programs, there's an unintended consequence that's either faculty time or courses get sort of pushed away from undergraduates or undergraduates get overcrowded. Have you thought about this as a candidate for an accelerated 4+1 and/or thought about how you can continue to integrate undergraduates?

**Nechyba:** Absolutely. We recognize that there is certainly an increased interest on Duke's part in 4+1 programs and we are eager to actually become part of that. Absolutely.

**Calderbank:** One of the things that we experience with data+ projects is the mix of undergraduates and master's students. That's actually sometimes more productive than just undergraduates.

**Baker:** So you're going to keep an eye on that as well, the right balance?

**Calderbank:** Right.

**Jokerst:** We have time for one more question.

**Pat Halpin (Nicholas School of the Environment):** I'm just curious about possible partnerships you haven't considered yet. We have a geospatial analysis program that deals with big data issues. We actually have a graduate certificate program. All these things could be partnerships and a two-way street. We're actually considering developing a more environmental data analysis track in our master's environmental program.

**Nechyba:** Absolutely. We had a recent beginning of discussion with Biostatistics in the School of Medicine; they are very much interested in expanding into data science in a way where they see the core that we're offering as being complementary and at the same time opening tracks for our students. So those synergies are exactly what we're looking for.

**Halpin:** We've used the data-to-decision logo on our website for almost 20 years, so we need to copyright that (laughter).

***PROPOSED CHANGES TO THE FACULTY HANDBOOK REGARDING NON-TENURE TRACK REGULAR RANK FACULTY***

**Jokerst:** Next, we will hear and discuss proposed changes to the Faculty Handbook regarding Non-Tenure Track Regular Rank faculty who serve under the Provost, namely, faculty who are not in the School of Nursing or the School of Medicine.

Previously, the Faculty Handbook text regarding Non-Tenure Track Regular Rank faculty Appointment and Promotion was located in Appendix C, whereas the corresponding text for Tenure Track

Regular Rank faculty text was located in Chapter 3 of the Faculty Handbook. The proposed revisions will replace Appendix C, and add text to Chapter 3, thus, in part, better respecting and recognizing the importance and value of all of our faculty by placing Appointment, Promotion and Tenure for all faculty under the Provost in one section of the Faculty Handbook.

To ensure that this respect for our Non-Tenure Track Regular Rank faculty is shared in a meaningful way through faculty governance, it is critical that we engage the faculty who will have the most impact based on these changes. The proposers have strived to engage a significant number of faculty directly, and they are continuing to do so, and ECAC requested that all faculty under the Provost receive a copy of the proposed Faculty Handbook changes.

We, as Council members, need to proactively engage our colleagues in discussion on the proposed changes to ensure that everyone's voice has been heard. There are two main ways to share thoughts and comments. First, today we will have a short presentation and discussion of the proposed changes, with further discussion and a vote at our February Council meeting.

The second avenue for comments can be anonymous, and is via email to the Academic Council ([acouncil@duke.edu](mailto:acouncil@duke.edu)). In my email to all faculty this month, I encouraged all faculty to share their thoughts on the proposed revisions with ECAC via the Academic Council email address. These comments can be anonymous, and ECAC will help the proposers address these comments through further discussion with ECAC as necessary. Note that we would like to

have all email comments sent in by February 10<sup>th</sup>.

The supporting documents for this proposal were posted with your agenda, and are publicly available through the Academic Council website for everyone to see.

So let's hear about the proposed changes from Judith Kelley, Professor and Senior Associate Dean in the Sanford School of Public Policy, and Kevin Moore, Vice Dean for Faculty Affairs in Trinity.

**Judith Kelley (Senior Associate Dean, Sanford School of Public Policy):** Thank you, Nan. (Shows very thick notebook). I don't have a snazzy presentation like Tom, I'm afraid, but I have a little show and tell that I brought with me today. So I would like to start by asking you to guess what this might be.

**Speaker:** Faculty Handbook?

**Kelley:** Great guess! This is not the Faculty Handbook. So in the context of this proposal, what might this be?

**Speaker:** Dossier?

**Kelley:** A dossier for what?

**Speaker:** Appointment and reappointment.

**Kelley:** For what?

**Speaker:** A POP.

**Kelley:** He said a POP. He's correct. This is a dossier for a POP. What about this? (Shows another notebook). Any guess what this might be?

**Speaker:** Faculty Handbook? (laughter)

**Speaker:** A dossier for a Tenure Track?

**Kelley:** A dossier for a Tenure Track? No, it's also a dossier for a POP. As a matter of fact, it's a dossier for the same POP for the same appointment. (Shows third notebook). Everything comes in threes.

**West:** We get it!

**Kelley:** Can someone tell me what this is?

**Speaker:** The promotion of the same POP?

**Kelley:** The same POP. Correct. The same POP, the same initial hire dossier. When I took the job of Senior Associate Dean of the Sanford School, we had a lot of these folks. I thought, my life is over (laughter). It's a lot of stuff. Furthermore, if it had all been really appropriate and useful, that would be fine, right? But the issue was that there was just a lot of stuff here that wasn't really that pertinent. So I took the description of this to Sally (Kornbluth) and I said, listen, this is a lot of stuff. Is there something we can do about it? We went to a Deans meeting and the Deans all said, yeah, we recognize those piles and those are a lot of piles. Is there something we can do about it to get it better? So we got together, the faculty Deans, and what we discovered there in the meeting of the faculty Deans, was not only that we were all sort of dealing with these giant stacks, but that we all had such very different Regular-Rank Non Tenure Line faculty. Some people might have Regular-Rank faculty who is a lawyer and whose primary professional responsibility, here, for example, at the Sanford School, is teaching. Somebody might have a Regular Rank Non-Tenure Line faculty at the Pratt School who is a full research professor and that's all they do. They do research. Somebody might

