

Indiana University
BLOOMINGTON FACULTY COUNCIL
October 19, 2021
Presidents Hall - Franklin Hall
2:30 P.M.- 4:30 P.M.

Members Present: John Applegate, Karen Banks, Carolyn Calloway-Thomas, John Carini, Rachel Cohen, David Daleke, Allen Davis, Madeline Dederichs, Anna Deeds, Constantine Deliyannis, Danielle Desawal, J Duncan, Kelly Eskew, Jackie Fleming, Ky Freeman, Brian Gill, Jason Gold, Lucia Guerra-Reyes, Nandina Gupta, Israel Herrera, Larissa Jennings Mayo-Wilson, Colin Johnson, Pete Kolbaum, Douglas Knapp (alternate), Ben Kravitz, Robert Kunzman, Jessica Lester, Sally Letsinger, Scott Libson, Margaret Lion, Nancy Lipschultz, Annette Loring, Jill Nicholson-Crotty, Miriam Northcutt Bohmert, Martha Oakley (alternate), Massimo Ossi, Eliza Pavalko, Jim Perry (alternate), Chuck Peters, Rob Potter, Cathrine Reck, Dan Sacks, Steve Sanders, Jim Sherman, Katie Shy, Marietta Simpson, Kashika Singh, Rebecca Spang, Dubravka Svetina, Lisa Thomassen, Samantha Tirey, John Walbridge, Erik Willis, Stephen Wyrzynski, Jeffrey Zaleski

Members Absent: Jim Ansaldo, Ton Arcuri, Hussein Banai, Kaitlin Doucette, Lessie Frazier, Anthony Giordano, Justin Hodgson, Valentina Luteka, Pedro Machado, Courtney Olcott, Angie Raymond, Katie Shy, Thomas Sterling, Jiangmei Wu

Guests: Kathy Adams Riester, Mike Ryan

AGENDA:

1. **Approval of the [minutes of October 5, 2021](#)**
2. **[Memorial Resolution for W. Eugene Kleinbauer](#)**^{SEP}
3. **Executive Committee Business** (10 minutes)
Marietta Simpson, Faculty President
4. **Presiding Officer's Report** (10 minutes)
John Applegate, Interim Provost
5. **Question/Comment Period** (10 minutes)
Faculty who are not members of the Council may address questions to Interim Provost Applegate or President Simpson by emailing bfcoff@indiana.edu.
Questions should be submitted no less than two business days before the meeting.
6. **Proposed revisions to the academic misconduct procedures in the Student Code of Conduct** (15 minutes)
Danielle DeSawal, Co-Chair, BFC Student Affairs Committee, Clinical Professor, School of Education
Kathy Adams Riester, Associate Vice Provost for Student Affairs and Executive

Associate Dean of Students, Division of Student Affairs
Mike Ryan, Assistant Director, Office of Student Conduct, Division of Student Affairs
[Second Reading – Action Item]

[B10-2022 Updated Academic Misconduct Code of Conduct Recommended Changes – Clean](#)
[B11-2022 Updated Academic Misconduct Code of Conduct Recommended Changes – Tracked Changes](#)

7. Questions/comments on the proposed revisions to the academic misconduct procedures in the Student Code of Conduct (30 minutes)

TRANSCRIPT:

AGENDA ITEM ONE: APPROVAL OF THE MINUTES OF OCTOBER 5, 2021

APPLEGATE: Ladies and gentlemen, we're at 2.30, so I think let us begin. Our first order of business is approval of the minutes of October 5, 2021, which is linked to your agenda, and so you should have had an opportunity to review.

Do I have a motion to approve the minutes?

JOHNSON: So, approved.

APPLEGATE: Thank you, Collin.

A second?

Thank you. Any discussion, corrections, revisions?

Hearing none... Yes, ma'am?

THOMASSEN: So, the minutes are as always highly entertaining and interesting, and I welcomed Rebecca's voice back in the minutes. When I first started reading them, it was a lot of fun. I was wondering about the omission...

COHEN: Can you speak into the microphone?

THOMASSEN: Yeah, my bad completely. So, I said a bunch of nice things about Rebecca and how wonderful her minutes are, but I did note the omission of the addition of a lecture to the search that weren't included in the minutes, although I'm sure those are in the record for the provost, which was mentioned at the meeting.

So, is that something that we would add to the minutes or not?

COHEN: You're unofficial.

THOMASSEN: A question?

APPLEGATE: Can we agree that she will take that one under advisement?

SPANG: Hi. I would just want to make sure that we're not confusing the official minutes and the secretary's report.

The secretary's report is just the secretary's report, and I don't think we ever do talk about revisions to the secretary's report because it's not enough for me to record.

THOMASSEN: That's a great clarification for me. Thank you.

APPLEGATE: For me as well, so thank you.

APPLEGATE: Excellent. Any other comments, revisions?

Hearing none, all in favor, please say aye.

ALL: Aye.

APPLEGATE: Any opposed? All right. The minutes are approved.

AGENDA ITEM TWO: MEMORIAL RESOLUTION FOR W. EUGENE KLEINBAUER

APPLEGATE: We now turn to a memorial resolution for Professor W. Eugene Kleinbauer. Eliza?

PAVALKO: Thank you very much.

