

Indiana University
UNIVERSITY FACULTY COUNCIL
February 24, 2015
1:30 P.M. - 4:30 P.M. (EST)
RECEPTION TO PRECEDE THE MEETING AT 1:00P.M. (EST)
Campus Center, Room 409, IUPUI

Attendance

MEMBERS PRESENT: John Applegate, Janet Badia, Charles Bantz, James Barbre, James Barry, Jonathyne Briggs, Chris Darr, Alyce Fly, Jan Froehlich, Charles Gallmeier, Don Gjerdingen, John Hassel, James Kauffmann, Robert Kravchuk, Wazir Mohamed, Wendy Morrison, Michael McRobbie, Yusuf Nur, Scott Opasik, Bill Orme, Jim Sherman, Rebecca Spang, Alison Strankrauff, Herb Terry, Jeff Watt, Marianne Wokeck

MEMBERS ABSENT WITH ALTERNATES PRESENT: Cassidy Sugimoto (Steve Sanders)

MEMBERS ABSENT: Charles Davis, Erika Dowell, Linda Adele Goodine, Lauren Robel, Ben Robinson, Nancy Virtue

GUESTS: Dan Calarco (OVPIT); Niki A DaSilva (IUPUI Student Government); Craig Dethloff (Faculty Council Office IUB); Jenny Kincaid (OEVPAAA); Melissa Lavitt (IUPUI, Academic Affairs); Karen Lee (IUPUI Faculty Council Coordinator); Anne Massey (UAA); Robert Minto (IUPUI Faculty Council); Cathy O'Bryan (UITS); Nasser Paydar (IUPUI); Jennifer Sage (ERM)

Agenda

1. Approval of Minutes

<http://www.indiana.edu/~ufc/docs/minutes/AY15/09.09.14.pdf>

2. Executive Committee Business (10 minutes)

(Professors Jim Sherman and Marianne Wokeck, Co-Chairs of the University Faculty Council)

3. Presiding Officer's Business (30 minutes)

(Professor Michael McRobbie, President of Indiana University)

4. Question/Comment Period (10 minutes)¹

¹ Faculty who are not members of the Faculty Council and who wish to address questions to President McRobbie and Co-Chairs Sherman and Wokeck should submit their questions to the Faculty Council Office at ufcoff@indiana.edu. Meetings are open to the public. Our documents are available at: <http://www.indiana.edu/~ufc>

(President McRobbie and Professors Sherman and Wokeck)

5. Proposed Amendments to the Bylaws of the Indiana University Faculty Council (20 minutes)

(Professor Herb Terry) [ACTION ITEM]

<http://www.indiana.edu/~ufc/docs/addDocs/AY15/U5Cover.pdf>

<http://www.indiana.edu/~ufc/docs/circulars/AY15/U5-2015.pdf>

<http://www.indiana.edu/~ufc/docs/circulars/AY15/U5-2015CLEAN.pdf>

6. Proposed Amendments to the Trustees Teaching Award (10 minutes)

(Anne Massey, Associate Vice President for University Academic Planning and Policy) [ACTION ITEM]

<http://www.indiana.edu/~ufc/docs/circulars/AY15/U6-2015.pdf>

https://www.indiana.edu/~vpfaa/academicguide/index.php/Policy_G-6

7. Update on the Faculty Annual Report Task Force (20 minutes)

(Anne Massey, Associate Vice President for University Academic Planning and Policy) [DISCUSSION]

8. Sexual Misconduct Policy (30 minutes)

(John Applegate, Executive Vice President for University Academic Affairs; Jenny Kincaid, Chief Policy Officer and Emily Springston, Title IX Coordinator) [ACTION ITEM]

<http://policies.iu.edu/policies/categories/administration-operations/equal-opportunity/sexual-misconduct.shtml>

9. Report on Policy Burden Survey (15 minutes)

(Jenny Kincaid, Chief Policy Officer) [DISCUSSION]

<http://policies.iu.edu/feedback/survey-results.shtml>

10. Bicentennial Strategic Plan Implementation (15 minutes)

(Professor John Applegate, Executive Vice President for University Academic Affairs; Professor Michael Rushton, Director, Strategic Planning, Office of the Executive Vice President for University Academic Affairs) [DISCUSSION]

<https://strategicplan.iu.edu/doc/plan.pdf>

AGENDA ITEM 1: APPROVAL OF MINUTES

[No Audio Available]

AGENDA ITEM 2: EXECUTIVE COMMITTEE BUSINESS

SHERMAN: ...but informative and I would suggest to others that having them speak to some of your faculty at least is a – is a really worthwhile thing. Second, I'll just tell you a few things that

are coming up on the Bloomington Faculty Council agenda. I suspect they're similar to things that are going on at your campuses as well. One of the – one of the issues was – was raised during the – the team faculty group that put together the strategic plan for the Bloomington campus, and it involved the – some suggested changes in shared governance in the really the structure and the process by which our faculty council operates. So we will be considering that in the – in the coming weeks of whether we think there is a better structure and a better process for effective shared governance. Another issue that has been raised at our campus and others as well is the issue of post-tenure review, and that's another issue that we'll be talking about in the coming weeks. And finally there's the – the issue of the – the role and the rewards and the obligations for non-tenure-track faculty – faculty, which is becoming more and more an issue as their number grows. Those are things that are on the horizon for the rest of this semester and I hope – I hope that some of you all are thinking about some of the same issues. Thank you.

MCROBBIE: Thanks, Jim. Marianne – Marianne would you – ?

WOKECK: Thank you and may I ask everybody who will talk into the microphones to do so directly because otherwise the tape does not pick it up so manners that we may not be used to in the classroom because we can just raise our voices instead. I would like to pick up from the one point that Jim made, namely the importance of not only knowing who our tenure line faculty are, and in what kinds of special positions or traditional positions they are, and more so what non-tenure lined faculty – what roles they play on the campus. And one of the studies that is underway on the IUPUI campus is a salary study that we do regularly every five years to find out whether within units there are people who have fallen out – out of the range of normal salaries, and if necessary suggest corrections, and also to allow us to have better idea of whether we are being fair to all faculty members, especially paying attention to women and underrepresented minorities. So this is something that has – that started on this campus over ten years ago. We had one in – five years ago. This is another five years, and we will have some longitudinal data to actually look at and see whether we've made progress. And if you want to have any – want us to share those with you, we are very welcome – we will gladly do so. The other point that I would like to say that will come out and will be reported for the campus is a study about how we treat transfer students, and what we do for transfer students and whether we need to improve or change or whatever, and it's a initiative supported by the John Gardner Institute and we are going to wrap this up by the end of February, which shockingly is this week. So we will – we will have a report ready in the next month, and then the reporting out and trying to figure out when we get the responses back from the people at the institute what we might do. And again, we would be very happy to share any insights that we learn from that and – if you think that might be applicable or useful for your campus. And those are the two major aspects that we're trying to get a better handle on, to know who we

are as faculty and what we can do especially as the faculty changes in the – under the circumstances of a very different kind of university than many of us, at least those of us who have lots of grey hair, entered into, and how we can really assure those kinds of goals that are articulated in the various strategic plans, especially the Bicentennial Strategic Plan. Thanks.

AGENDA ITEM 3: PRESIDING OFFICER'S BUSINESS

MCROBBIE: Thanks, Marianne. Any questions for Jim or Marianne? From anybody, any questions? Okay. So let's – let's move to the next agenda item, which is some comments that I want to make on a couple of things.

Firstly, I want to just say a few words about the legislative session. We had a meeting with the deans yesterday. We had a somewhat lengthy report on this from Mike Sample and Jeff Linder, but I'll just give you a sort of quick summary. And they, I think, as Jim was saying always stand ready to present a longer report if – if the UFC would like that at some point. The – the – the – the session is, I think, going so far pretty well for us. I think people are all aware that the – there is a certain amount of funding that is allocated to state universities through a series of different performance funding metrics, and based on the allocations according to those metrics the university stands to get a budget increase of about \$24 million dollars in total over – over the next two years, the next biennium. This – this is – this is really an incredible result. I – I think the – it's – it's more than the rest of the universities are getting put together in the – in the state. In terms of – in terms of the increase based on performance funding metrics all campuses have done – done very well. Some of you get a relatively small amount from the state like IU East, I think stand to have a budget increase of about 15% on the state component of their budget as well, so I think the university as a whole, what the campuses have done – have done very well. There obviously has been a lot of complaining from – from some of the places that didn't do so well, although some of them did quite well last time, so this is not unusual. So, when you look at the various figures, there are some great figures like, that we've produced in total across the university 63% of the total net increase in bachelor's degrees awarded across all of the state's public institutions. 68% of the total increase in on-time degrees. 79% of the total increase in high impact degrees. This is – this is across all of public higher education in the state. These – these are great figures and we are being appropriately rewarded for it. I think it's unlikely that – that these figures will be undone. Whether the same criteria will apply next year I think is probably going to be a matter that's yet to be determined but this is – these are the criteria that basically applied the last couple of years and – and as I said we have done rather well. The – the – in terms of our capital requests, these are still early days because a lot of negotiations and horse trading goes on about the university's capital request until – until very late in the session. I – I've been privy to some decisions that were, in one famous case, a decision that was taken on the last night of the budget, and by the time

they got round to finalizing the wording the next day, half of a building that we had fully funded, that night had dropped out sadly the next day. We eventually got it the next time round. So – so, as I said, it's not over 'til it's over until the very last minute of the – of the budget session. But at the moment, the renovations in Bloomington for the Old Crescent are in the budget. A chunk of the funding, the IU part of the funding for the Medical School at Evansville for the – for the new Health Sciences Center in Evansville is in the budget, and some funding for R&R is – is in the budget. We are fighting to get the – the special R&R for the regional campuses, which was in our initial submission, and also to get the funding for a building on – on this campus, the renovation of this campus for the School of Medicine. They are the two that we still think we have a chance of being able to have the legislature agree to. But, as I said, that where – what are we? – just now at the end of February? This doesn't stop for another – it doesn't finish for another two months. So there's quite a lot of time left. I think I'm meeting with various members of the leadership week after the next, specifically talking on these other – other topics.

Some of the issues about which we're concerned – Jeff Linder seems to think that – that some of those issues – issues dealing with guns on campus and – and so on, they will not proceed, which I think a lot of us will be very pleased – pleased about. And – but by and large there may be a couple of exceptions. The – what you might think of as the non-educational issues the – the social issues and so on that might be relevant to us, you know, the ones that are problematic for us all. Very few of the ones that are problematic seem to have made much progress. So, sort of overall we continue to be, university as a whole, all those campuses continue to be, I think, pretty highly thought of by the Higher Ed Commission by the legislature and so on. We have – and David across a whole range of different areas to be as cooperative with them as possible. I know there are people in this room who have from time to time helped out, helped the legislative team in specific matters and our – our thanks to all of you. I know that regional campuses through their chancellor and others have done a very good job with their local legislators too, and – and we're very grateful for all that work that's been – that has been done there. So I think that this is something we'll endeavor to keep you – keep you informed about but – but I think things look at this stage pretty good, about, I think, maybe almost as good as they did last time around the budget. So that's the – that's the first thing I wanted to comment on.

The second thing is – is really going to be covered by John. I think it – I think it's in the last agenda item, but just to, because we haven't met for a little while, just to sort of summarize, that after a sort of lengthy period from when I announced that we would be developing a university strategic plan in my State of the University speech in October, 2013, over the subsequent year – more than a subsequent year – the plan was developed and it – it is a really two components to it. One was an aggregation of key priorities from the various campus and

regional plans, and then a series of other major initiatives were also included as well. This went through multiple drafts, multiple revisions. This was put out for comment a number of times, was seen by the Trustees in draft form a couple of times. They commented on it. And – and John will probably take you through the, just how many comments there were. Many good modifications were made right up until the last moment. The Trustees made a few good suggestions and so on, and we took it to them in the December meeting it was approved by the Trustees and that's now been published. It's available on the web. All of that would have been hopefully brought to your attention soon afterwards. It was approved in December, and the process of implementation, again, so I don't want to steal John's thunder except to say that there is going to be a process of reporting against it, which has been requested by the Trustees. This is going to take place on an annual basis, and by the – by the end of this year all the reporting against the metrics and other components of the plan will be aggregated then presented to the Trustees in the following February meeting of the Board, and that's – that's – John is going to talk in more detail about that.

And then the final thing is the – the resolution that approved the strategic plan delegated to me the authority to approve subsequently the various campus plans and I don't see any issues or any problems with any of these. It's just a matter of getting the final version of these – of these plans and giving it formal approval. But I've already approved the one for Bloomington. I'm waiting on one – the one from IUPUI. The plan is done but there's a crosswalk that – that basically connects the various key priorities of the strategic plan. When you have the university strategic plan, the campuses' plans, we've asked for that to be – to be part of the submission of the various plans. I'm expecting that any day and – and I don't see any issues. I think that'll be straightforward, and then the same with the regional campuses. I actually have that at the moment and expect to get that done in the next few days, so with any luck by the end of this week all of that will be done, too. The whole process will – will be finished and complete, and then when – when we do that that will be sort of announced, but all of that is material that I think all of you have seen, and I do not envisage – envision any changes about – about that.

And then finally, I want to say just a – just a word about – about searches. I expect to – to – to be able to announce in the next couple of days, because most of the responses are in to the invitation to join the – the search committee for the replacement of Charles – Charles' successor as Chancellor of IUPUI. Gene Temple who, as you know, just stepped down as Dean of the Lilly Family School of Philanthropy and who founded the – the school – is a founding dean of the school, and founded the center twenty-five years ago or something, has agreed to chair that – that search. Gene knows the campus intimately. He's served both as an administrator and as a faculty member, and is now back serving as a faculty member and – and of course did a period as – as head of the Foundation as well. So Gene is someone who really knows both this campus and the university generally, intimately. He's agreed to chair it, and

then there are another fourteen people who – who will serve. Some of whom are in this room, but I won't mention their names in case they have not accepted yet, but I hope they have, and that will – I will announce that as soon as I get all of the acceptances in, which I think will be very soon. That – that will be an internal search, and to me there were what I think of as being sort of extraordinary reasons for – for needing that. Were the center a normal – a – a standard situation with – with a luxury of time it may mean that another process would have been appropriate, but to me there were – there were two key things. One is, we're about to move into the public phase of a major \$2.5 billion dollar university-wide campaign for the first ever time in our history, and to me it's – it's essential that we have somebody as chancellor to – to replace Charles who – who knows the campus, and who knows the university, who can from day one start – start running. Even the best person in the world takes a good year to get established. It probably takes longer than that to establish relationships when it comes to fundraising. So you can't take on any other job and open the door and – and expect people to give you money if you don't know them [comment indistinct] if you don't know them, and then secondly the strategic plan itself. There are – there are a whole range of very ambitious goals that we're now committed to achieving by the time of the bicentennial in the 1919 – sorry 2019-2020, and again, I think that this really requires someone who knows the institution to be able to hit the ground running on this. And so I discussed it with the Executive Committee of – of the IFC and they were supportive of moving in this direction, and that's the direction in which we're – in which we're moving. As I said, that should be announced next week, and hopefully the first meeting of the search committee can take place within another ten days to two weeks.

