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Minutes of the Regular Meeting of the Academic Council

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January 24, 2002

Academic Council met in regular monthly session from 3:45 - 5 p.m. on Thursday, January 24, 2002 in 139 Social Science Building with Professor Peter **Burian** (Humanities) presiding.

MINUTES

Calling the meeting to order, the **Chair** asked for approval of the minutes of the meeting of December 6, 2001. Having received a motion and a second, the minutes were **approved** unanimously by voice vote as submitted.

EARNED DEGREES (Diplomas dated December 30, 2001)

Trinity College of Arts and Sciences Dean Robert J. Thompson, Jr.	
Bachelor of Arts	52
Bachelor of Science	24
Pratt School of Engineering Dean Kristina M. Johnson	
Bachelor of Science in Engineering	5
Master of Engineering Management	3
School of Nursing Dean Mary T. Champagne	
Master of Science in Nursing	16
Nicholas School of the Environment and Earth Sciences Dean William H. Schlesinger	
Master of Environmental Management	5
Fuqua School Business Dean Douglas T. Breeden	
Master of Business Administration	72
Divinity School Dean L. Gregory Jones	
Master in Church Ministries	1
Master of Theological Studies	3

Master of Divinity	13
Mster of Theology	1
School of Law	
Dean Katharine T. Bartlett	
Juris Doctor	10
Doctor of Juridical Science	1
School of Medicine	
Dean R. Sanders Williams	
Master of Health Sciences in Biometry	2
Master of Health Sciences in Clinical Research	1
Doctor of Physical Therapy	11
The Graduate School	
Dean Lewis M. Siegel	
Master of Public Policy	2
Master of Arts in Teaching	1
Master of Science	22
Master of Arts	65
Doctor of Philosophy	60
TOTAL	374

Professor Richard **Schmalbeck** (Law/ECAC) rose to make the usual two motions, namely, one, that the candidates for degrees completed during the Fall term, as presented by the deans of the university's schools and colleges, be approved by the faculty and recommended to the Board of Trustees; and, two, that the Provost be authorized to make such adjustments to the approved lists of candidates for degrees as may be necessary to assure that no candidate for a degree will fail to have his or her diploma awarded in a timely fashion, that no candidate will receive a degree for which he or she is not fully qualified.

Both motions **passed** unanimously by acclamation.

REPORT OF THE COUNCIL CHAIR NOMINATING COMMITTEE

The **Chair** asked Professor Richard **Burton** (Fuqua and Chair, AC Nominating Committee— and a former chair of the Academic Council) to come to the podium to introduce the third agenda item, namely the nomination of candidates for the office of Chair of the Academic Council from 2002-2004.

Professor Richard **Burton**, on behalf of the Academic Council Chair Nominating Committee, took pleasure in presenting two candidates for the Academic Council Chair. Professor Nancy **Allen** (Medicine) and Professor Jan **Radway** (Literature Program in Arts and Sciences).

Both candidates were present and he asked them to stand. He then proceeded to summarize their personal statements.

"Nancy Allen came to Duke in 1978 and is currently professor in the Department of Medicine, where she teaches and does clinical care in the area of Rheumatology. Her clinical research focuses primarily on blood vessel inflammatory disorders. Nancy, in terms of University service, helped form and served as the first chair of the Clinical Sciences Faculty Council, in 1993 and '95. She served on the Academic Council twelve of her twenty years at Duke, including two years on ECAC. Her University service also includes a Committee on Women Faculty, Sexual Harassment of Students Policy Committee, a review committee, the Trustees Medical Center Affairs Committee, University Secretary Review Committee, the President's Review Committee, as appointed by the Board of Trustees, the School of Nursing Dean Review Committee, and the Faculty Compensation Committee where she currently is a member."

"Jan Radway came to Duke in 1989 and is currently Francis Hill Fox Professor of Humanities in the Literature Program. Her ethnographic based research focuses on study of reading, book production, and the social uses of literature in the twentieth century. Professor Radway chairs the Duke University Press Faculty Advisory Board, the Bass Chair Selection Committee, and the America Studies Committee. Recently, Jan has chaired the Task Force on the Nasher Art Museum. She's also served on APT, the Academic Council, the English Department Executive Committee, Committee on Women Faculty, Advisory Committee to the Master of Arts and Liberal Studies Program, and she's also chaired the Committee to Review the Women's Studies Program."