have a professor of the practice in the Divinity School but a professor of the practice in the Divinity School looks very different from a professor of the practice in the Sanford School. And they might have a doctorate or some other comparable degree to the other Tenure Line faculty at that school and engage in a mix of research and teaching and all kinds of activities and they're very different people. And yet, we require very similar things when they have to submit their file. So we said we would like to change this. What would we like? What would be the goals? The goal would be to try to change it and to try to take account of the variations so we can have more procedural fairness. That would be one goal. The other goal would also be to do some house cleaning because it seems like there were a lot of guidelines that didn't seem appropriate and also to provide flexibility because the schools are so different and the needs are different. So what we've come up with, and I'll explain to you how we came up with it and what it really means, is the proposal you have before you today. If you look at it, you might look by word count. We're word count people because we do articles and stuff. You might think, this looks like a big addition to the Faculty Handbook. And it is important, because we're making changes to the Faculty Handbook, but as I'll explain a little bit later, substantially, it may not be that huge of a change to the status quo. I'll get into that in a little bit. In any case, we decided we wanted to go about trying to change this stuff. What you have to do is think about where this stuff came from. This stuff comes from clicking on the Provost's website, you get a set of guidelines, right? A set of guidelines that tells you everything you have to submit for a Non-Tenure Line faculty. This basically comes from another set of guidelines for the Tenure Line

faculty. It's very similar; there's hardly any difference between these two. So now we've got these faculty who are extremely different from one another and they're being asked to fit into a totally different category. So what we would like to do is not only change that stack to a much smaller pile, but we would also like to basically get it down to something like this. Just one page, brief guidelines, and then the schools have a little bit more flexibility to detail what that really means. So we thought, that's a good idea, that's something we would like to do, that shouldn't be so hard. We can just rewrite it. But it turns out, as Nan says, there are rules about these Regular-Rank faculty but they're situated in the Appendix of the Faculty Handbook. There's an Appendix there that is a set of recommendations from a committee that was convened in 1990. Then they have this set of recommendations. The issues are, that if you actually want to try to change anything, you can't red-line it. Because it's not actually part of the Faculty Handbook. So how do you amend it? You can't, right? So now we've got to put in back into Chapter 3 of the Faculty Handbook. That's where we're at. So that's all my show and tell for the day. So how do we go about trying to do this? Well, we had several meetings with the faculty Deans where we identified first and figured out that not only do we have very different faculty, we were actually, most of us, not really following the rules (laughter) and also, we were interpreting them very differently. So we talked through that and we tried to come up with something that would be a common set of rules that would still provide some flexibility and not deviate too much from what was currently there. We're not trying to change Rome in one day. We went to consult with different stakeholders. We talked with Institute directors, we met

with Nan, we talked with Sally, and we talked with the people in our schools and we came up with a set of guidelines and a new text for the Faculty Handbook that you see before you today. That text went out, the Provost sent it out to all the Deans and asked for feedback last March, from all the schools, for that to be circulated and for them to provide feedback. We took all that feedback and most of it was, some people had concerns about how we had worded some things. We addressed those. People had concerns about, like the length of appointment we had suggested, something might be done this way or that way, some people had concerns about what would be the climate for having, say, an expedited review as opposed to a not-expedited review. We addressed those things. Then we proceeded down the track that we're at today. What does it really mean? I don't have a lot of time left, but what's really happening in this Handbook? Because it's not red-lined so you can't really tell, right? That's why we put this interpretation in it to show what's really happening. It's important to understand first what's not happening. Like, if you guys decide this is not worth it, this is too much of a headache, we don't want to read that much, we don't want to vote for it, life goes on not that differently from how it is. We're going to keep putting together these big files. But substantively, criteria, already by now, are decided by the schools. That's not new. Voting rights already exist. That's not new. Faculty have to be reviewed. That's not new. These things are already there. We're kind of fiddling around the margins because we thought, if we're going to move the whole thing in to the Faculty Handbook, we might as well do some updates that give us a little bit more flexibility to reflect the fact that since 1990, the faculty has really diversified in what it looks like. So we can

be more fair. Substantively, you can put the changes into five little buckets, actually. One is, it moves the text into the Handbook. That's important because it can be red-lined and be amended in the future. It's part of that document, as Nan says. It's a symbolic move. So that's one thing. Substantively, it allows the schools to relax the requirements if they want to and if they agree on a number of things such as whether or not outside letters are required for a particular category of faculty, or how many people have to sit on a committee, or when they might approve an expedited review of a case, or in what particular circumstances they might allow a term to be ten years instead of five. Those are some of the relaxations that schools would be allowed. The other thing it does is, I think this is one substantive change that you can't run away from even if you make no change in your schools, you would have to abide by this: you have to give a one-year notice to a faculty member if their funding or the decision is discontinued. That wasn't explicit before. We're trying to make that explicit and it's on par with the kind of notice that the Tenure Track faculty have in terms of having a year extra on their contracts. Then it just allows us to update the template itself. That's a substantive change in that you will now be able to say, we don't actually require all the publications of people who don't publish and then instead turn in stuff that looks like publications but it's not and they don't turn in those great reports that they've done for the World Bank for whatever. So we try to provide that flexibility. What would happen if you approve this? The text will go into the Handbook and then, if schools wish to make changes to take advantage of some of this flexibility, they can do so. And they would have to run any new guidelines that they adopt, in terms of what needs to

be submitted, by the Provost, and then she would approve it or not, and then the school can proceed from there. That's it in a nutshell, I think. Kevin, do you want to add anything?

