



# Faculty Senate Archives

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Faculty Senate

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## Volume VI

### Agenda and Minutes of the Meeting of April 19, 1993

**AGENDA**  
**FACULTY SENATE**  
**The Wichita State University**

Room 126 CH

**3:00 p.m.**

Meeting Notice: Monday, April 19, 1993

Order of Business:

- I. Calling of the Meeting to Order
- II Informal Statements and Proposals
- III. President's Report
- IV. Approval of Minutes (March 15, 1993)
- V. Old Business
  1. Sexual Harassment (Ivory Attachment)
  2. Change in Executive Committee Proposal
  3. Changes in General Education Committee
- VI. New Business
  1. Task Force on Teaching/Faculty

EXECUTIVE COMMITTEE

Kathryn Griffith, President	3165	Box 17
Keith Williamson, Vice President	3185	Box 31
Joyce Cavarozzi, Secretary	3541	Box 53
James Clark, President-Elect	3220	Box 78
Albert Gosman, Elected by Senate	3402	Box 35
John Dreifort, Elected by Senate	3150	Box 45
Elmer Hoyer, Apptd by Sen. Pres.	3415	Box 44
A. J. Mandt, Past President	3125	Box 74

PROPOSED AMENDMENTS TO 'SEXUAL HARASSMENT' DOCUMENT

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To: Members of Senate

From: Dwight Murphey

Date: April 14, 1993

I. Explanation of need: Some of the important concepts that are used in defining the three types of sexual harassment are necessarily vague. These include "implicitly," "intimidating," "hostile" and "offensive." No one gains--and certainly not those who feel strongly about the need to root out genuine sexual harassment--if this vagueness leads to an abuse of the process. I think the vagueness can largely be cured by establishing some reasonable benchmarks for judging whether a violation has occurred.

Proposed amendment: With this in mind, I move adding the following section immediately following the listing of the three types of harassment:

"Benchmarks for Determining Violation:

Whenever the determination of whether sexual harassment has been committed involves judging a factor that is inherently subjective, such as the concepts of "implicit," "intimidating," "hostile," and "offensive," a two-part test shall apply:

a) First, the presence of the violation shall be determined by an "objective test" that inquires whether "a reasonable person of ordinary sensitivity in the context of the behavior" would understand the respondent's actions to be unwelcome; and

b) Second, if the first test does not show a violation, the presence of the violation shall be determined by a "subjective test" that inquires whether the complainant personally took the behavior to involve implicit sexual harassment or to be intimidating, hostile or offensive; provided, however, that in applying this test a second element must be found in order to establish a violation: that the respondent, when he or she acted, knew or had reason to know that the behavior would be unwelcome."

II. Explanation of need: While no decent person wants offensive sexual pressure to be brought to bear by one person on another, care needs to be taken to maintain a proper sense of proportion,

in a given instance, about the seriousness of any particular charge. Even behavior that is in violation can run the gamut from extremely serious and damaging to virtually trivial; there is a continuum with regard to the gravity of the offense. Criminal law and the law of torts are careful to distinguish among types of offenses, and we need to show the same care here. (I take it that those who feel most strongly about the need for rooting out sexual harassment agree that their own objectives are best served by a process that works justly.) There is nothing in the proposed document, however, that gives recognition to the existence of a continuum.

Proposed amendment: Rather than to leave the variability of offenses to inference, I move the addition of the following as a separate provision right before the provision entitled "Procedure":

"Recognition of Varied Seriousness of Violations:

It is the policy of the University community to act vigorously against acts of sexual harassment in due proportion to their seriousness in a given case. It is recognized that violations, if found to have occurred, can vary greatly as to their intent, their nature, their effects, and as to extenuating circumstances. All such factors are to be given due weight in the disposition of a given case."

III. Explanation of need: An act of sexual harassment can be quite serious, and for that very reason a charge of someone's having committed sexual harassment is equally serious. The need to protect the rights of the respondent runs parallel to the importance contemporary society assigns to the alleged offense. Because of this, procedures to protect the accused are essential.

Proposed amendment: I move the addition of the following to the end of the proposed document:

"Assurance of Due Process:

Without limitation upon other rights as are generally accepted as a part of due process, the respondent shall have the following rights:

- a) To be informed of the charge as soon as possible after it is made so that he or she may respond before the matter can be prejudged.
- b) To know the full details of the complaint and to face the accuser.
- c) To be presumed innocent until the violation is

proved by clear and convincing evidence.

d) To a fair hearing before any fixed conclusions are drawn by an administrator or by any persons involved in the procedure.

e) To have past charges taken into consideration only if a fair hearing was afforded upon them at the time they arose, or if the respondent admits to them.

f) To be subject, if found to have committed sexual harassment, only to those forms of punitive or corrective action as are compatible with the integrity of human beings, which shall not include mandated "sensitization" or mental reorientation.

