

**Minutes of the Academic Council
Thursday, April 20, 2023**

Erika Weinthal (Chair, Academic Council / Nicholas School of the Environment): I want to thank everyone for being here, especially in person today. We have a lot to accomplish and we will also have a busy meeting on May 11th. That will be our last meeting of the year. I want to begin opening remarks today with announcing that the election of the members to the next Executive Committee of the Academic Council will begin next week. Those who will be eligible to vote are Council members for the academic year 2023-24. So, if your term ends this May, you will not receive an email to vote. We have five openings for election, which means we will have, per the bylaws, ten candidates. I want to begin by thanking those ten who are willing to stand. The candidates are: Josh Sosin, Humanities Division; Tyson Brown, Social Sciences Division; Merlise Clyde, Natural Sciences & Mathematics Division; Adrienne Stiff-Roberts, Pratt School of Engineering; Allan Kirk, School of Medicine – Clinical Sciences; Cam Harvey, Fuqua School of Business; Christina Gibson-Davis, Sanford School of Public Policy; David MacAlpine, Basic Sciences – School of Medicine; Lee Baker, Social Sciences; and Ross Wagner, Divinity School. We are grateful to all of you for your willingness to not only stand for election, but also to commit the time that it takes to serve on ECAC if you are so elected. We will announce the winners.....*(Laughter)* or the results of the election at the May 11th meeting. I

mean...I feel it's a little bit like high school, running for student government. *(Laughter)* Okay, I'm glad everybody's in a good mood and I'm going to continue with some good news because let's just keep that going. I want to acknowledge and congratulate our recent faculty who are the recipients of the Guggenheim Award. We have four colleagues who have been selected for this prestigious honor, one of whom is in the room, Stefani Engelstein, from German Studies. *(Applause)* The other faculty awardees are Lillian Pierce, Mathematics, Leela Prasad, Religious Studies and Christopher Walter, Physics. We also have three Duke alumni who were awarded a Guggenheim as well.

***APPROVAL OF THE MINUTES OF THE
MARCH 23 ACADEMIC COUNCIL
MEETING***

We're going to turn to the approval of the minutes from our March 23rd meeting. These were posted with today's agenda on the website. Are there any corrections or edits to the minutes? May I have a motion to approve? Thank you. A second? Thank you.

[Minutes approved by voice vote without dissent]

ANNUAL REPORTS SUBMITTED FROM THE CHAIRS OF THE ACADEMIC PROGRAMS COMMITTEE, UNIVERSITY PRIORITIES COMMITTEE AND THE ATHLETIC COUNCIL

Our first item for today is the annual reports that were submitted from the Chairs of the Academic Programs Committee, the University Priorities Committee, and the Athletic Council. These reports were distributed via email to the Council members on April 10th, with the request to submit questions in advance of our meeting today. The reports were also posted with today's agenda. We did receive a few comments and questions for the Athletic Council. So, the Chair of the Athletic Council, Andrew Janiak from Philosophy, is here and he will address those and then afterwards if there are any additional questions, we can entertain them.

Andrew Janiak (Philosophy / Chair of the Athletic Council): Hello everyone. Apparently, I need to read these questions to you. One gets a slightly lesser grade because it's technically not a question, it's a statement. But, I'll put it in the form of a question. *(Laughter)* And then are there other questions allowed? I don't know the procedure.

Weinthal: Yes, they can ask questions at the end.

Janiak: Got it. Hopefully you saw the report, as you heard, it's on the website. So, question one is *"Page three of the Athletic Council report mentions how the admissions process for athletes compares to 'peer institutions.'* Could the Committee comment on who is in the peer group? Are these peers, for example, ACC peers or are they peer schools in academic rather than

athletic standing? I would also be interested in how schools that are better in standing than Duke handle athletic admissions (e.g., Stanford, Harvard, etc.)."

That's the question. I didn't endorse that last parenthetical remark. *(Laughter)* That is a good question. We discuss both schools in the ACC and those who are not, like Stanford who would be, obviously, academically competitive, athletically competitive. I think you'd have to ask Christoph [Guttentag], the Dean of Admissions, exactly how the admissions office thinks about peers. That's beyond my purview and knowledge. But, we certainly have discussed both in the Athletic Council. Hopefully that answers that question.