**Kevin Moore (Vice Dean, Faculty Affairs, Trinity):** Yeah, briefly. Arts and Sciences is kind of the elephant in the room here. We have about 150 Regular Rank Non-Tenure Track faculty and we're already doing, with the permission of Sally's predecessor, precisely what we're proposing. The reason we're already engaged in such flexible behaviors with respect to the reappointment and promotion of Non-Tenure Track Regular Rank faculty is because they're so diverse. We have performers of music, dance, theater, we have people from the World Bank, economics, we have, across a wide variety of departments, huge diversity, and one set of criteria for appointment and promotion simply can't fit this group of faculty. So we have already empowered the 35-plus departments in Arts and Sciences to develop their own criteria for appointment and promotion of these faculty. What we're proposing here is that we simply codify this flexibility into the Faculty Handbook so that other schools can engage in the same flexible practices.

**Jokerst:** With that, I think we'll need to move to the questions now. The floor is open for questions.

**Baker:** I just want to make one comment. Power to the POPs. The university would grind to a halt without their expertise, energy and commitment and enthusiasm. So this move is really important. I also don't want to underplay the symbolic significance. By integrating them in the Faculty Handbook, what we're stopping doing is segregating them to the back of the Faculty Handbook and that's really

important. No one wants to be segregated to the back of the bus or the Handbook. To be able to have them right alongside in Chapter 3 is symbolic, but I think very important.

**Jane Richardson (Biochemistry):** Flexibility is really important and obviously these people are very different. But also, I'm concerned that these people get protected and that departments or units can't do nasty things to them. I wonder what the way is of addressing any of those concerns?

**Kelley:** I suppose that one answer is that there are systems and things in place that have always been in place and will continue to remain in place, but if anything, I think this strengthens by at least providing that there has to be a notice, which wasn't really so clear before. But we're not really trying to decrease the flexibility that schools have vis-à-vis their faculty. One thing that this also does is, another change that I didn't mention, which is important, whenever there's a positive case, now the Deans don't have to forward all this stuff to the Provost's office anymore. But a negative case will always have the opportunity to be appealed to the Provost's office. That's not going away and that's always been the case and should remain so.

**Moore:** And even if an appeal is denied by the Provost, already in place is the Ombuds process. A faculty member can appeal that decision all the way through the faculty governance process, faculty hearing committee, and ultimately to the President and Board of Trustees. We had one such case a couple years ago.

**Haynie:** Just a question for Sally. This doesn't involve the union, does it? That's a different category?

**Sally Kornbluth (Provost):** No, those are Non-Regular Rank.

**Mary Fulkerson (Divinity School):** We have faculty called “of the practice of.” I’m not sure where they fit in.

**Kelley:** They fit in this category. They’re called “professors of the practice” or you call them “of the practice.”

**Fulkerson:** My question is, does this alter in any positive way, the possibility of being moved onto Tenure Track? I can think of an example. I’ve been here millions of years, where somebody was not, I mean it was an inappropriate choice to keep them in that category.

**Kelley:** That discretion will remain with the schools. I think any school retains and has had the discretion to make such a move. I know we have done such things in the past ourselves in the Sanford School. As a more interim solution though, these changes do make it possible at an earlier stage of somebody’s career as a professor of the practice to lengthen the appointment time so that they are less subject to frequent reviews. It used to be that you could only have the ten-year appointment, and that was very rare, you could only do that if you only had one successful renewal. Which means you basically have to be, for more people with ten-year appointment, you had to be ten years in to being here at Duke. Now, at the discretion of the Dean of each school, it would be possible when the first renewal comes up to say, you know what, let’s just go for ten years for the next term. So there’s maybe a little bit more stability in that sense, but it will remain at the discretion of the school to bring somebody over to the Tenure Track. This doesn’t change that.

**West:** I have a response to Professor Richardson’s question. You repeatedly referred to this as being targeted at the Deans and the schools, but certainly with the Arts and Sciences, departments, departmental bylaws modify the schools’ terms and conditions, expectations, et cetera, and rights and obligations of Non-Tenure Track Regular Rank faculty. But your committee hasn’t addressed that. Your committee has targeted the school level. So if it goes forward, the Deans are going to be expected to revise the way in which departments within the schools are expected to behave.

**Moore:** We refer to units rather than departments or schools. So within Arts and Sciences, you’re right, Mike. Each individual department can, should, and must codify in their bylaws what the criteria for appointment and promotion will be. I looked at those and I shared them with the Provost and we tried to make sure that there is, to the extent possible, some kind of procedural equity. In the units as different as Statistical Science and Music, that’s tough, but faculty in the individual departments are the ones who know what the criteria should be. Those criteria are supposed to be promulgated through all the faculty departments. Transparency is part of what we’re after.

**Joe Izatt (Biomedical Engineering):** This question is out of pure ignorance of my understanding of the rationale for the proposal. As I understand from your show and tell, part of the rationale is to decrease the requirement for the rigor of the review, at least its uniformity. But part of the argument for bringing these faculty into Chapter 3 is fairness. The Regular Rank Tenure Track faculty in Chapter 3, in fact, do have the required

rigor at all of these levels of appointment, promotion, and tenure. So is there any danger in bringing this new group of faculty into Chapter 3 but with reduced requirements for uniform rigor that we dilute the effect of Chapter 3 on all the faculty, some of whom will have to have these dossiers, and some of whom won't?