W. Eugene Kleinbauer, professor emeritus in the Department of Art History, died on June 3, 2019, in Bloomington, Indiana. During his long and prolific career, Gene led the fields of Byzantine architecture and art historiography, and served in many leadership roles, both on the Bloomington campus and within his discipline.

Gene was born in Los Angeles, California, in 1937. After earning his bachelor's degree in economics at the University of California, Berkeley, in 1959, he transferred his focus to the field of art history. He completed a Master of Arts in history of art at Berkeley before moving to Princeton, where he completed a Master of Fine Art in 1964, and then a Ph.D. in 1967, with a study of the aisled tetraconch church form, a Christian architectural genre that appeared in Italy, Armenia, Syria, and Northern Mesopotamia and then just as quickly disappeared. Gene returned to California to teach at UCLA from 1965 to 1972, before moving to Bloomington to become associate professor and chair of fine art in 1973. He spent the remainder of his career at

Indiana University, interrupted by brief stints as San and Ayala Zacks Visiting Professor of the History of Art at Hebrew University (1978) and Frederic Lindley Morgan Visiting Professor of Architectural Design at the University of Louisville (1996). Gene served as editor of the scholarly journal *Gesta* from 1980 to 1983, and then as president of its parent professional organization, the International Center of Medieval Art, from 1987 to 1990. He retired from Indiana University in 2006.

While Gene continued his work on Byzantine architecture, publishing monographs (*Saint Sophia at Constantinople: singulariter in mundo*, 1999, and *Hagia Sophia*, 2004) and research tools (*Early Christian and Byzantine Architecture: An Annotated Bibliography and Historiography*, 1992), his scholarly reputation was defined by his work on the historiography of art history. A first foray into historiography, "Geistesgeschichte and Art History," *Art Journal* 30 (1970/71) was quickly followed by his *Modern Perspectives in Western Art History: An Anthology of Twentieth Century Writings on the Visual Arts*. First published in 1971 to provide a required graduate class with English translations of key readings and an interpretive framework, it was expanded and republished repeatedly, becoming the standard text for historiography courses in the discipline over the subsequent decades. Once joined by his coauthored *Research Guide to the History of Western Art* (1982), these works cemented his reputation as perhaps "the father of art historiography in the United States and much of the English-speaking world," in the words of Lee Sorensen, editor of the modern historiographic clearing house *Dictionary of Art Historians* (June 18, 2019).

A popular undergraduate teacher, each class meeting of Gene's A101 Introduction to Ancient and Medieval Art was preceded by a pop music prelude. Late in his career, each Halloween saw an A101 costume contest with prizes. He was awarded the Indiana University President's Award for Teaching in 1999.

Gene's legacy was also built through the many graduate students he supervised, who continue to advance the field through their scholarly pursuits at universities, research centers, and presses throughout North America. Supervising projects that ranged across Europe and nine centuries of medieval history, he gently pushed his students to the highest level of achievement. Former student Henry Schilb reported in the November 2019, *ICMA Newsletter*, "I can attest to his skills as a lecturer, but I am also aware that, with his intellect and demeanor, he could intimidate some of my fellow graduate students, albeit unwittingly and often with a mere waggle of his famous eyebrows. He could also baffle those undergraduates who came into his classrooms unprepared for the wryly erudite yet playful humor that punctuated his lectures. For the patient student who paid attention, however, the reward was a rich intellectual journey...and the occasional medley of Madonna's latest hits." In the words of Ph.D. graduate Janice James, "He was a warm, caring, supportive, humorous, dedicated, inspiring and strong individual, a true treasure to have had as an advisor, mentor, and teacher."

Gene is survived by his husband, Richard Aebersold, his sons, Christopher and Mark, Mark's wife Susan, two grandchildren, Nicki and Cassidy, and his brother, Thomas Kleinbauer.

Thank you.

APPLEGATE: Thank you. Colleagues will all who are able please stand in memory of Professor Kleinbauer.

AGENDA ITEM THREE: EXECUTIVE COMMITTEE BUSINESS

APPLEGATE: Thank you. We now turn to executive committee business, and Marietta Simpson, President of the Bloomington faculty.

SIMPSON: Good afternoon, everybody. Thank you, John.

In our last meeting, we had a discussion about the notifications in the early evaluations. So, I'd like to start the executive report yielding the floor to Logan Paul, Senior Lecturer in the Luddy school and Co-chair of the Tech Policy Committee who is here to give us an update. Logan?

PAUL: Thank you very much. So, there was a bit of a perfect storm of events that we deduced had gone on with the student engagement roster, which we all know is a very powerful tool for helping our students succeed.

The first was the surprise in the emails from the SER, so that they came from you and were in first-person. It's been used for about four years around the university as a whole, and this is kind of the first major adoption on the Bloomington campus.

That was a bit of a surprise on the office of completion and student access, and Dr. Becky Torstrick has been really receptive to our feedback and they're actively working on mitigating that issue, and also producing some short training videos and some additional documentation to help everybody be more familiar with the tool as it works.

We can obviously provide updates on that as it comes along.

The second piece is some people might have also been frustrated that the SER didn't actually work for them when they went to enter their grades a bit late on Saturday or Sunday, as we all do because we're busy.

There was another perfect storm or part of the perfect storm with that, there was a piece of infrastructure that went down at UITS due to a bit of an overload that was totally unexpected.

