

Northwestern University
Minutes of the Faculty Senate
Scott Hall (Guild Lounge) - Evanston, Wieboldt Hall 421 - Chicago
March 13, 2019

The regular monthly meeting of the Northwestern University Faculty Senate was held on March 13, 2019 at Scott Hall's Guild Lounge in Evanston with videoconferencing to the Chicago campus in Wieboldt Hall 421. A number of Senators participated remotely. President Baron Reed called the meeting to order at 5:06 p.m. A quorum was present.

The president welcomed the Senate and then gave his report:

Faculty Senate Researcher Tricia England has been producing a weekly digest of academic news for the Senate's Executive Committee. The president said that the response to the digest has been very positive. Having said that, moving forward the digest will be distributed to all senators and may be shared with colleagues if they so wish. Faculty not in the Senate may sign up for the digest by sending a request to faculty-senate@northwestern.edu.

The Provost Office and the Office of Sponsored Research are coming to the end of the first year of the Ascend Program, which is a program for faculty development aimed at mid-career faculty. The president said that several faculty who have been or currently are in the senate have participated in Ascend. Faculty who are interested in participating should contact Celeste Watkins-Hayes, Associate Vice President for Research.

The president said the Provost's Office has been running a faculty leadership program this year. One of the many helpful sessions was a media training program offered by Global Marketing and Communications. The president said he recently spoke with Jeri Ward, Vice President for Global Marketing and Communications, who said that this program will be offered to all faculty in the near future.

The expense of courses has been raised by many students as a major concern in recent years. The Affordable Instructional Resources Initiative, led by the Office of the Provost and the University Libraries, has been looking for a way to make courses less expensive. The president said they recently released a call for applications for grants to help faculty identify open education resources for their own courses and to publish articles on open education resources in an academic discipline. Faculty interested in applying for one of those grants should contact Chris Diaz (chris-diaz@northwestern.edu) in the library.

The president shared highlights from his trip to the NU-Q campus. While there, the president connected with faculty in Doha, learned more about the nature of their work, and heard about the issues that were top of mind for faculty on that campus. Like their Chicago and Evanston colleagues, they too are concerned about academic freedom and working conditions for NTE faculty. As the Senate gives attention to these issues, the president said they will be sure to keep NU-Q faculty in mind and to seek the input of Craig Lamay and Sami Hermez, the two senators in Doha.

Two reminders about upcoming events were communicated: Lanny Martin, the Chair of the Board of Trustees, will attend the April Faculty Senate meeting. Also, the Spring Faculty Assembly, scheduled for May 22, will have two parts: a question and answer section with University President Morty Schapiro and a section devoted to graduate education led by Teresa Woodruff, Dean of The Graduate School and Associate Provost for Graduate Education.

The president concluded his report and then introduced the Academic Freedom Forum panelists: Faculty Handbook Committee Chair Richard Kieckhefer (moderator), Professor Laura Beth Nielsen, and Professor Andrew Koppelman.

Senator Kieckhefer said the Academic Freedom Forum was a product of the Faculty Handbook Committee's central pursuit: revising the opening statement on academic freedom in the Faculty Handbook. The current academic freedom statement in the Faculty Handbook is the 1940 AAUP statement on academic freedom, which is narrowly focused on the relationship between academic freedom and tenure. Senator Kieckhefer said the committee intends to address the notable absence of NTE faculty in the statement and also some of the more contemporary issues surrounding academic

freedom. Senator Kieckhefer then shared the talking points (Appendix A) for the forum, which served as a guide for the conversation overall.

Professor Laura Beth Nielsen spoke first. A summary of her talking points was as follows: Professor Nielsen shared her background as a sociologist of law and her focus on offensive speech in much of her research. She uses methodological and empirical research in three arenas—work space, college campuses, and public spaces—to study what she calls legal consciousness, or a person’s psychological understanding of the law (shared or disputed principles and not necessarily the rule of law). She then outlined three points that were her central thesis for the academic freedom discussion.

