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Minutes of the Meeting of the Academic Council
Thursday, November 15, 2018

Don Taylor (Chair, Academic Council / Sanford School of Public Policy): Thanks, everyone, for coming on this beautiful Thursday. I've got a Durham-specific announcement. The Jordan High School football team is in the state playoffs! [applause] They're in the playoffs for the second year in a row and the five years before that, they won only seven games total. So, 7:30pm, Jordan High School is hosting Scotland County, and I keep the first down yard marker at the football games. So, you can come see me in my true state. [laughter] My youngest son is a senior there. He was saying this morning, Dad, if we lose tomorrow, it's going to be my last football game ever. Which will happen soon enough anyway.

APPROVAL OF OCTOBER 18, 2018 ACADEMIC COUNCIL MEETING MINUTES

Taylor: The first item of business is the approval of the October 18 meeting minutes which were posted with the agenda. Does anybody have any corrections or additions?

[minutes approved by voice vote without dissent]

UPDATES FROM PROVOST SALLY KORNBLUTH

Taylor: Next, Provost Kornbluth is going to give us a couple of updates that will actually help also set the context for some discussion we're going to have later today.

Sally Kornbluth (Provost): This will just take two minutes. When Don told me the nature of the discussion today, I thought I just wanted to mention a couple of things you'll be talking about regarding faculty culture, faculty behavior, et cetera. I just have two things I wanted to say. I think most of you probably saw Vince's [Price, President] letter about the survey [on workplace harassment at Duke] and I just wanted you to know that there will be follow-up coming. There are going to be some meetings with Abbas's [Benmamoun, Vice Provost, Faculty Advancement] office, with Ann's [Brown, Vice Dean, Faculty, School of Medicine] office, et cetera, and we're going to start formulating a response. But it's likely to involve visits to individual departments and schools to start talking about specific cases, not identified cases, but I know Ann's office has been collecting some examples of the kind of behavior that we would be concerned about. We'll share a little bit more about the granular data with the individual units when we go to the units. It's really a matter of talking

within the units about what the culture is and what measures might be taken to rectify and alter the harassment that was documented in the survey. We will be coming your way with that very soon.

The other thing I wanted to mention -- some of you may be aware of this -- we contracted with an outside firm called Project IX, which came in to look at our response to sexual harassment in particular, not just harassment in general. Gender harassment and sexual harassment. We anticipate getting a written report from them sometime in the near future. But I had a conversation with them by phone, along with Pam Bernard, our General Counsel, and I just want to say a couple take-home messages that are worth keeping in mind as you think about behavior in general. They said Duke was not only a decentralized place, they never saw anything like it. [laughter] They've done consultations all over the country. They said that everyone has their own little process, procedures, there's duplication of things, and as we've talked about here before, people don't always know where to go when something happens. So they have a series of high-level recommendations that we're going to have to think about how to operationalize and we're obviously at a point where our Office of Institutional Equity, we'll be searching for a new leader there, we have a Title IX coordinator position open that we're filling, et cetera. So there's a lot of moving parts. We have Dr. Moneta in Student Affairs retiring, that obviously is a prominent place in the student misconduct space. So we're going to have to think about how it all fits together but one thing they said is that we really do need a central reporting place, whatever it is, and there has to be someone who is triaging things out to the appropriate place. Whether it's really a violation of the law, like criminal law, whether it's a violation of our university policy, or whether it's in that vast area which we think of as the gray zone where it may not be violating any of our policies, but we know there is something wrong with it and we'd like to have a way to deal with it. That's part of the discussion that we're going to be having today. We're going to really think about what kind of centralized triage process we need, and how they get referred out. The other thing is, in a place this big, we've seen in lots of different spheres, sometimes the right hand doesn't know what the left hand is doing, particularly when it's extremely decentralized. Thinking about how we centralize data collection, and how we have reports, not identified reports, but at least anonymized reports that discuss the kinds of things that have happened and what the actual outcomes are. So that people know that things are being dealt with, that they're being dealt with in an even-handed way. I think we have to think about this and the Project IX people also referred to what they call forum-shopping, which is, when you have this many different places you can go, and you don't hear something you like here, you go here, if you don't hear something you like here, you can go here. So we really want to have some uniformity. So you're going to be hearing today from Ann Brown about what's happened in Medicine. Mark Anthony Neal is going to be leading a discussion of this further. Part of the discussion is, how do we think about what's happening in Medicine in this way? What do we think about the rest of the campus? How we might do the same thing? Do we think of something campus-wide? Do we think of something within the units? I will say that the Project

IX people, when we talked about this, said, you know, if the unit is too small, it can be sort of vigilante justice, everybody already has a preconceived notion going in, so I think you should factor that into your thinking and discussion. And then we really have to think about, how, as a community, we deal with things that are not strictly "illegal," but we know that we really don't appreciate or want as part of our culture, and how we hold people accountable. I don't think we'll get into the gray zone things we've been talking about on freedom of speech and everything else today, but just bear in mind that these gray zones, we're calling them gray zones for a reason. It's not very clear. I think, as a faculty, we have to decide how we want to deal with some of these issues. That's where we are. Comments or questions? [pause]. Great, I'll share more soon.

Taylor: Thank you, Sally. One thing I wanted to do real quickly: we started this conversation in October. We really started it last spring. We revised our Appendix Z [in the Faculty Handbook], our policy on consensual romantic and sexual relationships between faculty and students, and that has continued. In October's AC meeting, we took on the question: what role should the faculty play in adjudicating claims of harassment or harm? We had some discussion about that. That's ongoing. I just want to give you a couple of summary points. ECAC has talked some more about that and just to update you about that before we move ahead to today's topic. First, I think ECAC came away from this and we've talked with Sally and she really agreed that for academic misconduct, that is in our lane. We, the faculty, have a comparative advantage in determining plagiarism, cheating, unwarranted help in the academic realm. When we looked at the statistics of the number of us who are involved in adjudicating those harms, it's a very small number of faculty. A lot of the faculty are either more junior or faculty who have appointments that we might understand to be less stable. So short version: there are basically no tenured faculty who have done that in the last few years. ECAC thinks we have got to change that. So we're going to work with the Provost and we're going to try to come up with a way forward to get the faculty to be more involved in the adjudication of academic dishonesty. In terms of adjudicating claims of sexual misconduct among students, ECAC is not convinced, and we really are skeptical, that faculty have any comparative advantage in deciding those types of cases. When Larry Moneta [Vice President, Student Affairs] was here, he said that faculty being involved in those cases brought some gravitas or some sense of stability to the cases. ECAC has been kicking around a few ideas of how faculty might be able to be involved in a way that supported students and maybe had a look at the process to be able to report out yes, we think we did this as fairly and as well as we could. But without us being the ones to decide the cases. So we'll have more to say about that later. As Sally mentioned, Duke is going to receive this report from this outside firm and there may be some opportunities for some small groups of faculty with expertise to work with the administration to help to work on some of the changes in rules and procedures and whatnot. So be listening for that. I'm sure we'll be talking about all of that again in the Council in the spring.