Members would be receiving a copy of these personal statements in the mailing for the next meeting of the Academic Council. At that next meeting of the Academic Council, the Council would vote for the chair of the Academic Council beginning July 1, 2002. The two candidates each had done their homework, talked with a number of individuals including former chairs, members of ECAC, and members of the faculty, about the responsibilities and the opportunities as AC chair, and had also made arrangements vis-a-vis their other considerable responsibilities to make time to serve as chair if elected. Both were committed University citizens.

In closing, he wanted to thank the members of the Nominating Committee, of which there were five: Craig Henriquez in Engineering; Jane Onken in Medicine; Dick White, Biology; Christina Williams, Psychological and Brain Sciences. On behalf of the Committee, he was presenting these nominations to the Council and to the faculty.

Professor **Burian** thanked the Committee Chair and the members on behalf of himself and ECAC. He took pleasure in the realization

in that he would not have to be chair for much longer (laughter4) . He thanked the two candidates for their willingness to serve, as the office represented a considerable commitment of time and energy, although it was also a wonderful opportunity as Rich [Burton] had suggested.

REPORT & UPDATE ON CAMPUS RESEARCH FUNDING

The **Chair** next turned to the matter of research funding at Duke and introduced Professor James **Siedow** (Vice Provost for Research) to make his report. He pointed out that Professor Siedow was a long time professor of Biology at Duke and another distinguished former chair of this Council.

To the amusement of the audience, Jim **Siedow** remarked that it was always hard to give a speech following "Nan" but when he saw the agenda, he realized that he had to enthrall everyone with a bunch of numbers prior to a discussion on consensual relationships, he knew that things could get worse than that. (Laughter) He led into his presentation by pointing out that the question of research funding was an ongoing process in the Provost's office and that what he had to say would be a kind of update on Dean Siegel's talk a year ago last fall. He wanted to cover what were basically two reports, namely, one, the external funding summaries, something that had been done annually since time immemorial and, second, the funding success rates. From these accounts the Medical Center was excluded, although his office was in discussions with the Medical Center and hoped in future presentations to combine the campus side with the medical side.

Before giving his listeners an overview of what he was going to say, he would talk to them about the FY 01 external funding. Starting with the 'punchline,' he said that overall the funding indicators pointed to continued growth, although things weren't perfect. There was a downward drift in federal funding that his office was looking at very closely and seriously. Given the uncertainties of federal research funding in the future, and given that it was such a large component of their total funding, it was something that they were concerned about.

Regarding Pratt, Arts and Sciences, and Nicholas, the three major schools that provided the external funding, it turned out that the issues varied somewhat with each school, and the goal or challenge that they saw was to maintain current momentum which was pretty good.

Concerning proposal success rates, he pointed out that it was a new way and one of many of looking at what could be called research productivity. This was particularly important in light of the university's strategic plan, because the linkage between research productivity and the things departments could do had not always been as tight in all departments as it might have been, research

productivity in the various departments. In addition to publications, research funding was simply another measure to help everyone understand who was doing well and who was not and who could possibly do better, recognizing also, that the Literature Program, for instance, was not expected to generate \$ 150 K in grant funding.

The presenter had prepared two handouts containing numbers of interest. Regarding external funding for the three major players, Arts and Sciences, Pratt School, and Nicholas, the grants included those for teaching as well, i.e. it was a summary of all external funding for the last fiscal year, although, to be sure, most of the grants were for research. "Awards" were the awards that were made in the past year, and "Proposals" were obviously the research proposals. Awards were a near-term indicator of what their expenditures were likely to be in the future, and proposals were a slightly longer term indicator of what could be expected to come down the pipe. The first three schools accounted for about 90% of the funding and even much of that additional 10% was actually nonessential to the Administration. Hence, while attention was paid to what the other three schools were doing (Divinity, Fuqua, Law), the numbers simply weren't large enough to put into a presentation as short as this.

Looking at the funding highlights, the good news was they were up in all three categories (expenditures, awards, proposals). Concerning dollars expended, it was interesting to note that it resumed a trajectory that began in '97-'98. From '84 to '94, they had about a ten year period where there was a continuous growth, and then it leveled off for about three years. They got back on a track in '97-'98, but in '00, the year prior to this, it had actually leveled off again. So it was nice to see this number had gone up.