Additionally, a planned major upgrade to the student information system also coincided with that weekend that took down the tool.

There was a bit of a miscommunication between different departments and units on that, which also added to the frustration, and I think compounded a lot of it.

We're also working on tackling some priorities around change management and how we all communicate with each other at the university to make sure that those things don't happen again.

SIMPSON: Thank you, Logan. There are a couple of things I wanted to mention going forward.

The first is that on October 7th and 8th, I attended the trustees meeting—Logan has to go to a class, so he's going to leave us. But I thought it was important that you have that update. The trustees meeting took place at IUPUI's campus, and I'm sure a lot of you haven't had a chance to read the minutes from that meeting so I just wanted to share a couple of things that took place there that referred back to our campus.

One, our Interim Provost Applegate gave a personnel report that highlighted initial hires that took place in the College of Arts and Sciences, one in the English department, and then some reappointment and changes in status in the College of Arts and Sciences, in the Kelly School of Business, in the Maurer School of Law, and in the School of Public Health.

Then there were two major project approvals, one for the IU School of Medicine, the Medical Education Building in Indianapolis, and the academic health center.

The IU Medical Education Building will be co-located with Indianapolis Academic Health Center in development with IU Health to include an IU Health flexible platform of care facility, consolidating Methodist and university hospitals at the Southwest corner of 16th Street and Capitol Avenue in Indianapolis.

The IU School of Medicine facility will create a new primary site for medical education programs with primary research labs remaining on the medical campus adjacent to IUPUI, and the cost of this project is estimated to be a \$175 million and will be funded through a grant from Indiana University Health and IU School of Medicine funds and appropriate state approvals will be requested.

The project that was approved for our campus is the right quadrangle renovation, which is located, if you know where right is, North Jordan on our campus.

This project is a continuation of the Bloomington campus long-term housing plan to renovate all major student resident facilities.

The residential wings will receive new flooring and student rooms and corridors, new ceilings, two new staff apartments, restroom upgrades, and accessible and all gender restrooms will be added, and windows will be replaced in the residential wings.

The cost of this project is estimated to be \$51.9 million and will be funded through residential programs and services funds, appropriate state approvals will be requested, and both of these projects were approved.

In addition to all of the other business that the executive committee is looking at right now, I want to make you aware that the Bloomington Chapter of the AAUP sent the executive

committee two statements that the AAUP, the Bloomington Chapter, passed last week on the Presidential Search in response to the articles written by our professor Steve Sanders.

Yesterday, we received a set of related questions. The executive committee has acknowledged receipt of the statement and now publicly we're acknowledging the receipt of the questions.

We will have a response to those questions after we have had an opportunity to meet as a committee and we will report our responses to those questions in our next BFC meeting so you will know what those responses are.

I also want to say, last Tuesday, VP Fred Cate hosted an all-campus open forum for feedback for the executive vice provost search.

Some of us and some people in this room attended that session. Some people also attended online. Unfortunately, it was a rather low turnout from the campus in general. But there's still an opportunity to offer feedback via the portal that can be found at execsearch.iu.edu. Please do go on that site and offer feedback to the executive provost search.

The last thing, and this is for you, Jim Sherman, we all should have received our open enrollment announcement. We have until October 29th to make your enrollment of your benefit elections and re-sign the tobacco-free affidavits. Please do go on there and make your benefit elections.

Thank you.

AGENDA ITEM FOUR: PRESIDING OFFICER'S REPORT

APPLEGATE: Thank you. Now, for the presiding officer's report, the first thing I want to report is that our colleague in the O'Neal School Public Environmental Affairs, Kosali Simon, was recently elected to the National Academy of Medicine, which is a tremendous honor for her, and those of you who know her know what stunning work she does.

But it's a wonderful honor for the university and the campus as well. I know we all join in congratulating her on this great honor.

Second item, and I'm going to ask David Daleke to speak to that, which is a related one involving a graduate student.

DALEKE: Thank you, John.

Every year we hold a competition for the most outstanding PhD dissertation on the Bloomington in the Indiana University. The competition is held in two different categories each year.

This year, one of the categories was the humanities and fine arts. The winner of that award was Denise Geshari and we put that dissertation forward to a national competition sponsored by the Council of graduate schools.

I'm happy to report that Dr. Geshari also won that award. She is from the Department of History, so congratulations to the Department of History. Her field of study was Latin American History. Title of her dissertation was cartographies of conflict, political culture, and urban protest in Santiago, Chile, 1872 to 1994.

She is currently an assistant professor at the University of North Carolina, Greensboro and is a fellow of the Kellogg Institute at the University of Notre Dame. The award will be presented to her at the Council of graduate schools annual meeting in New Orleans on December 2nd.

Please, let's congratulate Dr. Geshari for this so wonderful and very prestigious award.

Thank you.

APPLEGATE: Two wonderful pieces of news. I also wanted to report last year as you probably all know, our Japanese American ban advisory committee, Karen Norway, began convening to discuss ways to educate the IU community on the Japanese American internment and acknowledged the university's role in denying admission to 12 Japanese American students during the World War II. For these students, the ability to attend Indiana University would have been a ticket to freedom from internment camps and so IU's action was a substantial harm to those students.