Today's conversation, as Sally called it, the gray zone, one of the things that ECAC has really been wrestling with is behavior

amongst ourselves, often us doing things to each other or to staff or to students that might not rise to a level of violation of criminal law, might not even rise to a level of our technical definition of harassment, but that harms our culture. There are people being hurt by that. There is a lot of time and energy being spent adjudicating and talking about these cases and it's basically a tax on everything else we can do. When we have more of that, we have less teaching, research, and service. Finally, I think when people look at us from outside, there are a lot of misperceptions about the university and a lot of negative notions of the university that are unfair, but I think the idea that faculty often have different sets of rules and are not really held accountable I think is mostly a fair criticism of us. You can look today in the New York Times, the story of the Dartmouth case, I have no idea about the facts, but this is a horrible story. My mother and my dad both wrote me an email about this. We just think it's time to have a conversation and decide how we can go forward. The way we're going to do that is Ann Brown, who is the Vice Dean for Faculty in the School of Medicine, she has been integral in a process of – they have something that's technically called the Dean's Advisory Council on Faculty Conduct but I think in her slide she calls it the Professionalism Council and I just want to make this point: the language is super important. Already on the campus side, some faculty colleagues hate the phrase "professionalism." I'm not exactly sure why, but we do. So we're going to have to talk about what we're going to do, at what level it is going to be done, and what we're going to call it. The main thing we're going to have from Ann is, she's going to tell us what the School of Medicine has done in trying to bring about culture change among the faculty, how it has worked, what might be next, and then Mark Anthony Neal, who is a member of ECAC and also a chair of a department – so chairs are really going to be the tip of the spear with much of this difficult work – he is going to facilitate a discussion amongst us after we hear from Ann. We don't have a proposal that we're going to then say, oh, here's what we need to do. We actually, I think as a faculty, need to decide if we really think this is a problem and if so, what we're going to do about it. Finally, if we're going to do something about this, it's not going to come top-down, we're going to have to figure out how to do it amongst ourselves. Ann, thank you.

PRESENTATION FROM VICE DEAN FOR FACULTY ANN BROWN ON THE SCHOOL OF MEDICINE DEAN'S ADVISORY COUNCIL ON FACULTY CONDUCT

Ann Brown (Vice Dean for Faculty, Duke School of Medicine): Good afternoon, everyone. Thank you, Don, for bringing this issue up and to ECAC for raising this. We do call it the Professionalism Council. That's just because the Dean's Advisory Council on the Faculty Conduct is just a mouthful so we would appreciate another name if anybody has one. We'd be happy to use it. The important thing is the process. I'll say that this came up in about 2010-11. I remember it was a meeting of all the chairs and this was the time of the Potti case, which was a research misconduct case for us. We started looking under the hood a little bit to see what was going on in the research realm and realized that there were a lot of issues that came up that were concerning to chairs, for instance, but the chairs said, I don't quite

know what to do about this. Sally and I were reminiscing about this meeting, I remember this meeting, and it was about, for example, a professor throwing a bottle across the room at a graduate student. I've also heard of a professor locking her students into the lab and not letting them out until they came up with a result. I think that the chairs felt, they raised the issue, we're concerned about research, what we might find when we look under the hood a little bit. But it's not just that. It's not just scientific misconduct, it's a lot of things. I don't know what to do with some of these things. So we would like more ballast around this. We would like more structure around this. The important thing for us is that it came from the chairs really looking for some help in wanting to have a positive culture and feeling like they would like some guidance, some structure on how to do that. I will describe what I'm calling the Professionalism Council. The words make sense to us because we are a professional school. But I can understand that it may not make sense in other academic environments. I will also say that this is one part of an approach. This doesn't fix the culture by any means. There is a lot more that I think we could do, now that we have this in place. But I think it's pretty foundational. So we started in 2011 with the request from our leadership and the first thing that we looked at is, what is the language out there that says, as a faculty we treat each other with respect, we expect to uphold an environment where we take care of each other, where we stand up when we see something wrong? What are those guiding principles? The Health System had one, and the students have to learn about professionalism, and the residents have to learn about professionalism, but the faculty never do. So we realized that there's no language that we could then point to in order to say to somebody who had crossed a line, look, we have this statement. This is how we are, and this is not behavior that fits that. So the first thing we did was have a long, iterative process of coming up with this statement on faculty professionalism that did not exist before. [refers to slide] So I'm just going to read it to you because it's not egregious, I don't think:

We're expected to uphold the highest standards of professional conduct and ethical behavior. We are expected to treat colleagues, learners, everybody, with courtesy, respect, and dignity. We are also responsible for cultivating that environment, and also one that is inclusive. We are also responsible for modeling professional conduct, and then responding to unprofessional behavior on the part of others, so it's a very active process. And then we have to adhere to applicable Duke University and Duke University Health System policies and procedures. The lawyers put that in for us. [laughter] Then we said that unprofessional behavior, coming up with some examples, is that which is disruptive, intimidating, threatening, violent, inappropriate, illegal, or a violation of policy. The lawyers again. Then to foster a just and safe community, unprofessional behavior will be addressed and the interventions are aimed at insight. We assume that our colleagues will have insight. It's not necessarily that we go straight to a punitive approach. We assume that they will develop appropriate changes in behavior, and then we have to put in there disruptive behavior may result in sanctions up to and including initiation of termination proceedings, so that we've said we take this seriously.