Dollars awarded were up as well and that continued a trend that was begun several years ago. In fact, for the last three years, Duke was averaging about 17% a year. The Proposals Submitted category was also up 37%. And again, he thought the news here was pretty good, because they had not been growing in recent years. They had been level at about \$100 M to \$120 M from '94-'99. Then, in '99-'00, they had begun to grow again, and basically had really gone well above that level. In addition, he remarked that the number of proposals submitted had jumped. They had broken through that 1,050 barrier two years ago, and had gone well beyond it this year, which was a good sign of growth. It also testified to greater grant activity among recent younger hires in areas where departments had not been as grant active as in past years. There were lots of reasons behind that, but on the whole it was quite good.

I[ndirect] C[ost] R[ecovery] was the thing that administrators worry about while everybody else thought they were taking away from everybody. It had increased about 11% over the last three years. That was by and large fairly good. What they were really worried

about, however, was the fact that the federal component of funding had actually dropped since FY'99 from 79% to 73%, and if one looked even in awards and proposals, the percentage of the total requested as federal was down. That was a concern, because, on average, a federal grant would pay more in indirect costs than a non-federal grant, so, as a source of revenue, it enabled them to do things in the Central Administration and hence, needless to say, they were keeping an eye on the matter.

Arts and Sciences was up in all three categories as well. Actually, the base was relatively narrow in Arts and Sciences. Three departments: Computer Science, Public Policy, and Biology, accounted for most of the increase over the previous year. In terms of dollars awarded, they were up quite a bit. Public Policy was second only to Physics. Now, the reason for that reflected the appearance in Public Policy of both Frank Sloan's CHPLM (Center for Health, Law Management, Policy Management) and Ken Dodge's Center for Child and Family Policy which were two very large fund raisers. If one added Public Policy in with the four natural science departments, Biology, Chemistry, Computer Science, and Physics, then that accounted for about 70% of all the awards made last year. Adding to that the Center for Demographic Studies, the number of all awards made last year jumped to about 82%. Factoring these six out and looking at the rest of campus, it turned out that it only went up a little over 6% last year. Again, that was one of the factors they intended to look at.

With proposals submitted, Arts and Sciences was up quite a bit. Again, however, the above five departments plus the Center for Demographic Studies represented about 80% of all funds, so there was room outside of these major areas for growth. Public Policy, with its focus in recent years on the CHPLM and the Child and Family Policy had pointed a way to one of the ways to dealing with this. And he thought that was in keeping with the development of the strategic plan wherein areas were identified where not only research was going to be important in the next few years, but for which the funding would probably be available in many instances.

The Free Electron Laser had seen a large funding decrease over the reported time period, and that could actually still bring the total down. He was happy to say, however, that FEL funding was on the way back up these days so that was not as big a concern any more. ICR had actually increased in Arts and Sciences from 23% to 28% of the total direct costs. They were always looking for opportunities to expand the funding base in the future in keeping with the strategic objectives and goals of the University.

The Nicholas School was also up in all three categories after about a two year no growth period. So he thought the Nicholas School seemed to be moving in a pretty reasonable direction. He added one caveat, however, by pointing out that NSEES showed a three year decline in ICRs from 28% to 25%. This could in part be

attributed to a shift from a preponderance of agencies that paid higher indirect costs to ones that paid lower indirect costs. Another area of concern was that there had really been no effective growth in the number of proposals submitted from the Nicholas School since 1994. Of course, any growth in faculty numbers in the Nicholas School should help contribute to an increase there.

Pratt School dollars expended were up by 6%. Dollars awarded were down 19%. The reason for that was a marked decrease in proposal activity in FY'01. On the other hand, more recently, and Dean Johnson obviously was happy about this, the proposals submitted were up 125%. To be sure, there were two large, unfunded proposals in that, but even factoring those out, they were up 50%, which was 42% above any total that Pratt had ever submitted in the past. So in point of fact, looking at proposals submitted as a long term trend, an indicator of likely future dollars awarded and dollars expended, he thought things looked pretty good there.