A number of efforts have arisen from these meetings. First, we're in the process of installing a plaque which the committee authored near the Wells library and there will be a memorial and dedication of that on November 9th to which anyone on the campus is welcome. Secondly, Professor Norway is teaching a course on the internment through film history, art, and literature. Third is that the advisory committee also plans to host a panel discussion on the National Day of Remembrance in February 2022. This will bring together national and local scholars to explore the impact of anti-Japanese policies during World War II and more broadly.

Finally, the campus has created a scholarship fund to honor those students. We'll be beginning to provide that scholarship in the coming academic year.

As I think we all know, the internment of Japanese Americans primarily on the West Coast, many of whom were citizens and many of whom had served this country in many ways, is a deep stain on our national history and our commitments.

I think the actions that are recommended and adopted by this committee go a long way to recognize that unfortunate part of our history and to make sure that through knowledge, it's not forgotten. I'm very grateful to the committee.

Again, November 9th is when we will be dedicating the plaque.

The last thing I had to report is that there are a number of new faculty funding opportunities offered through the Office of the Vice President for International Affairs and International Mobility Grant for a variety of conferences and international collaboration grant.

All of these can be accessed or information about them can be accessed on the OVPIA website or by writing to IA grants at iu.edu.

As I think everybody knows, the past couple of years and maybe more have been pretty challenging for the international connections on which this campus so greatly and justifiably prides itself.

These opportunities to connect with colleagues in other parts of the world and other institutions and other countries are particularly important and meaningful. If it is something that is of interest, I hope you will pursue it.

That concludes the presiding officer's report.

AGENDA ITEM FIVE: QUESTION/COMMENT PERIOD

APPLEGATE: Now we have a question comment period for 10 minutes.

CALLOWAY-THOMAS: I have a question.

APPLEGATE: Yes, Carolyn?

CALLOWAY-THOMAS: Marietta, I hope I'm not out of order with regard to the question I'm about to ask, but it pertains to the AAUP response to Steve Sanders' essay.

I was wondering why that might be possible for us to get a sense of what the question is or is that not an appropriate question for us to ask?

APPLEGATE: I think that the Executive Committee asked to take this on itself in response to the AAUP's communication, but I don't and so I don't want to preempt their discussion. But I don't know that there's any problem with repeating the questions that were asked.

I think many of you have seen the AAUP statement. I don't plan to read it into the record, but as I understand it and Executive Committee, please correct me. That it calls upon the IU administration to commit to the AAUP principles of shared governance and consultative authority of the faculty is outlined in the faculty constitution. Calls upon the Board of Trustees to renew its commitment to establish norms of shared governance. I'm paraphrasing a bit and calls upon the university administration to clarify what it knows about the circumstances under which an Indianapolis law firm has sought Professor Sanders emails.

Those are the questions I believe that the executive committee has taken upon itself to address.

As Marietta said we'll be reporting back at the next meeting, reporting back to the whole committee. I might add in that connection that while the presidential search is not something that I had any part in, I've nevertheless recused myself from those discussions of the executive committee to assure that the committee can have a full and candid discussion among itself about these matters and report back.

Any others? Yes, Israel.

HERRERA: The question is regarding the scholarships. We have our BFC scholarships for the underrepresenting students. I wonder do we have any information or update about the scholarships because this hasn't been given for a while.

APPLEGATE: Which scholarship are you-?

HERRERA: The BFC scholarship.

APPLEGATE: BFC? I'm afraid I do not know the answer to that question, but I can certainly find it out. I don't see David Johnson here who would know that off the top of his head, I'm sure.

Yes, Rebecca?

SPANG: Thank you, Israel, that's a very appropriate question.

The BFC scholarship for students who do not qualify for state or Federal aid because of their citizenship status was awarded, I believe the first time in 2019 and 2020. It became a much more handsome scholarship than we had originally suspected it was going to be, thanks to being supported further by the McDonald Scholars Program.

My hope and understanding is that the support from McDonald's scholars was ongoing. I think it may have been awarded for 2020, 2021 as well, and we simply don't know. We haven't been informed the recipients, but I'd be happy to follow up with them on that.

AGENDA ITEM SIX: PROPOSED REVISIONS TO THE ACADEMIC MISCONDUCT PROCEDURES IN THE STUDENT CODE OF CONDUCT

APPLEGATE: Others? Seeing none, we can move on to the sixth item which has proposed revisions to the Academic Misconduct procedures. This is the second reading. You'll recall that our last meeting, we had the first reading and had a lively discussion about a variety of aspects of that policy.

We are now at the point that it is an action item.

I will turn it over to the co-chair of the Student Affairs Committee, Danielle DeSawal. She's joined by Kathy Adams Riester and Mike Ryan. Danielle?

COHEN: Actually, Danielle, one second. Any members of the council who are sitting in the visitor section, can you please come to the table. Because any votes we need to do you will not be seen are counted, and we need to have that—thank you.

APPLEGATE: Thank you. There is space at the front which is obviously and always it's a universal human role are empty. Danielle, go ahead. Thank you.

DESAWAL: Great. Thanks, Provost Applegate.

Well, we are excited to bring you the second reading of the Academic Misconduct Code. We are small and mighty this time, but we will get us through this process.

It's not moving. No go. Let's try this. No go.

APPLEGATE: It appears that the assistance is on the way.

DESAWAL: Okay. Great.