So that was the statement on faculty professionalism. It went through a long process of revision and approval so that everybody had a chance to weigh in. We created a brochure, which is this thing up here in the upper right hand corner. [refers to slide] The PDF is online. We also include things that are positive in terms of professionalism. These are a list of things that we think are positive behaviors with respect to professionalism. One of the things it includes is self-management. When you're getting toxic and you're overwhelmed, you need to manage yourself so that you get out of the situation and get out of the place where you are ready to be evil, basically. [laughter] That's sort of assuring one's own fitness for duty. I thought it was important to put some positive things in there. The other thing we did was created an award, a faculty professionalism award to reward positive behavior, to highlight at our annual faculty meeting people who are paragons of positive behavior, because it's not all about negative. So what is our process? There is a pre-council approach, and that is really an effort to help chairs and directors to manage problems at a unit level. I'm going to talk about the process, the charge, and then membership, and then I'm going to give you some data. Sally mentioned wanting to be able to report that we actually do something about these issues so I'm going to show you where we are with that. The goal is always to try to resolve these things informally at a unit level. I think it's fair to say that most chairs in our world are outstanding scientists, wonderful human beings, great physicians, and not always taught how to be a manager of people and how to manage disruptive behavior. I will also say, it's fair to say that there are no guidelines for faculty HR, that is, we know that staff get one warning, and then a second warning, and there is a whole process that we go through that is written down and that you can look up when you manage staff. Well there isn't a similar thing for faculty because we are professionals, we govern ourselves. This is part of that self-governance process. I serve as a resource to the units, for questions about university policy, or if there is precedent for doing a certain thing, I liaison a lot with legal counsel, Kate Hendricks [Deputy Counsel] and Neera Skurky [Associate University Counsel] are on my speed dial. And we talk about communication strategies. I think chairs often feel like when they are faced with a tough situation that they have to get themselves up and ready for a smackdown. That is often a way to escalate the problem rather than resolve the problem. So talking about ways of having a conversation that is clear but is more participative and less judicial. The ideal here is that things never come to the Professionalism Council, that they get resolved at the unit level. We also want people to engage resources as appropriate and of course the university has a lot of resources. I will point out that the use of existing resources doesn't change. There was a question about whether we now go to a different way, we go to the Professionalism Council instead of something else, and the answer is no. What was needed was a catch-all for things that did not have any other place to go. Sexual misconduct goes to the Office of Institutional Equity. Illegal behavior goes to the police. Research integrity issues that meet the federal definition of scientific misconduct go through our Research Integrity office. But there are millions of things that don't meet that bar, that still need to be managed. This is a place where all those things can come to

be managed or triaged. The Council is meant to address what does not fit elsewhere. In this process, the only way that a case can come to the Council is through the dean. So a faculty member can't say, I don't like my neighbor and I want you to investigate her. The chair generally needs to write to the dean and say, here are the issues I'm concerned about, the very specific issues I'm concerned about. The dean can decide either to manage it herself or to refer it to the Council. If she refers it to the Council, we're advisory to the dean. We do not have the ability to invoke sanctions. We are there to support the dean and to provide a peer review process so she has a sense of the kinds of things that faculty would view as appropriate in this situation. The exception is that egregious or illegal behavior may come directly to the dean and not through the chair. But even in that case, we try to go back to the chair and engage them before it comes up. The charge of the Council is, again, at the request of the dean to evaluate and try to provide a peer review. So the way that works is that we start by reviewing documents. Documentation is incredibly important. A lot of the pre-council process, if it hasn't been done before, is to get those documents prepared. That is, if the chair has never talked to the faculty member about the problem or documented the problem, then that needs to happen before it comes up through the Council, because that's one of the documents that we review. Each party is invited to submit a letter describing the problem or their response to the problem. There are two meetings. The first is to interview knowledgeable parties to establish the facts, and then we also invite the respondent to come and tell their side of the story, understanding that there are at least two sides to every story. They're invited to bring an advisor who's not an attorney who can support them. One important thing is: if there is an investigation needed, it is not done by this group. This is not a group of scientists who can do a scientific investigation, for instance. If there is legwork to do to establish more facts, that is not something that the committee is asked to do. If there is more investigation needed, we would go back to our dean's office, probably the executive vice dean, and say, we need more information, we need an office to do an audit, or whatever the investigation is. Then, once we have done all that, we determine if we believe that the conduct that was presented to us in the chair's letter and then by the dean was unprofessional in our view, and then we recommend action or sanctions to the dean. I serve as the convener, I'm non-voting, but I can break a tie, my office provides the organization for this. We have five to seven faculty members, though we're evolving toward having a larger group of faculty to draw on for when we need to pull something together fairly quickly. They are appointed by the dean in consultation with the chairs. Then also we bring in ad hoc expertise if we need to. Once, we had somebody who is very high up, very well-funded, and we needed to bring in more firepower, quite frankly, so we brought in three chairs to serve on this Council. You could argue whether that's a peer review process, but we asked them to act in terms of their scientific peers and not their hierarchical peers. Then legal counsel is always there. That is really to advise us about university policy. For example, if we said this is egregious, we think they should have tenure revoked, well we would need to know what that process would be for revoking tenure, which we have never done, by the way. It's pretty hard, as it