1. Free speech and academic freedom are not equally free for everyone: Professor Nielsen dispelled the notion that speech is absolutely free and named numerous examples, like panhandling and inciteful speech, as evidence that speech is balanced by the judiciary. Furthermore, seemingly equal speech laws tend to protect the powerful and popular more so than others.
2. Context matters for understanding harms: The blended nature of a university—a home, work space, a classroom, a public square—necessitates a recalibration of speech for each of these venues. Professor Nielsen argued that the allowance of offensive speech towards disadvantaged groups in any of these spaces, on campus or off, is not just speech. Rather, it results in the harm of subordination, the harm of perpetuating discrimination, and the harm of creating and reinforcing existing inequality. Professor Nielsen used the example of racial microaggressions to further this point by demonstrating, based on her research, that experiencing racial microaggressions on campus is associated with a range of negative mental health outcomes, including depression, anxiety, suicidal ideation, alcohol and drug use, and high blood pressure. Furthermore, these types of events cause academic underperformance, which perpetuates inequality.
3. Faculty are learners, teachers, and stewards of the university first and foremost. Professor Nielsen said this is the faculty’s guiding principle. And this means faculty must lean in to these difficult conversations in order to define what is worthy of academic discourse. Faculty will

disagree on balancing, and that is okay, she said. But faculty have to communicate about it and have a clear system for the outcome of that communication.

Professor Andrew Koppelman spoke next. A summary of his talking points was as follows: Professor Koppelman noted that he teaches free speech at the law school and publishes articles on free speech law. Professor Koppelman then voiced some concern about current policies in place, including the Faculty Fitness Panel. Classrooms, he said, are designed to be uncomfortable spaces where offensive topics may be discussed in the interest of education. He used his own class and the teaching of the Dred Scott decision as an example of an offensive but necessary topic of discussion. His teaching of this material, in his view, could be construed as disruptive or demeaning, per the Handbook's current definition. Instead, he suggested adopting language from the University of Chicago Faculty Handbook. Speaking to the topic of microaggressions, Professor Koppelman said that of course they should be taken seriously and are a huge problem, but he disagreed that microaggressions should be subject to administrative sanction. He cited Section D, hypothetical scenario c of the talking points (see below) and gave an alternative example of a student who perpetually has a sour look on their face and the professor never calls on them. This would be a situation where speech is shut down and yet would be impossible to sanction, he said. Professor Koppelman concluded by saying that simply holding oppositional, even offensive views, should not be cause for throwing a faculty member off campus.

Senator Kieckhefer focused everyone's attention to principle 14 (see below) and asked what the implication would be if such wording were included in the Faculty Handbook. He then opened the floor for responses. Professor Koppelman noted his concern about limiting any language used for pedagogical means in the classroom. Professor Nielsen said the word "civility" is a politically charged term and is wary about using that particular word. She also added that she does not feel Northwestern's policy differs in any substantive way from the University of Chicago's policy on academic freedom. Senator Helen Thompson said that it seems incoherent to say "civility cannot be regulated or enforced" followed by the word "violations." Professor Claudia Swan offered an alternative term "mutual respect" in place of "civility." She also wondered whether a much larger statement outside of this paragraph should be made by the University about an environment of mutual respect, separate from the matter of academic freedom. The president briefly interjected to state that one of the reasons the

Senate decided to host the Academic Freedom Forum is the upcoming review of the Civility and Mutual Respect Policy to be undertaken by the Policy Review Committee in consultation with several members of the Faculty Senate.

Senator Micaela di Leonardo thanked Professor Nielsen for her nuanced view of the very complicated issues she addressed, particularly the medical data she cited. She added that, in her view, Professor Nielsen and Professor Koppelman generally oppose one another and asked each of them to speak to that point further. She also felt that Professor Koppelman's examples were too narrow and form-fitting when it came to microaggressions, which often occur outside the classroom and are far more offensive than the case he outlined. And yet, Senator di Leonardo said, the moment any ground is given on speech the enforcers step in to police all speech. She asked how we address this fundamental problem. Professor Koppelman responded by rejecting the absolutist label because he was against targeted speech towards a specific person. His reservations with further sanctions derived from the broadness with which terms like "hostility" can be interpreted. Professor Nielsen then said that the "hostile environment" language came from the sexual discrimination section of the Title VII. She encouraged faculty members to think deeply about not only their relationships with each other, but with students and staff because a college campus is many different things at once, including a home. She added that there is a dial—free speech on one end and equality on the other—and she tends to lean towards equality and she believes that view needs to be taken seriously when considering Northwestern's aspirations to diversify its campus.