**Kelley:** I embrace the spirit of your question but I disagree with the word "rigor" as you've used it in this context. Because it is not about reducing rigor. It's about making the review more appropriate, which would actually make it more targeted, to make it better suited to making a good judgement about the case. Right now, we ask for materials that don't necessarily bear well on informing us about the performance of the actual job responsibilities of the candidate. We ask for all sorts of stuff because that's what happened for Tenure Line people. Instead, we want to ask for the right things. Does it end up being three folders? So be it. It's not just about volume. The point is that we don't want to just think that we're doing rigor because we're doing volume. We do think that we can reduce volume by being more flexible in treating the dancer differently from the musician, differently from the lawyer, differently from the researcher.

**Billy Pizer (Sanford School of Public Policy):** I very much love the proposal. Building on that question, I guess I was wondering if there was any thought given to describing some notion along the lines of tenure of a major review that would be done once at some point, versus more minor reviews at other times. Was there any thought about having that sort of over-arching notion?

**Kelley:** That was, I would say, way outside the mandate of what we were

asked to do. We think it's so important to get this right first. We don't want to screw it up, for lack of better words, by trying to dive into a topic that people may have wide disagreements about. That said, if it makes it into the Faculty Handbook, it could be red-lined in the future and it will be much less work for somebody who wants to make a proposal in the future, not in terms of the quality of the argument they'll have to make before the Academic Council, but in terms of the actual physical work of getting something done.

**Moore:** Something that's already built into the current process, for example, the promotion from associate professor of the practice or associate research professor to full, we already require external reviews for the promotion process. Those are standard for those promotions. If someone has been a full professor of the practice or a full research professor at Duke for 20 or 30 years, we already have flexibility to reduce the rigor, if you will, and the subsequent reappointment processes as long as they're continuing to be productive, et cetera.

**Jokerst:** We have time for one more question. And once again, we invite questions to our Academic Council email address and we'll be happy to pass those on to the proposers anonymously. Do we have one more question?

**Jim Cox (Law School):** I think the nature of this is a great idea. We're all interested in reducing the volume of things that we have to read that are superfluous to the task. But we all agree that you want to have rigor in the process. But the issue is, you can't have rigor in the process unless you start out with some objective of what you want the person to do. Many of these individuals are not like you and me. They

do other things. We can agree to that. But there is some reason why you might have them in your shop and it's going to be different at the Law School, my residence, and it's going to be different in some other place like the Language department. I listened to this and I read it on the website and I kept coming back to the whole idea of, are you accomplishing what you want to do here? That is, the "you" being in the promotion and tenure process, we know what you're trying to do for you and me. What are we doing on these other people out there that are in another chapter, and I'm all for moving them into our chapter right now? I'm wondering if there isn't some room here for some specification which will change from time to time and will entail some work in the Provost's office by somebody there, whether it be Sally or a minion or something like that, who knows? But you would sit there and the Dean reaches an agreement with you about what this position is all about and if you're going to change that position, then let's anchor the renew process into the agreed-upon objective. What I'm worried about is that we're now approving a process for a thousand flowers to bloom and I don't know if that's what we want to do. So I would like to have something that somehow is going to have some mooring to this process, because otherwise, I can see this leading to a lot of problems: lack of uniformity, lack of rigor, and a lack of making hard judgements.

**Kelley:** Thank you for that comment. We had lots of discussions about this among the faculty Deans as well. It's obviously a concern that these things are rigorous and as I started out by saying, we're actually not changing that part of it. The criteria, right now, even if we don't do this proposal, are, by the rules, defined by each unit themselves, subject to review by

the Provost. If there is something else to be done there, we're not saying that couldn't happen in the future, but we're leaving that piece untouched. But we do think that by opening up this question now, we're at least encouraging the faculty in each school to take the time to go back and say, okay, here's some new flexible options. Which ones do you want to take advantage of? Maybe that can open up the conversation that could be productive. Maybe it can even lead to better mentoring once we have more clarity over the objectives because there's no reason why Non-Tenure Track Faculty shouldn't be able to get mentoring in the same way as the Tenure Line faculty, et cetera. So we see it as an opportunity but it's not mandated and we're not ultimately touching that piece here. But we are inviting people, by bringing it up, to look at it, I would say.

**Kornbluth:** First of all, I think there are two pieces to this that are important. One is that I think there has to be some kind of approval. If a school or unit is changing the criteria in some important way, that's going to be through discussions. So that's part of it. The other thing I think that's important is a public posting on the website within each unit precisely what those criteria are. I think that's been part of this proposal that's been lacking. Because what we've seen is, someone will have been hired under one set of criteria, they come up for review, and suddenly it's a moving target, and then their dinged because they haven't met some piece of the list that they weren't even aware of. I think the idea of putting it in the Handbook and also discussing this and making sure it's on the website is that there's a greater transparency. This all comes to Jane's comment about treating people fairly so they really know the criteria under which they're being judged.

**Jokerst:** With that, we're going to move on. What I'd like to do is ask anyone who has further comments, if you want to provide comments anonymously, you can provide them through the Academic Council email address. If you'd like to speak directly with Judith and Kevin, please contact them directly. Certainly this is not written in stone at this point. So if there are changes to be made, I think Judith and Kevin are open to discussion. Great discussion, thank you.