In order to refine these data, one needed to go to the departmental level. Therefore, by way of an example, Mechanical Engineering, in all three of these categories was actually down. There was actually a couple of fairly simple explanations for this. One was that Mechanical Engineering lost an extremely productive faculty member who took their dollars expended and dollars awarded with them when they left. Secondly, and this was a rather important issue that they were grappling with, hoping to come to a solution for, was the case of the Center for Biologically Inspired Materials and Material Systems, headed up by Rob Clark in Mechanical Engineering. That Center submitted over \$1 M in proposals last year. But the way the University was doing its accounting, Mechanical Engineering didn't get credit for that \$1 M, whereas a year earlier, it would have been credited with that amount. They were trying to solve this problem, but they needed to do it within the constraints of not doing double counting, which he guessed worked for Enron but did not work here (laughter).

Regarding the funding success rate analysis, the idea was to look at how Duke faculty was doing in terms of proposal success rate, since they were an extremely bright bunch one would expect them to be doing better than average. And so they wanted to know what the numbers were. So they started looking for a percentage success on a per-proposal basis. To have done it on a dollar basis would have been too complex to figure out. They were only looking at new proposals and what were known as competing renewals. There were no non-competing renewals in the analysis for those in the audience who were grant savvy. They very quickly realized they needed to go to some lower limit or they were going to end up with hundreds of dissertation improvement awards and a lot of proposals that would skew their numbers. Hence, they were only looking for proposals that asked for \$25,000 or more in total costs, which was probably a pretty reasonable number to be using.

He thought that all three schools came out quite well. Pratt School's federal proposals were funded at 56%, Nicholas was at 41% and Arts and Sciences was at 43%. There were those who would say that defense dollars were easier to come by than foundation grants, but Pratt's DOD funding was only at 30%. Factoring out DOD funding, Pratt still came in at 53%. On average, non-federal support ran 8-13% higher in terms of percentage success than did federal support, and all three, did reasonably well in this category. To test out the numbers, they took a look at the really big proposals which they defined as \$1 M or above. The success rate of those proposals was not much lower than proposals for lesser amounts.

In summary, Dean Siedow thought that overall Duke was doing alright on funding. While it was hard to know how other universities were doing, at Duke, they had a sense of where they were with respect to federal funding agencies, and they were doing reasonably well in that area. These numbers were also used by his office to identify departments that were not doing quite as well as the university as a whole. They were using this as one of the metrics to help them gauge how departments were doing.

In terms of future directions, Siedow mentioned a couple of items. One of these was that the strategic plan outlined involvement in multidisciplinary areas of research. Given an increasing general movement of federal funding in the direction of multidisciplinary areas, Duke was looking at ways to promote and facilitate the submission of such proposals. In addition to the quality of the project, many of these proposals involved university cost-sharing, and right now they were trying to go beyond requested minimum cost sharing by optimizing or even maximizing the cost sharing on a number of proposals.

They needed to come up with a better system for crediting and tracking multi-investigator proposals. He knew that that was a problem. Another issue of critical importance was funding graduate students via external grants for the sake of promoting the growth of the graduate program because that freed up money to support another student. As already stated, they wanted to work with the Deans, Chairs and Faculty to better track grant activity, particularly within the humanities. In that connection, Dean Siedow made the point that when the Academic Priorities Committee looked at the very low number of federally and non-federally funded proposals of 18 and 17 respectively, they were shocked. It turned out, however, that they were missing quite a number of proposals in the humanities that were not going through their Office of Research Support. So they were working with Bill Chafe and Dean Holloway to make sure that they were aware of those proposals in order to give credit where credit was due (rather than "to get a hold of your money") In conclusion and as a kind of segue from his own perspective, as a lead-in to the next discussion [on consensual relationships], he would argue that if certain things happened that traditionally would prompt the response to go take a cold shower,

he would suggest sitting down and writing a research proposal instead. (Laughter) He would take questions.

Dean Earl **Dowell** (Engineering) thought this an excellent presentation, especially regarding the emphasis on funding success rates. He had one question concerning the numbers about expenditures. Expenditures overall for all schools were up by 9%, but then looking at the three major schools, their funding rates were up 3.7% [Arts & Sciences], 6% [Engineering], and 9% [NSEES], and he couldn't understand how that added up to 9% [for all schools together].

Jim **Siedow** thought that there had been a large Mellon Foundation grant. Provost **Lange** interjected that there was \$20 M that was not accounted for by the three schools in the amount for all schools together. Dean **Siedow** said he would check into this but he was sure everything would add up "at the end of the day," at least he hoped it would.

