

Minutes of the Meeting of the Academic Council  
Thursday, May 10, 2018

**Don Taylor (Chair, Academic Council / Sanford School of Public Policy):** Hello, everyone. Thanks for coming today. There's going to be a slight agenda change. We have a lot of business to do today, but after we approve candidates for earned degrees and we have votes on three new proposed degrees, and the revision of Appendix Z, President Price is going to talk about the situation with Vice President Moneta. Sally [Kornbluth, Provost] will also be here. The Executive Committee will also have something to say about our involvement in this matter. There will be time for questions or comments. But there is some business that we have got to make sure we take care of today before we get there. So that is how we are going to proceed. Today's meeting will end with an executive session to discuss Honorary Degrees for 2019. So today is the last meeting of the semester and of the academic year. There are some folks, maybe as many as half of you, who will be rotating off. Some of you have had multiple terms of service and we would like to thank you for your service to the Academic Council. We have a unique system of governance at Duke and it takes the participation of all of us to make that work, so thank you.

I sent a message to all of the faculty about a week ago, announcing the results of the election of the Executive Committee of the Academic Council. The four new members who have been elected for next year are:

Victoria Szabo (Art, Art History and Visual Studies); [applause]  
Mark Anthony Neal (African and African American Studies); [applause]  
Ellen Davis (Divinity School); [applause]  
and Lisa Keister (Sociology). [applause]

That means there are four members who are rotating off of ECAC and we want to thank them:

Kirsten Corazzini (School of Nursing); [applause]  
Gráinne Fitzsimons (Fuqua School of Business); [applause]  
Andrew Janiak (Philosophy); [applause]  
and Mari Shinohara (Immunology). [applause]

One thing about ECAC is that you spend tons of time together. Sometimes we say, why are we spending so much time together? Why are we talking about these topics? But it's a great experience if you ever get a chance to be on ECAC, because you really get to know your colleagues and so what that means is that when you have difficult things to talk about, you've gotten to know each other -- it's actually a very good community. These four people who are leaving, it will be sad to see them go. But that's part of the process. We have to reconstitute this every year.

**APPROVAL OF APRIL 19 MEETING MINUTES**

**Taylor:** The next item will be to approve the minutes from the April 19 meeting. The minutes were posted with today’s agenda. Are there any corrections, amendments, additions, or deletions?

*[minutes approved by voice vote without dissent]*

**APPROVAL OF EARNED DEGREES**

**Taylor:** In accordance with the University Bylaws, I will now call on representatives from the various schools and Trinity College for recommendations of approved candidates for various degrees. These lists will be forwarded by the Provost for approval by the Board of Trustees at their meeting tomorrow morning.

**The Graduate School**

*Dean Paula D. McClain*

Doctor of Philosophy	199
Carolina Duke Program in German Studies - PhD	0
Master of Arts	138
Master of Fine Arts	12
Master of Arts in Teaching	0
Master of Science	203
DKU – Master of Science	16

**School of Medicine**

*Dean Mary E. Klotman*

Doctor of Medicine	108
Master of Health Sciences in Clinical Research	21
Master of Health Sciences in Clinical Leadership	0
Master of Science in Biomedical Sciences	43
Master of Biostatistics	25
Master of Health Sciences	96
Doctor of Physical Therapy	72

**School of Law**

*Dean David F. Levi*

Juris Doctor	216
Master of Laws	95
Master of Laws, International and Comparative Law	16
Master of Laws, Law and Entrepreneurship	18
Master of Laws, Judicial Studies	21
Master of Legal Studies	1
Doctor of Juridical Science	1

**Divinity School**

*Dean Elaine A. Heath*

Master of Arts in Christian Studies	1
Master of Theological Studies	31
Master of Divinity	111
Master of Theology	5
Doctor of Ministry	10
Doctor of Theology	7

**School of Nursing**

*Dean Marion E. Broome*

Bachelor of Science in Nursing	71
Master of Science in Nursing	47
Doctor of Nursing Practice	29

**Fuqua School of Business**

*Dean William F. Boulding*

Master of Business Administration	444
Master of Management Studies	137
Master of Science in Quantitative Management	140
DKU – Master of Management Studies	61

**Nicholas School of the Environment**

*Dean Jeff Vincent*

Master of Environmental Management	122
Master of Forestry	3

**Sanford School of Public Policy**

*Dean Kelly D. Brownell*

Master of International Development Policy	23
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Master of Public Policy 64

**Pratt School of Engineering**

*Dean Ravi V. Bellamkonda*

Bachelor of Science in Engineering 272

Master of Engineering Management 54

Master of Engineering 20

**Trinity College of Arts and Sciences**

*Dean Valerie S. Ashby*

Bachelor of Arts 633

Bachelor of Science 616

**TOTAL NUMBER OF DEGREES EARNED:  
4202**

*[Candidates for earned degrees approved  
by voice vote without dissent]*

***VOTE ON PROPOSED MASTER'S DEGREE  
AND PhD IN POPULATION HEALTH  
SCIENCES***

**Taylor:** At our last meeting, we heard a proposal for a new Master's and a PhD program in Population Health Sciences. Lesley Curtis, the Chair of this department, is here. If there are any questions or comments about that, it's appropriate to ask them now. We will move to a vote after that.