Secondly, the same is the case for the VP for research position, and the reasons there are – are in some ways the same, but there are some, I think, additional reasons. One of the additional reasons is that, having served in this position myself, having carried out a number of searches for it, I'm – I'm pretty convinced that as it is configured, and I think it's configured about as well as it can be, but as it is configured it's very hard to identify somebody from the outside who has a deep enough understanding of the complexity of the – of the university. And the fact that to be a VPR is not to have wide control over the research offices across the campus, but to be able to work diplomatically within a matrix system and metric setup, and – and I think in that – in that case it's, again, it is advantageous – immensely advantageous – to us to have somebody who really understands the university, understands the structure of the university, comes with pre-existing knowledge of the university to a greater or lesser extent, and again, who can hit the ground running, especially given that we are both committed to the various – the various key aspects of success in the research enterprise as part of the strategic plan. And also, just because of the importance of the research enterprise to us. Again, I think the best person in the world is still going to take a good year or longer to – to master it. So – so that's going to be an internal search, and I hope to have that one announced as well if not at the end of this week

then at the beginning of – of next week too, so get both of those under way. I’m expecting given they’re both going to be internal that – that we’ll have people identified, it will go through a similar procedure to what was done with the provost search in Bloomington which was – which was internal, which I think resulted in an excellent appointment in Bloomington. And so – so the finalists will be public and they’ll go through the full series of interviews that – that one would expect in a – in a search, and – and it certainly is the case that if an adequate, and appropriate first rate candidate isn’t – isn’t identified internally than we’ll have to switch to an external search. And so that’s kind of what I’ve given on that front.

AGENDA ITEM 4: QUESTION/COMMENT PERIOD

MCROBBIE: So those are – those are three items I wanted to – to report to you on, and I’m happy to take any questions, and I think Jim and Marianne would be happy to take questions, too, on these or any other matters. Herb?

TERRY: This is more of a comment than a question. You can respond. You may not want to. I – I hope that among the social agenda items that the legislature – that the university is paying some attention to are the – are the various freedom of religion bills that are in response to the developments in same sex marriages –

MCROBBIE: Yes, yes.

TERRY: Our corporate partners –

MCROBBIE: Yes.

TERRY: – in – in overturning that last year are – have spoken forcefully –

MCROBBIE: Yeah.

TERRY: – that it’s not a good thing for the state, and I hope either publically or behind the scenes we are also –

MCROBBIE: Yes, we are.

TERRY: Good.

MCROBBIE: In fact, we’re doing exactly that, and this – I mean, last year was difficult. This year in some ways is more difficult because it’s a – it’s more, kind of, complex than I think it was last year –

TERRY: We still have the First Amendment that protects freedom of religion –

MCROBBIE: Yes, yes, yes.

TERRY: And I would – I would prefer to rely on that.

MCROBBIE: Yeah, but no. The answer is definitely yes. So we're definitely aware of that – of that issue. In fact, if anything, that's probably the most problematic issue in front of us at the moment, yeah. Any other questions? [Silence] Okay, in that case let's – let's move on to agenda item five, which – which is – has been worked on for quite some time, which is the proposed amendments to the bylaws of the UFC. I think Herb is going to speak to this. Herb?

AGENDA ITEM 5: PROPOSED AMENDMENTS TO THE BYLAWS OF THE INDIANA UNIVERSITY FACULTY COUNCIL

WOKECK: Herb, do you want to come here?

TERRY: Oh, okay.

WOKECK: That would be helpful.

TERRY: Oh, alright. As has been – as has been noted we have a busy agenda, and I hope we can dispense with this item in less than twenty minutes because as the President said, it's gone on for some time. As you know, the university's faculty voted to change the constitution of the faculty and create three rather than two leaders, one from IUPUI, one from Bloomington, one representing the regional campuses, and instead of calling those "co-secretaries" as we used to do, we will now call them "Co-Chairs." Many of the other details of how to do that were left to the bylaws, for good reason. The bylaws can be changed by a meeting of this body. It's very cumbersome to change the constitution, and so the idea was to – to write bylaws and – and cover many of the details. I've been working on that process ever since the constitutional amendment passed, and what you have before you is, I hope, the result of an awful lot of consultation with members of the Executive Committee, and the leaders of various campuses. I will be the first to admit that as I leave my service to Indiana University, and finally do retire I hope that one of the things I have brought here is something that will turn the bylaws into something that are in some instances more than aspirational. I would say that some aspects of the bylaws in terms of how we elect to do it, Executive Committee, and other sorts of things didn't work and we got by without them, but they didn't work. So in addition to changing the bylaws to incorporate the idea of a co-chair from the regional campuses, I took it upon myself to propose other changes in here that I think just make the bylaws more realistic and workable and – and up to date. The bylaws, for example, I think we've probably been out of compliance in some years – for some years, required Craig's office and the UFC office to retain the tape recordings of these meetings. I rather doubt that they're on tape anymore. So I've corrected things like that to update it. The bylaws were vague about a quorum. I changed them to

specify that a quorum means majority of the voting members of the Council because we have some non-voting members. Probably the most important set of changes that aren't just implementing the co-sec – co-chair thing including the regional campus rep have to do with the timetables by which the members of the Council get selected and when its officers get selected. What I proposed is the standardization of things that as far as I can tell every campus can work with. The terms of BFC members for example, in the old bylaws ended after the last meeting. I suppose if we don't adapt this now, where it says bylaws become effective immediately upon change, all of our terms end at the end of this meeting. I don't think we want to abolish the UFC at this point because we don't have next members – next year's members elected. This puts everything on a July 1 to January – to June 30th schedule. The backside of the white memo that you have from me is in response to some questions I got after we distributed this. It's a timeline, and it tries to explain that basically we think all the campuses should have their UFC members and their own campus leaders selected by April 15th of any year, and then it kind of wraps up the selection of the Executive Committee following that and in time to have everything in place by July 1. One complication in here is that IPFW is administered by Purdue and not by IU, and it tends to take its faculty census on a calendar rather than on an academic year basis, and so this even accommodates IPFW. So it does change all of those – those terms. I don't think it requires a change in the constitution or bylaws of any campus. I circulated it to all the campus leaders and they all said they could live with it. I have a question for Craig, will this work from your office's perspective – these dates?

DETHLOFF: If everybody complies, sure. [laughter]

TERRY: Okay. So, if everybody complies we will have a standard system. I don't think I have any other comments to make. There is a clean version of this at your desk. The one that tracks all the changes that were made through all the comments are here, and it justifies some of the changes that were made. I hope you reviewed it before you came to this meeting. But that basically is my summary, and if you have questions about the substance of the process, please let me know.

MCROBBIE: I think – did – did this come from committee, Herb or – or – ?

TERRY: No. It came from the Executive Committee more or less. They asked me to do it.

MCROBBIE: Do we take this as coming from Executive Committee, in which case we don't need a – we don't need a – we don't need a move or a motion. It's a motion from the Executive Committee.

TERRY: It won't hurt to ask for one, remove any doubt that this is what will be considered.

MCRORBIE: At this point, and since it's an action item, could I have a – a motion? Then we'll have discussion. Could I have a motion to approve these from somebody, please?

GALLMEIER: So moved.

MCRORBIE: And a seconder?

KRAVCHUK: Second.

MCRORBIE: Okay, so we have a motion to approve these various items that have been distributed before any discussion or comments on – on this to Herb or anybody else?

BARRY: On the – on the backside, April – by April 15th, campuses certify the names of their elected and voting ex officio members. That's for the UFC, yes?

TERRY: Yes, that's correct. Ex officio members of the campuses are basically whoever heads the faculty governance body at the campus. Over the years we have had great difficulty defining that because not every campus uses the same term or name, but I think it's fairly clear and I hope this record makes it clear that both the constitution and the bylaws intend that – that that be the head of faculty component of shared governance on the campus.

MCRORBIE: Other comments or questions, discussion from anybody on this?

WOKECK: I just have one comment. I would like to thank Herb for doing this because this has been a very long, detailed oriented process, and he has really worked very hard on it, and I'm very, very grateful. Thank you, Herb.

MCRORBIE: Yes, thank you Herb, too. I agree with that. Nothing else? Any other comments or discussion? Because I'll put the motion if there isn't. Okay, all those in favor of the – the motion as it has been stated in the agenda please signify by saying, "aye." [Aye, motion approved unanimously] Again, same sign. The minutes carry that as record as approved at the scene. Thank you, Herb.

AGENDA ITEM 6: PROPOSED AMENDMENTS TO THE TRUSTEES' TEACHING AWARD

MCRORBIE: Okay, agenda item six, which is the proposed amendments to the Trustee Teaching Award, and Anne is going to speak to that.

APPLEGATE: Right, and if I may I'll just lead it off a bit. The – the idea of looking at Trustees' Teaching Awards really came out of an observation over the course of – of the last few years in the promotion and tenure process, that Trustees' Teaching Awards, while obviously germane to promotion and tenure were – were on a number of occasions being treated by applicants as conclusive of the question of excellence in – in teaching, which I don't think anyone would've

thought is the – the purpose of – of those – of those awards. And so to understand a little better how those awards were being – being used and – and awarded I asked Anne Massey, Professor Anne Massey of the Kelley School, to – to convene a group to look into that. First, to inform itself about the range of practice for the Trustees' Teaching Awards across the university, and then to make any recommendations that – that the committee deemed appropriate to – to either regularize practice to whatever extent necessary, or to make other recommendations specifically related to promotion and tenure. So that's the – that's the background for – for this report. So, Anne?

MASSEY: Thank you, John. Yes, the task force had representation from Bloomington, IUPUI, and the regional campuses as we looked into kind of the background of the award, which had been ten plus years being given out, and what we quickly realized as we were collecting our data was that the campuses, as designed in the original award description, they basically have purview as to how they are going to execute the award, whether they're going to do self-nominations, or if it's not – selections by the various schools. So it's very decentralized in terms of how the award is given. We found no evidence that there's any – any problem with that. In fact, the campuses vary by what requirements the candidate – the nominee – has to put together materials for review, and it varies quite significantly across Bloomington, IUPUI, and the regionals, and the committee – the task force concluded that there was – there was absolutely nothing wrong with that. However, out of our efforts in looking at this, as John noted, there was some feeling among a number of people that there were perceptions that the award itself was more than just the award for the previous year's teaching excellence, and so one of the recommendations that you see in your packet today is that we clarify in various documents, campus P&T documents, websites promoting the award, any school sites promoting the award, that it is just one piece of evidence. It's a point in time. It reflects the previous year's teaching quality and excellence, but that it should not be construed to be evidence of sustained excellence in teaching, so that when people are putting their P&T cases together or their promotion dossiers together, that much like other teaching evidence it is just one piece. So that's the first point here.

The second point at – that we were also found in collecting our data and understanding the variance across the campuses was that there was some perception on the part of the faculty that it was increasingly becoming a closed operation, that the same people receiving the award year after year after year, and this was to some case due to – of – in some campuses, some units, schools on various campuses is based largely on student teaching evaluations or other metrics, and so quite honestly if someone does well in their teaching evaluations in one year there's no, you know, expectation they wouldn't continue to do well. So the second recommendation that we made was to try to open up the award to more faculty that are doing excellence in teaching, particularly in units where it is either self-nomination or nomination

scenarios, and we said, let's – if you win one year, you have a waiting period of two years before you could be considered again. And so these were the two recommendations that we are recommending for your consideration.

MCROBBIE: So, that would be – and that would be the documents that were distributed –

MASSEY: That's correct.

MCROBBIE: – that I guess we require a motion to – for the adoption to – yes? – okay. Can I ask for a motion to adopt those changes to the Trustee Teaching Award – ?

TERRY: So moved.

MCROBBIE: – documents. Okay, thanks Herb. A seconder?

GALLMEIER: [Comment Indistinct]

MCROBBIE: Chuck, thanks. Okay. Any discussion? It all seems very sensible. Any – any discussion at all? Yes, Chuck?

GALLMEIER: Sometime back we made an adaptation at IU Northwest. We could only win four awards, because we ran into the problem of people back and forth, back and forth. So that doesn't in any way interrupt what we've already done at IU Northwest. Is that correct?

MASSEY: That's correct. We're – we're not suggesting that there would be any mandate at the campus level to change how you select or – or your process of selection in the award.

GALLMEIER: We – we felt there that it gives more people a chance to have that piece of evidence, just the professors and others going up for full. So, [comment indistinct] –

MASSEY: Yes. This would be at a minimum you would have to wait two years.

MCROBBIE: Sorry, Herb, I missed you.

TERRY: I just have a question as to what the effect of our approval of this would be. The Trustees' Teaching Awards exist by virtue of a document adopted by the Trustees, that's before us, so I assume that if we adopt this we would be recommending it to the Trustees. Would they incorporate this language in the description of their awards? Is that right?

MASSEY: That – that is my understanding. Is that correct, John?

APPLEGATE: Well – or – or alternatively since the – the specific criteria were left to the – to the – to the units to – to adopt, and hence the variation in practice, I think it would be entirely

appropriate for the university faculty to adopt these – these two interpretations of it as uniform across the university.

TERRY: So, John, then you think “(b)” here is consistent with five in the Trustees’ statement –

APPLEGATE: And five is?

TERRY: Five says, “[w]inners of the Trustees’ Teaching Award are eligible to receive the award in subsequent years.”

SHERMAN: That’s still true.

MASSEY: Yeah.

TERRY: Yeah, I – I think it may still be true.

APPLEGATE: Yes.

TERRY: Yes, I would just like the record to reflect what we understand we’re doing and what – whether or not we’re going back to the Trustees with something or not.

APPLEGATE: Right, and – and I – and I’d say on that point especially that the – the terms of the award is a percentage of FTE – or a percent of FTE, I think. Yeah. And I think that reflects clearly an intent on the Trustees that this be broadly available as a way of recognizing and encouraging excellent teaching. So I think this only intensifies actually the goal of the Trustees.

MCRORBIE: Other comments? Any other discussion of this item? Anybody? Okay, there being none, I’ll put the motion. All those in favor of the proposed amendments to the Trustee Teaching Award policies signify by saying, “aye.” [Aye, motion passes unanimously] Again, same sign. [Silent] It’s carried. Thank you, Anne. But I guess you need to stay for the next item as well.

MASSEY: Thank you.