Professor Tina **Williams** (Natural Sciences) said that she was interested in the double counting issue for the obvious reason that she had many faculty in her department collaborating in the [Medical] Center for the same reason that the Pratt School of Engineering did. She was also interested in the larger proposals that had multiple investigators across the Medical Center and Arts and Sciences where the PI might be a Medical Center faculty member whereas a number of the investigators actually getting funded within the proposal were in Arts and Sciences, and her guess was that they didn't get any credit for that.

Jim **Siedow** thought this a very good point. He and the Provost had for the first time in the history of this institution an agreement with the Medical Center that for a grant like that, the indirect costs would be distributed according to where the direct costs were actually expended. So, first of all, the indirects would be applied to the school in which any given amount of money was spent. As to the second question concerning the awarding of credit for Arts and Sciences in the case of a proposal suggested by her, they were working with the Medical Center, because that was basically the main problem. They wanted to make sure that in the future the numbers reflected where the money was spent. So they were in the process of trying to resolve the issue; still, the more important one to his way of thinking had already been solved, namely the splitting up of the ICRs and although one might have thought that could have been really difficult, it turned out to be easy thanks to the relationship of Peter Lange and Sandy Williams.

Tina **Williams** wondered if that was done only if a subcontract was involved or was that done even if there was a co-PI.

Jim **Siedow** replied that if one were on a Medical Center grant, and one got and one spent money on that grant, there would be a sub-

code, with one's name, co-PI or not, and the indirects associated with that sub-code, not a sub-contract, would go to the appropriate staff.

Provost **Lange** thought the accounting problem, though growing, shouldn't even be called a problem. They would always have to 'ad hoc' it the way Jim was 'ad hoeing' today, because eventually, there would be more centers and programs going on. That was part of the way the University was evolving, and as that happened, they were going to have to recognize grant activity coming out of those centers and programs. If they didn't do that, they were essentially not recognizing precisely the kind of intellectual and research effort that they wanted to attribute and that they wanted to create. At the same time, he could see if he was a chair of the department as he used to be, that he would not want someone like Jim Siedow, for God's sake, to be beating down his door about why his faculty weren't being more productive when he knew that they were being productive but it was being credited next door to his center. There would never be an easy or formulaic way doing that accounting but they would be able to essentially ad hoc it. It was not a huge number of grants, and they would be able to make sure that Jim didn't go with his billy club, and beat on the heads of chairs where they didn't deserve it.

Jim **Siedow** said that he was a knee cap kind of guy himself. (Laughter) Heads were sort of dicey. It was a good point, however. People should understand that what they wished to avoid was that if a center got credited with \$1 M and the department with \$1 M as well and then, just to take an example, Dean Johnson adding everything up at the end of the day saying 'wow, we're doing a lot better than I thought.'

PROPOSED POLICY ON CONSENSUAL RELATIONSHIPS BETWEEN SUPERIORS AND SUBORDINATES

Professor **Burian** thanked the presenter and turned to the final item on the day's agenda. He introduced and welcomed Sally Dickson, the Vice President for Institutional Equity who had recently come to Duke from Stanford and who would make the presentation. Although she had been introduced to Council last year, this was her first opportunity to address it.

Sally **Dickson** thanked the Chair and Dean Siedow for his segue which would make her presentation much more interesting or as interesting as his. The document that members had before them was the proposed Policy on Consensual Relationships. There were several areas that she would like to cover and it was important to her to get Council feedback on them. The document represented a collaborative effort. In particular, she wished to acknowledge the work of Maggie Sloane (Office of Institutional Equity); in addition, she recognized the contributions of the Sexual Harassment Advisory Panel, the Deans' Council, the President, the Provost, and of all those who had

worked with OIE and others in creating the document before them. Her predecessor, Myrna Adams, also had much to do with the document.

Next, she posed some rhetorical questions, namely why this institution needed a policy like that, if it conflicted with other policies they had and how it differed from Duke's nepotism and harassment policies. The proposal in question had been critiqued by the Deans' Council and ECAC not too long ago and Maggie Sloane and someone from their advisory board had met with ECAC, received their feedback and made the necessary revisions. In addition, the Deans' Council, the Provost, the Administrative Council and Nan Keohane had had input. She thanked Peter Burian in particular for all the advice he had given.