### ***FACULTY GOVERNANCE CONVERSATION PART II***

**Jokerst:** Next up, the Faculty Governance discussion part II. ECAC and I are very pleased that we can reserve some time out of our obviously very busy Council meeting schedule to return to the conversation we started in December regarding faculty governance at Duke. One of the main themes that emerged from that particular discussion was regarding faculty representation and participation in the Academic Council. ECAC member Josh Sosin ably conducted our Council discussion in December, and he returns today to host a discussion with you to further explore faculty governance. We have about 20 minutes for our discussion. Josh, I'd like to invite you up to the podium.

**Josh Sosin (Classical Studies / Member of ECAC):** I'll try to keep it brief. Nothing wrecks a good movie like a bad sequel (laughter). I once heard a fantastic interview with the fantastic Ruben Blades and the wide-eyed interviewer asked something like, how do you do your job? And he said, well, I just try not to sound stupid. Clearly, he appreciates what it's like to stand in front of a room after Judith. So a handful of issues arose in our previous discussion that ECAC has since

discussed, partly in the course of doing our daily business, partly in dedicated conversation. None of these is inconsequential or swiftly dispatched. We heard from a handful of you that there would be virtue in extending the conversation a little bit, so this is that. I'm sorry that you get me again. You can imagine that after such rigorous and spirited questions last time around, there was vigorous debate inside ECAC as to who would facilitate the next conversation, so Nan held a cupcake eating competition, which I lost (laughter). Again, I don't think ECAC, on any of the things that we're about to discuss, as a body, has reached anything like, or even tried to, a consensus on the sorts of issues that are likely to come up and if at any point I start to stray from something that feels like a fact to something that feels like an opinion, I'll try to warn you. I also want to say that in the course of preparing for this, Sandra served us with a giant stack of documents that revealed the ways in which Council has discussed these sets of issues over the last 15 years, which made a riveting read (laughter). I just want to say that in these, therefore as in so many matters, week after week, our knowledge and our judgement and our simple ability to do things is deeply and wisely and patiently and without fail, enhanced every week by the good services of Sandra, who is embarrassed (laughter). Among the many good points that you offered last time around, we've been considering three simple questions. I'll try to situate each of them in a brief reference to a fact and then an observation about the implications of that fact. First of all, under the current rule of the bylaws, each school and division gets one Council member per 8, in fact, per 8.5, faculty, whose total is not to exceed 10. The meaning of this, I think, is that there is a

presumption of a kind of equal but not a kind of proportional representation across the schools and divisions. The natural question arising from which is, what do we think about this model of representation at that high level? Second, under the current bylaws, any school or division that fields a full complement of 10 is to do its best to include at least one Assistant Tenure Track member and at least two Associate Tenure Track members, which I think means that there is an underlying assumption that diversity by rank within the pool of Regular Rank Tenure Track faculty is, itself, a virtue. The same section of the bylaws, by revision of 2003, which took two full years to implement, allows that any school or division that fields a full complement of 10 may include no more than one Regular Rank Non-Tenure Track, except for Clinical Sciences, which may include up to four. This, I think, means two things, both of them important. The first is that the logic or virtue behind the proportion of Regular Rank Non-Tenure Track members of Council may turn out to be school- or division-dependent. That is a critical fact that I think lies in the text. The second is that the virtue of diversity by rank outside the Regular Rank Tenure Track pool is perceived differently and constrained differently from the virtue within the Regular Rank Tenure Track population. The question arising from which is, what do we think about this model of representation as it's applied to rank? These are related, but I think two distinct issues. The third is simple in the saying, maybe hard in the doing. In current practice, participation in Council varies pretty dramatically by school and division and within them by department. Some communities opt in by droves and others run for the hills and the simple question is, how are we going to encourage more Council participation for

- and this is a little bit of editorializing - to the extent that our bylaws serve the purpose or in any case do enshrine notions that we regard as essential to who we are and how we behave and what we make together, you have to ask to what extent we're able to protect those notions and operationalize them if people don't show up. So the format, I think, will be the same as last time. I'm going to try to speak as little as possible and just call on people as questions arise.

**Pizer:** Of course I would just say, I don't like 2, but the question is actually, or I should say my thoughts are that it's a bad idea. But the question is actually on 1. What's the practical consequence of that, not being knowledgeable? Does that mean that some large schools are dramatically underrepresented based on this one representative per 8 rule?

**Sosin:** Measured by strict proportion, it means very much that.

**Speaker:** Half the faculty are Medicine, so...

**Sosin:** Clinical and Basic Sciences dwarf the other departments.

**Jokerst:** Yeah, there are about 2,000 faculty in the School of Medicine, Basic Sciences and Clinical Sciences, and about 1,000 total everywhere else.

**Pizer:** So their representation is like, one per every 20 or something like that.

**Speaker:** They're California (laughter).

**Sosin:** The complexity there, in my opinion, lies not just in the arithmetic but in the tempo of change. Different parts of the university ramp those numbers up and down at different paces.

**Kelley:** I'm just curious, because these are sort of questions of the founders from the constitution, it's the same proportional stuff. Does this come out of concerns by possibly underrepresented groups that they are underrepresented? Is that an issue? Do certain groups feel like decisions are made that don't represent them or their faculty as a whole?

**Sosin:** ECAC colleagues, correct me if I get any of this wrong, but I think the short answer is that there are people who have those views. I think we arrived at number 1 in ECAC after starting in fact with number 2. That is, the question of franchise around Regular Rank Non-Tenure Track and the way you get from there to number 1 is the strict one-tenth cap on them; this requires you to ask where did the number 10 come from, and what is its distinct virtue?