*[Master's degree and PhD approved by  
voice vote without dissent]*

***VOTE ON PROPOSED MASTER OF  
ENGINEERING IN ELECTRICAL AND  
COMPUTER ENGINEERING AT DUKE  
KUNSHAN UNIVERSITY***

**Taylor:** Next we will have a vote on the proposed Master of Engineering in Electrical and Computer Engineering at Duke Kunshan University. Professor Xin Li and Jim Dobbins [Associate Vice Provost and Director, Duke Kunshan

University] are both here to answer any questions or take comments.

**Craig Henriquez (Biomedical Engineering):** As far as I understand, DKU does not have an Electrical Engineering department, so I was curious about where the faculty come for this program. Are they affiliated directly with Duke, or do they have a second appointment within DKU?

**Xin Li (Electrical and Computer Engineering):** That's a great question. So we don't have, at DKU, a department of Electrical Engineering. Those faculty members who will teach this program will be recruited, essentially. In the proposal we basically have 4.5 FTEs to teach this program for the Master's students. In reality, we may recruit more faculty members and those faculty members will teach both the Master's program and the undergraduate program. At the undergraduate level, we have a Data Science major that is already approved. That's the reason why we think we can share faculty members between the undergraduate program and the graduate program. Those faculty members would be DKU faculty members. They would not be Duke faculty members. There are special cases, like myself, my tenure is here and I also teach over there but those are very special cases.

**Henriquez:** So, all the faculty will have some appointment in DKU? It will have its own department?

**Sally Kornbluth (Provost):** There are no departments at DKU at all.

**Henriquez:** So they will be affiliated with DKU?

**Kornbluth:** Yes, everybody is appointed into the whole, the way it would be here for a school, for instance, that doesn't have any divisions or departments.

**Taylor:** Other questions?

May I have a motion to approve the proposal for a Master's degree in Electrical and Computer Engineering at Duke Kunshan University?

*[Master's degree approved by voice vote with one vote in opposition]*

### ***VOTE ON THE REVISIONS TO APPENDIX Z IN THE FACULTY HANDBOOK***

**Taylor:** At the February meeting of the Academic Council, I told you that the Executive Committee was considering a revision of so-called Appendix Z, our policy on consensual romantic or sexual relationships between faculty and students. It's been a very long and engaged process. We've had numerous consultations with the Provost, we've talked with President Price, we've talked with University Counsel's office, OIE, we presented this to the Dean's Cabinet and there was a round of revisions after that. Then we brought the proposal forward at our April 19 meeting and we discussed it. There was some feedback at the meeting itself and there was some written feedback afterward. A bit earlier, about a week out before the meeting, I sent a strikethrough revision which has also been linked with the agenda. It was sent on Wednesday, May 2 and it was linked with the agenda on Monday of the proposed revision. If you're looking at the computer version or the printed version, the strikethroughs are simply the changes from the April 19 policy. It's a complete rewrite of Appendix Z.

There are several minor changes that we made. Probably the most consequential change is, there was a comment made from several members of the Council about record keeping, when there are consensual relationships that could be legitimate that were within schools. Under such a case, a faculty member has to notify their Dean of the existence of such a relationship as soon as possible in writing. What we have now added is that, in addition to notifying your Dean in writing, you must also notify, via the conflict of interest reporting system at Duke, that you also have such a relationship. So when you notify a Dean, you would also have to file notice by amending your conflict of interest form. It simply would state that you have a consensual relationship that's either romantic or sexual with a graduate student who is in your same school and that you are filing notice of that and you have to say that you have also notified your Dean as you would have to under the policy. Those are the biggest changes. I don't know if there are comments or concerns. I will just say this: ECAC has spent so much time on this. But all of us would not write every single word this way. I said this last time, but we will never come to agreement on a word-level revision of the policy. But this is pretty good, I think.

**Kornbluth:** Not to open a big can of worms, but I do want to make one comment about the conversation we had. In all these revisions, there was an introduced clause based on whether someone was already having a relationship with an undergraduate at the time of the enactment of this policy. It is within 30 days that they have to notify if this is the case. The way it's worded right now is that it comes to me.

**Taylor:** I can just read it. We did amend this as follows: it's essentially a change, if there's an existing relationship, that is legitimate under the current Appendix Z, with an undergraduate. Which means that you're not teaching or you have no authority. When the new policy would take effect, I'll read what we've now added:

"This policy will apply to any consensual romantic or sexual relationships between a faculty member and an undergraduate student that exists on the date this policy becomes effective. However, any faculty member in such a relationship may apply to the Provost for an exception to this policy. Such an application should be made within 30 days of the effective date of this policy."

So what that would mean is, if today, there is a faculty member engaged in a sexual relationship that is legitimate under our Appendix Z, which would mean they have no authority – they're not teaching, they're not supervising them – it means that on July 1 and for 30 days, they can apply to Sally and ask essentially to continue that relationship.

**Kornbluth:** I will say up front that I cannot easily imagine a circumstance under which I would approve that, aside from if someone said their wedding was on Saturday. [laughter] So I understand the very rare, bizarre event that might lead to this, but I think the motivation behind this policy is to eliminate relationships between faculty and undergraduates. It would have to be some very bizarre set of circumstances. I just want to be clear about that up front. Because I don't want it to be read as, if this is going on, just go to the Provost and she'll approve it. [laughter]

**Taylor:** And just to be clear, for example, if a faculty member is sexually involved with a student whom they're teaching, that's a violation of the policy we have today.