APPLEGATE: If you want to start without them, that's fine.

DESAWAL: Just to get us to where we are currently. As a reminder, the recommended amendments, and the original document from the first reading come to the BFC with the support of the Student Affairs Committee.

The process has taken over a year and has been inclusive of input from multiple constituencies on campus, including faculty, undergraduate and graduate students, and representatives from schools and college that work directly with the academic misconduct process.

Reminder that the Bloomington procedures are for adjudicating academic misconduct specifically on the Bloomington campus.

I didn't know if I had the thing...

This is where we will continue to be reviewing today. Prior to Q&A, we will broadly review the amendments to the document based on the thoughtful feedback from the BFC from the first reading, students, and the campus community from additional input that we received.

As a quick reminder, the overall changes covered in the first meeting were a change from calendar to business days, procedure timeline updates which created a change in the timeline that went from 90 to about 47 business days, and then basis for appeal, recommending establishing a required reason to provide an appeal at each appeal stage of the process.

With that, what we had nicely put together is our amendments that had the modification and then the rationale so we will do our best.

I'm going to turn it over to my phenomenal colleagues who are going to take us through the primary amendments. I'll give it over to Mike right now.

RYAN: Great. Thank you all so much for your time. I'm going to address a few of the amendments that were proposed at the last meeting, the first of which was adding to the list of appeals the basis for the preponderance of evidence not being met.

This just clarifies for our students. That's going to be broken out into its own appeal basis throughout the document. This is a hub; our students clearly understand a main way to appeal. I think that was not as clear in the first iteration.

Our next modification that we're making is clarifying what business days means. I think there was some confusion about what that may have meant versus calendar days. Really clarifying that this means days when the institution is open and when we can expect people are working to conduct business.

That'll be defined at the beginning of the document and then business days will be used colloquially, again, throughout the rest of the document. This is going to help clarify currently the way that the code is written as we use calendar days, but calendar days, when you look at its definition, is not as clear as it seems either because it's calendar days when the university is in session. When we get to things like winter break or Thanksgiving break, when sessions become unclear, and so this will really help solidify exactly what we're talking about and the spirit of that change.

The last one that I'm going to talk about is adjusting some language for the timeline in which faculty need to provide or need to submit their reports to the Office of Student Conduct. We're going to add language that essentially adds, by the time that the faculty member applies the academic sanction in the classroom setting, that is when that clock will start for the five calendar or five business days in which to submit the report to the Office of Student Conduct.

It gives this clear defining moment of here is when I have applied the in-class sanction, that is when the five-day starts, that's when I've made my decision that misconduct has occurred. This is looking at the BFC Student Affairs Committee, had a thoughtful discussion on this timeline. The committee agreed that this was a reasonable timeline, and the five days is enough, given that that is after the faculty member makes their decision, and that student feedback was also taken into consideration when adjusting this timeline to make it so that our students can more effectively move through this process as well.

Thank you. I will turn it over to Kathy for the remaining modifications.

ADAMS REISTER: I'm going to talk about, there are some clarifications of who an administrator is and who should be working on the sanction. We have made the modification starting on page 1 in section a of adding, I think it says dean and we're adding and or designee because the dean could designate an assistant dean or someone else to work with this process.

That will be added throughout the document to just make it more accurate. I think as the process already occurs in case someone else's handling those proceedings. It will be added on the first page of the document, and we'll assume that it carries through the entire document. We can modify the entire document if needed. But that dean as our designee will start on that first page.

The next clarification is I think we had a little bit of discussion about part C on page 2 where it talks about the academic dean discussing the matter with both student and faculty member.

I think there was some confusion on was this meeting held together or was it held separate? We'll read academic dean discusses matter with both student and faculty member, either separately or together at their discretion. That discretion then is at the level of the dean or their designee who's having that discussion with that. We would just feel like that makes the language more consistent.

Then responding. I know we had quite a discussion about the student's written appeal and including bias is one of the prongs that a student could appeal.

Alleging bias is part of the process. This is referencing part A on page 2. What we're going to add to that is that the student's written appeal must include evidence supporting their reason for appeal. This would apply to any of the prongs of the appeal, including bias so that a student can allege there's bias or preponderance of evidence wasn't met.

They can't allege anything without providing evidence of why that they are alleging that.

We had also a good discussion in our Student Affairs Committee on this with the input of our students who participate in that, who thought that it was very important, in particular, to keep bias as part of one of the reasons that you can appeal the process. We continue to move that forward, including that as part of the process, but with adding that the documentations and needs to stay there.

As a reminder from that conversation, what we talked about is that if the bias is alleged on a protected class, then the Office of Institutional Equity would get involved in the process. If it's not, if it's just this instructor is being unfair or they don't like me, then the dean can then refer the case to hearing board in order to have a neutral party determined whether or not misconduct took place, so that it removes the potential of bias being involved in that process.

That is how the process would proceed. That's it.

DESAWAL: Those are our modifications that we made to the document which are reflected in the document that was part of today's agenda.

We want to thank everyone for their feedback. The BFC Student Affairs Committee took all of those into consideration and we had a great dialogue, and we are especially thankful to our students who participated so thoughtfully in thinking through how students will receive the information and how that relationship works with faculty.

I'll turn it back over to you.

