



UNIVERSITY OF ALBERTA

UNIVERSITY GOVERNANCE

General Faculties Council
Campus Law Review Committee
Approved Open Session Minutes

Thursday, November 24, 2016
2-31 South Academic Building (SAB)
9:30 AM - 11:00 AM

ATTENDEES:

Voting Members:

Steven Penney	Chair, Academic Staff Elected from at-large, appointed by GFC Executive Committee
Michael Bartkus (Delegate)	Member, Member, University of Alberta Protective Services
Maxine Clarke	Member, Staff
André Costopoulos	Member, Vice-Provost and Dean of Students
Deborah Eerkes	Member, Discipline Officer, Office of Student Judicial Affairs
Francesca El Ghossein	Member (Delegate), Representative of the Students' Union Executive, appointed by the SU Executive
Marc Johnson (Delegate)	Member (Delegate), Representative of the Student Ombudservice
Judith Garber	Member, Staff s
Stuart Landon	Member, Academic Staff who is a former Associate Dean, or former Discipline Officer, or former UAB Chair
Aman Litt (Delegate)	Member, Director, Residence Services (Ancillary Services-Residence Services)
Mackenzie Martin	Member, Student-at-large (Undergraduate)
Sasha Van der Klein	Member, Representative of the Graduate Students' Association, appointed by the GSA Executive

Non-Voting Members:

Meg Brolley	Member, Director, General Faculties Council Services and Secretary to GFC
Michael Peterson	Member, Appeals and Compliance Officer, Resource

Presenter(s):

Steven Penney	Professor, Faculty of Law, and Chair, GFC CLRC
André Costopoulos	Vice-Provost and Dean of Students
Michael Peterson	Appeals and Compliance Officer, University Governance
Deborah Eerkes	Director, Student Conduct and Accountability

Staff:

Andrea Patrick, Coordinator, GFC Campus Law Review Committee
Marion Haggarty-France, University Secretary

OPENING SESSION

1. Approval of Agenda

Materials before members are contained in the official meeting file.

Motion: Van der Klein/EI Ghossein

THAT the GFC Campus Law Review Committee approve the Agenda.

CARRIED

2. Approval of the Open Session Minutes of October 27, 2016

Materials before members are contained in the official meeting file.

Motion: Van der Klein/Bartkus

THAT the GFC Campus Law Review Committee approve the Minutes of October 27, 2016.

CARRIED

3. Comments from the Chair

The Chair welcomed new member Dr Stuart Landon to the meeting and invited all members to introduce themselves.

DISCUSSION ITEMS

4. Sexual Violence Policy and Procedure: Development Update

Materials before members are contained in the official meeting file.

Presenter(s): André Costopoulos

Purpose of the Proposal: For information/discussion.

Discussion:

Continuing on the discussion regarding the development of the draft Sexual Violence Policy and Procedure, the Chair enquired about the routing of the proposal through GFC and the Board of Governors. In response, the GFC Secretary indicated that the Provost and Vice-President (Academic) had asked this Committee to officially consider this proposal in the governance routing, even in the absence of related changes to the Code of Student Behaviour (COSB).

Initially, Ms Eerkes noted a few errors within the documentation, including within the definition of consent, and she stated that this will be amended as appropriate. Members engaged in discussion surrounding this term, and a member enquired whether consent between a supervisor and learner has been fully explored.

Members expressed comments regarding other definitions within the draft documents, including disclosure, and it was noted that the issue of complaints or reports about sessional staff members and graduate students, who may be at greater risk and who may not be employed or studying at the University of Alberta, is not addressed in the Policy, Procedure and information documents. On the definition of sexual harassment, Ms Eerkes noted that it already exists with institutional policy, specifically the Discrimination, Harassment and Duty to Accommodate Policy. In addition, a member sought clarification surrounding the definitions of retaliation and harassment. The GFC Secretary, Ms Brolley, indicated that there are changes coming to the definitions within the Discrimination, Harassment and Duty to Accommodate Policy which would require review to ensure alignment.