**Trina Jones (Law School):** How are you going to make people aware of these new obligations?

**Taylor:** It's a good point. The concept of fair notice is important here because existing Appendix Z has some prohibitions but it doesn't actually stipulate any penalties. We now say that if you violate the policy with an undergraduate, it shall be misconduct. Under the terms of the Faculty Handbook, misconduct is one of the ways that a tenured faculty member can be fired and one of the ways that a term faculty member can have their appointment terminated early. So we're going from a policy that has essentially no specified penalties to one that, it doesn't require that penalty, there's a list of penalties available, but it allows the strongest penalty that we have. ECAC has talked some about that. One of the things we've talked about doing is writing the faculty members that are in our divisions and saying, you need to listen up, this is a big change, especially in terms of consequences. But I think as we roll into the new semester, if we approve this today, we need to make sure our colleagues are put on fair notice or warning of this.

**Tom Metzloff (Law School):** The range of sanctions is wide, from termination of a tenured faculty position to what could be simply an informal reprimand. What thinking was there given to addressing what could be potential problem in terms of uniformity given the extreme range of

sanctions. I don't see any guidance in there as to what the appropriate sanction would be.

**Taylor:** The Dean has a lot of discretion under the policy. I think the simplest answer is, it was super difficult to get a consensus on the details of this policy. Going from essentially no penalty to having only the toughest penalty was going to be difficult. I wouldn't be that surprised, this is just me imagining in some number of years, that we might revisit this and be clearer on that and make the sanctions be stronger. It would be an example of things changing over time. I don't know if this is too practical of an answer, but I think it's the true answer. This is probably the best policy that we felt like we could get strong consensus on.

**Kornbluth:** It's also the notion that you referred to about having a central record of this. You could imagine that a serial offender would incline towards the most severe penalty. You did it once, there's some penalty. You do it again...

**Taylor:** And in this process there arose some questions about the epidemiology of this. How common is it? Are there 7, 70, or 700? I think we don't have a good sense.

**Mary Fulkerson (Divinity School):** 700 what?

**Taylor:** Relationships between faculty and students.

**Fulkerson:** Oh, one faculty and one student. [laughter]

**Taylor:** Via the conflict of interest reporting, there will be some numeration of this. In that sense, the Provost and

Deans will be able to have some sense about how common this is. If you take a longer look, there were no rules in the Faculty Handbook until 2002. We adopted then the rules that we have now. We're doing this again. If you look at Stanford's set of rules, they've altered theirs 14 or 15 times since 1990. So theirs has been a continuous process, just for example. Ours is reminiscent, it's not identical, but it's reminiscent of Stanford's, MIT's, and Northwestern's. Not identical, but reminiscent.

**Henriquez:** I'm curious, is there sort of an obligation of the community to be vigilant in some ways? In other words, somebody suspects a relationship, are you supposed to bring this forward to some group or some body to make it clear or to indicate that there might be something going on? What happens if there is a dispute between somebody bringing this forward and the faculty member and the student saying that nothing is happening?

**Taylor:** In the policy now, so far as I understand the policy, we don't have a requirement that I report, for example, if I suspect a relationship. There are some drafting notes about the context about which adverse employment decisions under this policy could go to the Faculty Hearing Committee. That's not exactly the answer that you gave there. We don't have that. If you go back to some earlier versions of the policy, we have the Deans being responsible for certifying that relationships followed the policy. There are a lot of what I would call triangles of discussions. Essentially ECAC, the Provost, and the Counsel's office working this through. The Counsel's office in particular was worried about that. That being the burden on the Dean to have to

know and judge and say that a relationship was acceptable. So it is now altered and it is, in the end, on the honor of the faculty member to report it. You can imagine those being things that might be addressed in the future, is the way I would think about that.

**Josh Socolar (Physics):** This is a silly thing, I think you noticed, in the graduate student section, there is a sentence here that says a faculty member is not required to report consensual romantic relationships that fall into category A above, and then about three sentences later, it says failure to report a consensual romantic or sexual relationship is a violation of this policy. It has a little thing about A and then B, and then it has this sort of summation and it seems to ignore the A part.

**Taylor:** Kate, we should be able to clean that up?

**Kate Hendricks (Deputy Counsel):** Sure. And I think that second phrase that you referred to, it refers to relationships that are required to be reported.

**Taylor:** That is the goal of the policy, but I think you're saying it's unclear?

**Socolar:** The wording is unclear.

**Taylor:** And this is Kate Hendricks, she drafted so many versions of this. When I think of the versions, I want to go to the corner and get into a small ball. She drafted so many versions of this under a lot of time pressure, so thank you. Josh, we thought we had it, maybe we don't have it clear enough and we need to clarify that.

**Dan Rittschof (Nicholas School of the Environment):** I missed the last several meetings, but I'm really curious, what do you tell the students?

**Taylor:** So the students, some of them are super angry about this policy. In fact, the Chronicle editorialized about it and said, how dare we tell them who they can be involved with. That's the short version of what they said. What I told them, and what I think, is that this policy is first and foremost we faculty saying something about ourselves. What we are saying is that we're going to limit our prerogatives in this part of our lives. That actually might be a part of helping to more broadly change the culture of the campus. It's not going to fix all the various sexual violence problems we have. But in the end, people say, why didn't you go talk to the students about this? I think the answer is that we were saying something about ourselves. There are some people who don't like the answer, but that's sort of the answer of the way that ECAC approached this.