IV. Explanation of need: The procedure that is called for in the proposed document involves so many steps that it threatens to exhaust both the complainant and the respondent. Either or both of them, then, will have reason to feel unjustly treated. Boiled down, the procedure calls for: (a) An informal, but nevertheless extensive, process by an administrator that involves gathering evidence as well as attempting to resolve the matter. (b) A second investigation, after the written charge is filed, by the affirmative action officer, apparently involving a re-interviewing of the relevant people. This involves, too, a second attempt to mediate. (c) A formal hearing of the complaint by a panel. (d) If the panel finds a possible basis for dismissal for cause, the matter is sent to the Informal Review Committee called for by that procedure. (e) This is followed by the hearing of the Formal Review Committee. All of this may take many months and consume vast energy on everyone's part. It can be avoided by an early branching-off of the dismissal-for-cause aspect.

Proposed amendment:

To remand the document back to the sexual harassment document committee to reword all relevant parts of the section on "Procedure" to provide, in effect, that: In the initial informal review by the administrator [part a above], the administrator will determine whether to seek a ruling from the Vice President for Academic Affairs that the matter may be serious enough to warrant a proceeding for dismissal-for-cause. If the VP so rules, the matter should go directly to a dismissal-for-cause Informal Review Committee, bypassing parts (b) and (c) above. If the VP does not so rule, the matter can proceed through the sexual harassment procedure [parts b and c], but cannot go on from there to dismissal-for-cause.

**FACULTY SENATE**  
**Wichita State University**

Minutes of the Meeting of April 19, 1993

**MEMBERS PRESENT:** Allen, R. Armstrong, Bair, Bajaj, Benson, Brady, Campbell, Chopra, Clark, Daugherty, Duell, Erickson, Farnsworth, Fisher, Furtwengler, Gosman, Griffith, Gythiel, Hawley, Horn, Kahn, Kelly, Koppenhaver, Mandt, Masud, Merriman, Murphey, Romig, Sharp, Sheffield, Sutterlin, Teshome, Williamson, Yeager, Zytchow

**MEMBERS ABSENT:** Alexander, W. Armstrong, Berger, Billings, Burk, Carroll, Cavarozzi, Davis, Hoyer, Jeffers, Martin, May, Murdock, Parkhurst, Pitetti, Shanahan, Sweney Thomson, Wherritt, Widener

**GUESTS:** Brunk, Brunner, Wahlbeck

I. CALLING THE MEETING TO ORDER. The meeting was called to order by President Griffith at 3:00 p.m.

II. INFORMAL STATEMENTS AND PROPOSALS

Senator Masud complimented Senator Mandt on the Governance Conference only he was disappointed there weren't more attending from KS and KU.

Senator Mandt thanked the rest of the committee for their help.

Senator Sheffield asked if the Executive Committee could appoint an ad hoc committee to look into hiring practices on campus. He is confused about rules, policies and procedures related to hiring.

Senator Masud asked if there are two sets of rules for non faculty hiring and faculty hiring.

President Griffith said the committee will look into it. Barbara Bowman said no rules were broken. These are procedures--not rules.

III. PRESIDENT'S REPORT.

Regent Montgomery visited campus. Several of the faculty discussed issues with him. He made a point of stating at the Board of Regents Meeting how much he enjoyed his time on our campus.

Regent Slawson will be on campus April 30. The CAC is completely booked that day with 800 students for Law Day. President Griffith is trying to find a quiet place for Regent Slawson to talk to faculty,

The Legislature told the Board of Regents that faculty salaries couldn't go up unless tuition goes up.

IV. APPROVAL OF MINUTES. The minutes for March 15 were approved as written.

V. OLD BUSINESS.

1. Sexual Harassment. Senator Murphey has written some proposed amendments. Items one and two were discussed at the last meeting and are to stay.

Senator Horn asked what is in place now. President Griffith said almost nothing.

Senator Mandt asked how broadly can you define Sexual Harassment. How do we determine those people who are highly susceptible to thinking they are being

harassed.

Senator Masud said he didn't like the phrase "unprofessional conduct" in the original draft.

Senator Clark said he wouldn't drop "good faith."

Senator Romig said the issues had to do with impartiality. A statement might be needed that the burden of proof is on the faculty member. Senator Bereman said that was in an earlier version.

Senator Williamson said the burden of proof must always be on the person making the accusation.

Senator Mandt said we shouldn't legislate appearances. There are always worries when he likes or dislikes a student a lot. Is he being fair in grading?

Senator Gosman said we are wiping out the AAUP statement too soon. Senator Sheffield said he is willing to add that and work on the document. Senator Masud said the AAUP statement is very good. It clearly cautions the faculty and supervisor. Senator Murphey said the AAUP statement isn't about sexual harassment. It's alright for it to stay that way.

Procedure was discussed. Senator Sheffield said they had tried to set a 2 stage procedure:

1. Complaints without merit could be eliminated before taken to a serious point. It also provides for department chair and deans to supervise and handle the problem quickly and to make it easier to make the step to formal charges, if is necessary.

2. Then there is the more formal procedure.

Senator Williamson said these things work up the hierarchy. Senator Bereman said recommendations to her said there should be multiple entry points into the complaint process. Senator Williamson said we shouldn't mandate the formal review process.