APPLEGATE: Great. Thank you. Does that come as a motion from the committee to adopt the revisions?

DESAWAL: I do believe that it does.

AGENDA ITEM SEVEN: QUESTIONS/COMMENTS ON THE PROPOSED REVISIONS TO THE ACADEMIC MISCONDUCT PROCEDURES IN THE STUDENT CODE OF CONDUCT

APPLEGATE: Excellent and how convenient. Coming from a committee I believe that it does not require a second, so it is open for discussion.

It was brought to my attention at our last meeting that even though this is about the Student Code of Conduct, given the time constraints, student members of the council did not have an opportunity to address it. I see Ky Freeman and Madeline Dederichs here, I don't see Valentina, but I would like to invite them first perhaps to speak to this, and then of course, open it up more generally.

FREEMAN: Did I do this right? Oh, okay. I'm sorry.

What I would like to say in regards to this is that what we voiced in the committee is that we really do want to make sure that while this is affecting faculty, that what's kept in mind is that students are also having to go through the same exact process. Getting something done as efficiently and effectively as we possibly would be absolutely amazing.

We do like the language that is there. We do also like cleaning it up and making it more gender inclusive but more than anything, I think getting it done within that timely fashion, so we don't bleed over into the summertime for a lot of students, is what it is.

But it is very digestible for a lot of the students that we've given this to look into, and we appreciate all of the changes that have been implemented thus far. Thank you.

APPLEGATE: Thank you. Madeline, do you want to add anything?

DEDERICHS: Yeah, I echo a lot of those statements. We had the opportunity to be able to share this with members of our organization as well as other students that have been affected by academic misconduct and have been able to see how this will be able to support them in turn.

We do know as students, what is probably one of the most difficult aspects of this process is how elongated it can be. We are extremely busy people along with everyone else here, and sometimes what is the most beneficial for us is to be able to feel the support from the faculty that are working with us as well as with the incredible staff that is working for this office to make this as short and sweet and least painful as possible when a mistake was made.

I know not only is that helpful for students, but for the families that are involved. Because a lot of families are incredibly invested in their students' academic experience that they also want to make this as supportive in that sense as well.

APPLEGATE: Thank you. Anyone here from the graduate school groups?

All right, then let me open it for other...?

DESAWAL: Yeah. I'll just note Provost Applegate that the GPSG representative as well as Dave Daleke were at the BFC Student Affairs Committee meeting where we had the discussion about the amendments as well as the first, at least they represent the first meeting, as well and was with us last year.

There has been graduate input along the way in that process.

APPLEGATE: Excellent, wonderful. Thank you. Any other comments, questions? Yes, Lisa?

THOMASSEN: Thank you. I have a couple of questions.

Academic misconduct is really harrowing for faculty. At least it has been for me, agonizing over having to make a decision, what an appropriate penalty is, the impact on a student, and in many instances of course, the penalty will frequently be nothing, just an educational experience and noting it.

In some instances, it's more severe, and of course we don't have access to academic records, but it's important to document.

These are important issues because the letters of recommendation we write for students, the scholarships, the internships, the applications to graduate school, there are limited spots.

We want to support our students and make sure the students that we're supporting have the opportunities so that, say that really excellent B-plus student has an opportunity where somebody who got a better grade didn't.

These are the reasons that we have to report to maintain the academic integrity. I don't take these charges at all lightly and put a lot of attention into gathering evidence.

I have some concerns about the timeline, although the timeline appears to not kick in until the determination has been made. That's a really long time to gather evidence. In many instances, there's a suggestion that something has occurred. Things are really different now.

Back in the day before all the electronic tracking and the ability, aside from Turnitin, to look up passages for plagiarism, for example, for papers and so forth, there's so much more information and then all the data analytics available on Canvas and so forth, that sometimes it takes a great

deal of time to gather all this information and an incredible amount of energy to do so, and faculty will not, in my experience bring these charges at all lightly, because they're very difficult.

A number of people who are instructors are in difficult positions. They need good evaluations. AIs certainly feel a lot of stress having to deal with one of these situations and seek consultation.

Contingent faculty require excellent course evaluations for teaching positions and bringing misconduct charges really doesn't fly well with students. It doesn't make an instructor popular. These are really important things, I guess, which everybody knows. Of course, it's harrowing for students as well, and faculty feel that.

I have a couple of questions about this timeline, which even if it doesn't kick in until five business days after making the determination, that determination takes a great deal of effort to really build good evidence.

Frequently, that's what we see in the hearing, the appeal. That's one question, is about, if there's a determination, we might not know the extent of some of the misconduct sometimes until we really get evidence, for example, because you don't want to make these charges lightly, especially if the penalty is severe.

That's a lot of lot of work on a part of a faculty member, it takes a great deal of time, particularly if you teach a lot of classes, have a lot of students.

I've had misconduct where they've been 14 students involved, 12 got a report with no penalty, two were innocent. Another one with eight. I am aware of a instance with 50 or 60 students involved in a group. Some of these are pretty extensive.

I do have some concerns about the timeline, but of course everybody wants to resolve it. I always try to have these meetings immediately, but the preponderance of evidence might not be all available at that point to alleviate a student's concern.

Also, if there's been misconduct in a course that's so severe that the penalty would be an F because all of the work was plagiarized, for example, the student would not be continuing the course.