AGENDA ITEM 7: UPDATE ON THE FACULTY ANNUAL REPORT TASK FORCE

APPLEGATE: Exactly, and I’ll just, again – I – I’m the setup man here on it. This is, of course, the Faculty Annual Report, which all of us appreciate so much, and it was really, and this sounds like damning with faint praise, but I really mean it. It was a noble effort to take the various paper reports that had existed in many forms in many places, and usually collected in the basement of various buildings, and bring them into something like the 21st century. It was developed – the existing system was developed – quickly and refined over time, involved a lot of work and really was a quantum leap forward for the university in – in developing a way of reporting on faculty activity. The one – there are a couple of issues. Most people find it fairly difficult to interact

with. It has – it has an almost bewildering number of – of different categories. If you've ever been the co-convener of a committee, you realize that there are about six different ways you can describe your participation in that committee and, you know, good luck figuring out whether it is national, state, international or whatever. They're always international in aspiration. So it's – it's a system also that does not – does not aggregate data and reports very well at all, or at all. And so it – it really needed to be updated. So, again, I asked Anne if she would lead a group that would take a look at replacing it. Among other things they were asked to examine vended systems as well as the possibility of growing our own. I should say in this context that the reason I burdened Anne with this was that she has been the – the lead on the e-dossier project, and that has rolled out really astonishingly smoothly, and in a very user-oriented way and I thought that was exactly the way we needed to think about Faculty Annual Report. So, Anne?

MASSEY: Thank you, John. What I'd like to do just the next few minutes is just give you a little bit of background and talk about the work of the task force and how we – where we are today and the recommendation that we made. And we've got some other folks that can back me up in the room that were members of that task force. As John pointed out the FAR system has been in place for a number of years now. It was built in 2010-2011 for those of you who remember when it was first introduced. It replaced a paper Word document that you may recall. Each faculty member, annually in the January timeframe would type in their – their report in a Word document and submit it to their department chair, and from there that was about all you could do with it. The system, FAR, was developed with very limited resources by UITS, and so I – I do commend UITS for their efforts on this despite the challenges that we've had from a user perspective. It does integrate and has been evolved over time with existing IU systems – Quali Coeus, for example, our grants database, our HRMS system, increasingly teaching related information is automatically pulled in, so it has continued to advance over the last several years. It is used by all campuses with the exception of IU School of Medicine, and as John pointed out it is intended for us to be able to record our – our teaching, research, creative activity, and service activities. I will say that as we looked at this we have been collecting data for the last five, six, seven years about user experiences with this, and two key areas, and this has driven a lot of my own research but also the work around e-dossier, that repeatedly we were hearing issues with was ease of use both from the perspective of the faculty member, administrators who were charged with reviewing faculty for annual merit reviews, and – and staff quite frankly in terms that it was not easy to use, and it also had limited usefulness. So as John pointed out because of the very tight reporting structures out of it you couldn't mine the database for comparisons of your departments within schools. You couldn't find things very easily. If I was looking for a faculty that had published in certain areas because of the way the database structure is set up around publications we couldn't find it easily. So there's a lot of things regarding both ease of use and usefulness that we've heard over a number of years that

drove our thinking on the task force. John last year, and this time in February asked me to lead a taskforce to specifically look at FAR and three questions of whether we should continue to invest and improve FAR, whether we should start completely all over and build again another in-house solution to replace FAR, or whether we should look at a vendor solution. Very quickly subsequent to that we had a summit meeting that – that Vice Presidents Jorge and Brad Wheeler and John convened really on the broader issue of faculty profiling systems, and I – I kind of cringe when I say that word because “profiling” obviously has some really negative connotations but I couldn’t come up with anything else before today, so if any of you can think of something let me know. Basically, what we were saying is we are – actually want something that is going to do more than just annual merit review that would be useful to the faculty, for example, to try and to make research connections. I’d like to identify faculty not only on my home campus and within my home school but maybe across campuses that are doing research that I am doing and we can connect. So building those research connections. We’d like to have it where the system could generate with the press of a button your CV, which obviously FAR cannot do right now, or a bio sketch for an NSF or NIH proposal, so very much from the faculty-side kind of use scenarios. Things that we might do for P&T support, John mentioned our e-dossier system. If we had a faculty profiling system and faculty were recording their activities over a number of years could we link it to our e-dossier system so that you would only be inputting things once? So there was a lot of things that we started to think about in terms of broader use scenarios in addition to issues around ease of use and usefulness. The task force membership, I’ll just share here, so you can see we – we purposefully, when I was putting this task force together wanted representation from Bloomington, IUPUI, the regional campus – campuses, UITS, we had a number of people, and every person on this side that – that – on the administrative side is themselves a faculty member and is also required to fill out the FAR reports. So we have personal experience with FAR ourselves. So – so don’t be concerned that no one actually had ever used FAR. We also, as we got further into the process, we added – we had some representation. Marianne joined us for some vendor meetings. Subsequently we had IU School of Medicine representation because they’re very interested in – in reporting system, and we engaged faculty all along the way. We had the reports that had been secured about faculty’s concerns with FAR, and we continue to engage faculty as we started to talk with them about alternatives. We also, the task force, just so you know, as we were considering alternatives, reached out to our colleagues at CIC institutions and other institutions across the country from technical support to end user faculty to administrators. So I think we were – did our due diligence in terms of trying to get as much information to inform our thinking as possible.

The work of the task force I will tell you, and I won’t bore you with all the details, but we very quickly concluded that no further investment in FAR should be made. Again, not a reflection on FAR but that it just made absolutely no sense to continue investing, and – and some of you may

have seen some e-mails going out in that regard, safer, technical fixes. Rather, we were going to be looking for a vendor-based solution. We agreed with our UITS colleagues that a homegrown solution also did not make sense, that there were emerging marketplace vendor solutions that we could consider, and that the vendor solution that we would be looking for, again, would be very targeted on ease of use and usefulness. Our two key criteria, which have a number of subdimensions, and also the ability of any vendor solution to integrate both with internal IU systems so that we could pull as much data automatically as possible from our existing systems, but also we could pull data from other external systems like SCOPUS for example or PubMed, again, to try to make things easier for faculty and recording.

Just to give you just kind of a little bit more on our requirements and needs that the task force worked to develop as we were looking and talking with vendors, again, the varied use scenarios, reduce the burden of data entry by faculty, and I – and I want to just harp on this one just for one moment if you can bear with me is there is no system out there that miraculously all of your research, creative activity, teaching and service history will automatically populate. There just isn't. So there is going to be some manual data entry required even as we move from FAR into whatever solution we pick. That will vary by discipline to be totally honest with you. Schools and units that are – are very heavy for example on journal publications, we can pull that from external resources. Units that are heavier on creative activity, it's a little more challenging. Units that are very for example, or – or faculty that are heavy on service engagement, again, that may require some manual entry, and I can speak to that a little bit more. But I just do want to make that exceedingly clear as we move forward. We also wanted to do robust reporting features, both standard reports that a department chair may want, but ad hoc reporting. I'll give you an example, as a faculty member I am interested in connecting with colleagues that are doing research in X, Y, or Z. Is there a way out of the vendor solution that we would be able to identify those faculty to do so? That would be very much a – a – a non-standard report, but something that would be useful to me and to you as faculty members. Again, the internal and external data of high quality, map from diverse resources including FAR. Could we pull data into the new system from FAR? Again, trying to minimize the transition. And access to sensitive data. This is role based permission some of you may be familiar with, not everybody should see everything, right? And all of our systems are like that. And then various tools for intake and – and collaboration and so on. I will say that over the course of last summer we explored a number of vendor solutions and we invited, and again, spoke both internally and externally to stakeholders and – and other users. We invited four vendors last summer to meet with the – the task force to get a sense of what they could do relative to our needs and our requirement. Of the two – excuse me, of the four vendors, we invited two vendors to campus last fall for a full day meeting – two full day meetings – for each one of them. There were technical meetings for UITS so that we could work – have the vendor meet with UITS. I was present at – at those meetings to see what it was going to take to integrate

with IU's systems, and we worked with them on that. And then we meetings with the task force at which point we also invited UFC membership, School of Medicine, and other faculty to attend those meetings. The vendor – the two vendors that were invited to campus was Elsevier's Pure product and Digital Measures Activity Insight, and I will say one of the things that was really driving us as we were looking at the options, including all four vendors last summer and the two that were invited to campus, was what kind of support could they provide for teaching, research, creative activity, and service, and there are a number of vendors out there who are on the market and some of you may have heard of Converis and Symplectics and Pure. We were very impressed with all of them including Pure, Elsevier's Pure. They are very focused on research support. They have not – they promised to evolve to include the other dimensions that we need. The only vendor that we felt really was meeting all of our needs was Digital Measures Activity Insight, and I will provide just a little bit of just – and be happy to take any questions about Digital Measures. We really felt that they were meeting our ease of use and usefulness requirement. They are a market leader. They have 60% of the higher education institutions in the United States are in their pool of clients, including twelve CIC institutions. Of those six are full campus adoptions, and then the other six that are included have schools and various units. I'm going to show you a few slides, screen grabs of their interface. Unfortunately, I couldn't do a live demonstration for you today. This will reduce manual entry of publications because we'll be able to pull – they have formal relationships. One key one was with PubMed, and they can automatically pull prior – your prior publications from PubMed into your faculty record, and then through very easy, other techniques, we can use Bib – what are called BibTeX files – that can go out and pull data from Google Scholar, SCOPUS, other – other data sources that easily can be pulled into your records. So again, it's going to help reduce the manual entry and make things easier for faculty. There's incredible reporting features. They have standard reports here, but also ad hoc reporting abilities that is actually quite easy to use. And this notion of the CV's, up to date CV's, the ability – and I've seen this – USC for example uses this. Not only do faculty generate their own CV's and bio sketches, they link the Activity Insight to homepages for schools so that you can update your faculty profile on a webpage that you're promoting the School of Business, or the Law School, or whatever it is, that these are done on a regular basis. It's very easy for – faculty don't really have to do anything, and again, permissions based roles and access. They also offer extensive support staff, and they have extensive experience in adoption and implementation processes. So I've had many meetings with them and engagements that – that I personally felt confident that they would be able to deliver against our needs and support us as we transition from FAR to Activity Insight. This was the recommendation the task force made. I just show you and – and I don't know how much you can see, as you can see this looks just like our FAR application. I'm being factious here. [laughter] The user interface here and I will tell you the terminology here is not fixed. We can use whatever language we want. You'll notice here, I have circled, they use intellectual

contributions. We can call it “publications,” if we want to. All of this is – is easy to change, and you can add areas. You can delete areas, and the like. But this just shows you for a faculty member, Anne Roberts, I think, I’ll put my glasses on. Anne Roberts has logged in and she’s going to manage her activities. You notice there’s general information areas, education, consulting, awards and honors, teaching, scholarship and research, and service, and again, we can add or delete and change the terminology as we see fit. If Anne were to come in and she wanted to go to click on intellectual contributions, and what you can see here, very simple interface. She can add a new item, she can do it herself if she wanted to type one in or she can import items using PubMed or – or the BibTex file. We’re – will all populate it. So it’s a very, very easy and int – importantly, I think, for those of you who’ve had exposure to e-dossier – is a very intuitive interface which should require minimal to no training of the faculty to use, and that is very important given the number of faculty that we have. This just shows you the interface that if she wanted to, she has a contribution, new CPA standards, contribution type – that pulldown menu, and she has selected “Journal Article.” There’s other options, and again, we can decide what terminology and what options we want – those data elements become very important, and so an AACSB classification, business schools, is very important for accreditation purposes. So a number of kinds of things that can be done here. Just to give you a little flavor of this from the – the faculty user interface side. So just to tell you the – the current status is we, the task force, has made its recommendation. A formal proposal has been put together. I worked with Rob Lowden from UITS. We put the formal proposal with budget request into Brad Wheeler and John Applegate, and so we are waiting, patiently, to hear what the determination is. As part of our proposal we have drafted an – an implementation plan, which I’d be happy to – to take any questions on, but obviously, until we have – once this is approved we would move into contract negotiation phase with procurement and purchasing. We’d then engage with Digital Measures around the details of the contract. Until we really get to a point of saying it’s a go, you know, implementation plan is probably a little bit premature, but we are thinking about this. So, thank you.

MCROBBIE: This – this is a discussion item of course, so there’s no action here, but could I ask for any discussion or questions/comments for – yes?

ORME: Yes. Did the task force address deficiencies of the current system in addressing librarian promotion and tenure criteria? The FAR does not specifically address those criteria, and I would hope that a future form or a parallel form might.

MASSEY: The – the tap – FAR is not directly related to promotion and tenure or promotion and tenure criteria, but that is a – is a different – I know that it is a point of discussion. I have talked with Tom Gieryn, Vice Provost in Bloomington about this, and so I know that he is engaging in some thought and discussions around P&T criteria for librarians. But that was not part of FAR

nor directly part of this discussion, although the – the data elements are certainly – can certainly be captured.

ORME: Okay.

MCROBBIE: Jan, were you trying to get in here?

FROELICH: Yes, what percentage of university [comment indistinct]

MASSEY: The – the question is what percent of medical schools are using Digital Measures –

FROELICH: [comment indistinct]

MASSEY: I will find that out for you. I know that they have a number of – of – of schools, and I can find that out from our contact.

FROELICH: [comment indistinct]

MCROBBIE: Steve?

MASSEY: Yeah.

SANDERS: Anne, let's say that this becomes a done deal. What is then the process or – or who is the decision maker for filling in all of those data elements and pulldown menus you mentioned. Because I think as John sort of indicated –

MASSEY: Right.

SANDERS: – that's part of the problem with FAR, you have thirty different options, yet it doesn't fit with what you actually need.

MASSEY: Right. Yeah – no, that's a good – that's an excellent question, Steve. That is actually part of the implementation plan. The – to – the – the thinking around the implementation plan is that we will – much like with e-dossier – we will put a working group together. It would not be the same membership as this task force. It's a different kind of working group where we would be looking at what data elements are actually needed for – for IU to capture research, creative activity, teaching, and service. What are those? One of the challenges that proceeded with FAR was that when it was introduced, and those pulldown menus, basically FAR was introduced and every school came back and said, 'No, no we need to add ten more things because that's not the language we use.' And – and so that's how you saw that proliferation. And – and UITS did what we asked them to do. So the heavy lifting as we transition from FAR to whatever we transition to, the heavy lifting has to happen early where we identify those data elements, we make sense, we create a data dictionary, and if I say "journal article," "journal

article” is defined to be X, Y, Z. So we should not see thirty options that are just confusing, because that also makes it impossible to mine the data because we don’t know what we’re looking for. So that’s an excellent – so that’s part of the implementation process.

MCROBBIE: Herb?

TERRY: I – is this working, yes? – I’m – I’m grateful that you’re mindful of how much faculty might have to do to enter their record. I’m also glad that I’m retired and won’t have to enter forty years of data. My physician in Bloomington retired when electronic medical records went in place because his office was going to require him to come in every weekend for the rest of his life entering those. So I hope you can autopopulate. Related to that, maybe you can put to rest a concern that has been expressed in Bloomington, and that is that Academic Analytics would be used as a data source in which we would mine.

MASSEY: I will leave the discussion of the Academic Analytics to Tom Gieryn, because he is actually going to be making a report on that and he’s the one that’s been leading the charge on that. So I – I really can’t speak to that. I’d be uncomfortable doing so.