**Roxanne Springer (Physics):** I have two questions. One has to do with reporting. I really like that records of such relationships will be kept via the conflict of interest form at the Ethics and Compliance Program. But what about collecting data on outcomes? Where will that live?

**Taylor:** I guess I'm making an assumption that the Provost and the Deans have some ability to understand – like, their faculty member, for example, has filled out a conflict of interest form. I know, for example, I've been asked by my Dean about a reported conflict related to a financial stake in a research project. I didn't tell the Dean that, but I filled it out

in the form. I'm assuming there's some sort of data reporting.

**Springer:** In this instance I'm talking about, for example, the sorts of exceptions that get granted, and the sorts of penalties that are handed down. I think the paper trail, in order to maintain consistency, needs to be maintained.

**Kornbluth:** That sounds reasonable. I think we could go to the same source. It's going to be in Leigh Goller's office [Office of Audit, Risk, and Compliance], correct?

**Taylor:** Yes.

**Kornbluth:** We could do the same so that there's a central repository of all the information. I think that's reasonable.

**Springer:** My second question is broader. We know, currently on campus, there are faculty members who are sexually harassing students. That goes on and doesn't really seem to change. So when the consensual relationships policy comes on board, I'm worried about the mismatch between the expectation that a faculty member will self-report and act with honor, as you indicated above, versus the unfortunately substantial – there are a minority of bad actors who continue to plague our community. I'd like to know how this fits together. It seems as though violations of the harassment policy are dealt with in a completely separate office with a completely different set of rules and standards. And then we have the consensual relationship policy. You spoke about faculty acting with honor. So I'd like to get your comments on that

**Taylor:** ECAC spent quite a lot of time talking about the breadth of sexual

violence and sexual harassment over the course of the year, both in terms of student conduct, violations of the community standard, and also OIE in terms of employment law. We've been engaged, and those conversations are ongoing. ECAC and Academic Council remain involved in those conversations and they are ongoing. I think the way we thought about it, this is something that we could do and we could do this thing about ourselves. That's part of what I meant by we faculty limiting our prerogatives. That's what we've said here. We've said we're agreeing to be penalized, potentially quite heavily, if we do what we've now declared to be wrong. So it's not going to fix all that. But I think of it as a step, maybe an imperfect step.

**Springer:** How about another next step being that the Academic Council come forth with another appendix that deals with actual harassment?

**Taylor:** It probably is addressed in at least one of the appendices. I don't have them all. So the Faculty Handbook is a tricky document and it's historical and in one sense you can read through it and see lots of interesting things about how things have changed over time, but there are places where rules about the university are actually recorded in the Faculty Handbook. And there are even parts of it when ECAC looks at it, there are things that we say, why is that in there? And other things that should be in there. I'm not sure it's the best place to deal with that, but maybe that's wrong. I'm not sure.

**Kornbluth:** Just a comment though. As you know, there is a revision of overall harassment policy in circulation that ECAC has looked at you've gone back now and asked for revisions.



**Taylor:** ECAC has asked for revisions, yes. That's what I mean when I say it's underway.

**Kornbluth:** I would think that Academic Council will ultimately see that as a policy. In other words, not as an appendix in the Faculty Handbook, but as a policy governing the whole campus. The consequences and things laid out. I think that's a standalone policy that is under revision that this body will see. I don't think it has to be in the Faculty Handbook, per se, because I think it pertains to the whole community, not just faculty.

**Taylor:** That is underway. In the end, we have more control over this appendix. Maybe that's your point. I get your point. But this will be a next academic year discussion.

**Harvey Cohen (Clinical Sciences):** On a different topic, I just want to be clear. In the case of an adverse ruling by a given Dean, is that something that could or likely would be brought by the faculty member to the Faculty Hearing Committee for some such appeal? I'm just trying to envision what will happen when that invariably happens.

**Taylor:** I'm going to say what I think the answer is and Kate, tell me if I mess it up. I believe you can grieve to the Faculty Hearing Committee for three basic things: discrimination, infringement of academic freedom, and due process violations. So if a Dean says to a faculty member, you're in a relationship that's afoul of the policy, I'm going to fire you, I might say, there is no relationship, the Dean fired me because the Dean doesn't like what I think about some controversial issue. It would have to be discrimination, process violation, or academic freedom

impingement. Those are the three things. We have a former chair – have I said this roughly correctly?

**Jones:** What if the Dean is just simply wrong about the nature of the relationship? Then what is the appeal process in that scenario?

**Taylor:** We haven't specified appeal process but I think, short version, it's probably to the Provost. Isn't, in the end, anything related to the Faculty Handbook, when you get right down to it, you're appealing to the Provost?

**Metzloff (Former Chair, Faculty Hearing Committee):** I think that the faculty member would have to be able to appeal to the Provost. The Dean can use their discretion in some respects, but not everything is frameable as an academic due process violation. That's why one of my questions was, how are you going to deal with this? Because in reading Appendix Z, the Faculty Hearing Committee would not have jurisdiction to challenge a Dean's decision on what sanctions to apply. Because that issue is not an likely to be a violation of academic due process, academic freedom, or discrimination which is what the Faculty Hearing Committee is authorized to review.