She then proceeded to review the policy's major points and to put it in a contextual framework. They had looked at other university consensual relationship policies around the country. Thus, in a section of Georgetown University's consensual relationships policy it was stated: "There are various approaches an institution could take to address the issue of consensual sexual relationships between a senior and a junior person. One extreme is to ban all such relationships. The other is to pretend that such relationships do not exist." She thought what they were presenting to Council today was [not] on either extreme, but it was a very thoughtful policy that addressed the issue that they wanted to address today. She asked what should be done when relationships between a senior and a junior person existed. In many ways, the proposed policy was advisory in nature. It advised individuals of the harm that such relationships could cause both in the workplace and in the learning environment as could be seen in the 'rationale' section. It presented a conflict of interest situation and, more important, it really interfered with the value of dignity and respect for Duke's students, faculty and staff. The document also covered all those populations. The policy section which she called part 2 of the section said what one could not or should not do if he or she found him or herself in such a relationship. One of the questions raised concerned the issue of whether the proposed policy had enough teeth to it. The relevant section said that in such relationships one should not engage in supervision, employment actions, grading, coaching, advising, counseling, etc. The policy also laid out what one had to do and in that respect it differed from those of other universities. Only Vanderbilt used language similar to Duke's in that it said that if a senior person was involved in such a relationship, he or she had to disclose it, and that, in fact, was what this proposal was saying. The idea was to ensure that arrangements could be made to avoid a conflict of interest as was pointed out in the second of the prior paragraph. She would take questions and comments.

Peter **Burian** wanted to take a moment to let the audience know what ECAC was proposing. Although ECAC had not come with a motion, they

thought this was the kind of issue on which it would be advisable for the Academic Council to express an opinion. So the plan was to listen carefully to the discussion today and to come back with a motion which could be further discussed and voted on at the next meeting.

Professor Robert **Mosteller** (Law) had two questions. One was why the wording was extended beyond 'sexual' to include 'romantic' It seemed to him that that brought ambiguity and raised the question as to the definition of 'romantic' The second one was whether Sally Dickson didn't think that she needed to take this on the road to the faculty in the schools if it was going to be adopted as university policy. He wasn't sure if he could speak for his colleagues about what their concerns might be. He knew at least he hadn't gotten it through his dean.

Tina **Williams** interjected that when she took it on the road, the proposal should also go to more supervisors since it concerned not only faculty.

Sally **Dickson** responded that they had not taken it to the faculty but they had gotten input from the Deans' Council and in fact some of what could be seen in the document was the result of the comments made by the deans. As to the addition of 'romantic' to 'sexual' she said that they had just wanted to be as broad and inclusive in the relationship as possible.

Bob **Mosteller**, by way of a follow-up, commented that the policy stated that it was professional misconduct not to report and so it was not without its sanction in other words. If a person engaged in what was considered a romantic relationship and it was not abusive, but the person didn't report it, he/she was guilty of professional misconduct and might be sanctioned. Hence, to be inclusive, if teeth were put in it, it counted for something. So he was concerned about the vagueness of it.

Professor Sara **Beale** (Law) added she thought that it was [misconduct] if one thought of dating [even] where no sex had yet occurred. It was a policy question of what was being attempted and at what point one could tell a date from just a coffee with someone one liked and enjoyed talking to. She thought the question needed resolution [?].

Professor John **Staddon** asked about the second paragraph of the "policy" section of the document. It stated that supervisors should not employ anyone with whom he or she had had a romantic or sexual relationship. It was a trivial question but he asked if that meant the supervisor couldn't hire his or her ex-spouse or something like it. VP **Dickson** replied that the supervisor could not do so directly, and the questioner added "not that you would want to hire her." (Laughing)

Professor Christopher **Nicchitta** (Basic Sciences) asked about sanctions, saying that most faculty were not aware of what they were. He thought the problem was [simply?] that a relationship was not reported to a supervisor or didn't move up the chain of command.

Peter **Burian** responded saying that his understanding was that not reporting such a relationship when one was in a supervisory capacity would, in the case of a faculty member, be comparable to, say, not meeting a certain portion of one's classes or not grading and returning student papers or something like this. It would come under the general rubric of not properly performing one's duties as a faculty member. That was what they in ECAC understood the phrase professional misconduct to mean when it was discussed a couple of weeks ago. So by analogy it would presumably be when this situation came to the attention of the dean that the dean would deal with it in whatever way he or she felt appropriate as he or she might deal with some other kind of lack of fulfillment of or improper fulfillment of professional obligations as a member of the faculty. And the same thing then would be true by analogy for other employees of the university.