TERRY: As far as I know that may be only a Bloomington issue because I don’t think Academic Analytics is used in the other schools.

MASSEY: Yeah, I will – I can tell you Academic Analytics would not be feeding any solution that we have, in particular, activity inside. It’s not a feed to activity inside.

TERRY: Second observation might be that – that maybe that company has a good name; this could be faculty activity rather than faculty profiling. And the third one would be, I think, well growing largely out of our experiences with Anthem, is if we go to a third party source A) we get locked into it and it becomes very hard to change. We found that out with PeopleSoft. It would be hard to abandon PeopleSoft and choose something else now. And second, who owns the database? And who’s going to maintain it? And who’s going to provide for its security? These may be things you negotiate in your contract, but if you have answers to those questions now –

MASSEY: Well, we – we would own our data. It is hosted solution, but that would be part of the contract negotiations on the security issues. So again, they have a lot of experience with this. So UITS is very confident in the technical ability and – and the connections that we can make between systems. But we own our data.

MCROBBIE: Other questions for Anne? Comments? John?

APPLEGATE: Just one – one final thing to be clear about the status. As Anne said, the – the next step is really contract negotiations. So while the – the solution that seems to best fit our needs

is the one that we just saw, at least the runner up is a potential, and part of its acceptability will be whether it's un – you know, outrageously priced, or we get no advantage of being a large customer for them, and – and then some of those very important details, which we're – feel very confident can be resolved in a – in a good way but, you know, you never know. So we're still at the point of beginning those negotiations and obviously as that proceeds we will see whether this ends up being the right one or not.

MCROBBIE: Other questions for Anne? From anybody, anything else? Yes, Jim?

SHERMAN: Anne, given that twelve CIC universities are already on board have you looked at their – ?

MASSEY: I'm sorry, Jim. I didn't catch that. Have we looked at – ?

SHERMAN: Have you looked at what they're using? What – what their, you know, whole protocol looks like to get an idea of how good they are and how they operate?

MASSEY: Yeah, we – we –

SHERMAN: Have you asked them whether they're happy with it?

MASSEY: Yeah. We've engaged a number of the CIC institutions as well as other schools. Universities like Cornell, which is a heavy user, USC and so on. So we've – we've, as I mentioned, been doing our due diligence in terms of talking, and Melissa who is on the task force also had previous experience with Activity Insight at her – at her prior university. So – so we've got – and this company, you know, is a startup and they've evolved over a number of years, and their support has gotten increasingly better and better so we were feeling pretty good about that.

SHERMAN: Thank you.

AGENDA ITEM 8: SEXUAL MISCONDUCT POLICY

MCROBBIE: Any other questions? Okay, there being none, more questions. We move to agenda item eight. And this is an action item, it's a discussion of the sexual misconduct policy, and I should – I should preface this by saying – I know John's going to start off this and then we have Jenny Kincaid, the Chief Policy Office, and Emily Springston who's the Title IX Coordinator here as well to speak to it. But I should just preface it by saying briefly that this is an immensely important item. I think people are probably well aware of the – the attention that issues in this area have received recently in the last year or so, and there are extremely serious questions of institutional liability and even personal liability that – that can flow from inadequate institutional procedures and policies in this area. So – so I think this is an area where we need

to deliberate very carefully about the decisions that – that we take, bearing in mind that much, I think, depends on getting this – this right. So with that, let me hand over to John.

APPLEGATE: Okay, thank you. Well, I'll – I just want to say a couple of things to – to start off. I think all or many of you have – have heard me on the subject of policies that we just need to adopt because either the state legislature, the federal government requires us to do that, and I hope I've shared with you my own frustration with – with that – those kinds of situations. Though I think that the record – IU's record on this – is really something to be proud of having taken a frustrating situation and – and made the best of it, that is – I like to point to the 120 hour credit rules for baccalaureate degrees, which became a wonderful opportunity for everybody to rethink the content of their – of their degrees and – and really do some updating that was very useful and productive. I think the same thing could be said, say, of the degree mapping enterprise, which we're still in the middle of. Here, though, I think that the external mandate is more the occasion to address a very serious issue than the reason to address a very serious issue. As the president indicated, the problem of sexual assault and sexual violence in American society generally, but certainly with a focus on American college campuses is a – a matter of the gravest importance. It is very much on many people's minds and indeed it should be on many people's minds. It's a – it's a form of behavior, I guess I'll say, that has consequences well beyond the obvious ones that we think of, and consequences to the victims that often last for years and indeed a lifetime. It's also a crime, a kind of behavior, that is very, very difficult to – to pursue, to hold people accountable for, and I think we have all been made very forcefully aware in the media and elsewhere of the – the frustration, the – the hopelessness, and I might even say despair, of victims of these kinds of – these kinds of actions. And so there is a real necessity for us, and again not just addressing some kind of public media concern, but addressing our own fundamental values about who we are as a community and the care that we owe to our students. That's our – the usual way of – and most important – but also the rest of us. I think that the process for getting to this has been one, again, occasion by external – by external oversight. As I think many of you know, the Bloomington campus was selected for a compliance review. Not on the basis of any complaints, but rather because the US Department of Education wanted to look at a select number of – of universities, and – and IU was in the Midwest and big and so that and the considerable amount of activity in this area through "Dear Colleague" letters, and so on and so forth. When it came to looking at the way this policy, and the policies that we have in place affect the faculty, it's very clear that that needed to be – that – those deliberations needed to bring the faculty in from the very beginning. And so while Jenny Kincaid and Emily Springston have been working on this for – for a long time, as soon as they turned to the parts affecting faculty, working with Jim and Marianne we put together a committee – a faculty committee – to work with them from the beginning. It was, I think it's fair to say, and I'm speaking more as an observer, but a challenging process. I think many people came to it feeling the kinds of internal conflict that all of us have

about fairness to the accused, but also justice to – to victims of these – of these crimes. And it made for a challenging process, but it also made for a terrific one in which the policy over – over the course of the discussion changed dramatically. New issues were considered that had not previously been considered, and really an excellent dialogue, and I think that – I just want to sort of introduce Emily and Jenny with – with thanks to them and very much to all members of the committee that they worked with on – on a really excellent job of – of shared governance.

SPRINGSTON: Thank you, and I appreciate the time before you. A number of you have probably heard a lot of what we're going to cover. We'll try and do a condensed version just to walk you through the key pieces of the policy and where some of those pieces come from or what they address. Before we talk about content of the policy, I did want to mention the – some of the federal framework that does govern some of the provision you'll see, or some of our decision in how we approach something within the policy. Title IX, the one that's most talked about recently is the federal statute that says that no one – no person can be denied the benefits of or excluded for participation in their educational programming or activity on the basis of sex. And that's a statutory provision. Department of Education, as you know, Office of Civil Rights oversees this. Significant guidance documents have been passed over time as well as resolution agreements with various schools in which it's very clear how OCR sees our obligations need to be met, and there are some pieces in the policy like the standard of evidence, like the sixty day general timeframe to investigate and respond, the responsible employee reporting obligations. Those pieces are directed from Title IX and OCR. Also, Title VII is – is still out there, the – the statute that prohibits discrimination on the basis of sex and other protected classes in employment context, and then what you may not realize is that very much involved in this policy is the Clery Act, which was amended by the Violence Against Women Act/Campus Save Act amendments. Those speak to and incorporate domestic violence, dating violence, stalking, and sexual harassment into a lot of the work in this. You'll see them folded into the policy. We need to count those crime statistics and address those in the same way we do other Clery crimes. We need to post all of our policies and procedures with respect to these sexual assaults and these other sexual crimes annually, and we do that in some part through this policy and then through other means. This is what informs our Clery crime statistics, our crime alerts that need to be weighed about whether those go out, and some of our procedural pieces.

KINCAID: We wanted to give you an idea of what we have done in terms of the process for this policy. We posted the draft policy initially back in September. We had the policy open for comments since then. We received many, many comments, well over 150. We had a spread sheet in our office and we tracked each and every comment, and who made the comment and considered that when we were looking at revisions. We worked with the UFC committee as

John mentioned, met at six faculty representatives, two from Bloomington, including Jim Sherman, two from IUPUI, one from IU East and one from IU Southeast and they covered areas of law, social work, public health, nursing, psychology. We also had a lot of meetings. We met with HR leadership. We used the Student Welfare Compliance Committee, our Policy Advisory Committee, and – and just a variety of other meetings. We posted revised procedures for faculty and staff in December. That’s a piece we worked on heavily with our faculty group. Then we posted our sort of large, major revisions to the policy at the end of January. And then we hit the road and we went to every campus over the next two weeks, and we had some really good meetings and some very large turnouts. We had a few minor revisions since then that we posted on Friday, and we expect that the policy will be in effect around March 1st. OCR is waiting on us. They know we’re working on this, and that we took more time to get broad input from faculty and the campuses, but – but they are expecting us to have this new policy.

We looked at and incorporated many elements. The existing IU policy against sexual harassment, which was in effect since 1998, that will be sort of subsumed into this policy. The IU Code of Student’s Rights, Responsibilities, and Conduct, that has the procedures that will sit in – in the code and in this policy. They’ll be identical. And so those procedures are already present in the code and – and they were revised somewhat. The IU Code of Academic Ethics, which tracks the language of the student code but for faculty. We looked at HR policies on corrective action. The legal requirements that Emily mentioned, also we have some state law requirements. There’s a lot of legal guidance, both from OCR, there’s the White House task force, and we looked at a lot of other university policies, just – just tons and tons, and other universities that have already had their OCR resolution agreements come back to see – to see what they did with their policies.

SPRINGSTON: So the scope of the policy is broad in that it prohibits discrimination on the basis of sex or gender, and so what does that encompass? We use the term sexual misconduct as an umbrella term to encompass sex and gender based discrimination, sexual harassment, sexual violence, dating violence, domestic violence, sexual exploitation and stalking, and to be clear this is regardless of one’s sex or gender that gets encompassed under this policy. The policy also contains a lot of definitions. VAWA, Violence Against Women Act, dictates some of the definitions that we need to include and where those definitions come from. There’s – there’s wading a lot of confusion between the dissect – or intersecting regulations and laws, but we moved up to the top in the body of the policy a number of key definitions, one of those being the definition of “consent,” which has been the university’s definition for some time and we wanted to put that front and center to be clear that it’s – consent is expected to be affirmative through voluntary words or actions.

And some of the key provisions to highlight for you, the scope of the conduct is both conduct that happens on our campus but then off campus if it effects the health or safety, or threatens the health or safety, or is connected to university program or activity. So it does address off campus conduct in the – in the same way that the Student Code of Rights and Responsibilities reaches off campus as well. It's not intended to prescribe or inhibit intellectual inquiry and debate in the classroom, other legitimate pedagogical purposes. The policy is meant to encourage reporting and to address that – that – that sense of – of students who may be unwilling to come forward. So giving them lots of information about where – different outlets to go to, how it happens, what happens. For responsible employees there is a large provision that walks through what that – who is a responsible employee, what that obligation means, who they need to contact when they know of, or “reasonably should know” is OCR's language, report to Title IX, either myself or the deputies on each of our campuses. And so then what happens when we do receive information from whoever has a reporting obligation or if someone reaches out directly and tells us of an incident. The first and most important piece is the provision of interim remedial measures. If the person is contacted or we attempt to contact them, we let them know about the various resources on and off campus, so we're speaking of immediate health, like law enforcement and medical help, but also mental health counseling offered on all of our campuses, advocates on our larger campuses, help in the academic setting, adjustments for absences or help there because the key is to ensure that a student who has been impacted by such a traumatic event can succeed, can continue to succeed. And the sad cases are those where students feel they need to withdraw because they just can't continue. So all of those interim measures help to – and we see the stories of the people where they can make it through. If they could just get past that – a little bit of time – with time and healing and those measures on our end, we're seeing students being able to stay.

We also assist students in making a criminal complaint, or we explain that process to them. We certainly throughout the policy encourage people to call 911 and enlist the help of law enforcement. Luckily we have our campus police because we don't want this policy to co-opt the process. We want people to seek criminal law enforcement, assist them in investigation where that makes sense for their situation. We then investigate and respond appropriately, and key to that is assessing the individual's desire to move forward. We call it a “request for no university action,” if they're asking us not to do something. Say a student doesn't want us to bring a misconduct charge against another student, or they don't want their name known to the other student, that's just not what they're seeking or they're not ready. For the most part we defer to that desire unless the factual circumstances that we know indicate that their potential safety or the community's at large is – outweighs that request. For example, if they name someone who we know is a repeat perpetrator or violence/weapons were involved, those sorts of situations where we would not defer to their desire, that we not take action.

We also spell out a lot of the key roles in the university. University Title IX Coordinator, our deputies on each campus, these are the folks to receive reports, to be aware of those, to track those, to make sure the correct processes are being followed, also to address training and education. Our student conduct officers on the student side, these are our folks trained to handle the misconduct charges against our students who do the investigation. Adjudicators and hearing panel members are separate and independent from the investigators who make the decisions as to whether someone's responsible or not when we're moving through the disciplinary processes. IUPD, like I mentioned, is a central part of this as often first responders, often involved in investigations – other student affairs professionals who are often on the front lines interacting with our students. Again, responsible employees, and then our confidential employees who are those who do not have a reporting obligation that are identified on each campus, a limited number including mental health counselors, healthcare center and some advocates, to which students can speak to with complete anonymity in the process.

To the extent we are moving forward, we have a willing complainant and we're addressing the issue, and they've accused someone who is a student or a faculty or staff, we have a – a list of the summary of rights as to all of the parties involved. Now we have a complainant and then a respondent. So all parties enjoy the right to be fully informed of the process, to be treated with respect, equitable participation rights, equitable rights to appeal, the right to expect proper training for those involved, the right to have advisors present in the system throughout the process in meetings and then also at any hearings.

As to the student, if we have a student accused of sexual misconduct under this policy in the student code, we do an initial investigation. We notify the parties of this process. Much time is spent explaining to them. They all get copies of the process, how this works. This is overwhelming information, which is why it's often repeated at different stages as we move along, and they receive copies, and it's also listed as part of the policy online. To the extent we're moving forward because it falls within the scope of the policy, a notice of the charges is provided to both respondent and the – and the complainant is alerted as well, a hearing date is set. At the hearing, it's a three person hearing panel. It's closed. Respondent is expected to be involved, complainant may, but all are able to present evidence. A case file has been developed through the investigation process. That case file is available. It's reviewable by all the parties throughout the process to prepare, and then that case file also is provided to the hearing panel members to prepare and then relied upon at the hearing. The parties are not allowed to directly question each other, but they work through the hearing and they may question witnesses. Afterwards the panels deliberate and issue a finding as to responsibility, and if so appropriate sanctions. Both parties again enjoy a right to appeal those findings and the sanction to a senior student affairs administrator.