**Kornbluth:** Well, it could be.

**Metzloff:** It possibly could be, but there could certainly be cases where it is not.

**Taylor:** Can you think of an elegant solution to this?

**Kornbluth:** We could say, where applicable to circumstances covered by the Faculty Hearing Committee, namely

xyz, it would go there, and for all other matters, it would go there.

**Metzloff:** The Faculty Hearing Committee is really not very good at comparative assessments of discipline. I'm not comparing this to the death penalty, but if you look at that, the Supreme Court has required State Supreme Courts to look at all death penalty cases to make sure they are comparable and appropriate. At some level, we could have a Dean who is taking a much harder line on something and is terminating somebody and another Dean doesn't. I think the Provost has an inherent authority and power to review that and make a judgement call on the appropriateness of the sanction apart from the Faculty Hearing Committee's parameters.

**Taylor:** So, Sally, you would be okay with this?

**Kornbluth:** Sure.

**Josh Sosin (Classical Studies):** On an issue of similar gravity that ultimately will reside with the Provost, I hate to raise the preamble again, but in as much as the preamble uses as justification for the unavailability of such relationships the assertion that consent cannot exist given the power differential. That means any exception, which is going to be written on paper, countenances the availability of a relationship that is appropriate absent consent, or else must define on paper, the precise way by which consent exists in this relationship but not in any other. I have a real hard time imagining what that piece of paper would look like and real terror at the prospect of storing multiples of that kind of paper.

**Kornbluth:** I agree with you, Josh. It sounded flippant and like I was being facetious, but short of an impending marriage or birth of a child or whatever, I can't imagine any circumstance like, well, I really love them, kind of thing, is not going to be circumstances for an exception for the very reasons that you raise. Now, I am concerned, obviously, what this is going to wind up looking like. Especially because of Don's comments about how undergraduates were getting up in arms about this, you have a student who is not a minor, et cetera. But we're just going to have to enforce it that that is the policy of the institution.

**Sosin:** If I can follow up with that. If that's right, and I am very glad to hear that, then this goes to Tom's earlier comment about the scale of penalties. It makes anything at the low end of the spectrum look really weird in the light of the preamble.

**Taylor:** This might just be too much of an Eastern North Carolina, practical side, [laughter] but this is a lot better than the policy we have now. It's actually, more importantly, that's what could pass many stakeholders.

**Sosin:** I don't mention this on the notion that any of this ought to be a blocker in moving forward. Quite the contrary.

**Taylor:** Am I fair in saying you think we should fully ban relationships also with graduate students?

**Sosin:** That's my view. But I'm happy to take what we can get.

**Kornbluth:** I don't think we want to be like Stanford and amend this 15 times, but I do think there are opportunities for amendment. As we really have nothing

with any teeth on the books, this is a good first start.

**Taylor:** If we move to a vote and we need to amend it to get some clear language that is simple and clear to allow for the appeal to Sally, something that couldn't be appealed to the Faculty Hearing Committee, could Kate and maybe Tom [Metzloff] work on that together? Would the Council be willing to move ahead and vote on this with that bit to come?

**Speakers:** Yes.

**Taylor:** So then I propose that we approve this, well, ECAC has brought this forward, so I think that means it just needs a second. Do I hear a second of the approval of the revision of Appendix Z with that addition / caveat to come at a very soon time? And once we have the final document, we will send it quickly after we have it and then we will also work on a communication policy to put our colleagues and ourselves on fair notice.

*[Revisions to Appendix Z approved by voice vote without dissent]*

**Speaker:** Thank you, ECAC. [applause]

### ***DISCUSSION ON VICE PRESIDENT LARRY MONETA AND JOE VAN GOGH INCIDENT***

**Taylor:** Now we are going to have some discussion of the incident with Vice President Moneta at Joe Van Gogh. The first thing I'm going to do is – some number of faculty members have said to me, why hasn't ECAC been doing anything? We have been doing many things. We've mostly been playing more of a behind-the-scenes role. I would like to read you a brief email that's the email

that ECAC sent after we met with the Provost yesterday and after we deliberated. We sent it to Larry Moneta. Earlier today, myself and Erika Weinthal [member of ECAC] met with Larry and talked through our concerns. I'm just going to read that. And then President Price is going to have a few comments and then we'll have a chance for questions and comments. We have to stop with enough time to go into executive session for honorary degrees. So I'm going to call time at 4:45pm if we have not already stopped by then.

So this is an email that I sent yesterday on behalf of the Executive Committee of the Academic Council to Larry Moneta:

Hi Larry,

ECAC has received many messages and we discussed the JVG incident at our meeting today. As I was writing you the below message, I saw your Facebook apology; I decided to go ahead and send this, just to let you know how we view the ramifications of your actions.

We think that you owe the workers and the Duke community an apology for:

- Not letting the matter of the music playing in the store drop when the music was turned off. Most folks seem to think that this would have been the natural and reasonable end of the situation.
- Not realizing that a Vice President complaining about a Barista given the full context of the situation was a power overreach on your part, especially given the music being turned off.
- Not realizing the full context of how your actions in this matter would be

viewed given the recent campus discussions around speech and race.

I do not wish to pile on during what I am sure has been a difficult day, but I felt like I needed to communicate to you the views of the Executive Committee of the Academic Council.

I would be happy to speak with you in person or by phone if that would be helpful to you.

Sincerely,  
Don

Larry wrote back and asked for a meeting today at 10am and Erika and myself met with Larry. Erika, would you want to characterize the meeting, or do you want me to characterize the meeting?