turns out. Everyone signs a confidentiality agreement, documents are kept as confidential as possible. I mentioned that there are two meetings, we try to keep it quick. One to establish the facts, and people have read the materials ahead of time. Then the second is to hear from the individual who has been accused, because their story is important to hear. Then we deliberate a Council response. Since 2012, we've had seven cases. So there are not a lot of cases. There is a lot of volume on the pre-council process. We've had roughly equal numbers of men and women brought forward. You can see here what the issues have been: [refers to slide] intimidating behavior, physical aggression – I'll just say that this had to do with something that starts with a "p" and ends with "arking." [laughter] And then poor leadership and workgroup management leading to a chaotic work environment with turnover and complaints and dysfunction and poor productivity. Often it's questionable research practices. It's not scientific, it's not plagiarism, falsification or fabrication. But it is questionable research practices. What are those questionable research practices? They can be pretty much anything. It might be toxic mentorship. Like, I am a senior faculty member in charge of this junior faculty member, she has a great idea, and I decide to use it and to use my superior firepower to develop that idea and then publish on it before she does, even if she asks me not to. And excluding her from future work with me. If there is data on a shared drive and it's somebody else's data but I'm going to submit a grant and I'm just going to use that data because it's on the shared drive, and I'm going to submit a grant and I'm not going to acknowledge that person or say that that data came from them or that they had anything to do with it, maybe obstructing investigation into possible misconduct. So those are some examples of questionable research practices. We have not had any sexual misconduct, but we have had some gender-related concerns. Then the things that we have done have, I think, resolved the situations, at least for Duke. Many people left the institution. That was probably good for Duke. It may not be good for the institution they're going to, and that is a question that I have. If we have somebody who is misbehaving, do we say, okay, maybe it will be better someplace else? Or do we have a responsibility to actively let that institution know? We have not done that but that's a question that has come up for us. We have removed someone from a leadership position and moved the office so that they're physically removed from the other person. They were required to submit a correction to a journal when there was lack of adequate attribution for that person in a project. Somebody who does not want any rules to apply to that person, we have put this person on a performance improvement plan and done more aggressive oversight of the research program. We have one going on right now that is complicated and I'm not sure what we're going to do. But we are figuring it out. I have to say that the group of people who get together to think about this, it is always better with that group of people. They have amazing insight with the committee. So I think it's a very positive, strong process. When these cases finally come to us, common findings are that there was an incredible lack of insight about their role in the problem. Real dogged, all engines ahead, no real thought about the environment or the people in the unit or that they have any responsibility to the people in the unit. And then poor management of power dynamics, lack of awareness of

what it's like to be a graduate student or to be just starting out as a faculty member, for instance. This is an initiative that I think has enhanced our ability to hold people accountable. It has strengthened some of the resources for chairs who are trying to deal with these issues. I think there are many things beyond that, like trying to restore relationships that are broken. I think that is something that we could do some work on. There are many different things that we could do but this is foundational for those really problematic situations. I think the results have been, so far, pretty effective. Obviously, what we want is a just, safe, healthy, and inclusive work environment. I will stop there and I will be happy to answer any questions, to sustain any attacks, [laughter] and hear your thoughts about this.

Speaker: I'm just wondering if I'm taking the right lesson from that. It looks like maybe these are people in a certain level of hierarchical responsibility as opposed to, say, clinicians?

Brown: These are all researchers with tenure.

Speaker: Like with a lab responsibility. Do you see that as the level at which this Council operates, as opposed to it being resolved within the department?

Brown: First of all, there are clinical pathways that are separate from this. Scalpel-throwing doctors and people yelling at residents by the patients' bedsides, that does have its own – this doesn't deal with those sorts of things. This has to do with the academic environment. It's interesting that all of these are very senior faculty members with tenure. It doesn't mean that it's restricted to any particular group. I think that sometimes, when this happens in the scientific realm, when somebody does not have tenure, probably what happens is that the non-renewal process kicks in. So there is a process toward helping that person move on.

Joseph Izatt (Biomedical Engineering): Just a clarification: this is inter-faculty relationships that you're adjudicating? Could they involve staff, employees, patients as one party, and then faculty as the other?

Brown: Not patients, so much, but I'm thinking of research teams, for instance. So in some of those cases, it was a management of a research team that involved learners and staff, junior faculty as well. So a mixed group.

Izatt: So at least one of the parties is a faculty member. The other one, not necessarily?

Brown: This is a process for faculty to be brought forward. So if a staff was misbehaving, that would be through the HR process.

Emily Klein (Nicholas School of the Environment): You said there were about seven or eight cases since 2012, so we're talking about one or two per year, something like that. I was trying to think, out of the School of Medicine faculty, what is it, 300 out of both Basic and Clinical?

Brown: It's more like 2600. [laughter] Most of those, though, are clinical faculty. There are like 150 in Basic Sciences and 700 in the Department of Medicine alone.

Klein: Okay. So you say your office handles a lot of things that don't reach

this level. So I'm just curious about the volume that you're getting that doesn't go to this group.

Brown: Well, I've dropped out of clinical practice. This has become my clinical practice. So it's taking most of my time, I would say.

Klein: Ten a month?

Brown: Ten a week. There are varying issues. Faculty will come to me as well to talk about a situation, and chairs as well. It's quite a bit of my time. I think that's something for an institution to think about. Sally mentioned these navigators or this idea of somebody to hear problems to help triage. I think that it would be great to have some place for faculty to go to work through how they want to handle issues. For junior faculty who are having a problem with a senior faculty member, let's say, or another faculty member, work through conflict management, how they might go about this. One thing that we have that is very helpful is an executive coaching program through my office, which is somebody who is a trained executive coach. And often, if it's a longstanding problem, I will recommend that they will work through it with eight sessions or so with Sharon Hull [Executive Coach], because they're often longstanding. Once these things come up, once you have a place for these things to come forward, people do come forward.

Steffen Bass (Physics): I have a somewhat broader question for you. What you have shown us here is a wonderful workflow, so to speak, how to structure an intervention once some kind of bad behavior or alleged bad behavior has occurred. But on the other hand, what you really are striving for, or what we are all striving for, is that the bad behavior doesn't happen in the first place. So what we need to effect is sort of a culture change so that the workplace environment is such that any kind of such egregious behavior is so discouraged by our societal standards that it doesn't even happen, right? Clearly, this is a local issue, because communities are local and departments and working groups, but what is being done or what experience do you have in that sector? How to prevent all of these things from happening in the first place?

Brown: I think that's the question that we're now kind of faced with, now that we've had this survey, the sexual harassment survey, we've had some experience with this. I will tell you one thing that I'm thinking about a lot. That is, it has to do with something that Ada Gregory [Student Ombudsperson] has done for us in the Department of Medicine. They were concerned about patient-related harassment. [For instance, someone saying] "I don't want a doctor who looks like this." How do you respond to that when you are the resident or the student and you feel obligated to take care of that patient? What the Department of Medicine got together and decided to do is have Ada come in, she is a very gifted trainer and she decided with them to develop a training to develop champions, civility champions. I went through this training and it is essentially a training about responding in the moment. Responding to a story someone tells you about harm and not giving them advice but helping them to work through it and providing them access to resources. Often, that is healing in and of itself, to have a place to be taken seriously. I think that that's a model that I think could be very helpful in each unit. It happens to

have been used in a patient-oriented setting, but I think there's no reason it couldn't be used more broadly. That is a way to build capacity within the institution but I think that's the important question. How do you build an institutional culture where we're all empowered to speak up about these things?