KINCAID: So our procedures for responding when the allegation is against a faculty or staff member sort of start out the same way. The investigator receives the complaint, and makes that initial assessment whether the allegation falls within the scope of the sexual misconduct policy. If it does, notice is given to the respondent, and the investigation is conducted by the deputy Title IX officer on campus, and the investigation consists of interviewing parties, witnesses, gathering other evidence. Parties are able to submit materials and documentation. Then the report of the investigation is given to the decisional official on the campus, and it's the decisional official that issues the finding and the sanction, and when that complainant is against a staff member that would be the campus HR director. When it's against a faculty member it'd be the vice chancellor or vice provost for academic affairs on a campus. Again, all parties have a right to appeal to an appellate officer, and for a staff member that appeal goes to the associate VP of university HR, that is John Whelan, and for complaints against faculty the appeal is to the campus chancellor or provost. The level of sanctions determines what may be appealed. So for a lesser sanction, the appeal may be based on bias or procedural error, and for a more serious sanction the entire finding may also be appealed. Faculty are entitled to a Faculty Board of Review. Again, either party may request that, and that would be prior to the appeal to the chancellor or provost, and then that Faculty Board of Review would be constituted per campus procedures. The – there is a university FBR policy, and so there would be some additional considerations in this as compared to that in terms of just the privacy aspect and the – and the time consideration in respect to – for complainants really, in consideration of complainants as they proceed through that process.

We wanted to give you an idea of some of the modifications that we made throughout the process based on all our comments and – and the UFC subcommittee. We had actually prepped a document that showed the changes that we had since September but it's really – it's really a sea of red because there were so many changes as we went through the past few months, so it wasn't that helpful. But here's a list of some of the things that we did. We worked a lot on the definitions and moved them around, tried to make them more understandable. We worked on that provision regarding intellectual inquiry and debate with consideration for what would happen in a classroom setting. I know there's been a lot – there's been a lot of talk and articles about that lately. We added clearer resource information sections. We took out the misuse of policy section. That was sort of an early complaint that we got. We had a section in there that there would be sanctions if the policy was misused, and that was really seen as sort of a chilling effect. So we – that was taken out. We strengthened retaliation, made that a standalone section. We really tried to work on the responsible employee section because I think that's really our biggest challenge in – in terms of training and making that understandable for so many of us at the university. We worked on the part about law enforcement, and tried to make sure that people know that they should sort of use their best judgment at the time, and always contact police and use 911 where that applies. We

made a lot of revisions to the parts about confidentiality and privacy, and we sort of changed some of the language about confidentiality to – to make it clear to request for no university action. So, when – when an individual does not want us to move forward with a full on judicial proceeding, but they're still eligible for any interim relief and contacts and help that we can offer. We added the summary of rights of all parties. That was a piece that we really worked on with the faculty group, and I think that was – that was a good addition. We cleaned up the student procedures. That's sort of an ongoing work and, again, that larger piece of faculty and staff procedures. So – so those were the – the major things that I think that – that we worked on with the group.

SPRINGSTON: I just wanted to add one more piece on the definitions. To be clear one of the main definitions is the definition of “sexual harassment,” and just a reminder that, you know the – the focus of OCR is a lot on sexual assault, but that fits within the – the umbrella of sexual harassment. So we're still addressing, you know, more the garden variety sexual harassment that we think of that we hear from students or employees.

KINCAID: So we'd be happy to take your questions.

MCROBBIE: Okay, let me – I – I'd – the way I'd like to deal with this is, I believe, Jim, that this is coming from committee. Is that – is that correct?

SHERMAN: In a way, yes, and in a way, no. Well, the committee met five times with Emily and with Jenny, and every suggestion and every comment was more than taken seriously. The changes I believe reflect all of the input from the committee. There was no formal vote of the committee to support this, but I think it's fair to say that all six members of the committee unanimously supported what came out as the final policy statement. So –

MCROBBIE: Good. I – I think –

SHERMAN: – that's the best I can do with that.

MCROBBIE: – I think in that case what I would take that as a motion from the committee in support of this policy. So we'll take that as a motion in front of us, and then any changes or amendments to that can then be – can then be made. So, unless there's anybody who's got a different view let's take that as the motion to adopt this policy. Again, I stress I think the importance of – of giving this due consideration and then open it to discussion on that motion, or any suggestions for modifications or changes to that. So discussion on that motion to adopt this policy? Yeah, Herb?

TERRY: Well, okay.

MCROBBIE: You – you did you want [comment indistinct]

BARBRE: Just pointing.

MCROBBIE: You're pointing at Herb.

TERRY: Okay, well – well thank you. First of all I want to second John's opening remarks. This has been remarkably transparent and – and a very well conducted procedure. I have in recent days looked at how these policies have progressed at other institutions and other universities, and I haven't found anyone that has followed as open and engaging a policy process as we have. Many of these policies have simply been adopted by boards of trustees with last minute faculty complaints, and that we have a much better system than that. I've distributed a resolution, the point of which is actually to avoid us at this meeting trying to amend this thing into something different than what it is now. I think I would [comment indistinct] bad procedure to employ. I – I wouldn't normally disagree with the president, but I think the chances of us getting this exactly right are zero, because every university under these conditions around the country is adopting these policies now. They're all quite different. We don't know in many areas what the law is here or what it would turn out to be given the inevitable intervention, I think, by courts and by legislative bodies. All we can do is adopt a policy that we think is the best we can adopt for our institution at the moment that matches us and our needs and – and our circumstances. If ever there were an interim policy I think this is one. We could well adopt this policy, hand it to OCR and they could reject as part of the settlement talks, and what happens then? So – so all –

MCROBBIE: I – I think that is something that we could deal with at the time – [comment indistinct]

TERRY: Right, but we might have to change it in order to satisfy them.

MCROBBIE: Sure.

TERRY: And – and that's what this policy – this resolution actually tries to open up the opportunity to do. The resolution basically says that – that this – this body neither endorses nor approves this version of the policy, but authorizes the university administration to go ahead and implement it. We can make changes that result from this conversation today or – or other changes, but they need to keep the faculty and this body informed of any changes that it makes. And most importantly, we need to continue to monitor this – this evolving area of the law. If you do what Emily and –and Jenny have done and read all of these other policies from other universities you notice that they have a lot in common but they also have significant differences, and what will happen over time given those commonalities and differences is very hard to predict. This resolution, if you were to adopt it, requires the university to – that the administration to continually work with the UFC to keep up with changes in the law, to keep up with other policies, probably would recommend adjustments to this policy, recognize that the

UFC Executive Committee can act in the UFC's name and could approve any changes that had to be made. It would call upon the presentation by the administration of a full report back here in one year's time on what has happened in this area and – and how it might address.

Steve and I have laid out beyond that not just our concerns about these policies, but these are concerns of faculty bodies and faculty groups at various universities all around the country. The most contentious of them is the question of what the standard of proof in these cases must be. Emily and Jenny have said that OCR is insisting upon a burden of proof that is called “preponderance of evidence,” – more likely than not – and it is absolutely true that OCR is insisting upon that. There is, however, a very substantial legal debate as reflected by resolutions, largely of law faculties around the country, that OCR is exceeding its statutory authority, and insisting upon this – that standard is not in the statute. It was considered by Congress but not adopted. OCR did not through – go through what lawyers would call a formal ruling. It is rather OCR's guidance. It's their opinion of what the law requires, and the question is whether that's the law or not. And, frankly, there's just a lot of legal debate at the moment about whether that's correct or not. It is a very important matter. Steve and I have submitted this to you because in part our academic careers have engaged with standards of evidence. Mine through law – media law and policy – and a slightly higher standard of evidence, “clear and convincing” evidence has been used for decades by American courts in libel cases to make sure that people are only convicted of libel when it's clear. When there's clear and convincing evidence that libel occurred, and Steve may want to talk about areas of the law that he's been involved in with different standards. There is all kind of debate from other universities and other campuses about the procedures to be employed in these hearings, about the role of advisors, for example. We are asked to adopt a policy that would give advisors a very limited role in hearings. That's become an issue with other universities, most recently at the University of Missouri where a faculty member there said, ‘Look, given OCR's deadline that this must be resolved within sixty days the chances of many of the parties meeting an advisor who can speak on their behalf, including a traumatized student are high and – and if maybe there were more time – time for the trauma to decline a student might not need that advisor to speak on their behalf, but there's a good argument to be made that they can be. And again, the role of the advisors is not prescribed by law. Indeed, faculty at the University of Pennsylvania who considered this pointed out that OCR discouraged policy that might require or permit advisors to ask questions, but did not prohibit it. This policy would prohibit it. So basically what we are suggesting is that instead of arguing about amendments at this point we simply say to the administration today, go ahead, implement this. Keep us informed. Bring back a policy within a year. It's been proposed that, maybe I should have reworded this, since we will vote to approve it subject to these conditions. We could. I know that I will have to vote against it if these conditions or something I'm asked to approve. I – I submitted a nine page document to Emily and Jenny. They came back with a wonderful response to that. They accepted many of

the suggestions I had, but they can't back down on – on what they think is OCR's standard of evidence. I want this to move forward. A lot of work has gone into this policy. It's a good policy in most every respect. It's bad policy in some grey places that are very important to me. I'm trying to find a way for us to – to get it out of here today and a way that it would be administered and move forward and keep that up to date in what I predict is a very turbulent legal environment going forward. So I would move the adoption of this resolution.

MCROBBIE: You – I – there's – the motion is to adopt the policy, Herb, so you're adopt – you're – you'll be proposing this as an amendment to that motion then?

TERRY: Umm... I suppose, yes.

MCROBBIE: Yes.

TERRY: If the motion was to adopt this policy than I am proposing instead that this resolution be opposed, in lieu of adopting the policy.

MCROBBIE: Okay, so it's – it's an amendment to that motion, alright. So that – so this amendment is – is now what's in front of us.

TERRY: It needs a second.

MCROBBIE: What?

TERRY: It needs a second.

MCROBBIE: Yeah, sorry. Second, yeah, right. Steve's going to second unless you do. So let's – so let's have discussion on that note. Jim, were you trying to get in?

SHERMAN: Yeah. So I – I've thought long and hard about this issue. I think the key issue here is the issue about preponderance of evidence and what it means and why it's being suggested. I agree with John that this is not a case where I feel we're being forced to do something that we don't necessarily want because someone external wants us to do it. In a sense I wear two hats. I – I've been for years co-teaching a course on law and psychology with Joe Hoffman, a criminal law guy at the law school, and so part of me thinks like a lawyer by now. Joe has taught me to do that. The part of me that thinks as a lawyer kind of doesn't like the preponderance of evidence standard. It just feels wrong from a law point of view, but the bigger part of me is a psychologist who studies judgment and decision making, and that part of me feels differently about it. But the law, as I've learned, the terms and the concepts are terms of art. I mean, I used to think psychology was kind of vague and fuzzy until I got to concepts like "reasonable person" standard, like "beyond a reasonable doubt." I teach a law and psychology undergraduate class this semester, and I asked them what percentage certainty do you think

“beyond a reasonable doubt” reflects? And the range was from 70% to 99%, so not exactly an objective term like we – we would like to use. The – the law part of me says if I could pick a percent, and was objective, and we had a way to – to measure it, I’d probably choose 59% for this. But, you know, that – that’s not possible within the framework of developing a – a policy. And the examples I use, I – I’ll always use the woman as the supposed victim simply because those are the base rates that women are victims of sexual misconduct far more than – than men are, but of course it covers anyone who’s a victim. And I ask myself as a researcher in judgment and decision making, what’s the worst error that we can make in this area of work? And for me the worst error is having women who are victims of sexual assault, who are victims of rape, not report the assault. I would like that to be 0%. It is the worst error we can make, but the fact is that many women do not report instances of sexual assault in part because they know it’ll be hard, they know it’ll be difficult, they know people who got no – no justice when they went to trial because sometimes it’s a she said/he said situation, and I think having a high standard of proof discourages women from reporting, and that’s the error that – that I would like to – to minimize. When we were discussing this policy among faculty there’s part of the – the policy that says that women who report sexual – serious issues of sexual assault or rape should have some accommodation during that period. For example, they may move out of their dormitory. They may change classes to – to protect them from further stress and strain. Well, several faculty members told me that this would be bad because, especially undergraduates, might well report instances of rape or sexual assault so that they can change dormitories or change classes, and this is exactly the problem! We believe that women are prone to make up stories about this to get things that they want. The truth is that many, many, many more cases of un-reporting are there than women who falsely report sexual assault. So to minimize the likelihood of women not reporting instances of sexual assault, I don’t really see a lot in the policy that’s going to do that for us. This may be the one part of it that encourages women to report, because they feel that they’ll have a better chance. I don’t know how it will work, but I think if we keep a high standard we’re not going to change the kind of error that I’d like to avoid. So with that – until recently I listened to the lawyer part of me, but I’m now listening to my true self, which is the psychologist. So thank you for that.

MCROBBIE: Yes, Emily?

SPRINGSTON: If – if I might speak I do want to echo what Jim’s saying completely. I agree with you and I see a lot of the cases, and I see the ones where people aren’t willing to – to move forward, and there’s that – that fear. I will tell you people deliberate hard and long on these cases. They recognize it’s not an easy task, so there’s a lot of thought by our colleagues who do this. On the legal side, I would share in civil court preponderance of the evidence is used. It’s used in cases under Title VII. It’s the standard by which OCR holds us when they look at our

cases and review us, so it's not a standard that's absent from this realm of legal question. So I'd put that out there just as – to consider.

MCROBBIE: Steve and then, I guess, Gjerdingen.

SANDERS: And – and I would I – I – I would add – I – I would second what Herb said. I would add this. My own support for this resolution has nothing to do at all with the process that's been led by Jenny and Emily. As I think they will understand my personal objection is to what I see as an – an unreasonable standard that is being imposed on us that Emily and Jenny in the university have no choice over. I – I just feel compelled to respond to my old friend and colleague, Jim. This is not an adversarial proceeding between – between two students. This is the university as a decision maker, as the authority that has the power to meet out punishment. The – the – the standard that the university decision maker must meet, must be held to in – in meeting out that punishment. It is true that preponderance of evidence standard is customary in civil lawsuits like discrimination cases. It is not true that it's customary in criminal proceedings where the government – and in this case the university is essentially the government – has the power to take away an important liberty or property interest that you have. If the government wants to crusade, it wants to make the case that you are an unfit parent, the government is held to a clear and convincing standard not a preponderance of evidence standard. If the government wants to civilly commit you as a dangerous person, the government is held to a clear and convincing standard not a preponderance standard, and so I think there is – it – it depends on how we understand the role of the university. If students feel the university is not responsive, I have to think – I don't have direct experiences – I have to think it's because they think that somehow you the people at the university don't hear their complaints, don't take them seriously, that there aren't enough counsellors, that there is skepticism in some way. I – I can't imagine it has to do with the burden of evidence or the burden of proof that the institution will have to meet. And – and – and I have to think that a fair minded person would understand that when you are facing the potential loss of your educational career, when you are facing the potential loss of your student career or your employment, when you are facing the potential of losing your tenure. Are you willing to have that hinge on a standard of proof – and I – I agree with Jim also that when we get into these varying standards it's hard to put a certain number on them, but everyone does agree that preponderance of evidence means it just has to tip the slightest bit more likely than not. If you were having a journal article withdrawn because somebody had thought you had fudged your data, if you were anticipating failing a student because you suspected plagiarism, I imagine you would feel compelled or you would hope that the decision maker was going to be held to standard that required them to be more than 50% – point – 50.1% correct in their hunch. That they would have to be more sure than that before that serious consequence was taken against you. And so I – I think our point in – in objecting to the preponderance standard that the Office

of Civil Rights has insisted on is, given the potentially very, very serious consequences here, this is not in the spirit of fairness and due process that a university like ours should honor.