**Taylor:** It was a respectful and a polite meeting, but sometimes you have a meeting where people disagree vehemently over what happened and what it means. That's what we have here. Larry just felt that we were wrong here and that he handled the situation appropriately and as required by his job, given that Duke Dining Services reports to him. I asked Larry if he wanted to come here today to speak to this and he didn't think that was a good idea. I don't want to say too much more, other than, I think Erika and I, what we hoped for, was to try to – the reason we were trying to work behind the scenes instead of saying things publically is that we were hoping to invite Larry in to seeing things more from our perspective in the hopes that he would issue a more full apology. That was our goal. It wasn't disinterest in these matters that caused ECAC not to say anything publically, we just felt like the best way for us to try to do the best thing for Duke

was to be quiet behind the scenes about it. That's what we did. I'll stop there. Vince, you could say a quick thing, and then we'll have questions and comments.

**Vince Price (President):** I don't know if you received it yet, but I did issue a statement today. It does express what I intended to say. The statement that I issued publically is the product of considerable thought on my part. I don't think it's particularly productive to deal with personnel matters in a public forum. But this is a statement that expresses my apologies on behalf of the institution and I'll just read it to you now:

Dear Duke Colleagues,

Over the past several weeks, events and actions at our university have illustrated a disturbing trend: the absence of respect for others.

When we learn a racial slur has been scrawled on a dorm door, a social media posting has used abhorrent language, anti-Semitic posters have been distributed in Durham, or workers on our campus have been treated unfairly, we feel angry, discouraged, and disappointed. Duke should be a place where these things don't happen. They are a painful reminder that we have more work to do to make our Duke community the dynamic, diverse and welcoming community of students, faculty, and staff we aspire it to be: a place where our daily challenges are grappling with a new concept, a new idea, or a new way of thinking – and not with how someone has behaved, or how we ourselves have behaved, that has caused others pain or hurt.

Something has to change.

I will simply say that I am deeply sorry that we are not where we want to be as a university. I am, in particular, sorry that the words of one of my senior administrators recently resulted in two individuals working for one of our on-campus vendors losing their jobs; and while I am pleased that the vendor has taken steps to reverse this action, I apologize for the precipitous and unfair treatment these employees experienced. We must do better.

We have somehow lost the sense of compassion and human tolerance that should define our community. This is reflected in the ways we interact with each other, the ways we hold ourselves and others accountable for our conduct, and in our words and deeds as scholars, students and employees.

At the same time, we cannot and will not succumb to a rush to judgment that demands instant retribution absent context and deliberation.

So where do we go from here? Having now completed my first academic year as president, I am reflecting on these problems of basic decency, and our legacies of racism, intolerance and xenophobia, that continue to follow us, and indeed all of society. They do not lend themselves to easy answers or quick fixes. But they will continue to plague us unless we address them directly, honestly, in good faith, and with a healthy dose of courage.

I will be consulting with members of our diverse university – students, faculty, staff, alumni, friends, and critics – to gather ideas about how best to move forward. And I invite you to send me your thoughts at [president@duke.edu](mailto:president@duke.edu) as well

so that we can identify the paths forward before the start of the fall semester.

Getting this right is hard work. I am committed to doing that work, and I ask for your wisdom and engagement as we move along these paths.

That is the extent of the message. I could invite questions, but honestly, I think this does express what I have to say on this matter.

**Taylor:** Does anyone have comments or questions for ECAC or the President?

**Jones:** Thank you for your comments. In 2015 when the Diversity Task Force did its work, before you came to Duke, and we presented our report, at the very end, in the next steps, we recommended that there be some consideration of issues involving diversity and inclusion with regards to staff and I would extend that to contract employees, even though they're differently situated in many ways. Last year, at the final meeting of the Council, we talked about a Faculty Ombuds and Appendix N and the question was raised as to whether or not staff ought to have an Ombuds. I raise this historical commission just to make a point that perhaps we need to look at the systems and practices that we have in place to ensure that the conditions on campus for staff, as well as contract employees, are fair and consistent with our values. I want to reiterate that history and that point.

**Price:** I thank you for that reiteration. I share the view that, as a community, we always should include the work of our staff and contract workers. Everybody who contributes to this enterprise should feel welcome, respected for the work they do, and appreciated for the work they do.

One of the things I'll do over the summer is think about reasonable vehicles to do a better job of this. I won't profess to have read through these various appendices in detail, but I look forward to going back and looking at that report. If there are good ideas and actionable ideas, I look forward to taking those up.

**Rittschof:** I want to offer that your sentiments are perfect. But we've got to walk the walk, which means resources have to go into the system to actually allow it to change at all levels.

**Price:** I take that point, absolutely.

**Prasad Kasibhatla (Nicholas School of the Environment):** I'm struck by what the Chair of the Academic Council just said, that Larry felt that he had handled things appropriately. But at the same time, he has apologized. I guess I'm not clear what the apology is. I guess my question is, was anything ever said by Larry or any of the Duke administrators to the owner of Joe Van Gogh, suggesting that the employees be fired or disciplined in any way? Secondly, I guess I'd like some clarification about what that apology was and what's appropriate and what he's apologizing for.