Professor Brenda **Armstrong** (Clinical Sciences-Medicine) wanted to know whether or not and if so how this proposal was related to the conflict of interest policy that they were asked to sign every year. Was it inclusive or separate from it, because it seemed to her that those who hired or were in a position to hire people where undisclosed relationships existed a conflict of interest situation could result, hence she wondered if it was going to be folded in or remain separate from it.

Sally **Dickson** replied that her understanding was that this policy would be separate from those policies that already existed, and as she had already mentioned while they hadn't looked at that policy they did look at others and they asked themselves that if this were not to be folded in, this would be a stand alone policy.

Peter **Burian** added that he understood conflict of interest to mean a situation that primarily referred to financial repercussions; it was, of course, not untrue that personal relationships could have a financial component, i.e. that hiring could be analogous to nepotism as an issue, for example, if one hired somebody with whom he/she had an undisclosed relationship. But this was broader in a sense and was not primarily directed to that aspect of the issue as he understood it.

Brenda **Armstrong** wanted to take it one step further and said that they [medical faculty] had to sign documents every year that indicated that they were disclosing that they did or did not have a financial conflict of interest and she asked if the same was going to be held true in terms of this sort of professional conflict of interest.

Sally **Dickson** replied that her group had not thought of such a scenario and considered it a good point.

Professor Kenneth **Dodge** (Social Sciences) said that, overall, he applauded these efforts and he assumed that the university had a good sexual harassment policy separate from this policy.

After this was confirmed for him by the presenter, he went on to comment that the distinctions among sexual harassment, consensual relationships and something that might be in between, call it attempted consensual relationships, represented the greatest problem area. Once there existed a consensual relationship the two people could get out of the supervisory conflict perhaps and the proposal dealt with that very well. The grey area, however, and the area that presented the greatest problems was when one of the people wanted to move from a non-romantic to a romantic relationship and there was a supervisory relationship involved. This proposal didn't address that problem issue at all, and he wasn't sure if Ms Dickson could give any guidance. The only thing he saw was a graduate student should wait until the end of the semester. But he wondered if this policy should address actions leading toward consensual relationships, i.e. was it OK and when should one move out of the supervisory relationship. He offered an example whereby a professor had a romantic interest in her graduate student. "When did they move out of that supervisory relationship and made a decision to move toward [a new relationship]? Did one wait until it had already happened and then make up for the problem they had caused for themselves, or did one get out of the relationship first?" He thought this the area of boundary that was not clear.

Sally **Dickson** replied that while it was impossible to write every single possibility into the policy, she thought that if two people were looking for or agreeing to a consensual relationship, and one person was senior or supervisory to the other that was the point at which they had to report it.

Ken **Dodge** thought it could have a lot more teeth. He returned to the example of the professor and the graduate student. If the professor straightforwardly asked the graduate student for a cup of coffee and then on a date for something more, he wondered if that constituted sexual harassment already or whether that was a growing consensual relationship. He asked if, in fact, the professor had done anything wrong yet.

Sally **Dickson** said that her legal training told her 'it depends.' (Laughing) If the other party felt uncomfortable by the professor's overtures it could be harassment. It depended on how the other party had reacted to or responded to or felt about the other person's behavior.

Ken **Dodge** continued his dialogue by interpreting Ms **Dickson's**

response to mean that the person making overtures could not know at that time whether they were engaging in harassment or not because it depended on what happened next.

Sara **Beale** interjected that it would also depend on what happened before that. It was the whole scenario, Sally **Dickson** added. Ken **Dodge** elaborated on his point, saying that the first time the professor said he wanted to have a date with him/her, the person felt uncomfortable, and that was sexual harassment. If the person said 'yes' it was consensual relationship. The presenter replied that their harassment policy was a very broad policy, but the main ingredient in this scenario needed to be 'severe and persistent' pursuit of the goal. The questioner thought that the right thing to do would be to declare that relationship a violation. The establishment of the relationship was a violation, and to have no dating policy at all would be a stronger policy still. Sally **Dickson** added that there were some schools that had a policy like that. Ken **Dodge** said that he didn't know how one established a sexual relationship and a supervisory relationship, and did not violate something.