Question two, I'll put it in the form of a question: *"Page 6 of the Athletic Council report states that more than half of the Fuqua MMS program are athletes. That is not true. Currently, there are 71 athletes in the MMS program with approximately 220 students. The correct statement is about one third of the enrollment are athletes."*

And then is this correct or something would be the question. *(Laughter)* So, I think we were using last year's data that we got from the Provost's Office because this was a fall meeting. I believe we didn't have the current data, but our numbers were very similar. It's just a different total. So, we thought there were 73 out of 110 in the MMS program. So, that's why we said more than half. I did check our minutes and my own notes, both of which reflect that. And Sterly [Wilder] takes amazing minutes, so I think it was accurate. Either way, it's a large number, obviously, both as a percentage and in absolute terms much larger in absolute terms than any major. I checked all the

majors in Pratt and Trinity. So, we just like to monitor that and see if there is any indication of an issue. There may not be, of course. We always track data across the entire university for student athletes, look for patterns, and try to see if there's an issue. We don't know of any issues here, but it was just a surprising number. That was really all that we were saying in the report.

Weinthal: We have a few minutes if anyone has questions?

Emily Klein (Nicholas School of the Environment): Do all 71 maintain eligibility for a fifth year?

Janiak: That's how they transferred.

Karen Shapiro (African, African American Studies): I apologize for not sending this in. You may not have it at your fingertips, but I was wondering whether the GPA differed by different teams, the average GPA. And then of course, what is the average for athletes as opposed to the general student body?

Janiak: Ah, interesting. I don't think we ever had the GPA data by team. No. We looked at majors, minors, certificates, and participation in various extracurriculars. Duke Engage, Bass Connections. That's what we were looking at this year. Generally, things looked actually quite good. The graph of majors of student athletes and the graph of majors of the general population were not identical, of course, but actually quite similar. So, that made us feel pretty good about students finding what they wanted to study. We did not look at GPA that I recall. If anyone on the Council recalls otherwise you can, of course, correct me. I don't know

whether that's been done before. Maybe Martin [Smith] knows.

Martin Smith (Dean of Academic Affairs Trinity College of Arts & Sciences, Associate Vice Provost for Undergraduate Education): We have that data.

Janiak: We could ask if you wanted us to look at it. It would have to be pretty carefully anonymized. Some teams are pretty small. HR is talking in my ear...

Terrance Oas (Biochemistry): How about graduation rates?

Janiak: Graduation success rate, yes, and that's in the report. That we do track. So, that's, I think, mentioned in the report. That we get every year. Duke was at the very top of that.

Don Taylor (Sanford School of Public Policy): In past years, when I was on the Athletic Council, we did look at some GPA stuff and if you take the revenue sports out, it's actually above or a bit higher or at least in the past it has been. And I'll just note, Duke's been in the ACC for a lot longer than we've been a top-10 research university. Since 1953, so we're one of the original ACC schools. That is simply a fact about Duke and part of the ethos of this place.

Kathy Andolsek (School of Medicine): I'm curious about your tracking of student well-being and injury?

Janiak: Yes, we do get reports on that as well. Of course, that's a big topic and one we're always monitoring on a regular basis.

Andolsek: Are we going up? Are we decreasing? Where are we relative to other universities?

Janiak: I don't have that at the top of my mind. I was just focused on the things we handled this year. But, if you would like us to think about that for next year, we can certainly do that.

Shai Ginsburg (Asian and Middle Eastern Studies): I know it's not part of the purview of the committee, but we have a growing number of athletes participating in sports and they are prone to certain kinds of injuries. I wonder whether the committee should, in the future, pay attention to these students that are part of the university club system. So, I assume you officially have an authority over them, but start monitoring these students as well.

Janiak: Yes, we definitely look at all recreation; P.E, club sports, etc. So, I'll see if there's any information on that that we can look at.

That was question two. There was a question three submitted. *“Athletes who are traveling for sports events get Dean’s excuses for missed coursework and assessments, however members of the band and cheerleading teams who travel with them to the same event do not get the same treatment. These students need to negotiate with their course faculty and whether they get excused or have a chance for a makeup assessment is left up to the faculty, despite the fact that they feel equally committed/obligated to being there. This seems like an unequitable practice to me — it’s difficult on the students because they have to ask for extra considerations while their peers don’t and it’s difficult on the faculty who have to*

juggle this decision making to keep things fair. What is the Athletic Council’s view on this policy?”

So, we are aware of this. We don't have any official position. We haven't discussed that this year. What I did find out is this reflects a policy established by the Provost many years ago, and I think the Athletics Department is comfortable with it. But, if someone wanted us to investigate, we could do that. We have not heard any complaints...we've seen no general complaints from the folks involved. Although, of course, we haven't interviewed every single student athlete every year. So, it's possible that some faculty members are hearing from an individual student who was unhappy with it. So, if you'd like us to look into it, we can do that.