Erika Weinthal (Nicholas School of the Environment / Member of ECAC): I guess I want to go back to where you started, about faculty often not being well trained. I'm just wondering about the Professionalism Council and the faculty who sit on it and what expertise you're looking for and what background they have and what kind of training they go through that would make them qualified and have that expertise for adjudicating a whole array of issues?

Brown: I think that's a really good question. We have done some training that has to do with what Title IX is. But I would say that what we've relied on so far is choosing people who I like to say are slow to burn and are willing to see both sides of a situation and who are known for that in the institution. Maybe they have a position in which they do this in their department. I also like to choose people who are cantankerous, too, who can give me the other perspective. Maybe we're getting too PC in the way that we're looking at this. So I want to hear the other side of it as well. I have to say, I have not been disappointed. I think that's an important thing to think about, and I've been very impressed with the wisdom of the group. I'm just in awe of the group. So I think that's a fair thing to ask. There's a lot of wisdom in this room, for instance, that could be drawn upon. And here's one of them. [laughter]

Phil Rosoff (School of Medicine): That's quite a setup, thank you. You mentioned that these eight people were tenured, so presumably fairly senior in the hierarchy. I'm assuming also that they've been at Duke for a reasonable amount of time. The question I have is somewhat related to a similar situation that we do when we have cases of research misconduct in that we look back and we try and wonder, were there warning signs that we missed throughout this? I'm wondering, since these people are senior, they've been here for a while, they've been other places for a while, when you look at these cases and this kind of misconduct, these are probably not one-off situations. This is probably betraying a long history of behavior of similar situations. I wonder, are there things that we can catch up on earlier, before they reach this high level?

Brown: Absolutely. I think all these people are great people in one respect, and very productive, and have contributed a lot, and then on the other hand, in some ways their brilliance has allowed them to get away with being independent and a little bit untouchable. So that's what the chairs were saying to us. We know we have these people who are, we just can't … I don't want to say "touch," that's not the right word. [laughter] We just can't manage. I know there's something going on there but they're very clever, whenever I say something, they say, of course, I will fix it, that's not a problem, you don't understand. So I think there are warning signs and that's where it comes back to this idea of bystander training or civility training. That family of things where you can say, this doesn't feel right. That kind of behavior is not okay, and be able to say that at a lower level.

Sherryl Broverman (Biology): I'm curious that the initial step of this is to be managed at the unit level, at the chair level. That seems to follow the trend of decentralization that Sally referred to earlier. Do you worry about getting variable responses from unit to unit for similar types of behavior?

Brown: What I would really like is for all the chairs to do what I tell them to do. [laughter] And to come to one resource, it doesn't have to be me, but some resource where they can get some guidance on the best way to manage, ways that have worked before. I was talking to someone today who said, yes, I'm just going to tell this person that she needs to retire. I said, well, you could, [laughter] but that might raise age discrimination. So I would like people to check in with somebody before they do this so that they understand what the pitfalls might be and what some best practices might be and to rehearse their conversations too. That would be ideal. The decentralization is important for context. I think that there is a lot of detail in this, because often they are longstanding issues, that I would have a mind melt if I tried to understand all of the subtle details of a problem, whereas the chair does have a better understanding of the context and the history. So I want to use that. It may be that some sort of central training, but also a robust resource for people who need to do this, and willingness on the part of chairs to use that resource I think is important.

Broverman: Just a follow-up, it might be useful to have some sort of birds-eye oversight to just keep an eye out for noticing if things tend to get resolved in one unit very differently than in another at some grand scale, if that's possible.

Brown: Okay. [laughter]

Klein: I'm wondering – we just heard that we had a survey that has granular level on a sense of harassment. I'm wondering if you have data to suggest that over these years, this has been working?

Brown: No. I don't have a climate survey that says things are better. I'm not sure how to monitor whether this is the best thing.

Klein: We do the every-five-year climate survey.

Brown: This is one thing.

Klein: It's the top of a pyramid.

Brown: I struggle with how best to do that. I would like an Office of Institutional Research in my own school that could help me with these sorts of things. Because I think you're right, we do these culture initiatives, but how do we know that they're the right things to do? That they have impact? I am not an expert in that. So I would welcome that kind of expertise.

Taylor: Let's do two more questions for Ann and then we're going to transition to discuss how we might adapt this to other parts of the university.

Scott Soderling (Cell Biology): I was wondering, since this process was initiated through the chair and these are often gray areas, is there any guidance to the chairs on what level of documentation we're looking for?

Brown: Yes, when they come forward. I think both Kate Hendricks, our HR lawyer, and myself, provide a lot of help

with documentation and rewriting the letters. But no, it's not like we have "chair school" for this yet. I can imagine having chair school for this sort of thing. But we're evolving a lot. We've evolved from the place where we didn't want to offer faculty development to chairs for fear of offending them, because they feel like they're already developed, but now, I think, starting with junior faculty, offering a lot of faculty development for them, now that chairs are more in a position to say, yeah, I think I would like this. So that culture has changed over time, that people are more receptive.

Bass: Let me give you a perspective from a very fresh and concerned chair in Trinity College. Here, the department chairs have been toothless tigers, because we certainly lack a cache of different interventions that are outlined in your Professionalism Council. So something like that is sorely needed. However, having said that, I think what the chairs in Arts and Sciences and the other schools should be tasked with, first and foremost, is a culture change. Effecting a positive change in a department so that this type of behavior doesn't happen. When that behavior happens, I would argue strongly for something on the school or even Provostial level similar to this type of Council, because, for equity reasons, you do not want to have different interventions in different departments for the same kind of behavior. Faculty Hearing Committee will have a field day, or rather, a seizure, if that happens. [laughter] Because they would be overloaded with cases. That, I think, already broadens us out to what we should do.

Brown: Remember, this is advisory to the dean. So the dean level can provide some consistency as well.