That's another concern.

My last one would be, and I expressed this to you, and I think this is something that's been addressed before, is when we get to the unit hearing, I really feel like in regard to Steve's point, any student should have the right to appeal. These are serious charges, and if a student wants to appeal the charges, I feel like anybody should have the right to appeal, for whatever reason.

Then at the appeals hearing, is where the evidence can be brought and there is time to prepare for that. I know it's not quite as swift, but you would then know. Then the decision for the unit

board hearing is either dismiss or sustain, which is about the finding, and then the secondary is about the sanction, or the penalty.

As it's written now it is just sustained with lesser sanction, but there's no opportunity for sustaining with greater sanction.

If it turns out that the instructor decided that they were just going to drop the one exam there was misconduct on, or the one quiz, or the paper with plagiarism. But in the course of presenting their case, it was determined that every single thing in the course was, then an appropriate sanction would be F for the course. But there's no recourse for that, and then really, it calls into question that, what is the preponderance of evidence?

A faculty member would really need to have so much evidence to have preponderance at that point when that work would, I think more appropriately be done at the appeal.

What I'm suggesting is I think any student should have the opportunity to appeal, at any point without having to necessarily make a case, because once we convene that hearing board, that's a lot of time on the part of students that are sitting on the board, the faculty member.

When I've been in these hearings, I will have 23, 24, 25 files. It's not unusual for a student to have maybe just far less information. I've seen junior faculty members in tears about this, and unable to sleep because of the necessity of really making a strong case, which is perhaps appropriate that the evidence needs to be very strong.

Those are my concerns. Not about where the preponderance of evidence lies in the process, and also why there isn't a sustain with greater sanction once we get to the point of a hearing.

Which would also be, I think a deterrent from folks who maybe feel like there's not a preponderance of evidence but having a little bit of stakes that something might happen. As well as the possibility of personal misconduct charges accruing as a result other than just the academic misconduct, for example, misrepresentations that may come up during the course of the hearing.

Thank you.

RYAN: Thank you for your concerns.

I think just to start with addressing the timeline is a really important factor for everyone to understand. There's a lot going on in even just addressing what the timeline is.

To your point, the timeline starts once the decision has been made. I think the way that the language has been changed in this last modification that we're bringing forward is, making a decision is so intangible. At what point has a decision been made?

I think the reason the language has been changed now is at the point the sanction in the classroom has been implemented. If you're determining that academic misconduct has taken

place and you are saying, because of that I am implementing a zero on the assignment, that is the point in which that five business days is going to take effect.

It may take a great deal of time to get to that point and that's understood, especially, like you said, in the classes that are larger. That's why the code is written the way it is.

It might even be the case that sometimes a week or more goes by before you've even touched the assignments that need to be graded. Then at that point, you find out that maybe there's an allegation of misconduct, I have to meet with some of my students, I have to do some other things to try and figure out what really is going on here.

That's really why the phrasing is what it is, is to give that time built-in to say, look, we understand there's going to be some investigation that needs to take place.

Oftentimes, maybe some quite extensive investigation that needs to take place. That's the change for the language there. The one thing I do want to note as well is, even applying no-sanction in the class is technically listed under a sanction for academic misconduct.

Even if it's determined that, yes, academic misconduct took place, but I'm not going to do anything to the student's grade, I just want to have this educational moment, that's still going to fall under that category of the decision being made, then that five business days kicking in.

Hopefully, that helps with the timeline and then maybe someone else can clarify there.

ADAMS RIESTER: In talking about preponderance of—the basis for appeal and whether or not there should be a guideline for appeal, I think that students have the ability within the three appeal components: preponderance of evidence not being met, alleged bias or due process to make their argument about the appeal.

We're just asking them to state why they felt like the decision was not fair or wasn't made correctly and give us some reason to evaluate that and have some guidelines to evaluate that other than them saying, I don't agree with the decision. They should be able to say why, like the preponderance of evidence, well, they didn't present enough information saying why I'm responsible for this.

That would be an easy way to say, I don't believe there was enough evidence for this finding.

Our hope is that, by having this, it also helps the students have a better formatted appeal for the next person who needs to review it prior to it getting to the appeal committee. I do believe that within this, I think we feel like this basis, students are able to craft an appeal around that. If they have questions on that, we have some great people on campus to talk with them about how to put together what that looks like, and our Student Advocates office works with students on academic integrity issues all the time.

I feel like that's an important standard, that it also mirrors our personal misconduct standards for appeals. We're also trying to have the two processes be similar, and that one process isn't occurring differently than the other process.

That's a little bit about why we think adding to this some standards for what the appeal should be based on is important. I know as someone who reads, appeal is not an academic integrity area but in the personal misconduct and sexual misconduct area. Students do a really good job of fitting their appeal into this language in other formats. I'm imagining that they would be able to also do that within the academic integrity area as well, just based on my opinion. Yes.

APPLEGATE: Kathy, is it fair to say that if a student chose one of these grounds, and I think this is to Lisa's point, and it turned out that as the case developed, it was really something else or something in addition, that they would be able to pursue that other one?

ADAMS RIESTER: Yes, definitely.

APPLEGATE: This is really to get them off the ground and get the process started.

ADAMS RIESTER: Yes.

APPLEGATE: But it wouldn't exclude those other kinds of things.