Weinthal: Are there any other questions for either APC or UPC? Otherwise, I am going to thank Andrew Janiak, Gabe Rosenberg, Chair of APC, and Larry Zelenak, Chair of UPC, and all their faculty colleagues on each of these committees.

(Applause)

DISCUSSION OF THE FACULTY HANDBOOK OVERHAUL

Weinthal: So, the main part of today's meeting is essentially a discussion of the Faculty Handbook overhaul. If you have been in attendance at some of the other meetings this year, we've had some conversation and Q&A regarding the update and the lead off into receiving the revised Handbook. Last week, you were directed to a Duke Box site where you would have found the Faculty Handbook - clean copies, track change copies. Also, the Research Policy Manual would have

been there too. And what you will have seen is that there have been a lot of edits made to the Faculty Handbook and that many of these edits were very technical in the sense of updating descriptions of offices, positions, checking if all the links are functioning, looking at specific school structures. It looks pretty red if you look at the track change version. The core of what we really hoped to accomplish with overhauling the Faculty Handbook was to codify our principle of shared governance at Duke. And the shared principle of governance we talked about before is that there is this mechanism in place by which the university administration meets and consults with the university faculty. And we've done this by including a preface to the Faculty Handbook that underscores this principle. Before this, there was no preface describing what is the purpose of the Handbook and how shared governance works at Duke. And I want to note that some of this goes back to earlier work that's been taking place at Duke over the last few years, particularly the work of the 2030 Working Group on Governance that was Chaired by Don Taylor, a previous Chair of the Council. And I want to note that because one of the recommendations of that group was to flesh out more fully the circumstances under which the Christie Rule applies. In Don's eloquent language, that is "putting meat on the bones" of the Christie Rule. And I think we've done it in certain ways, which has to do with Chapter five, which is in some ways the link to the Research Policy Manual. And what we've done is included a preface that really lays out the mechanisms by which faculty provide input into updates and revisions to research policies at Duke. These mechanisms are now laid out explicitly in this preface. For example, there will now be a faculty member appointed by ECAC

on the Research Policy Advisory Committee. We have also sought to clarify the mechanisms by which draft policies or revisions are reviewed by ECAC and brought to Academic Council. So, I want to thank Academic Council members for the productive conversations we have had surrounding research policies over the last year. I think that's been really informative in thinking about what it means to flesh out our mechanism of shared governance when it comes to Duke's research policies.

Before we turn to some of the specifics, I also want to thank Cam Harvey and Karen Reuter-Rice for their work on the Faculty Handbook. They spent long hours over the last few weeks just reading through it again and again. And we missed lots of Oxford commas, as noted. *(Laughter)* Trying to get things cleaned up, there's tons of just spacing issues, for instance, and there's still a lot that needs to be done. So, I want to thank everyone for sending their comments along. And what I will do before our next meeting is also send out a memo of some of these changes that had to be updated, and what we had to do to get it to the next phase. What I want to do today is just walk through a few of some of what we consider the technical changes before we turn to what was Appendix N, now Appendix F, that deals with the Ombuds while we're still in open session. And here I want to note that, for those who were paying attention, Appendix W dealt with Duke's policy on prohibited discrimination, harassment and related misconduct. And when we thought about how to revise this, it was suggested, "Well, we could just link to the OIE website." Because a lot of that information was just pulled from their website and a lot of it was out of date. So, in having

conversations with faculty, both at ECAC and in different departments, divisions, and schools, especially School of Medicine, it became clear that we needed something different and something that would be more useful for the faculty. We worked with Kim Hewitt, who is Duke's Vice President for Institutional Equity, to develop a faculty guide for navigating the OIE process, by which faculty could know what to do if they needed to report a form of misconduct, understand the OIE process, and what other available confidential resources exist for faculty. So, here there was actually no change to policy, but rather we wanted to produce something that would be useful for faculty if you needed to consult the OIE process. You could start here and then figure out where to go on the OIE website. Likewise, what is now Appendix E on schools, appointment, promotion, tenure and other procedures. One could consider this a revised appendix, but it's really a technical thing where we went through what had been the school's bylaws in the Faculty Handbook, pulled them out and put them in another handbook - just the links - and asked all the schools to now have their bylaws on their websites. And here, we wanted to maintain in the Faculty Handbook information on appointments, promotion, and tenure because that is really important and relevant for the faculty. So, we worked with schools to collect the information to create this new updated appendix.