Taylor: Thank you, Ann. [applause]

DISCUSSION ABOUT HOW THE SCHOOL OF MEDICINE'S EFFORTS MIGHT BE ADAPTED TO THE REST OF THE UNIVERSITY

Mark Anthony Neal (African and African American Studies / Member of ECAC): I want to pick up on where Steffen just was. Those of you who are chairs, or have been chairs, just imagining what it would be like to be tasked with dealing with this issue on a unit level. Some of us sat through Abbas's workshop earlier this year about when these kind of issues occur, and what we found across the board is that most of us were often guided by intellect on some level, instinct on another level, we were always wrong on the outcomes in that regard because we're not trained to be professional in those kinds of things. And yet the stuff goes down at the unit level and we need to find a way to be responsive in that way. So what does that look like in terms of Trinity, for instance, or some of the other schools? What kind of systems are we willing to set up to be able to allow us to do this work? When Ann talked about the Council, the immediate thing in my head, because we're all busy, working faculty, is, what does compensation look like? And that's just an honest response to the demands on people's time, that you might have to spend sitting in one of these committees, adjudicating some sort of situation within a unit within your school. Those are very real questions. So to kind of open it up to you to think about, what might this look like if we applied it to some of the other schools? Lest we want

to argue that our colleagues in the hospital are more capable of civility than we are on the university side. [laughter]

Klein: I am intrigued with it, and I would love to see us try to put something like this together.

Neal: What about the issue of expertise and training?

Klein: We'll have to think it through. There are minefields all along the way.

Roxanne Springer (Physics): One of the things that the recent National Academy's report on sexual harassment, which includes gender harassment, specifically in science, medicine, and engineering pointed to is that the bystander training actually does appear to reduce these instances, picking up on what Steffen was talking about, things you can do preemptively. I also want to say that your idea about compensation really strikes me, because a lot of us spend a lot of time dealing with these problems because there is nothing like this in place. We are not only not compensated, but naturally, penalized, because we don't get to do our research. We are just putting out fires.

Speaker: We didn't hear that. Can you summarize that?

Neal: Roxanne was just simply saying that the question of compensation is critical, because very often, folks who are doing this kind of work in the trenches are really giving up a lot of their time and energy in ways that are already uncompensated.

Klein: And that there was an NSF study on bystander training.

Neal: That valued bystander training.

Brown: I will say that it does take a lot of time, but one of the things we try to do is to minimize the amount of time that people need to spend on this by giving very explicit things to review that are not very long, necessarily. And we limit it to two meetings and get it done in that timeframe. In part, for that reason, that it doesn't drag on. That's an important thing to consider, the time that people give to this.

Speaker: Is there any concern that this is a way of, and maybe this is because of your introduction about locking graduate students in a lab, that actually seems like assault to me. That doesn't seem like an unprofessional thing.

Neal: It seems criminal.

Speaker: So my question is, is there some concern about letting things get by that we need to take seriously enough, rather than putting in another category? Like, how is blocking someone from investigating research irregularities not a research irregularity itself? I guess what I'm trying to find out is, is there a danger that this could actually syphon serious behavior into a less-empowered entity? When what we need is to simply put things forward to the strong entities that exist. I don't think that locking someone in a lab is something that would need to go to this kind of committee. I think that's actually something that should be reported to a higher authority.

Neal: Like to the police.

Speaker: Or throwing things at people, I don't know.

Kornbluth: I think this goes to the notion of some sort of strong triage function. In other words, if, regardless of the nature of these things, they went to an office that had the experience that understood what the gradations were, that would be helpful too. Like, this is not something to go to a professionalism council, this is criminal behavior. Or, this does clearly violate university regulations, or whatever. Because I think, because of the decentralized nature, people are making these kinds of decisions ad hoc, and that is one thing I think was somewhat built in to the School of Medicine, at least it has to bubble up through chairs and not have people kind of throwing things in. I think chairs having to discuss with Ann before things move forward as well. So we really have to think about how you centralize whether it's even appropriate to go to a venue like this, rather than to one of what any established procedures might be.

Brown: I will say, in these two situations, the one with the physical assault around a parking space and the locking in the room – these were foreign graduate students or post docs. They were reluctant. They did not report this. This came out through somebody noticing it. They did not want to report. So a huge issue to wrestle with is the power differential and the fear of consequences of an action and of reporting. Because a lot of times people do not want to report. Yet you want to support them. So the power differentials are important to really think through.

Neal: That's why it's important to also think about options outside of the unit. Then you think, obviously, people working in the same research areas and senior scholars will have much more of an impact on the careers of junior scholars in that context.

Stefan Zauscher (Mechanical Engineering and Materials Science): First of all, I would say, yes, this is fantastic what we heard from Ann. I would certainly appreciate it if we had some similar structure put in place on the academic side of the university. I think that, specifically, the decentralization of the process initially is important, as Ann pointed out. Problems are sort of regulated on a local level but there is a background structure which allows it to essentially escalate up. I think her data, at least what she told us, is that there is quite a big demand for these services. People are coming forward with issues. I think that that in itself is really an indication that the system is actually working and potentially changing culture, ultimately. Lastly, I feel strongly that chairs probably do need to have a school, be trained in this process, so that at the local level, the chair is sort of the first person of entry to this and responds in an appropriate way. So then, for example, grad students would feel comfortable to come forward to the chair to launch a complaint.

Ara Wilson (Gender, Sexuality and Feminist Studies): I'm standing in for the chair of Gender, Sexuality and Feminist Studies, a unit which has never been consulted in higher levels of these conversations. When the compensation part is worked out, you just tap us, okay? [laughter] I appreciate the steps going forward and the thought. I want to flag that those in feminist studies or anti-racist studies have a nervousness about decentralization, which has the states' rights echo, but I can appreciate it. What I want to say separate from that is that there is a ton of data in this room. We all know stories of egregious behavior that went nowhere at the local level.