**Price:** In terms of apologies, I would direct you to Larry's public statements. I've had a conversation with him. I don't think this is an appropriate forum to get into details of the event. It is a complicated set of pre-existing relationships, I would say, that are mixed in with the various actions that have taken place. Again, I just don't think it would be all that productive to go over the details. My perspective is that this was an instance where there was an overreaction to a circumstance that had, I

think, been more or less successfully resolved. It was that overreaction that, in my view, expressed a lack of judgement. That's what I'm trying to focus on here.

**Taylor:** Larry told us, he said if there are faculty that want to talk to him, I suspect he would be willing to engage in that dialogue to let you know more.

**Price:** And again, I would just caution us all, and I said for a very good reason that we should not succumb to a rush to judgement in these kinds of matters. And certainly not try to use the Academic Council as a vehicle for managing personnel matters. I believe that that would be particularly ironic in the case where, if we as an institution are at fault, it was somehow in our role of precipitating some unfair and premature activities.

**Metzloff:** I appreciate your statement. There is a part of me that thinks that it conflated the other issues of racial discrimination with a very discreet incident. I think your apology that you offered, which I appreciate as a member of the community, covers that. I guess it's appropriate to raise those other issues, but it does lose some of its focus on the specific issue. I do hope that you do investigate the particulars of this. It's not that complicated. Things happened in a discreet time and place. I think it deserves to be investigated in a serious way and appropriate consequences considered.

**Price:** I appreciate that.

**Justin Wright (Biology):** First, I want to thank ECAC for their email. I think it really concisely encapsulated what I saw were the series of mistakes that were made in this case. Larry Moneta's job, one

of the key things that his job is about is undergraduate affairs and making sure that Duke is a welcoming community for students of diverse backgrounds. Isn't there some sense that this incident is going to negatively impact his ability to go forward with that?

**Price:** I believe that that is absolutely a concern that Larry himself has in light of this larger conversation that's taking place. Again, as the incident becomes the subject of media coverage, there's a natural process of leveling and sharpening the story. It is a matter that I take very seriously. It is the role of all of my senior administrators to advance, as I said, the right kind of tone, build the kind of campus that is diverse, dynamic, welcoming, and in this instance, that was not what happened.

**Taylor:** We've been focusing on what had happened. ECAC may talk some more about what to do going forward. I think that discussions of those types are just still ongoing.

**Judith Kelley (Sanford School of Public Policy):** We've started to have some alumni who have started to write and say they're going to cut out their donations, et cetera. I was just wondering about who your message went to? Did your message go to our campus community, or did it also go to the alumni community?

**Price:** It went to the campus community.

**Mike Schoenfeld (Vice President, Public Affairs and Government Relations):** And it's posted online and on our social media.

**Kelley:** So we may just refer the alumni to this?

**Price:** Yes. It lives electronically and people can easily be directed to it.

**Kate Whetten (Sanford School of Public Policy):** As we're moving into graduation and ending our semester, I think, Tom, to take your point that we need to look at this as a discreet incident, I fully believe that one of the reasons people are reacting the way they are to this is because the events that have led up to it and the way the students feel, minority students on campus feel that this particular individual is responsible for their not being protected and feeling safe on campus. So when this happened, there is a feeling that this particular individual, and I'm not saying this is true, but that this person doesn't understand what it is to be minority, at minimum. So then, to have this happen, that brings all of that into play, with it being a song from a culture outside of his. And then to have that reaction and using the power. I say this not in relation to what happens with Larry, but more just for all of us to think about as we move forward. Because the students aren't going to see your email in the way that outside people and people who are thinking about this from an outside perspective. So I hate to be Katie Downer, but I am worried about the next few days. That's the reason. Put that into context. The students are reacting in ways that might seem extreme and they're feeling really extreme.

**Price:** I absolutely share that concern. And believe me, I'm doing all I can to attempt to put things on a more positive trajectory so that we don't make things worse as opposed to making things better.

**Whetten:** And I do appreciate your letter.

**Price:** Let me say a few things about that. I, myself, have been in contact, with, not all, but a number of the students who initiated this disruption of the alumni event during reunion weekend. There is a clear sense that they are feeling underserved, in terms of our outreach to them and our support of them as students. This message will not make that go away. Those are important concerns. I have since worked with Sally and others in my office to follow up. We have been in regular communication with the students. It is a little bit challenging over the summer to make progress. Many of the students aren't here. But it is my very strong intention to work with all the constituents of the university, including staff. Because they are oftentimes kind of unspoken and in some ways invisible members of our community. Their concerns have to be addressed. The students feel this palpably. I think that this event brought into focus a lot of things that we have to work at. But they won't be resolved right away. It will take serious work. And I will say Don and ECAC, we have had discussions, not about this particular event, but about the larger issues, and I'm very encouraged that we have a lot of people who are committed to making Duke a better place, a more welcoming environment, finding out exactly how to do that and what work needs to be done is not an easy project. But it is a very important project.

**Whetten:** We have an advisory committee to the Hate and Bias Task Force, the steering committee. And we have a working group over the summer that's going to be Rick Nelson, I think, Erika, and we're trying to find how we can have a truly free speech university and also keep our citizens, our people, our

community safe. We'll be working through the summer.

**Price:** I appreciate that. This is a project that will only succeed if it's undertaken by every member of the community. That is not a small project. But it starts at the top with tone, and it starts with serious effort to do it. As I stand here, I just want to assure you that those efforts are underway, and I will say I have been very impressed with the willingness to work in common spirit. Over the summer is not necessarily an ideal time, but we'll move the ball as far down field as we possibly can over the summer.