Senator Duell said we could use 'immediate supervisor.' Senator Bereman said she didn't have a problem with that. If we specify immediate supervisor the flexibility is out. Senator Erickson said that relations between a faculty member and his chairman can be very tense. There ought to be an out.

Senator Horn asked if the Director of Affirmative Action should be present in every case. Senator Bereman said that might be advisable.

Senator Allen said she believed we ought to have someone outside the chain of command. Except for the first one, the Affirmative Action officer has been an apologist for the administration. Someone else should be available. There used to be an Affirmative Action Committee that was outside the chain of command.

Senator Sheffield said there was a formal procedure. Senator Allen said the person making the complaint should be able to go outside the chain of command. Senator Gosman said if Senator Allen has been in cases that don't work, maybe we're not giving the informal procedure a proper chance. Senator Clark said in the Dismissal for Cause Procedures, the informal stage is a group of faculty. Maybe this idea would work. An ombudsperson on campus could be that person.

Senator Bair said that in a case she was involved with that went through chain of command, the process gave the administration control. We need to get someone outside the chain.

Senator Bereman asked if this third party was an advocate for either party? Senator Allen said as an advocate for the person complained against.

Senator Bereman said they tried to make it simple. Many of these problems involve people's reputations. Confidentiality is crucial. What should the neutral person do?

President Griffith called for a straw vote. Should a third party be a neutral person or an advocate with the complainant in the informal process?

President Griffith said one can always have a colleague go with him/her.

Senator Bereman said this means five people are now involved dealing with issues of confidentiality. Senator Mandt said we do that now.

Senator Bair said the person being accused wants to escape the hierarchy that is not working.

Senator Sheffield asked if we want a faculty member. Senator Horn asked if that was fair to the student. President Griffith said this raises the problem if this is a policy for everyone or not. Senator Sheffield said the committee will try to work out something outside the hierarchy.

Senator Murphey said #4 has to do with procedural routing. He suggests splitting Dismissal for Cause early. Senator Sheffield say that pre-judges the case. We are trying to keep this in the confines of peer review.

Senator Williamson said considering the seriousness of this, despite the lengthiness of the procedure for sexual harassment, we should leave this amendment out.

Senator Murphey said even the informal review is lengthy. Someone might say they hate to make a complaint because it will take two years.

Senator Clark suggested speeding up the process in the formal procedure. Delete steps 2 and 3 of investigation by the AAO, and another mediation attempt could be left out.

Senator Duell said the committee recommends Dismissal for Cause. Does it then jump over for another hearing? Senator Sheffield said there is a specific procedure for Dismissal, and it jumps into the formal procedure.

Senator Horn asked if we could use a lie detector? Senator Duell said she would like to see what the research says about this.

Senator Hawley moved, and Senator Mandt seconded to delay discussion until the next meeting. Motion carried.

2. Change in Executive Committee Proposal. Senator Romig's item about a change in the Executive Committee structure was discussed. He asked the parliamentarian if this meant a change in the Constitution. Senator Benson said if it is a committee change, the Senate can do it. If the Constitution is changed it should go to the full faculty. President Griffith said that this is a major change and should go to the general faculty. Senator Murphey said we should let the parliamentarian have time to research this, and go on and discuss the motion.

Senator Romig says the charge for the Executive Committee is to set agenda. His concern is that in his 2 years in this body, he has seen the Senate and, more specifically, the Executive Committee more involved in university policy. If we are to become more active, we need wider representation. This year there are 2 colleges not represented on the Executive Committee. He has been reading about faculty senates and a problem is a lack of a broad pool of leadership. This proposal could address that. He moved his motion. Senator Hawley seconded.

Senator Mandt said he opposed the motion. He said he understood the concern about the concept of representation. The fundamental thing for consideration is that there is nothing to prohibit the Senate from doing what is proposed in this motion. There are other considerations as we choose officers. Most often it is ability and experience, their personal and professional abilities, and being an effective member of a leadership team and a sensitivity to all constituencies. If the Senate has not made it decisive and primary in

the past, why make it a rule? The proposal has half of the members elected by the Senate as a whole, and the other 5 from which ever colleges weren't elected and they would be elected by their Senators. Ultimately there would be an Executive Committee that wouldn't represent the Senate. This proposal's target is majority rule.

The Executive committee is not a representative body. It is an Executive body. It's purpose is not to represent us in our local natures.

Senator Mandt moved to table the motion. There was a second. The motion passed.

Senator Murphey asked if tabling required a majority or 2/3. President Griffith said a majority.

Senator Hawley said she thought the motion to table was horrible. Senator Murphey said he thought that sometimes we cut off debate prematurely and he regretted that.

Senator Mandt said he only meant to not discuss it today. Senator Farnsworth said it can be removed by a two thirds vote. Senator Williamson said it can be taken from the table at the next session, and it needs a second and majority vote.

The meeting was adjourned at 5:00 p.m.

Respectfully submitted,n

Joyce Cavarozzi, Faculty Senate Secretary