The Chair explained that the definition of distribution of intimate images remains problematic and that there is great potential for misinterpretation. The Chair suggested that the definition could be revised to prevent this. In response, Dr Costopoulos noted that the underlying issue is whether something is or is not a sexual act but agreed that the wording should point to the sexual act. The Chair explained that this is difficult to do without proof of intent to harm or harass, and that this is the problematic element within the design of the definition and that further, courts have been skeptical of attempts to constrict freedom of expression.

Members discussed whether the definition of voyeurism would be more appropriate in this context and whether the two definitions could be combined to strengthen the language. Members also discussed the relevant differences between the definitions, such as between employees, or between staff and students, etc., and that it is the relationship that changes the applicability of the definitions. A member noted that the relationships between students is a critical piece.

The Chair commented on prohibiting distribution of one's own body without prior consent is too broad, and Dr Costopoulos agreed to review this matter further.

A member sought clarification in regards to concurrent criminal, civil and university processes of investigations. On this, Dr Costopoulos noted that the different processes are frequently utilized, and that all jurisdictions are separate. Members continued to discuss interim measures and accommodation during these concurrent processes. Members engaged in a lengthy discussion in relation to prior consent and the remaining threat of discipline or punishment, and the Chair reiterated that these definitions may violate the Charter in their current form.

A member enquired about whether this Policy will be reviewed within a few years, as is the case with other Policies, and Dr Costopoulos confirmed that it would be reviewed.

The Chair thanked presenters and members for their commentary.

5. Student Conduct and Accountability 2015/16 Annual Report and Statistics

Materials before members are contained in the official meeting file.

Presenter(s): Deborah Eerkes

Purpose of the Proposal: For information/discussion.

Discussion:

Ms Eerkes provided members with a summary of the Report, adding that it indicates a 38% increase in work load from the previous reporting period. She clarified that an increase in charges of violation of safety and dignity are due to an increase of reporting.

In addition, she reported an increased rate of academic misconduct from international students and members discussed whether these were primarily undergraduate or graduate students.

In regards to plagiarism cases, Ms Eerkes clarified that only the most severe cases are directed towards her office and that most are handled at the Faculty level. Member discussed the differences between expulsion and suspension.

Ms Eerkes reported a drop in cases related to alcohol and drugs.

Finally, Ms Eerkes explained that a number of students have reported that mental health conditions may have contributed to their cases, and Dr Costopoulos emphasized that this issue is being reviewed to ensure that the discipline process and need for medical help are separate.

The Chair thanked Ms Eerkes for her Report.

6. Annual Report of the Appeals and Compliance Officer (2015-2016)

Materials before members are contained in the official meeting file.

Presenter(s): Michael Peterson

Purpose of the Proposal: For information/discussion.

Discussion:

Mr Peterson provided members with a description of his role as the Appeals and Compliance Officer and the three university appeal bodies – the University Appeal Board (UAB), the GFC Academic Appeals Committee (GFC AAC) and the GFC Practicum Review Board (GFC PRB). He explained that these bodies represent the final level of university appeal, subject to judicial review.

Mr Peterson noted that members of appeal panels are volunteer students and staff, and that they are trained in following fair process. On this point, he acknowledged the hard work of these volunteers in carrying out their roles.

In regards to the contents of the Report, he pointed out a levelling off of academic offences, and in terms of appeal numbers, he reported a decrease. He stated that this may be due to a lag in decisions from late spring which resulted in appeals outside of the reporting period. Mr Peterson reported that non-academic offences, although increasing, still make up a small number of appeals, but they do require additional resources to address.

Mr Peterson provided members with a brief summary of the appeals decisions. He pointed out that the disposition statistics are only a snapshot of the year's cases, each decided on its own unique merits, and not necessarily showing any trend.

A member asked whether, in the face of new evidence, the appeal can be forwarded back to the Faculty. Mr Peterson explained that the AAC Policy provides for this process.

The Chair thanked Mr Peterson for his thorough Report.

7. Question Period

There were no questions.

INFORMATION REPORTS

8. Items Approved by the GFC Campus Law Review Committee by E-Mail Ballots

There were no items.

9. Information Items Forwarded to Committee Members Between Meetings

There were no items.

CLOSING SESSION

10. Adjournment

The Chair adjourned the meeting at 10:50 a.m.