What we've been trying to do, as one of the goals, is to make the Handbook more user friendly and to clarify governance mechanisms and procedures that affect faculty life at Duke. I indicated at last month's meeting, we're going to take questions today and then we will have a series of votes in May on the relevant

sections. And again, you will get a document ahead of time. Think of it as an R&R response, where I will go through and respond to any of the comments that came in about changes or if there is comments that come up today we will collect them and respond that we made this change or not. So, are there any questions on the big structure before we turn to the section on the Ombuds?

Klein: Big structure or just a kind of big thing? Can I make a comment? There's a list of professional education, professional schools toward the beginning, it says there are eight of them, and for some reason, only seven are listed -- missing is the Nicholas School....

Weinthal: Really? *(Laughter)*

Klein: I'm really sorry to break it to you. *(Laughter)*

Weinthal: We had discussed that and somehow that fell out....okay. That will be updated.

Ginsburg: I have a question about the structure. I understand that the Duke website is actually the authority on all things related to Duke, to Duke policy, rather than any document.

Weinthal: It will be posted on the Provost website.

Ginsburg: But, you said, that part of the issue was checking links. So, I assume that this has become much because...

Weinthal: There's been a huge overhaul over the last year of the Provost website and all the websites at Duke. There's been a lot of investment and updating. And some of it was old links to places that

were no longer relevant. So, we wanted to go through and check. There are still some places where phone numbers are included for offices where people still often call.

Ginsburg: I understand that, but the question is....

Weinthal: If you would like a hard copy, we will print one.

Ginsburg: No, the question is about the functional place. Will there be updated information in the Duke website? And is this a reference guide to the Duke website or whether Duke has somewhere a document...I don't need an official copy, but this is a philosophical question about the function of this document.

Weinthal: This is where we keep most of our information. Most people look online for information.

Scott Huettel (Psychology and Neuroscience): We discussed this quite a lot at ECAC. I think the simplest way to say it is that in the preface it now says this Faculty Handbook reflects shared governance. You can look at it as an MOU. It reflects a shared understanding of the principles therein. So, we talked about this...it's not exactly a constitution, but it should reflect our governance. It should reflect things that are not superseded elsewhere. So, I think that's the answer to your question.

Ginsberg: Okay. So, the document [Handbook] is not superseded by the website?

Huettel: No, that should not be in place of the document. And part of the work for

this was trying to find those places where there was a disconnect.

Weinthal: And that was part of going through very systematically, verifying where policies hadn't been updated, like parental leave. So, we had a Faculty Handbook with outdated parental leave policies.

Pat Halpin (Nicholas School of the Environment): Maybe a statement that reflects our desire to have accuracy and timeliness of all websites sort of linking to? It's going to be very important to assure people that that's built in. I'm sure that's the intention. And I think it's probably the right way to go to link to more timely distributed information. But I think we need to have a statement that says we're relying on that and that we need to put some teeth in that indicates the university is keeping all those websites accurate and up to date.

Weinthal: I mean, that's something that can be added. And I think there is a section that says things may not be synced in time. But, part of what is needed moving forward is to have people in the different parts of the university, when policies are being updated, that it is understood that the policies are sent to ECAC in a timely manner for review. And if it's a technical thing, then the change is made quickly. And if it's something that is substantive, it has to come to ECAC for discussion and Academic Council. So, part of that is with the research, I want to thank Jenny [Lodge] for working with us on this, because we have it set that there are several points in the year where anything related to research that may have updates on the website will come to ECAC. And this is something that needs to

be standardized across the university. So, I agree. Thank you.

Josh Sosin (Classical Studies and History): Is it observed practice or do we mean it to be for the handbook and any authoritative page to which the handbook links to archive prior states upon each change? And second, make those discoverable to anyone.

Weinthal: So, what we did - I think you're referencing, we removed that back matter that listed all the changes, which was probably a 100-page document in itself. And we will file that in the Academic Council office and we can archive that. And yes, I agree there needs to be a record of previous policies and changes.

Sosin: Also, the second part of that is any controlling information to which the handbook points. Right? Like the responsibility for this would devolve on the schools who maintain those things, but that ought to be kept and discoverable and linkable to prior deprecated versions of the handbook as well.

Weinthal: Point taken. I mean, there are certain things that fall under the jurisdiction of the schools, but when bylaws are updated they should be linked directly back to the Faculty Handbook and the faculty in those schools will have access.

Larry Zelenak (Law School): My impression - which this question will be premised on the assumption that it's right - is that the handbook actually serves two pretty different functions. One is as a reference. In that context, a lot of times all it does is tell you the rules are someplace else, and here's where to go find them.