MCROBBIE: Rebecca, I should have recognized you first and then Don.

SPANG: Oh, that's fine.

MCROBBIE: Go ahead.

SPANG: I just want to say that having reflected on this for a long time, when I was a graduate student I was a resident tutor in a hall of residence and I often dealt with young women who had been assaulted. It was, in fact, in every case a young woman. But thinking also about my familiarity with cases of harassment, I mean if cases of rape don't go reported, cases of harassment are even more likely to go unreported because the victim thinks, 'Oh, well, it's not like I was raped or anything,' and so they suffer with it. I have come down exactly where Jim is, and even though I have an awful lot of respect for Steve and for Herb, I think in cases like this 50.00001% is sufficient. Nobody is entitled to a degree. Nobody is necessarily entitled to tenure. If they abuse it, they can lose it. The burden of proof should not fall more heavily on a per – on somebody who is already a victim. That's where I've ended up on this –

MCROBBIE: Don?

SPANG: – so I would support the original policy.

MCROBBIE: Don?

GJERDINGEN: Okay, thank you. I – I just want give some – some background on what the issue is here. I certainly want to express again that the – I think this has been handled in an absolutely exemplary way by – by the – the legal staff here and the hearings and everything else. What I would like to give is some background on – on why there – some people have issues with what the Department of Education has done. It's actually quite a narrow issue. It is – what they are saying is not just the general standard, they are saying that under no circumstances whatsoever can you ever use a higher standard. That's a difference. You could have a preponderance for a lot of things, but they're saying that even the most egregious cases and regardless of the sanctions that you are asking for you cannot have it. And so what that's really raising is – if you have – would you have the same standard if somebody's being thrown out of school or tenured denied? And the argument is that in those particularly egregious cases, when there's particularly egregious sanctions, is it appropriate to have that? That's number one. Number two, this is a non-frivolous issue in this sense. Before this was done approximately one-third of the colleges and universities in the county have the higher standard. There – there is no legal precedent on this that I'm aware of that – that says what these

standards are in these cases. The AAUP when this first announced came out against it and as the lawyers in the room know this is not a matter of policy or anything else. This is a matter of whether under *Mathews v. Eldridge*, and their interpretation of the Due Process Clause of the Fourteenth Amendment, what the minimum constitutional standards have to be, and that's what's at issue here and what people are talking about because ultimately it'll have to go to the courts. So that – I guess the concerns that I have is three things. The first one because of what the Department of Education has done. They've arguably have made this a more difficult issue for this reason. If they are wrong on this standard – if they are wrong on this standard – what is going to – to happen, even in the – particularly the egregious cases is that the court says, no, you needed a higher standard of review, they're either going to have to be thrown out or redone. That is not good. Second, and this also concerns me, but I think in effect we're saying now we in all practical purposes have a two-tier system – a two-tier system of review, and if – if a – as I understand the policy that's used here, as I understand the general standards that are recommended by the AAUP for termination of tenure that now it depends on the type of complaint that's made. If it is a regular complaint then it's going to be what the AAUP says and recommends, and I think we've largely done is clear and convincing. If it's now – it's another kind – it's a totally different standard. So you have a different set of procedures. The last thing, and I think that – that in – in – in these – what – what – also what the – and this hasn't been talked about – other things that the Department of Education is saying is basically they're saying it is illegal for a school to give any more process. Under these standards if a school – the Department of Education is saying it's okay if a school wants to bar lawyers from the system at any stage. It is okay, and that's what we've done here. I – I don't understand why, that even if you have a – I don't think we've banned lawyers but you're saying we're not allowing your – your advisor, which could be a lawyer, to ask questions. That's what we've got now and either you have all of those standards for everything, but I think we've got a – a two-tier system, and so my concern isn't anything but to how this issue has been handled or the – the – the legitimacy or importance of all of this. I just think people are – aren't aware of kind of what the Department of Education has done. And we have no choice. That's what they're saying. I think they – they – they made some excuses, but that's why people are upset about it. They're upset about it because the Department of Education may have made a wrong call on this, which puts things in jeopardy, and it's – and it's not the general standard. It's under any circumstances a school, even though if it's going to be termination of your job, can never do it. And so as I understand these standards if we wanted to say it's – it's preponderance for everything else, but if you're going to lose your job we can have clear and convincing, in that circumstance the Department of Education is saying that's illegal and we'd be violating Title IX. And that's a different standard than what we have now. It's a different standard than AAUP recommends, and it's very likely a standard that would be difficult to uphold in a court.

MCROBBIE: I – I think Jeff – Jeff was next. John you want to – ?

APPLEGATE: [comment indistinct] first.

WATT: [comments indistinct] I'm sorry to have a scratchy throat today. I'm going to have to agree with Steve and Herb [comment indistinct] side of the table. I am a dean of students – student affairs for – for my school, the Art School here at IUPUI, and I watched a number of cases come through this last semester and go through the entire process, and it does make me very nervous to talk about the point here about having a lawyer or counsel in the room. We have staff that work in that room and are representing the university acting as lawyers. I should say that they're not lawyers, but very well trained in that against undergraduate students, I had an international student, we're talking mostly about males. I've got, you know, gay couples in here, male/male sort of situation occurred also. And it – to see someone get crossed – a student get cross-examined by somebody who is very well trained and does this for a living, and they're in there for the first time like a deer in headlights I'm not sure that's – that's fair for them, especially when we are talking about getting their education. I can point to five cases that basically the suspension has been three semesters or more, and we're talking out of state students, international students, you know, that implication means your education is over at this point and so, you know, I don't want to talk about the specific cases and so on. But it does trouble me as a dean of students who's been here since 1983 basically as a student advocate – things in here make me nervous and – and I've always been, you know, with the gay rights movement and African American males in – in the urban society coming here that have special situations and I don't look at this necessarily like you did as, you know, women being victimized. I look at it as gay individuals, African American males who tend to get in trouble a little bit more than – than their white counterparts do, and so I'm going to vote the same way Terry does on – on this.

MCROBBIE: John – John and then Bob.

APPLEGATE: I – actually I just wanted to ask Emily if she could respond on the advocate thing because I think there was some confusion about that.

SPRINGSTON: Yeah, so any party has the ability to have an – an advisor with them throughout the process, and that – that may be an attorney – they, from this - the first meetings on any proceedings during the hearing. What we speak to is that the attorney can't have an active role so they may advise their client throughout that process. They may speak to them. They may write to them. They may step out, have breaks. And we have attorneys that are involved and do play a role. What we can't do, and what we've often seen, is attorneys who have co-opted the process and intimidated our staff, other parties, and we've seen where that's been a big detriment to our own process. So that's – we think strikes a good balance between having those people available and have a role, and we're seeing more and more attorneys be involved in these cases as well.

WATT: In fact, I would advise every one of my students to get a lawyer, not to walk into this without a lawyer at all. Student advocates aren't quite at the same table. I would disagree with you. They were told not to say a word. So with my international students who are weak in English the only thing the guy could do was write comments to the – and with his questioning going so fast, I don't think that was fair.

MCROBBIE: Actually –

WATT: I'll stand corrected if that's not the rule. If so, then I've got a case that they were not allowed to speak at all to their lawyer during the case.

MCROBBIE: Let's – let's – let's actually – Bob – Bob, why don't you comment? And then Ms. Silva and then John since John's already spoken.

TERRY: Take Bob the microphone.

MCROBBIE: Bob's – Bob's... Okay.

KRAVCHUK: Is this on?

WOKECK: It is. You need to put it close, yes.

KRAVCHUK: Very close? Okay. In twenty-five years now in – in academic life I don't think I've seen a problem that was nearly as knotty as – as this one seems to be. I feel as though I – I – I want to nod in the direction of doing what's right by my colleagues and students. I – I want to be sure that we can protect the rights and provide appropriate incentives to victims and potential victims of sexual assault and harassment. I – I think, though, on this one I'm going to vote like a businessman, thinking about the university. I think it's important that we make a very strong statement about this matter. I'm not sure that we can do anything by resolution or vote or anything that would affect the office of – of – is it? – OCR at the Department of Education. That's going to be a matter that will be handled by – by the courts. I think that's going to be inevitable. In egregious cases where people feel they've been wronged they're going to bring a suit and – and some federal judge will have to decide whether or not OCR has overstepped its legal boundaries. We can't affect that today. I am hesitant to – to approve a resolution that doesn't approve or endorse the principles in this – in the proposed policy on sexual harassment. I – I think that sends a very mixed and, in fact, a wrong signal to – to women primarily and anybody else who may be the victim of sexual assault or violence or harassment. I – I – I think with – with all due respect to my – my good friends Herb and Steve and Don, I – I – I think that I would have to vote against the proposed resolution on – on that basis knowing full well that I share your concerns and the reservations you've expressed, but I – I just can't see a way not to vote in favor of the proposed policy, flawed as it may be, that

something is being imposed upon us and we can't really control. This is going to have to play itself out in a different form. And so I – I – I was thinking that maybe some of you were feeling the same way and – and this is really the only way I can see at the end of the tunnel that – that gives me a – a bearing in which to cast a vote one way or the other. And so I – I think on this I'm going to have to come down basically on the same side that Jim is on. You know, it's not to say I don't share your – your reservations. I – I find the arguments to be really compelling. Not being a lawyer I find them to be fascinating. This area of the law seems to be the one that needs to be ironed out some, but I – I just feel as though I – I – I can't support the resolution for that – for that reason. And we need to send a strong signal, and I don't think that we can vote against the proposed policy on the basis that – that the – what's being compelled – forced upon us may or may not be illegal.

MCROBBIE: If – if I could – I – I just want to make a – a comment from the chair. I – I want to – you know, so it's obviously a matter for the UFC to – to opine on it and pass whatever resolution it thinks is appropriate here ultimately. But – but what I wanted to – to do is to give a sort of note of caution here. I mean, in a sense, this body represents – the UFC represents – the 8,000 faculty of Indiana University. 8,000 faculty. In as much as they are represented by anybody this is the body that represents them. And for the UFC not to be able to take some kind of a position on this that neither endorses or – or – or – or approves, basically takes a neutral position, I think, really opens us up to enormous criticism at some – some point in the future. The – the – if – if – if the administration goes ahead and adopts this policy or – or some modified version or something like that, but the UFC says, 'Sorry, nothing to do with us. It was all them.' I – I think that is an awful position for the faculty of the university to be in and it – it seems to me, and – and I just suggest this as – as maybe a way to proceed and obviously let the debate continue. It may be just from the point of view of what's best for – for the faculty of the university and what's best for the university is some – some kind of amendment to the – to the original motion that – that states strong concerns about the – the preponderance of evidence issue, while at the same time giving broad support to the policy or something like that. I think both makes and puts on record in – in a strong way a real concern about this. And real concern about I think what – what all of us feel. I know my presidential colleagues feel and so on that OCR is really over – overstepping its bounds and so on. But that's what – that's the hand we've been dealt, and – and at least moving in that direction does – doesn't, I think, open us up to a – a criticism of – of – of really not being able to make up our mind one way or the another on such an important issue. Now, with that, John do you want to make a comment? Don were you trying to get in, too? Yeah, John?

SHERMAN: [comment indistinct]

MCROBBIE: Sorry, I missed someone. Oh, sorry, I – you – you – you were next and then I think John.

BARBRE: As Herb and Jim’s resolution calls for a report to come back to the UFC within a year, it seems to me that we are – we’re approving the implementation of this. We are just not approving this exact policy. So it seems to me that 98% of the dust has settled on this but 2% is still hanging in the air, but it seems like a pretty important 2%. So if we come to the same point next year are we going to be approving the policy at that time? Because it seems like we’re just looking for, you know, one year to see how these things play out.

MCROBBIE: John?

APPLEGATE: Well, I – I just say sort of from an implementation point of view the idea of reporting back and re-evaluating the policy is absolutely no problem at all. I, you know, cite the example of our IP policy, which we’ve reviewed – have a body, the IP Council, that looks at it on a more or less constant basis and, what? Two or three times have come back with various changes to that policy. Over time I think Herb’s point about the institution of the Executive Committee being a very helpful way of being able to make adjustments. I guess I in many ways align myself with Bob’s comments on how we look at this. I mean, we’re not – we’re not writing here on – on a blank slate and we do not spend a lot of time in – in IU policies talking about burden of proof and what kinds of standards. This is – this is the one area of – of conduct that we’re looking at where we know that underreporting is an enormous problem and we know that to – to go through a detailed process has the effect not only of discouraging reporting and discouraging people from seeking justice but also often re-traumatizes the people who’ve gone through a really horrific experience, and yet, we would take this as the place where we would have a higher standard of proof than we ordinarily do, and where we would have a more adversarial process than otherwise. I, too, have wrestled with this. I think we all have. But for me, it’s that consideration that really supports positively the idea of the preponderance of the evidence standard as opposed to the higher one.

MCROBBIE: Don?

SHERMAN: [comment indistinct]

MCROBBIE: Sorry – I think

TERRY: She hasn’t spoken.

MCROBBIE: Yeah, Jan.

FROEHLICH: I’m lost. I’ll be honest with you. I’m lost. It seems to me that both you, Michael, and –

WOKECK: Jan, there's the mic over there.

FROELICH: [comment indistinct] accept the idea that the preponderance of evidence is not making the faculty very happy, that – that – that many of them would rather have clear and convincing evidence. And you've also said that you'd be willing to accept the idea and – and endorse the idea of coming back and reporting a year later. So what is it exactly that – that is being – is the hang up with the proposed resolution from Herb? I don't understand. Why not accept it? Those were the two – I thought those were the two pieces –

MCROBBIE: Well, the –

FROEHLICH: – in his proposal that people had problems with. Is there other –

MCROBBIE: – the – the resolution – the resolution says that it neither approves nor endorses. So basically –

FROEHLICH: Oh.

MCROBBIE: – basically the UFC's not taking a position in this. That's what the resolution says.

FROEHLICH: Alright, I see.

APPLEGATE: Right, and – and to be clear I would – maybe used too many negatives – but I – I think that the preponderance is the right standard for this.

MCROBBIE: I really had – Don has the [comment indistinct]

APPLEGATE: Oh, I'm sorry.