**Mark Anthony Neal (African and African American Studies):** My own feelings and my colleagues' feelings about Larry Moneta's lack of sensitivity around issues of race notwithstanding, for me, it's irrelevant. He could have been listening to the Mormon Tabernacle Choir. In that coffee shop, his acts represent an act of institutional hubris. I think that's something that we really have to address alongside with whatever concerns we have around his leadership in relationship to students that he might view as marginalized.

**Amy Laura Hall (Divinity School):** I'm about to say something that sounds strange coming from a Christian Ethicist. I understand you're not going to rewrite your letter to the community, but I would say, moving forward, well, there are many things I would want to say, but one would be that the language of decency and indecency is tricky and in talking about this particular case, there would be many people who would look up the song and say, well, that was an indecent song. There was something indecent going on and this man bravely called it out. The



language of decency is really tricky and I would advise, perhaps, going forward, to reconsider that particular way of phrasing what we're trying to cultivate in an intellectual community. I would also say that I think we need to continue to talk about the staffing issues in terms of, we can say we want this to be a welcoming place to all people, it is difficult to be a welcoming place to people who are not making a living wage. It comes across as shallow. So I would suggest, if we can do better, one of the ways we can do better is to be an institution that pays all of the people who, as you said, work to make this place run, a wage that is livable.

**Taylor:** For what it's worth, ECAC talked a bit about decency and we felt someone asking someone in a market transaction to turn off the music might be a reasonable thing. Maybe it's not. But what we really talked about is what happened after the music got turned off. That's where the problem starts. For what it's worth.

**Price:** Language fails, particularly when difficult feelings and thoughts are being expressed. We use the best language possible. By referring to decency here, I was not attempting to pull in the various kinds of implications that you had described. But I am very much committed to a community that elevates mutual respect as one of our highest values. That is really what I intended to convey here. If that's not what I conveyed, my apologies.

**Liz Ananat (Sanford School of Public Policy):** I just want to reinforce this idea of censuring the staff, and in particular, not just the staff, but the contract workers, who are the most marginalized members of the staff themselves, and then

the most marginalized members of our community at Duke. Who, for many people in the broader Durham community, their primary experience of Duke is as a place where people who they know and care about work as staff or contract workers. That is a much more salient identity for a lot of folks in our community than many of the things we focus on day to day. Duke doesn't have a great reputation. This is the place that is called The Plantation by people in the community. I don't feel that this event is going to help with that. I really worry that if we focus on the details of what happened here rather than the broader set of power relationships that this is going to bring up in the broader community, that it's really going to set back the kinds of progress that we're trying to make and I really encourage you, in responding to this, hearing about the rush to judgement about the specific facts of this, but the power dynamics that allowed it to occur are very clear and are very clear to the people in the community. I really hope that we can quickly make a judgement about allowing those power dynamics and the ability to act in this way toward the most marginalized group of people in our community, not just through an Ombuds, but through a variety of ways of protecting contract workers as valuable members of the community.

**Fulkerson:** Just to follow up on Amy Laura's comment, is the process and discussion around living wage coming up in the future?

**Price:** We have already been working on this. We did increase minimum wage for Duke University employees and it covers contract employees as well. So we're taking steps.

**Fulkerson:** Okay, great.

**Price:** But there are broader issues. There are a variety of issues and I think the point that was just made is an excellent one. We need to do more to be viewed as a model community and that includes being a model employer.

**Anna Gassman-Pines (Sanford School of Public Policy):** I want to thank you for your message and I recognize the need to handle personnel matters not in a public forum, but just to kind of build on some of the prior comments of this body, I would really encourage you to think with your leadership team about public steps that you can take as soon as you're able to take them. Because I think one of the important challenges that Duke University faces is that something that's being handled privately and internally reads to a lot of very important stakeholders – students, staff, community members – as actually taking a side. It doesn't read as a neutral act. It reads as standing by particular individuals and particular types of behavior. So I understand that there's a tension of needing to handle personnel matters privately, but I would just strongly encourage you to think about public steps that you can take as soon as possible to make sure that you're not sending a message you're not trying to send.

**Price:** The message I sent, I think states what I wanted to say. Which is, I am not standing by his actions. But going forward, again, I'm committed, and I welcome these kinds of suggestions, this is the best way forward. To continue working on this. There is the incident, and then there are the broader issues that have fed into this. We will have to confront incidents. Unfortunately they

will not go away. The question is how we confront those incidents. How do we minimize those incidents? How do we as a community work to avoid those incidents in the first place? And then build a common way for approaching them that feels to me more thoughtful and deliberative than these kind of bursts of activity accompanied by somewhat predictable calls for immediate action that oftentimes are blind to the details that make a difference. That's what I'm looking for. Preventative action, curative action, healing activities that build a stronger community. Because we do have a history here at Duke. There are few institutions that aren't rooted in traditions that give them both a certain sense of pride and also a certain deep sense of shame. We're no different. But we should be judged by how we work in the moment and most of all by the decisions we take now to move forward.

**Taylor:** Thank you. [applause]

#### ***EXECUTIVE SESSION: HONORARY DEGREES DISCUSSION***

**Taylor:** We need to go into executive session now. Any faculty can stay, you don't have to be a member of the Council, but members of the press need to leave for us to go into executive session.

*[Remainder of the meeting was conducted in executive session for the discussion of honorary degrees]*