And sometimes it actually is the source of the rules, maybe most prominently with respect to the Ombuds and Faculty Hearing Committee. And I think it would be useful to really clearly differentiate those two aspects of the handbook. Because obviously the links should be kept up, but if they're not kept up, then it doesn't change the substantive rules. But if the stuff where the handbook is the final authority isn't kept up, then of course you've got a problem.

Weinthal: I appreciate that. And that's, again, something that could be included upfront in the preface, a sentence.

So, I'm going to shift a bit just to Appendix F, which was previously N, which concerns the Ombuds and the Faculty Hearing Committee. We are only talking about the changes to the Office of the Ombuds now. Prior, we had a Faculty Ombuds but as we've discussed, over the years, this has moved away from having a faculty appointed Ombuds to actually having a formal Office of the Ombuds that would serve faculty, students, and staff. We presented you with the changes in the language to the Office of the Ombuds. I will note, the Faculty Hearing Committee, any changes or updates, would happen in the fall probably or next year, may be presented with additional changes there. But, are there any questions or comments regarding these updates of the Office of the Ombuds? And I will note Jessica Kuchta-Miller, is here and is our University Ombuds, and can also help answer any questions today.

Shapiro: As I was reading the document, I was working out in my own mind what the difference is between the Ombuds, the Office for Institutional Equity, and the Office for Faculty Advancement. And I did

wonder...because obviously there is overlap and there is sort of different spaces that they operate in, whether it would not be useful for faculty to have some guidance as to where they go for what circumstances.

Weinthal: So, I will let Jessica come up here and say a few words on how she sees the Office of the Ombuds. But, I will note that was the point of updating what was Appendix W to understand when one goes to OIE, when one goes to the Office of the Ombuds, when one would go to other confidential resources at Duke.

Jessica Kuchta-Miller (University Ombuds): Thank you. Good afternoon. Jessica Kuchta Ombuds..... or Kuchta-Miller (*Laughter*) Sorry. That's a name that it's hard to pronounce, but I am confident that if you can pronounce Coach K, you can get by. (*Laughter*) And I am not at all trying to put myself in that same category, by any means.

But with regard to the Ombuds Office, I think the Ombuds Office can be a good first stop for faculty. And what I mean by that is the Ombuds Office is a confidential resource. So, the fact that someone has visited the office is something that I can neither confirm nor deny. It's a place for people to come to think out loud, to talk about something that they're experiencing here at the university, that they're not quite sure what to make of or what to do about it. By sharing whatever it is that people choose to share with the Office of the Ombuds, it does not set into motion something that someone may not be ready to have set in motion. And if you start with OIE, it may be that at that point it has set something into motion which could preclude someone from visiting with the Ombuds Office. So, the Ombuds

Office is really a place in which to be able to talk about that experience, to identify, clarify goals, and identify options. And the decision is always that of the person who's visiting the office. I have no decision-making authority or responsibility to do so. It really is "come early, come often" as you may have more options available to you the earlier you come. If you use the office as a last resort, there may not be any options available at that point.

Weinthal: And I can ask, in Appendix F, essentially, that role is clarified - what is the role of the University Ombuds and how those conversations proceed.

So, are there other questions? While we have Jessica here.

Betsy Albright (Nicholas School of the Environment): This may be a slightly sensitive or awkward question to ask, but the statement says that they provide confidential, partial, informal, and independent conflict resolution services and that they also report to the President. And I was wondering, what if I had conflicts with you? [*looks at President Price*] How would that independence be interpreted? (*Laughter*)

Kuchta-Miller: The independence is really with regard to form and structure. So, when I report to President Price, I can't tell him who it is that I've met with. I can share non-identifying aggregate data about the usage of the office generally and it's through President Price's commitment to the office that it's available as a resource to the campus community. Does that answer that?

Weinthal: I should note that information also comes to ECAC. So, we receive that information too and that helps ECAC stay on top of what's happening. Basically, as to campus culture or issues, and grievances that we should be aware of.

Any other questions? We're really lucky to have an Office of the Ombuds and to have Jessica here at Duke. We are done with that part of the Handbook.

At this point, we're going to go in to executive session largely because I want to be able to have conversations where faculty can speak freely. But we also have some business matter that needs to be discussed in executive session. So, anyone who is not Duke faculty needs to leave the room and also the Press needs to exit at this point.

[Remainder of the meeting conducted in executive session in order to discuss Appendix L (formerly Z) and to discuss the Honorary Degrees proposed for Commencement 2024]