**Jokerst:** Let me offer another insight here. That is, some of our largest divisions have many, many people who opt in for election to Academic Council and they get a small fraction of the people who opt in. Some of our schools or divisions have not enough people opting in to fill their slots. So we're encouraging more active participation, but are there ways that we can give better voice to people who want to have a voice? And there are some elections where we have Non-Tenure Track Regular Rank faculty who are elected, multiple Non-Tenure Track faculty who are elected, and we have to say, no, I'm sorry, you can't serve, we're limited to one. And yet that school hasn't filled its roster in Academic Council. So I think there are questions about, should we loosen up these rules to allow a greater level of participation from people who want a greater level. I think it's a big question for us.

**Kelley:** Let me just quickly follow up on that, Nan, and then I'll be quiet because I'm not even an elected member. But, these things, from a political science perspective, institutions have rules that move in tandem and they matter. So if you just consider this question in isolation, you may get a very different answer from the group than if you also consider what the voting rules are. So you may be able to expand the participation of faculty in those schools if you can manage to work with adequate rules that allow for veto by certain minority groups. So it's just going back to the founders.

**Sosin:** You're already four steps ahead of us. We have just begun to feel around the edges of what historically has been perceived as the issue here. You can read about it in great length in the memos in the George Christie report of 2001. There are issues of real substance and strong views on either side of them and we're just trying to feel our way forward. We haven't yet gotten to adjusting dial settings.

**Jokerst:** This came up as a thread at the last conversation we had on this and so we want to explore further about how people feel about this.

**Sara Beale (Law School):** We're one of the units that has trouble filling our slots. We, just as a cultural matter, don't like opt in. We have people on almost every major university committee that work their butts off. People are more than willing to be involved in governance, but just as a matter of observation over the past few years, the number of people that we had available to elect was probably three times as big when you had to opt out as to opt in. I understand that it's much easier for the Academic Council office if people

are required to opt in. There were sort of several rounds where it was confusing because people hadn't paid any attention and they hadn't opted out and they were going to be on sabbatical or something, but I really think that there is a flaw in defining opt in as the same as willingness to serve and to take the position very seriously and to contribute effectively. I would like to think that if you've been on a committee with one of my colleagues, you think, oh yeah, that person added a lot. We would like to think that we do here as well. But honestly, it is just horrible trying to get people to opt in. So can we re-examine that? Is there any broader desire to re-examine that, or do people just think we need to get over that in the Law School?

**Sosin:** So it's not just in the Law School. This is embarrassing, but if you look around the room, you might notice that 40% of the Humanities complement is from the Classics department. And that's because when we had a hard time recruiting people, I sent around a note saying, gosh, if anyone is interested, this is a great thing. And people said, yeah, that's a great thing! But that also tells you how many other people didn't opt in. It's not just in Law. We have discussed changing the settings from opt in to opt out. One of the points of friction is precisely as you described. It's administrative overhead, but balanced against that is the possibility of greater participation. I think there are multiple factors here. One of them is creating some incentives for participation. One of them is removing friction wherever possible for people who would otherwise be inclined to participate to do so, so I think we're going end up having to push on multiple levers here. I think you're totally right, diagnosing what's going on here.

**Cox:** I think you have to ask yourself, on number 1, what you're trying to achieve by having representation across the university. And perhaps we were sitting down, dividing up the financial pie, who wouldn't wind up this way. But that's not what we're doing. We're representing the views of the bigger university. An eclectic group. So therefore, I think what you'd like to do is have what I would call a critical mass or some representative mass from all the different disciplines. But they don't have to be proportional to the number of people who make up that discipline. I think that's the real benefit that we have here. Quite frankly, what we're talking about is where Duke should go and we benefit from hearing how people see different parts of the elephant here because we all are colored by what our background and our appearances are. So I don't think we really need to think that this is a republic with one person and one vote in representation. I'm not sure we want to go to the United States Senate model, but if you get 8 or 9 people who are in a division, I don't think you're going to have a heck of a lot of diversity there, or if you do, you're not going to get much more if you went to 12, 15, or 16 people. That's my point.

**Justin Wright (Biology):** Just to follow up on that, in my experience, it's pretty rare that there are very contentious votes where a block of a unit votes together to defend their benefits and it's more of a deliberative body and getting that diversity. So I don't know that I would advocate spending a whole lot of time turning the dial on number 1.

**Eileen Raynor (Clinical Sciences):** In regards to number 2, one of the concerns is that there is a trend within School of Medicine to move new hires to Non-Tenure Tracks. So they're Regular Rank,

whether clinical or research, but on Non-Tenure Tracks. So the concern is, over time, there are going to be a lot more faculty that are in that group than are in the Tenure Track group. That could affect the participation on the Council that maintains a limit of four people.

**Sosin:** So, if any of you haven't read the Christie Report of 2001 (laughter), the first concern phrased there was that, should there be a trend - and this was 15 years ago, but, - should there be a trend to higher and higher proportions of Regular Rank Non-Tenure Track in the body, the committee foresaw the possibility of a diminishing of the body's capacity to speak truth to power. So it is there as a central concern that led, ultimately, to the rule that we have that says only one-tenth of a school or a division's complement can be filled by Regular Rank Non-Tenure Track. That said, the numbers were different then. The demography was different then as against now. Now the difference is deeply heterogeneous by school and division, and within that, by department. This comes right back to discussions we started in the previous presentation. It's not entirely clear that you're going to be able to set a rule that will appropriately deal with whatever anyone thinks of the circumstances in any given department if you set a rule at the level of the school or of the division. Only one kind of difference lies there. It's true, the difference is stark in your domain, and there are others where it's similarly stark. Then there are departments where the increase in Regular Rank Non-Tenure Track has been flat for ten years.