The president pointed out that a large portion of the discussion thus far had been dedicated to adjudication of microaggressions. He brought up another important touch point for academic freedom, which is teaching evaluations. These play a large role in contract renewal decisions for NTE faculty. He then asked for comments from the panelists as to what role the pedagogical content, controversial or otherwise, should play in contract renewal. Professor Nielsen said she believes faculty should be evaluating one another and not relying on student evaluations as much. Professor Koppelman returned to an earlier point about student interest, stating that if you alienate a certain population of students you are not a good teacher.

Senator Laurel Harbridge-Yong asked a two-part question: She was curious to know the panelists thoughts on section D, hypothetical scenario a (see below), which she interpreted as both a hostile environment and an unsupported factual claim. The second part of her question came from colleagues in her department who noticed the Faculty Handbook Committee is predominantly NTE faculty and wondered if the committee was able to push back on certain issues when necessary. The president answered the second question by first pointing out that there are two tenured faculty members on the Handbook Committee: Senator Kieckhefer and Senator Robert Burns. He added that Senate has always worked on the presumption of good faith with the administration, and that has proved to be a fruitful relationship so far. The president also took this opportunity to highlight the need to reassess the part of the 1940 AAUP statement that grounds academic freedom in tenure. He stressed the importance of taking action to ensure academic freedom protections are in place for *all* faculty, tenure and non-tenure-eligible. Professor Nielsen said there must be an analysis of power hierarchies: the statement of academic freedom is itself an attempt to disrupt an established power hierarchy. Professor Koppelman returned to hypothetical scenario a (see below) and said he did not think it was possible to devise a standard that prevents the possibility of granting a “crackpot” tenure. Professor Nielsen added that aside from tenure reviews, faculty can decide who teaches a certain class and you could ban the professor in the hypothetical scenario from teaching the time period—20th century German history—in question. Professor Koppelman said this is what he meant by being a bad teacher. If a faculty member is teaching a class and the students get nothing out of it, then of course one would switch the class.

Senator Kieckhefer reiterated the point that the protection of NTE faculty was one of the major concerns driving the revision of the Faculty Handbook. In this context, he asked the audience what more could be said that is not currently in the talking points (Appendix A).

Senator Donna Jurdy asked if a department denies a faculty member tenure because the department has decided that the faculty member’s research does not align with the department’s strategic plan, does that constitute a violation of academic freedom? Professor Nielsen said, for one, that is poor administration. She also said she has served on the tenure committee for Weinberg and the standard for tenure is measured against the field, not department research priorities.

Past President Robert Hariman returned to hypothetical scenario a (see below) suggesting that if a historian denies the Holocaust they can be fired because they are not competent as a historian. Therefore, he claimed this scenario would not be protected by academic freedom because the history professor is no longer teaching history. Professor Koppelman said it is difficult to draw the line on matters of history because historians disagree on accounts of history frequently.

Senator Jennifer Cole offered her perspective stating that the process by which faculty handle issues when they arise is more important than the language used in the Faculty Handbook. Thus, she asked who is resolving the issues when they arise because as it stands the people who may be feeling a hostile environment are not being represented when these issues come to bear [Senator Cole's question was not answered as another Senator was called on].

Senator Tom Meade simply expressed delight that he works at an institution where a discussion of this type can take place.

Senator Claudia Swan returned to Senator Jurdy's point (above) and said that it is important to note the effect a department's shift in priorities could have on an NTE faculty member.

President-Elect Lois Hedman followed up on the NTE concerns by commenting on the difficult battle NTE faculty endured to even be able to participate in decision-making committees, and those putting up a fight were tenured faculty, not the administration. She added that NTE faculty have grown significantly and that there needs to be representation of those faculty on committees. Professor Koppelman said that from the standpoint of academic freedom, the growth of NTE faculty is a catastrophe because many of those faculty would have been tenured thirty years ago. For that reason, he said tenured faculty should consider NTE faculty their colleagues. This is why, Professor Koppelman said, faculty should continue to create processes that grant NTE the same academic freedom protections tenured faculty have. Professor Nielsen agreed, and she said over time there are many ways this can be done, including an increased presumption of renewability and looking at University of Toronto tenured teaching stream.