MCROBBIE: Don has the [comment indistinct]

GJERDINGEN: I'll just try – just very briefly. I – a – a couple of things. I think it's important to – to understand what people aren't disagreeing about. And nobody in this room thinks that this isn't an important policy, and nobody in this room that doesn't really, really appreciate all the just, and I, again, flat out wonderful work that's been done on this by the university. That's not the concern. I – I would – I would stress again my - and it's a narrow one. It isn't about whether the general standard is preponderance or something else. It's whether under any circumstances however severe it is – it is – the school could ever choose in any case to use the – the higher standard. Second, that – and this is what concerns me the most – we can have our opinions on this and we hope what it is, but it's – the answer to this is not going to – is not up to anybody in this room. The answer to this is going to be a legal question that is ultimately decided, I suppose, by a 7th Circuit Court of Appeals or something like that. And my concern, and this is at least how I took the – the gist of Herb's is that all of us want this to work. All of us

want to – to have this succeed, and the question is how best to do that when we are worried that there are some inherent flaws in the – in what the Department of Education has done, and how can we best respond to those to make sure that the policy we have is going to be effective and – and – and well working and other things. That’s the issue here. It’s not about the merits. It’s not about whether this should be done. It is how best to – to address the – the – the concern so that we – we do have a policy that’s – that’s effective and good, and everybody in this room agrees we should have that. And it’s not about what we should do or not – not do. It’s going to be how best we can negotiate this when things are uncertain, and – and frankly the Department of Education hasn’t done the best job.

MCROBBIE: Steve?

SANDERS: I – I – I apologize for the parliamentary gymnastics here that might be involved, but I have with Herb’s consent proposed redrafting the resolution that’s on the table that we offered. And – and here’s what we would suggest instead. The University Faculty Council approves the current draft of the proposed university policy on sexual misconduct. So taking President McRobbie’s guidance and not being ambivalent about this. We approve the policy. We would add language though that says at the same time we join other faculties at universities and colleges across the country in expressing our deep concern about the propriety and constitutionality of the preponderance of evidence standard mandated by the Office of Civil Rights. That issue remains to be resolved by the courts. We ask the university administration to join with the faculty in continually monitoring changes, and – and essentially we continue as the last four lines you have right now. So essentially we are – we would approve the policy if you pass this resolution. We would express our concern explicitly about the main issue that’s dominated the debate today, but – but – but simply wish that we continue to monitor the situation and – and be open to the possibility that the policy could be adjusted in the future by the appropriate faculty governance bodies if we’re allowed to do that under federal law.

MCROBBIE: Could – could I take that in parliamentary terms that – that say you – you’re withdrawing your amendment and replacing it with that amendment?

SANDERS: That’s right.

MCROBBIE: Is that – ?

SANDERS: Yes.

MCROBBIE: Is – that’s agreeable to everybody?

TERRY: And – and it’s agreeable to the author of the amendment.

MCROBBIE: Okay, okay. Jan?

FROEHLICH: Yes, I was beginning to think this whole thing was going to be a waste of time, but I thank you very much for that, for putting in front of us something we can vote for and feel good about. Thanks for that.

MCROBBIE: Yes?

ORME: If I could suggest a hybrid. I think the problem that you note, President McRobbie, is – is not where the university faculty stands but the fact that the draft resolution as originally stated doesn't provide a rationale for that stance, and I think if you bring forward a resolution that says something along the lines of, 'Whereas, these particular conditions prevail, these concerns are paramount, et cetera,' and you do take the stance that we neither approve nor endorse but authorize proceeding, that you've made the statement that you have deep concerns, you do wish you continually monitor the situation, but you don't put yourself in the place of approving or disapproving of policy but simply noting concerns and saying with lack of a better solution this is where we are.

MCROBBIE: Well, we have your amendment in front of us. I mean, if you want to make a further amendment then that's fine, but that – but that amendment that Steve read is the amendment in front of us. Other – other comments, yes?

NUR: I have a quick question for Jenny. I mean when the abuse of policy was removed was there anything that was replaced? Was there concern about that? Anything that took its place?

KINCAID: When which policy, Yusuf?

NUR: The abuse policy [comment indistinct] –

ORME: Misuse of policy section.

KINCAID: Oh, oh, yeah. No. What we kept was the retaliation, so the idea that anyone – that is retaliated against for reporting, and that was really the key piece. It – it was the idea was – originally was that if somebody used the policy in bad faith, but we have other things, our principles of ethical conduct and – and things that would sort of control for that. So what we left was the retaliation piece.

MCROBBIE: Other – other comments? Other com – yes?

DARR: Yeah, I'll try to make this quick. In terms of the new amendment, I think the new amendment is a little better but I still think it's – I – I don't like it and I – I won't vote for it because I think it has the same danger of sending a bad message. Instead of saying we neither

endorse nor support, we're saying, 'We endorse but...' and I – I still don't like that. I think we need to be decisive.

MCROBBIE: Charles?

BANTZ: I had a question about the amendment is the way the sentence is written specifically about the issue of the preponderance because the sentence construction matters a lot. Could you just read it again, I think –

SANDERS: Sure, and with the understanding that I did this on the fly and was hoping that the permanent minutes would capture it. So what I would suggest is at the same time we join the faculties of other universities and colleges across the country in expressing our – our deep concern about the propriety and constitutionality of the preponderance of evidence standard mandated by the Office of Civil Rights. That issue remains to be resolved by the courts. May I just add one brief comment?

MCROBBIE: Yes, Steve.

SANDERS: I – I – I'm – I – I guess I'm concerned that we believe that taking potential short cuts and being very, very sure that someone is actually guilty of doing something before they lose their education or their job is somehow conflated with not wanting to do everything possible for the victim of sexual assault. It seems to me that those are two different issues. It's the same reason that if the police seek to introduce evidence at your trial that they've illegally misgathered, even if you're guilty as hell, that evidence is excluded and you may go free. In a liberal society we think that's an important value. This is simply about – and this isn't letting somebody go free – this is simply about making very sure that someone has done what they are accused of doing.

MCROBBIE: Jim?

SHERMAN: Yeah. I – I – I agree with Charles that the – the wording is – is very critical, and as for me, I'm not sure – I agree with what John said when he said he doesn't have serious misgivings about the preponderance of evidence, and to say that we join our other faculty – there were many faculty at these other universities, Harvard and Penn and elsewhere, who didn't object to it. So I'm not sure it's fair to say that we're joining all these other faculty who do it. I don't even know what the percentage of my colleagues at Indiana University think about the – the standard. So to say this as though it's a truth, joining the many faculty who do this, I could say I want to join the many faculty who support this because there are many. So I – I mean we – we're a small body to do this, and I – I don't like to speak for the whole university when I don't have the data, when I don't have a survey, when I don't really know. So, I – I'm

sorry. I – I – I can't support something that that's strong in stating, you know, as so strongly that we're – that faculty oppose this.

MCROBBIE: Yes?

BADIA: So, I think I might have a unique perspective on this –

SHERMAN: That would be good.

BADIA: [comment indistinct]

MCROBBIE: Let's grab you a – yeah.

BADIA: So I'm probably the only faculty member in the room who is actually an IU faculty member, but Purdue employee. We've actually been under the preponderance of evidence standard my entire six years at Purdue. I'm a trained panelist. I've been on the panels in which we've heard cases and found complainants responsible for the – the accusations, and I have full faith in the process. I've seen it work. I've seen it – I've seen how it does change the culture for the victims, and I guess I'm wondering about how this resolution, if it were approved with the new language, does anything more than sort of state the obvious in the sense that if any law were to change that made our policy somehow not compliant with the law we would always have to revisit that policy. Would we not? So I guess I – I'm just coming out strongly against attaching any resolution to the policy and instead approving the policy as it is.

MCROBBIE: Other comments? Yes, Herb?

TERRY: I'd simply add that I proposed this in order to avoid the possibility of this policy failing. If you have listened to this debate and conclude that – that these are very important matters you may not be able to vote for the policy. I won't be able to, if it – it doesn't at least express serious reservation about these matters whether the language about joining our other colleagues or not – I don't know – but there certainly is serious reservation among our colleagues around the country. I was trying to find a way to avoid the chance that this policy in this Council would come out disapproved because if it does that puts us in an even worse position from President McRobbie's assessment. We cannot come out of here saying that we don't stand for doing something about sexual misconduct. So I hope you will carefully consider your vote. If this fails and no other proposals is introduced and discussed and approved, I'll have to end up voting against the policy which I don't want to do.

MCROBBIE: Jan?

FROELICH: Could we trim your proposed policy further and take out the part about other faculty across the nation? I happen to agree with Dr. Sherman on that. I haven't the slightest

idea where they stand but I have grave reservations still, and so can you take that part and – and drop out the other one?

MCROBBIE: Steve, yes?

SANDERS: May I address that? Sure, I'd be happy to. There I was referring to open letters that faculty at Harvard Law School, University of Pennsylvania Law School have gone on record saying that. But I'm – I'm happy to do that, and to simply say at the same time we express serious concerns is that... ?

FROEHLICH: Yes.

SANDERS: At the same time we express serious concern about propriety and constitutionality of the preponderance of evidence standard mandated by OCR. So I'm happy to eliminate the language about other –

FROELICH: Great.

SANDERS: – universities.

MCROBBIE: Okay, so – so I – I think just because this is getting complicated. Steve, if you wouldn't mind just reading the amendment again and then I'll –

SANDERS: In its entirety?

MCROBBIE: In – in its entirety, yeah, because John wants to comment.

SANDERS: So – so the amendment would amend the proposed approval resolution that the committee has brought forward to say this, "The University Faculty Council approves the current draft of the proposed university policy on sexual misconduct OA-03 [sic]. At the same time we express serious concern about the propriety and constitutionality of the preponderance of evidence standard mandated by the Office of Civil Rights. That issue remains to be resolved by the courts. We call upon the administration to join with the faculty in continually monitoring changes in this area of law, informing the UFC Executive Committee and other relevant faculty leaders and bodies of its interpretation of these changes, and of changes in this policy that are either allowed to be made or may be required to be made, and to present a full report to the UFC on the development and implementation of this policy within one year."

MCROBBIE: John?

APPLEGATE: I – I just want to say thank you very much Steve and Herb for your flexibility in this. Speaking strictly for myself, obviously, I would have to vote against it still. I am not concerned about the propriety and certainly not about the constitutionality of what the OCR is doing. I

think they've come to the right thing and I think it's constitutional, but I just want to say how much I appreciate your flexibility on it.

MCROBBIE: Okay, other comments? Other comments from anybody? Yes, Alyce?

FLY: I understand what you're saying and I'm – I'm sure you know much more about that than I do. And, you know, maybe I'm just reacting out of emotion, but I feel like the university has to come out strongly with a policy on sexual misconduct, and I feel like what you're adding to me, people aren't really going to read the words. They're just going to kind of read it as diluting the policy and making kind of – just not being as emphatic against sexual misconduct. So I prefer in this instance to support the policy as it's written.

MCROBBIE: Other – other – in just a minute – any other? Yes?

ORME: Yes, I thought heard earlier in discussions pretty moderate concerns about the role of advising – advisors in this process. I don't know if you wish to mention that in your resolution or not, but as I understand it reservations about the – the current resolution concerned more than the preponderance of evidence issue.

SANDERS: Would you like me to respond to that?

MCROBBIE: I – I think so, and then – and then I think Marianne has asked to call the question. I think we should [comment indistinct] Yeah, Steve?

SANDERS: I – I – I do have some concerns about the role of advisors. For example, if an attorney says I don't believe my client understood the questions are they considered out of order and out of the proceeding? I have personally chosen not to address that in what I've given you here simply because I feel like I have – on that particular issue – I haven't taken the time to educate myself. I haven't talked to Emily and Jenny about it. I – I'm hoping that that is something that can continue to be considered, and – and if we are allowed to broaden the role of advisors and still not run afoul of the Office of Civil Rights that may be something we, you know, we can work on doing in the future. I just don't feel it's fair to address that in the resolution because I don't feel I know enough about that, whereas I feel like I do know a little more about the preponderance.

MCROBBIE: Okay, so I'm – I'm actually going to put the motion. Now, the motion is the amendment that Herb has moved and Steve has seconded as – as they changed it and reoffered it, which Steve read a few minutes ago. So the vote will be on that. If that fails, then we go to the original motion, which is just to approve the policy without qualification, just so everybody understands where we are on that. Okay, so – yeah – okay, so with that I am going to put the motion for approval of the amendment as stated by Steve and Herb. All those in favor signify by

saying “aye.” In fact, let’s do this by count. Could you please raise your hand if you’re in favor of – of that amendment?

DETHLOFF: Thirteen for.

MCROBBIE: And those against please?

DETHLOFF: Eleven against.

MCROBBIE: Eleven against. So – so that resolution is – is – the amendment is actually carried through the amendment – is carried through the amendment.

DETHLOFF: Abstentions.

MCROBBIE: Sorry, any abstentions? Any abstentions? Okay, so it’s carried thirteen-eleven. Okay, you – you’ll have to give the – the exact text of that, Steve, to – to the secretary for the matter to be recorded exactly as you said. Okay. Alright. Any – anything else?

SHERMAN: We have to vote on the – we have to vote on the policy now.

DETHLOFF: Yeah.

WOKECK: Yeah, now we have to vote on the policy.

SHERMAN: We haven’t voted on the policy.

WOKECK: Yes, because we are – we do want to vote.

MCROBBIE: Okay, sorry. Sorry, that is right. My apologies. Okay, now we move to voting on – on the –

SHERMAN: – policy that is amended.

MCROBBIE: The – the policy as amended. Sorry, you’re quite right. I was taking the whole thing as one. Okay, so – so now we’re –

WOKECK: Is there a parliamentarian?

TERRY: I have a question pertaining to the policy. And it’s mainly for Emily and Jenny. At the University of Pennsylvania a very substantial debate broke out over the way that policy treated three member panels, which we have in the student side in this thing. Their policy said that a two to one vote in a three member panel determined the outcome. Your proposed policy is silent on whether it needs to be unanimous or whether a two to one vote would be enough. Those who were critical of the policy said the standard is very low. It certainly should be unanimous. Others said that two to one should be enough. Do you want to leave it

unresolved? Or – or what is your [comment indistinct] because this became very contentious at Penn.

MCRABBIE: Herb, could – could we maybe take this offline? I think this is a – a question of detail that maybe could be discussed – unless people particularly want to hear the answer to it. I'm just mindful of the time and – and what we have already spent on this.

TERRY: In my opinion it's much more than detail.

MCRABBIE: Alright, well please go ahead and respond.

SPRINGSTON: It – it is silent. I know the way it's done is not by – it's not unanimous – it's not required to be unanimous. I think we have a very small percentage that aren't unanimous. Like I mentioned they deliberate a very long time. I think the fear is we want people to sit at the table and – and reach – get near as consensus as they can get rather than – than giving up. So it doesn't speak to that and I don't think we envisioned that it would have to be unanimous.

TERRY: I – I'll, at the moment, take that as an adequate answer, that – that you're saying that it is not your intent to write policy where unanimity is required.