Professor James **Boyle** (Law) said that he wished to echo Bob Mosteller's comments about the distinction between romantic and sexual. He understood the goal but it seemed to him that that was something they might want to think more about. If sanctions were intended, a policy which was vague was very problematic, particularly if there was concern to minimize exterior perceptions about fairness. Whether a relationship was or was not sexual, there was some degree of clarity on that in recent events in the [White House] (laughing). Whether the relationship was or was not romantic particularly through the eyes of other people observing from the outside was considerably fuzzier. An outsider was to decide on the basis of what he/she saw whether or not a romantic relationship existed. A second point he wanted to make concerned the fact that if the policy was eventually going to be implemented, the opportunity for people to look at it beforehand would actually tell them that it existed. Not all faculty were fully aware of all policies at all schools as strange as it may be to say. Third, he wondered if this policy was intended to replace existing policies at other schools. For instance, the Law School did have a policy which forbade faculty-student dating. This policy was both perhaps broader in some sense as it dealt with supervisory relationships in employment and narrower in some sense.

Sally **Dickson** didn't think that there had been a discussion concerning replacing one policy with the other, i.e. the Law School's with the proposed one. James **Boyle** replied that they were clearly different, i.e. one could be in violation of the Law School's policy and not this and vice versa. He asked if this was intended as an umbrella policy that replaced a different policy or if it was intended to provide general guidelines; he wasn't clear what its intent was.

Professor Paul **Haagen** (Law) could not see how to fit together the exhortation that anyone employed by the university should not participate in a romantic or sexual relationship and if they did it anyway, there was the requirement of disclosure. He wasn't quite sure if he understood how those two things fit together and how they fit together where there was no choice. So he posed a hypothetical question whereby romantic attachments between Coach Krzyzewski and one of his players existed and whether then the player would either have to stop playing or have to leave the university and whether if he left the university would one or the other have to sit out for a year. There would be very substantial consequences for the student where there was no choice, or the coach would have to be fired. He was trying to deal with a world that was real here.

Professor John **Staddon** (Natural Sciences) thought there had to be some grey area left to the civility of human beings. It was impossible to define everything. And even if one could, there would be argument about it.

Sara **Beale** said she had wanted to suggest this at this point because obviously so much thought had gone into it. She wondered if a 'one size fits all' umbrella policy was wise or whether in the academic context a 'no dating' policy was best. There was a disjunction between 'don't do it' and 'if you do it, report it.' There should be a prohibition that said faculty and student should never date, given the harm it could do to both as the preamble to the proposed policy suggested.

Peter **Burian** reminded the discussants that a student-faculty relationship would be judged not on some general standard that insisted that it was never appropriate for a faculty member to date a student, but rather would stick to what he thought was the center of this policy, which was to focus on supervisory relationships.

He then asked if he might make just a couple of brief suggestions of what Council might do, although he didn't want to cut off discussion. First, if she was willing, would Sally [Dickson] mind sending the policy as formulated to deans and ask them to distribute the policy to their faculty, ask them for responses directly to her in whatever way she wished. That could be done almost instantly. Secondly, it might be possible for her or for some group of faculty who were interested to draft an additional item which could specifically address student-faculty relations. One of the functions of discussion here might be to see what sorts of amendments to this policy might be desirable. It seemed to him, there would be something to be said for returning with suggestions. Ordinarily, Council would deal with this at the next meeting and he suggested definitely to put it on the agenda for next meeting, but it was not necessary that the discussion be concluded next time. The Council's role, as he understood it, was not legislative here, but rather on the one hand to give some kind of endorsement or

withhold it to a policy of this kind, and on the other hand to make suggestions. He would like to suggest that both of those approaches be pursued for the sake of having the best document possible.

Professor Tom **Spragens** (Social Sciences) offered the observation that the way the proposal was written, had prompted some of these comments. The language of the policy suggested an already existing romantic relationship and then the issue was raised whether a supervisory relationship should exist under those circumstances. It seemed to him that the problem was likely to be the other way around and that the policy didn't quite give appropriate guidance.

The **Chair** after thanking the presenter and reminding members to send suggestions for changes and additions to the policy to her, interpreted the movement of people to the exits as a motion to adjourn.

Submitted for consideration by the Academic Council,

A. Tilo Alt Faculty
Secretary