Senator Marco Nie said that he shared the talking points with colleagues in his department and they expressed concern over section A, principle 3 (see below). Specifically, in their view, defining academic freedom as a means of economic security signals a step towards the end tenure. Senator Kieckhefer said principle 3 is from the AAUP Statement of Principles on Academic Freedom and Tenure. Professor Koppelman said that the reality of tenure is that it does mean job security.

Senator David Uttal revisited section D, scenario a (see below) and offered three different hypothetical cases: 1. A Holocaust denier on the history faculty 2. A climate change denying geoscientist 3. A psychologist denying that stereotypes are a threat to psychological harm. For example, Professor Uttal said there is substantial debate about the methodological qualities of the studies Professor Nielsen cited, and he disagreed that the research she presented was unequivocal. Therefore, he said, to suggest that everything is contextually bound and a faculty member can be fired based solely on facts is inconsistent.

Senator Candy Lee said that students should be able to understand what range of learning is available to them, and, for example, denying the Holocaust restricts that range because it is unequivocally false to say the Holocaust did not happen. On the other hand, the third scenario mentioned does offer a range of research and data that can be interpreted differently, and students should learn about this entire range and formulate their own beliefs. Senator Lee said she did not believe academic freedom should protect denying the Holocaust.

The president then opened the floor for questions from all attendees.

Professor Barbara Newman highlighted section D, scenario b (see below) and offered a hypothetical of her own: What if a professor says in a class that western civilization is superior to other civilizations and uses a swath of arguments that cite economics and technological innovation etc., and that professor also carefully avoids making any overtly racist statements. Thus, Professor Newman asked what faculty should do if this individual has tenure. Professor Koppelman said that this scenario mirrors a real-life one at the University of Pennsylvania where a law professor has made similar arguments. He said he finds her views offensive, but she is a careful and serious scholar. So far, he said there have been serious enrollment issues in her classes. However, Professor Koppelman said that a salary freeze is too far in his opinion because that is punishing the individual's honestly held and seriously argued for

beliefs. Professor Nielsen said in this situation, and in the psychology example given earlier, if the debate is continuous in the field then that individual gets to be at a university. If your research goes off the rails and is completely removed from the current state of the field, she said, then you are no longer producing meaningful knowledge. Professor Koppelman said he is concerned about who is making the decision at that point. Is the administration firing a tenured professor, for example? Professor Nielsen said the question is what type of error should be made: to continue paying someone who is undeniably wrong or to risk calling academic freedom into question.

Professor Jackie Stevens said she found some tension in the points made by Professor Nielsen: Nielsen cited data on how powerful institutions typically fail disadvantaged groups and then was arguing to empower the administration with more discretion. Professor Stevens said the purpose of tenure is not to protect the Holocaust denier but to protect people making statements that are disfavored and in less powerful positions. Although Professor Nielsen said she thought the University of Chicago policy and the Northwestern policy were not that different, Professor Stevens said she sees a difference in the Northwestern language in the Handbook and the University of Chicago language, and that the latter provides more protection for a professor's curriculum that may include harsh and offensive language. Her final point spoke to the issue of NTE faculty serving on committees (mentioned earlier) stating that NTE faculty depend on the administration for their jobs and may be unwilling to take an adversarial position.

Senator Harbridge-Yong said she believed it is still a sanction to take a faculty member out of the classroom if students are enrolled in the course even if what they are teaching is offensive and she personally would want to take that individual out of the classroom in the case of the Holocaust denier. Professor Koppelman said he thought Northwestern got closest to this when they took the human sexuality course away from Michael Bailey, which clearly was a sanction. He was troubled by this move. Professor Nielsen asked, when is not having to teach a punishment? Of course we love to teach she said, but it is a lot of work. The problem in her view is that faculty are not facilitating enough conversations between themselves and their students before the situation gets to the point of formal complaints.