Everybody knows this. We know it in Trinity, ranging from really inappropriate racial interactions, to sexual harassment, to other things. So I think that there is a kind of invitation for a self-study of how these things that we might even consider criminal, or definitely egregious, or actionable, or minor building up, how they are ignored, why they didn't accumulate or direct into appropriate response. This was raised earlier, but each of those people there, even if it's one case, in some cases it was a pattern. But in some cases, one person brought it up. But we know that there was a trail of unheard and un-responded-to sorts of complaints. That, to me, is data, and worthwhile to look at and say, what did we miss? How did we miss it? And, what are some of the early warning signs? In a way that people are now becoming aware of a gender studies old argument, which is that domestic violence is a really potentially good sign that there could be much more violence down the road directed towards the person or towards other people. There are early warning signs which we have to be careful of, but I'm just saying that there's data that self-study could reveal a great deal about institutional response, what gets overlooked and why, and things like that.

Kornbluth: Definitely. A little bit of this was done with the Project IX people that came through. One comment that they made was that a lot of the stuff that fell through the cracks were things that were not very narrowly defined as breaking a very specific rule. So as soon as it falls outside of a very narrow definition, the gray zone is enormous. I think what you're saying is the case. If we think about some kind of triage function, again, it has to be, somebody has to take care of all this stuff while the people are taking care of this stuff. The other thing though, I think, when I was listening to Ann's explanation, we were talking offline about the response to the survey, et cetera, part of it is what you're talking about. We're all aware of all these stories and some of the next steps are going to be coming to a unit and saying, this is not somebody else. This is you. This is your unit. Again, these cases go back so many years that can be anonymized, et cetera, but you go to a unit and you say, this is what happened to one of your colleagues and the first response is always like, what? No, not us! But it's like, yes! And this is the kind of thing that is happening, how are we going to deal with this collectively? So I think part of it is collecting more of these stories, confronting them directly in the way you're saying, but also thinking, when these things come up, where are we going to send them? Because we don't actually have a very well-established structure for things that aren't in violation of the letter of the law.

Klein: I remind you that in the Faculty Diversity Task Force, in the implementation report, our recommendation was to put this in Abbas's office. So that the data would be collected, even if it wasn't criminal or actionable, but patterns would emerge and could be responded to.

Kornbluth: That's one of the things under discussion.

Rosoff: From what I understood, it sounds like there is a fair amount of adjudicatory power being vested or discriminatory power being invested in the chairs, and assuming that the chairs have mostly or completely benign impulses with regard to their faculty. But since many of these people have been

faculty for many years, and since you yourself also suggested that many of these faculty are thought to be untouchable, when we have academic stars, maybe the people who are protecting them from being dealt with are their chairs. How do we go about dealing with that?

Brown: I think that's an important question. I can answer it with one of the cases. A chair is conflicted if you have somebody who is highly productive and they are a jerk. [laughter] And then you have a problem. You don't want people exposed to that person and then leave and tell stories about the department, about how you don't want to work here, but you don't want that person to be upset either. So we had this situation in one of these scenarios and what happened was, a junior faculty came forward who was in this scenario and it somehow got to me, and then we could go back to the chair and say, no, you need to do this. You need to write the letter. Write a draft, let me write it, let me make it stronger, and then you need to meet with this person. And then the Vice Dean for Research met with the chair and the offending party to provide ballast for that chair and backing for that chair. Because the chair is at risk of maybe losing a lot of funding and indirects and glory for their department by doing this. So they're conflicted. So the school has to support that person. I think the role that it happened to be that my office could play was to say this is serious, you need to take it seriously, and let me help you with what you need to do. That kind of function I think is very hands-on and it was necessary to help that chair with what he knew was the right thing, but it was hard to do.

Neal: That's the story of the Dartmouth case, right? The one guy with the $22 million in grants coming in that no one wanted to move on because of what that would mean to the institution.

Josh Sosin (Classical Studies): This is a sort of inchoate idea and so it may come out as a bit of a jumble. There are a number of levers that we want to touch that go to reshaping the culture in ways that we like, that will not be easy to achieve, but are definitely easy to identify. Don't throw a scalpel, right? So there are a whole bunch of those things. We know where they are, it's unclear how to fix them, but we can basically agree on what's right and what's not. But there's another aspect of the culture that shapes and informs a place like this that isn't obviously identifiable as a problem, and yet enables this kind of behavior. What I mean is that there aren't very many ways in which units receive rewards for being collectively good. For the most part, we bestow goods on individuals for individual excellence.

Neal: At any cost, in some cases.

Sosin: It's that whole logic. So when it goes wrong, it's terribly wrong. The case you just described. When it goes right, we kind of like it. There's a famous person in the office next to me. But because we're not rewarded for collective contribution of goods, all kinds of things can thrive, like when Don said there are no tenured people who sit on these adjudicating bodies. Well, if departments were expected to field some number of person hours by department for things that we identify as community goods, and we would be rewarded for good behavior in that way and docked for bad behavior in that way, we'd have a vested interest in

telling each other, look, we all get hurt when you don't do this. So I'm sorry if this came out confused, but there are perceived positive aspects of the culture that enable the negative things and that's going to be, in some ways, a harder rift, because it's harder to identify and less tractable.

Neal: What might a reward system look like, Josh?

Sosin: I don't know, but if you draw up the list of things that we'd love to do, but where's the compensation and how do we get people to do it because people don't have the time – undergraduate advising – it's a very long list that we could produce.

Neal: More programming, more lines…

Sosin: It's not more programming and more lines. It's convincing us that, first of all, it doesn't detract from our work. This is our work. Second of all, it's taking away from time that we didn't rightly have in the first place. We only had it because we come up in a culture that says that we can do whatever we want without paying hours towards the community good. We've been thinking it's ours the whole time when it wasn't.

Bass: I want to sharpen what you said, Josh.

Sosin: I was aiming for blunt. [laughter]

Bass: The point is that the academic culture that you describe here that values the academic superstar that brings in the fat grants over the regular academic enterprise that values teaching, collegiality, collaboration, and all that – that is a huge culprit on why we so often fail at addressing these cases when they start developing. I think it has to be made clear to the department chairs that they are not the stewards for these superstars to facilitate their excesses. No, they have to be the stewards for the weakest link in the department and their first duty is to protect the department from these superstars going overboard. If that means that the superstar gets fired, so be it. [laughter]

Neal: That also gets back to the local piece. There are no English professors or History professors generating millions of dollars in grant money, the way they might do in Natural Sciences.