**Jokerst:** We have time for one more question, and this is to be continued.

**Richardson:** So, what worries me about setting an absolute limit, particularly as

small as one-tenth, is that these people will not be heard here. I think a limit of one is not reasonable anymore.

**Sosin:** Reasonable or not (and, I have my own views on this, which I'm not going to share), the ratio absolutely doesn't reflect the numbers on the ground in a way that maybe it did 15 years ago.

**Richardson:** I'm not sure it has to reflect the numbers on the ground, but it would be nice if it wasn't absolutely clamped down to a very low level.

**Harvey Cohen (Clinical Sciences):** This was on that point that, clearly the biggest increase in Non-Tenure Track faculty is in Clinical Sciences, probably more heavily in the School of Medicine even than the Nursing School, but probably both. That's reflected already in a different balance within Clinical Sciences. I would say it's pretty reasonable, four out of 10 can be Non-Tenure Track.

**Sosin:** As measured by boots on the ground. If you look at growth relative to Tenure Track growth, it is not so unique. There are other units where we see big jumps in relative growth.

**Cohen:** But in raw numbers, our numbers probably dwarf almost every other unit combined. But I do think it's reasonable representation of that in the four out of 10 possibility.

**Sosin:** That was the theory behind its creation, clearly.

**Kornbluth:** Just one comment as we continue, because I assume there will be more discussion on this. Not to confuse the fairness issue to make sure folks are represented with the issue of nobody who's Tenure Track from that unit feels

like running, so we need more warm bodies to fill the seats. I think the issue that Sara was mentioning about opt in versus opt out has to be considered as a separate issue because I'm concerned about fairness to the Non-Tenure Track faculty but I'm also concerned with not really having great representation or people feeling like they have to scrounge people up. Then there's the fact that the decisions being made by the Academic Council are actually weighty and have impact, and then having units say, well, we didn't have any say in this. It's like your say was when you chose people to represent your unit and that has to be elevated in some way.

**Sosin:** That's a great point. Just let me stress that these three appear on a single slide by accident of the fact that they came up in the last meeting, not that we imagine them fitting together.

**Kornbluth:** No, but the discussion indicates that these are different aspects of the issue in terms of how we run the election and who can stand that need to be examined.

**Jokerst:** And one of the points that came up in ECAC is incentives associated with this kind of service and service on committees. I think that is a key point for opt in or for opt out. Okay so we will be back this semester with another conversation. We have one final topic today.

### **QUESTION FOR THE PRESIDENT**

**Jokerst:** In Council we have a tradition that faculty can submit questions for the senior officers at Duke. Today we have some questions that were submitted for President Brodhead. These questions were posted on the agenda and they are

displayed up here now.

*"As you complete your distinguished service as President of Duke University, would you reflect on the financial state of Duke University in light of the many uncertainties before us on the national and global scene and the recent reported performance of the University Endowment?"*

*Specifically, it has been reported that the Endowment of the University had a loss of 2.6% this past year and that because the university spent more than it earned the value of the endowment declined by 7%. It has also been reported that for the past ten years the average return on investment has been a positive 7.1%.*

*How do these results compare to the performance of the stock market, e.g. Dow Jones or Standard and Poor? How do they compare to results of peer universities? And if we pay bonuses in years of positive returns to the management of the endowment, do we pay negative bonuses in years of negative returns?"*

I'd like to welcome President Brodhead to address these questions.

**Richard Brodhead (President):** I was actually hoping that Earl Dowell would ask his question and I would then answer it. Do you all feel you can process this question adequately? The question draws attention to the fact that last year, the performance of the endowment of the university was down 2.6% and that can't be good. And then of course you have to take in the rest of it, which is, the nature of the endowment is not a savings bank, we spent some of it, in fact, a significant amount of the budget of the university comes from the endowment and the stored philanthropy that it represents. So since our spending rate is about 5%, in a

year when you got a negative return of 2.6% and then you spent around 5%, you're actually running the risk of wearing the endowment at a significant rate. Then I take it that implicit in this question are at least two other things. One, couldn't any idiot have put their money in the stock market last year and done way better than DUMAC? (laughter). Two, shouldn't people who made such financial returns have to pay for it? Certainly implicit in the question. If you didn't mean that, Earl, then we have some misunderstanding. Let me reply to this as follows. These are very serious matters. Earl sent me this question, and I sent him an answer within 24 hours, but I think it's actually quite appropriate for the whole Council to get to hear this question and to get to hear the answer to it. One thing to say is, last year was a bad year for endowments of major universities. We're in a group of 50, we see their results, there were only two of them that I'm aware of that have positive results. Yale mysteriously had a 3% return. Princeton had, I believe, a 0.8% return, and all the other ones I'm aware of were negative. That said, ours was even more negative than some others. We were in the middle of the pack and it's not our aspiration to be in the middle of the pack. The real answer to the question is that you have to back up from this and look in longer time frames than one year. In any year, what happened in the stock market and what happened in our endowment will be correlated in a variety of different ways. When the stock market dropped 40% and our endowment only dropped 24%, no one called to ask me why we hadn't been eager to lose more money the previous year. So this is the kind of question that arises in a certain kind of year. The answer to it is, the financial strategy of the university is to invest for long term returns. It's why our spending rate is not

key to one year of performance, but a rolling average of three years. The point is to earn enough to spend about 5% and enough for inflation and reinvest with the hope that your endowment will grow and not shrink and will continue to be able to feed you in the future or our successors in the future as it has in the past. To endow for long term purposes, ours, like every other major university invests not just in one financial instrument or one category but in many of them. There are categories that a large endowment is able to invest in that the average investor is not able to invest in. It's not every year that those perform superbly, but over time they certainly do perform differently from other things. So I just remind you, last year our endowment lost 2.6%. The previous year was also not a brilliant year. We made 4.4%, which is getting pretty close to that margin of whether, if you spend enough, you're replenishing it quickly enough. The previous year, you may remember the endowment had a return of 20.1%. And so you're going to be looking at these things, and even over that three year spread, not by any means our best in history, you have about a 7% positive return and not a negative one. If you look over the last ten years, this number has it correct. But don't forget the ten year rolling average contains the worst year in modern history of the endowment and when the ten years roll over such that that year rolls out, Tallman, you told me that you think that our performance will come back to about an annualized high 9% or 10%.