Professor Stevens suggested Northwestern adopt the University of Chicago's language because she believes there is less room for disciplinary sanction should a situation like the one described above occur. The president added that the author of the University of Chicago policy is currently employed at Northwestern now, and that is Sarah Wake, the Associate Vice President for Equity who also serves on the Policy Review Committee. He said faculty can expect her perspective to be offered when shaping the future policy at Northwestern. The president also pushed back on the issue of NTE faculty serving on committees by stating that NTE faculty have been very brave in working to secure a better working environment for all faculty, and he said he would be vehemently opposed to limiting their participation in shared governance in any way.

Professor Jorge Coronado said he does believe that as many protections as possible should be provided for NTE faculty so they can participate. He added that he thinks the Faculty Senate should argue for tenure for all faculty. If a faculty member can be fired, they have a very different relationship to the university than he does. That is why he feels the Senate should follow the AAUP's recommendation that all NTE faculty be brought to the tenure line. The president said that the Senate has the capacity for shared governance and has amplified the voices of NTE faculty. He also said many faculty share the ideal of advocating for tenure being given much more widely, but it seems unlikely to happen in the current climate. The president said part of what the Senate is trying to do is articulate things the Senate can concretely and tangibly accomplish.

Senator Lee said she feels a paragraph stating that academic freedom doesn't mean an individual can express only one view always is needed in the Faculty Handbook. She said a teacher bears a responsibility to critical thinking in the classroom.

President-Elect Hedman said that the Faculty Handbook committee recently updated the disciplinary proceedings and tried to emphasize informal conversations taking place before more serious actions are taken. They also clarified the steps in the disciplinary processes where emphasis was placed in the early stages on the judgement of peers rather than the administration. Professor Nielsen said that if we don't have those procedures in place then these issues tend to escalate to Title VII and Title IX complaints.

Senator Thompson followed up on the policy conversation by saying that the Senate in formulating its language should generally be defensive of speech. She said it is a genuine question how to accommodate a sensitivity to harmful language and defending positions deemed unpopular or offensive. Senator Kieckhefer said he felt the talking points (see below) he provided tried to balance those two concerns and asked for feedback from faculty on whether or not that was achieved.

Senator Kieckhefer then turned the discussion to important points not yet discussed: principle 15 and the issue of campus speakers, principle 16 on editorial autonomy and scholarly publications, and principle 19 that notes academic freedom applies to all campuses at Northwestern, including Doha. He said it is also important to be clear about what is enforceable and what is not. A statement on the importance of a culture of mutual respect, for example, he viewed as important but probably not enforceable. Senator Swan said that our statements on academic freedom could also be far more visible and accessible online, and she hopes this conversation results in more public-facing statements from the University on academic freedom.

Senator Cole endorsed the recommendation of language along the lines of mutual respect. She also believes it is critically important that all members of the university community provide input on what constitutes mutual respect and when mutual respect is felt because it can be perceived differently by different constituencies. It is not enough, she said, for only faculty to decide whether faculty have a classroom environment that is hostile. Therefore, Senator Cole said it is important Northwestern have policies in place that ensure channels of communication between all constituent groups—faculty, student, and staff.

Senator Uttal said that one of the most valuable takeaways from this conversation is the general agreement on the importance of coaching and mentoring. He said more needs to be done in this regard. Senator Kieckhefer said a statement on mentoring is currently being discussed in the Faculty Handbook Committee.

Professor Newman said that academic freedom is an important issue when it comes to campus speakers, but it is not the only issue. With especially controversial speakers, there is a financial issue as well, and security and speaking fees must also be taken into consideration. She then asked if the viability

of a speaker coming to campus relied on the student organization incurring the cost. Professor Nielsen said that at Northwestern there are student groups that have their own money to bring in speakers. However, she said, universities should not be obligated to go broke for a speaker.

Professor Coronado then asked what the next steps are for the academic freedom statement in the Faculty Handbook. Senator Kieckhefer said the Faculty Handbook Committee takes into consideration everything that was said at this meeting and (hopefully) all the comments from faculty outside of this meeting. Past President Hariman said that the joint signatures from the Provost Office and the Senate leadership on the Faculty Handbook ensures that the document is a contract between the two sides.

With no new business, the meeting adjourned at 7:04 p.m.

Jared Spitz

Secretary of the Faculty Senate