Zauscher: In connection to what Steffen just said, we should also think, then, if we have a policy put in place or a structure in place, how the university actually responds to another institution where a faculty member may be leaving too. I can remember cases in my own department, I was never a chair, but I certainly am aware of that, where faculty left without the knowledge of what actually happened locally. I think that is a huge issue to consider. I have absolutely no idea how to best address this. But I think it's hugely important.

Vince Price (President): I just wanted to caution that it's too facile to divide our world into superstars who are not good academic citizens and academic citizens who are not superstars. My experience as a chair, this goes back many years, is that I had superstars who were great citizens; I also had non-superstars who were terrible citizens. What we're really talking about here is creating more collective ownership at the department and school level of what we do. This goes for the curriculum, this goes for professionalism, it goes for many aspects of academic life. I

think that it is fighting against a current. That current is broad and it is the current of hyper-individualism in some ways, which has real value. We stake a lot on going out and recruiting great, talented people and just letting them run. But that has to be balanced against a little bit of centripetal energy in the system that asserts collective ownership of what we do as scholars. I just want to be clear that it's not as though the problem is superstars. I just want to be clear. I like superstars. [laughter] But I want superstars who are behaviorally contributing to what we're doing, elevating the bar, and demonstrating by example. It's not an either/or proposition. You can come here and be bold, highly productive, highly accomplished, *and* contribute to a positive culture. Some of what I have heard made me a little bit concerned that we were becoming Manichean in our thinking here. I think it's very important that we step back. I do think the challenge though, is how do we assert collective ownership? How many of us actually participate in serious faculty meetings at the department level that take up these kinds of issues? The answer is probably not all that many of us. Now is the time to do that. This is the self-study that really has to happen. People are going to have to take this seriously. We have expert resources. Any chair at this university who wants to get his or her faculty together to talk about this issue -- well they're pushing against open doors in terms of OIE resources down to the department. But it starts with getting the members of that department to actually be there in the room and be committed to hammering these things out. That is a culture shift that I think is probably a necessary if not sufficient cause for the other culture shift that we're aiming at here. Just to echo what you were saying, Josh, and what Steffen was saying.

Kornbluth: Absolutely. I think it's all part of the conception that it's a workplace, not just this notion of spending your time however you want, as Josh was saying. The other thing I wanted to mention is that when I was at the AAU provosts meeting recently, this question came up of what you do about passing bad actors from institution to institution. There was an idea from the provosts, and I think there will be further discussion, of whether there should be some kind of AAU-wide policy that would say, when you're aware of something, you write a letter. Now, again, that's going to be defining where you put the bar. Because you're going to be sued if you badmouth someone who hasn't actually done anything that was a violation of the law. So you have to figure out where that fits, but there were notorious cases of serial sexual harassers, certainly, and we were sitting in a group of ten provosts, they were like, oh yeah, you sent him to me! [laughter] So people who have been passed from institution to institution, thinking, we're never going to be able to do that as an individual institution. There has to be some kind of collective agreement that we're going to inform each other when individuals like that are going to be passed around.

Springer: I think it's true that to accomplish this culture change, we're going to need a combination of carrots and sticks. So now I'd like to talk about the sticks. So let's supposed that this program is put into place, something similar. Someone mentioned earlier that we all know of these examples of bad actors in various departments. Their behavior is incredibly well known and

nothing is done about it. It's also true that there are numerous examples of those bad actors' behavior being known university-wide by all of the usual offices and deans and whoever else. And still, nothing is done. So something that Ann kind of mentioned under her breath was, you'd be surprised how hard it is to revoke tenure. What I want to know is, do we need to revisit the sorts of penalties we're willing to impose?

Taylor: I just want to say, we actually did, when we revised Appendix Z of the Faculty Handbook, you know, it's often said that you're going to have to fire a professor, you can't do anything to them. In Appendix Z, which is the consensual sexual relationship policy, we say that if a faculty member has sex with an undergraduate student, that that is misconduct. And it's one of the two ways that you can have your tenure revoked. There are still lots of steps but we said that that penalty was available. We also outlined multiple penalties and now they sit with the deans to decide what to do. There have been some questions that I think are reasonable about this issue of, is that too much discretion to give to a dean? I guess the main point that I'm making is, in Appendix Z, we laid out a lot of levels of penalty and we said to ourselves that we are saying we're willing to hold each other accountable in that way.

Victoria Szabo (Art, Art History and Visual Studies / Member of ECAC): I was thinking about the students who didn't really know they could complain and trying to make sure that whatever education system that we put in place, it isn't only for the chairs or even only for the faculty, but also for the students and the wider community. And that leads me to wonder about what tools are actually effective. For one, of course, there's the documents, the brochures, et cetera, and different types of training. But maybe this is also a question for Ann. Are there things that you have felt are really effective for educating the community as a whole?

Brown: Yeah, I think that one thing that we are good at here is education. [laughter] So I have great faith in our ability to educate people. So we can put on great workshops about conflict management, having difficult conversations. I wonder if that's enough. I think that's great and I'd like to see more of that. I think that, when you talk about students though, the thing that is very sticky is the power differential and the effect that this may have on their career if they report a superior. That is very difficult and the National Academy report talks about building teams of mentors, for instance, so that you diffuse the power differential for a student. To the extent that we can do that, I think that's a promising intervention. I think the fear of retaliation is very strong.

Neal: I have a question for you, Ann. When you mentioned all the cases that come to your desk but don't necessarily come up to the Council, how many of those would be within the area of what you would call microaggressions? These things that people are feeling, but they aren't as clear in terms of being bad behavior?

Brown: I think a lot of them are. By the time they come to me, there's usually a pattern of microaggressions, but that is certainly in the basket of things. One of the things that Ada's training does is help

to talk about responding to those microaggressions.

Taylor: Anyone else? [pause] I never get in trouble ending a meeting a little early. [laughter] I hope everybody has a nice Thanksgiving. We're going to have our last Academic Council meeting of the semester in two weeks. We're going to have a really important topic which is talking about a living wage for PhD students and will have several PhD students come and talk about this. In the spring semester, there's a report that's making its way through APC about the future of PhD education. It's going to be an important discussion for the spring. So, two weeks from today, I hope to see everyone here.

[Meeting adjourned]