SPRINGSTON: I – I missed that. I'm sorry.

TERRY: I'll take that as an answer that it is not the intent that this policy requires unanimity.

SPRINGSTON: Right.

TERRY: That's okay.

MCRABBIE: I just – I think there may be some confusion and – and please correct me if I misinterpreted this. The amendment actually states approval of the policy with that qualification. The qualification Steve read, so it doesn't need to go to the vote again. It's been approved via that

SPRINGSTON: Right.

MCRABBIE: – motion, right?

SPRINGSTON: Yeah.

MCRABBIE: Okay – okay. Good, so there's no more to be done on this. So we now move to agenda item nine. Thank you very much, Jenny and Emily, too, for your hard work on this.

[Multiple Indistinct Comments]

APPLEGATE: I think there are a number of us who would like the opportunity to vote for the policy.

WOKECK: Yeah, yeah, I – I agree.

APPLEGATE: I think – I –

[Multiple Indistinct Comments]

UNIDENTIFIED MALE SPEAKER: We just – we just amended the policy. We didn't vote for the policy.

BARRY: You amended the resolution.

MCRORBIE: You amended the resol – there was a resolution that was amended. The resolution was to approve the policy –

UNIDENTIFIED MALE SPEAKER: But we have to vote to – we have to vote to approve the amendment and then we go from there.

UNIDENTIFIED MALE SPEAKER: Right, now you have an amended policy.

SHERMAN: Let – let me put it in the negative. If it had failed, would you have said the whole policy fails?

MCRORBIE: If it had failed, we would have voted for the – for the policy, yeah.

MCRORBIE: Well, I am happy to have a vote on the policy. That seems to be –

WOKECK: Yeah, please, please.

UNIDENTIFIED MALE SPEAKER: I would – I would dot the "i" just to be clear.

MCRORBIE: Okay, that's fine. Yeah, that's fine, if that's the – the wish of the UFC. Any – I – I should well have had enough discussion probably on this. [laughter] I'm not going ask for any more discussion. So – so then – then the motion is to adopt the policy. It's just a clean motion to adopt the policy already –

UNIDENTIFIED MALE SPEAKER: – as amended.

MCRORBIE: We already have a resolution I guess that – that states qualifications. So there's a resolution to – sorry, a motion – to – to – to approve the policy. All those in favor please signify by saying "aye." Actually, please raise your hand just so we can get a count.

DETHLOFF: Twenty.

MCROBBIE: And against, please raise your hands as well. And abstentions, any abstentions? One abstention, okay. Alright, well I think that's a complicated outcome, but I – I guess it's kind of clear what's been intended by and large. [loud whining noise in room, laughter] And – and – and with that let's – let's move to agenda item nine. Jenny's going to talk about policy on – sorry, the report on the policy burden survey.

AGENDA ITEM 9: REPORT ON POLICY BURDEN SURVEY

KINCAID: This is an anticlimactic walk in the park. [laughter] I can go pretty quickly. So, following the New Academic Directions report back in 2011 part of that called for a faculty burden task force that met. And – and so the sequence of events following that is that we launched the university wide policy website in 2012, then that committee met through the end of that year, and as part of the outcome of that we created establishing university policy, what we sort of call policy on policies, UA-08, which was effected in 2013. And included within that policy is the requirement for workload analysis whenever a policy is created or revised. What we do with that's usually just about a short paragraph statement that the office putting forth the policy has considered the implications for burden and workload changes, and we store that behind the scenes in the database. Our policy website's really just a database with a – with a web front. So we have a field for this to keep behind the scenes, and we give it to the Policy Advisory Council when they look at the policies. UA-08 also requires that policies be reviewed every three years, and so that's something that we're starting to work more seriously on. And then one of the other recommendations from that task force was a survey of policies, and that's what we did in this last year.

Respondents were asked to select policies that they found time consuming, complicated, burdensome, or difficult to understand, and there were several open text fields where they could make comments about what was difficult about the policy or – or list any suggestions. We sent out the link to this survey through Inside IU. We got good results from that. We had an e-mail invitation to all IU faculty. We sent the link through our Policy Advisory Council, and we had a button on our university policies website. We received over 2,000 responses, and more than 75% of those were from faculty, and close to 1,000 comments. So we were really pleased with that result. So you can see here, this is a bar graph of the top ten selected policies and that number one is travel. Just to show you, here's the list.

UNIDENTIFIED MALE SPEAKER: These are most [comment indistinct] policies? [laughter]

KINCAID: These were the most selected policies, right? This will be replaced shortly by – [comment indistinct]. So number one, travel, and then there's other mentions of related travel policies as well, human subjects, and then [comment indistinct], but the FAR report. And then these are the top ten policies that received comments – sort of a similar line up. So this full

report – there’s a full report of those results and they’re broken down by category, and that’s on our policies.iu.edu website. There is a button right in the front if you want to look at that in a little bit more in depth, and we took all the comments, all 979 comments, and we sent them around to the relevant vice presidents for use in further review and revision. One thing that we’re working on this spring are some questions and spreadsheets and formatting that we can give to units with a lot of policies to sort of guide their review and revision process. I had a discussion this morning with the financial policy group that’s meeting, and – and they’re getting going on that in a serious way. And – so that workload analysis statement that’ll be part of any updating and review. And we – we have to go after – we sort of have to follow up with people on that but we feel like it’s important so that we are sort of – have constantly in the mind of those making policies, what the effects are, what the – what the burden is. We’re starting our fifth year of our Policy Advisory Council meeting, and that has representative from each vice president and each campus and they look at all new and revised policies, and – and other policy issues. It’s not an approval mechanism; it’s more of a discussion and dissemination group.

We continue to work on our policy website. Really it’s a database that takes a lot of upkeep. We work constantly on the search and – and other features there and we use Google Analytics quite a bit to look at how people are getting to the site, what policies that they’re looking at, what methods are working in terms of getting news out about policies. And I think we’ll look at doing a follow up survey to this one. Maybe in eighteen months to two years to sort of see where we are and if we can make some improvements and reducing some of those policy burdens. So with that I’ll take any questions if anyone has any.

MCROBBIE: Questions for Jenny?

KINCAID: Herb?

MCROBBIE: Yes, Herb?

TERRY: I just have one comment. Not all policies come from or go through the vice presidents. Some of them come from this Council or from the councils of the various –

KINCAID: Correct.

TERRY: – campuses and they’ll need to be engaged as well.

KINCAID: Yeah, and we have – Craig goes to all of our Policy Advisory Council meetings and then we have some of our vice chancellors and vice provosts are from the academic area, and as seen by this sort of response to our survey, we had really good faculty interest and we’ll – we’ll try to take advantage of that going forward.

MCROBBIE: Other questions for Jenny? Other questions? [Silence] Okay, good. Thank you. Thank you very much, Jenny. We move to the final agenda item, which is the discussion about the Bicentennial Strategic Plan implementation. That's John.

AGENDA ITEM 10: BICENTENNIAL STRATEGIC PLAN IMPLEMENTATION

APPLEGATE: Okay, and I will be brief. The president suggested that I give the number of comments received on it. It's etched in my mind, 334 through the website. Not that we were counting. But – but it really was those – those comments and the forums we had on every campus were tremendously helpful. And I'm very grateful for everybody who came out, and I've no question that the – the plan is better as a result of it. I think you've all received that table of – called "Assignments" from the Bicentennial Strategic Plan, and in the left hand column is – in green – are the particular items that look to formal faculty involvement. I say, "formal," because I – it refers to this body – to faculty councils, but obviously there are many, many of the action items in the strategic plan will involve faculty in the – in departments and schools, and I think everybody expects that and that is certainly the way we will operate, or the way the various units will. Many of the – the most significant of the priorities are things that involve the academic program of the university, and so having a robust faculty participation and – and shared governance in that is going to be – going to be essential. I just want to really highlight one of the items though, that's specific to – may be originally or in the first instance, this body, which is in priority two about creation of an academic or scholarly community, or the maintenance of that. There's some language in the – the preface to that priority – that's the priority on faculty – about what the plan calls the centrifugal forces that – that – that pull us apart as a community. I think I – I – I've used the phrase "the death of the faculty lunchroom," and for faculty members of a certain age, like myself, one – that's kind of a – a – a metric of the – of the – of the decline that we see. Much as we are able to communicate with so many other people – which is a wonderful thing – it also pulls us apart. We can work from home, sometimes more productively, and so it's more convenient to do that. That doesn't necessarily serve us or our students well, and so before we get to a point where we are all scattered to the four winds and the expectations of being part of a real community are – are kind of gone, and it's very, very hard to – to unwind that or to – to pull it back in. I think that we need to take a serious look at that. And the serious look at that simply has to come in the first instance from the faculty, and so what I just wanted to report is in the next – in the next couple of months I'll be working with Jim and Marianne and the – the third co-chair of the UFC, whoever that may be, to – to map out a process where the faculty really take ownership of those issues. Because, as I say, that's where I think the – the impetus for it really needs to come and where the values of it are going to be most recognized. Getting our hands around that issue is very difficult. I think we're probably all familiar with the policy on conflict of commitments and just how difficult that is at kind of the outer edges of the problem. But I – I do think it's fair to, as the

strategic plan says, to be concerned that – that we maintain the kind of academic community that I think we all treasure and which we – we bring as a very distinctive advantage to our colleagues, to our research, and above all to our students. That is my report.

MCROBBIE: Any questions for John on this – on this matter? Questions? Alright. Yes?

SPANG: Actually, I guess I do have one. The way – I'm sure this isn't what you meant because – but the way you laid it out you said, you know, sometimes people work from home because they're more productive and this contributes to a sort of fragmenting of a sense of community. Are you imagining that taking ownership of it might mean mandating that you cannot work at home?

APPLEGATE: I don't know what it means. That's why I say I think that we – we need to have a real discussion of it. Obviously, people are going to work at home. I just use that as an example. I mean, there are – there are many things that contribute to a changed culture in the workplace. Many of them are very good things that we wouldn't want to do away with, but at the same time it creates this problem. That's why I think it needs some serious thought and discussion. No, I was not suggesting that – to abolish working from home, though most of our families would probably think that's a pretty good idea.

HASELL: [comment indistinct]

MCROBBIE: Yes. Jim, yeah.

SHERMAN: I think this is just further reflective of something that started years ago. It must have been ten years now when that book *Bowling Alone* came out and the death of the community and people being alone, well, that was before all of the iPhones and, you know, every student walking on campus –

SPANG: Yeah.

SHERMAN: – even though they're with three other people they're all alone. They're with someone on their device maybe. But, yeah, I think it's a – I think it's a big problem. I don't know what the implications for society will be, but it'll be a different world with the next generation.

MCROBBIE: Okay. Yes?

BRIGGS: John, I just have a question coming from the regional campuses, some of us have already seen changes in terms of the disappearance of the classroom moving onto online. How do we kind of resolve this paradox that perhaps the – the larger campuses haven't experienced just yet where we don't even interact with students in a classroom, but in many ways we

interact constantly with them in a different kind of community. And it certainly then affects our relationship to our colleagues as we interact with them in these kind of tangential ways as well.

APPLEGATE: Exactly, and – and this is one of those places where I’m not being the least bit rhetorical in saying I don’t know what the answer is. I mean, I think it’s – it is a complicated – a complicated question. One way which I’ve – I’ve heard, I think maybe from – from you is that we think of it from a student’s point of view. What – instead of thinking about it from faculty behavior think of the – thinking it about – thinking about it from the point of view of what, say, students can expect from us, or what our colleagues can expect from us. There may be lots of ways to – to think about that, and – but I – but the idea, I mean, I – I – the conflict of commitment policy certainly gives one pause in trying to mandate a whole set of, you know, you can work here now and there – I mean, that’s just ridiculous. But there are a lot of different things and a lot of different reasons but, as I say, I – I worry that we’ll – we will have lost the – we’ll – we’ll come to realize we’ve lost it at the point where we can’t get it back to quote Joni Mitchell badly. [laughter]

MCROBBIE: And hence showing your age. Yes, Herb?

APPLEGATE: Touché.

TERRY: If I may a final comment. One of the things I have realized as I – I near the end of my career is that this institution is not about policies and compliance and all of this sort of thing. It’s a cultural institution, and these last comments reinforce what I think I’ve come to – to realize a lot in the last six months or so. Most of the challenges we face are in responding to cultural change and in changing our own culture. On the sexual misconduct thing what we really see is a different culture within the Indiana University community than we have. As Jim mentioned, we’re challenged at Bloomington to reconceive shared governance. We’ve discovered that we’re trying to do that in a culture that says in research and creative opportunities – research and creative activities offer opportunities. Teaching is a “load,” and service is a “burden.” We need to change that culture or we’ll never revive service as an important thing. I don’t know how you change culture. I do know we have experts here in culture, and – and I hope as we – we go ahead we – we broaden our approach to how this place has to change from having different policies to what can we do that creates a 21st century culture, a more modern, multisystem university with online education and all of the other external factors that are altering our lives and the lives of our students. It doesn’t require just policy change. It does require cultural change.

MCROBBIE: I think some – someone was trying to – Charles?

BANTZ: Somebody else.

MCROBBIE: Yeah, I thought someone was trying to get in down here – final comments – so... Okay, with that ladies and gentlemen we're adjourned. Thank you.

[Multiple Indistinct Comments]

UNIDENTIFIED MALE SPEAKER: He did have a comment.

BANTZ: I was going to say something, but I thought someone would –

MCROBBIE: Oh, sorry, Charles. Go ahead. I thought you were just pointing out. Go ahead, yeah?

BANTZ: At the risk of being amusing there's someone I know who studies organizational culture and may have more time to do that in future. But, one of the things I – as – as we start to look at the issue John's raised I'm reminded of the times that – when we have had to defend what faculty do against criticism from the outside. And one of the things that has always helped me make that case is trying to actually look at what faculty do, and it's not mow the lawn on Thursday at 2 o'clock. There's somebody doing it supposedly in every city in America. What is – what is important is the variety of work that you've just described, and having a sense of what that is. So, for example, not a single person here mentioned – those of you who run laboratories, who the laboratories run twenty-four hours a day, seven days a week, every single day, and there are people in those labs, and they're not just the post docs. Occasionally, they are the faculty, and how do we think about their connection? And I do think it's got to be based on what behavior there actually is. And the variety we have on a campus is astounding to me. So one of the really interesting parts of this question, John, I suppose is how do we think about what are the key characteristics we're trying to support because otherwise we will not get those outcomes that we're looking at as we change the way we teach and the style in which we teach. And I do think beginning with that fuller understanding, because there isn't a single answer as John's saying at the back of the book here. So I – I actually really encourage this about the larger question of how do we support faculty as they do this changing work, which isn't what they learned in graduate school, and I think that's the joy of faculty work, but it's also the challenge. Thanks.

MCROBBIE: Okay, with that we are adjourned. Thank you very much.

MEETING ADJOURNED: 4:31PM