**Trask:** Very close to 10%.

**Brodhead:** If you feel free to scoff at our DUMAC colleagues, over the last ten years, they have been at the 82<sup>nd</sup> percentile of investment returns in the top 50 large university and in charitable

endowments in America, in the top five. Last year they were in the middle of the pack, not great. Two years ago they were in the 96<sup>th</sup> percentile. If you don't have a taste for volatility, you should not pay attention to this subject (laughter). Things bounce around. You say, oh, I should put everything over here, and the next year that goes south and something else goes north, or maybe everything goes south, or maybe everything goes north. It's a long-term strategy using every possible instrument with professional judgement. I have to report to you the good news, that in fiscal year 2017, the first six months of 2017, our endowment is up about 6%. So that's good news and makes this question less likely to be asked. I think that one of the things that is important to explain is, what is the governance that presides over the endowment of this university? Faculty governance, that's what we've been discussing today, but you well know it is not the case that the elected representatives of the university decide what investments to make. I don't know if the rate of volunteerism might rise, but we might or might not regret the consequences of it rising (laughter). Actually, the Board of Trustees of the university, one of its most important fiduciary responsibilities is the financial wellbeing of the university. They have delegated responsibility for investment decisions to the Board of DUMAC itself, which is chaired by a Trustee, now Ned Gilhuly, formerly Bruce Karsh. The university has among its alums many super intelligent and experienced investors in all categories. That's the Board that presides over DUMAC. They report to the Trustees but the Trustees have delegated that responsibility. If you say, well then, where are the faculty? Well, Don (Taylor), you chaired UPC this year. The head of DUMAC comes and

reports in detail on the operation of the endowment, underlying decisions, investment categories, things of that sort. If there is a question about ethical investing, that goes to a faculty/student committee chaired by the troublesome Professor Cox (laughter). So there are a range of governance instruments in which the faculty are a part, but let's be frank, not dominant. We have expertise, but that's not really our expertise. I want to get to this question of compensation, which will interest you. I'm not going to talk about the compensation of any individual in the university, and I never would. But I will explain to you, it might interest you, if you worked at DUMAC, you would have a different compensation structure from if you were a member of the faculty. There is a base salary and then there is an incentive portion of the salary. The base salaries at DUMAC are fairly low, not by the standards of everyday Americans, but by the standards of people in finance. We purposely don't set them high. We make people have to try to earn a higher salary by the wisdom of the investment decisions they make. The incentive comp for DUMAC is measured two ways. It's measured by our results measured against policy benchmarks and it's also determined by our results compared to the other 50 universities in that pack. When we do super well, you get a better bonus. When you do super ill, you get a poorer bonus. We don't take money back from people (laughter). I know that happened at a share of Wells Fargo recently, but I don't think that it's a very easy or successful or even wise practice to adopt. You may be sure that if you work at DUMAC and there's a year where you underperform the policy benchmarks and there is a year when you perform only in the middle of the pack of our comparands, it affects the size of the incentive models that's paid

that year. Then there's a second, even more ingenious thing, which is, the incentive bonus of DUMAC is itself invested in DUMAC and has to stay there for two years before they can have it (laughter). So truth to tell, you live or die by the wisdom of your decisions in this matter. I just want to say one last thing, which is this. A year when there was 4.4% return and you want to spend 5%, followed by a year when there was -2.6% return, it's all a little crazy because you look at the stock market, I mean, gee, I look at my TIAA-CREF, man, I'm a wealthy man compared to a few months ago! But if you think that this is guaranteed to stay up there, you might read a little financial history. It seems to me we need people with professional judgement, looking for the long term, looking at a range of things, and if there's one thing I hear at the DUMAC Board meetings, because of course I am a member of it as is Tallman, it's that the perception that we, probably for significant period, are going to live in a low-growth environment, certainly compared to what pertained in the late 1990s and then, except for the years 2001 and 2008, for the years subsequent to that. So actually, this question, even after I've answered it as thoroughly as I have, you do realize there is a wisdom to the underlying question, which is, we have to spend our money very prudently. We have to draw on our endowment. That's what it's there for. But we have to draw on it in such a way that we don't reduce its ability to sustain the university in the future. A very interesting thing to me is, if I say to you, the university spending rate is 5.5% of a rolling three-year average, recently modified to 5% of a recent three-year average, how is it that we have not spent as much as 5% in any year that I can mention for the last several years? During the downturn we did. It's partly because we do have a little discretion on

it too, and Tallman Trask and his staff have been rather careful to under-spend in years when we have so little confidence that we will have returns. I hope this gives you an answer and that you are marveling at my complete fluency with the world of finance (laughter) (applause).

**Jokerst:** President Brodhead, thank you for coming and answering the question. This concludes today's meeting of the Council. We meet next on February 16<sup>th</sup> – have a good evening.