ADAMS RIESTER: That is correct.

APPLEGATE: Thank you.

ADAMS RIESTER: We're just trying to have them have a basis for their appeal. Other than that, I just don't think it's fair and they want to appeal it.

APPLEGATE: Right.

ADAMS RIESTER: In this other point, I think, that you brought up is you asked about, and we discussed this last time, should the sanction be able to be increased when it comes to the board? Our feeling, especially if there's a set, if we give this three-pronged appeal, that your appeal fits into one of the areas is that, when it goes to the board, it may feel like the students are being penalized for appealing if the sanction can be increased at that hearing board level.

I think that that is the concern, why we would not recommend that being an option. When it goes to the Office of Student Conduct, if they know that there's something going on at a different area, they have an opportunity there to add additional sanctioning as necessary because they can see the full academic record.

That could happen there, but we feel like it really penalizes the students for appealing if the board can increase the sanction.

DESAWAL: The other piece that I add is a reminder we talked about last time is that the majority of faculty do submit these reports within the first couple of days after meeting with their student and assigning the sanction.

As a reminder that there is always the ability to ask for an exception if you have a large class or you have a group of students that we know it's going to take a little bit more time to get through. That is also part of the general procedures that you can ask for an exception. That is for students and that is for faculty to ask for any of those types of things, just as a reminder.

APPLEGATE: Colin, I believe you were next.

JOHNSON: Yeah. I just wanted to ask a question about the introduction.

I know this was something that came out of our discussion last time and feedback you probably received, but the introduction in Provision A, I believe it's on page 2 of disproportionality as grounds for appeal, where it says scope, due process, allege bias, arbitrary or disproportionate outcome.

The one thing that gives me pause about that is that the policy as originally written, actually, is fairly agnostic on the question of degree of punishment. It actually lists very explicitly arranged from nothing to failure of the course, and in the original language, made no explicit, offered no explicit mandate that proportionality, for example, be something that be considered by the faculty member in whose purview it is to assign that initial penalty.

My assumption is that both in practice and as a matter of philosophy, faculty members have always taken the issue of proportionality into consideration. But the policy was originally very deferential to the idea that the responsibility for evaluating that contextually resides within our purview under the terms of academic freedom that charge us with both offering instruction and evaluating professionally.

The introduction of disproportionality as grounds for appeal strikes me as intruding on that prerogative.

Perhaps not as a matter of practice, but depending on how it's interpreted [LAUGHTER], both by you and also by students, could very easily be read by us as an intrusion on that prerogative.

I'm wondering if you could clarify for the record, whether if somebody said, my policy is, it says in my syllabus, and if there's a finding of academic misconduct, the penalty is failure of the course, period. You know that coming in, that's my philosophy about this. The code is clear that it's a serious violation. You can seek mitigating, whatever, but that's my prerogative. I'm being clear about that up front, end of story. Whether that would be upheld as a legitimate exercise of faculty prerogative.

ADAMS RIESTER: I think if that is stated in the syllabus as the faculty members way in prerogative dealing with it, then I think that that would be an acceptable outcome. I also think if it's appealed in the end, the student makes the case and the appeal is heard, I think the other

group that has input on it, it's not the Office of Student Conduct, it really starts though back in the academic unit to say, overall if it wasn't stated in the syllabus, is this disproportionate. Also to looking across the academic unit to other sanctions that are given for similar types of behaviors and I think that's where the judgment of proportionality or disproportionality is occurring.

It's not at the Office of Student Conduct level. Unless we know there's other academic integrity issues across the board in some other areas. That's when we would potentially maybe add something. But otherwise, I think that decision is made and really reviewed in the academic unit, not in the Office of Student Conduct.

Does that answer your question?

JOHNSON: Sort of, I would just say for the record then it's very important that people who feel strongly about that start including language to that effect in their syllabi.

APLEGATE: I think that's an important element of fairness to students too, so I would certainly second that thought, Con.

DELIYANNIS: It's a little tricky though. First, let me say something about what you said. If you want to make a very friendly syllabus to make students feel good about taking the course and so on. I don't know, it's not obvious to me how that would work.

But let me get to my points.

Last time, I raised a few issues that were brought to me by a colleague who maybe I should stress has dealt with cases of academic misconduct. This colleague came back and still has some concerns. I'd like to revisit those issues first.

Thank you for looking up the time it typically takes to submit the form. It's reassuring that it's only a few days. But then why change it from 14-5 if it always or usually happens very quickly? I'm not necessarily asking for a reply, I'm just making the point.

The second issue had to do with being very clear about what business days means. Because if there's even a slight ambiguity, it can lead to confusion. It can even lead to claims with procedural irregularities or something. Thank you for addressing that and for putting in extra language.

However, my colleague says it's even more confusing now. In particular, at the bottom of page 1, defined in this document is days when the institutions open slash when we can expect people are working to conduct business. It's that last phrase that's especially confusing.

Many of our employees, are faculty, they don't work 9-5. They work evenings, they work weekends, holidays whenever they can we're on R1 institution. You could even argue that this is expected of our faculty. That phrase adds confusion.

I would suggest we remove the phrase, but that's not all when it says when the institution is open. Can we make that a bit more precise? When it's officially open or when it's open as defined by maybe some calendar that can be found online. The more precise we can make this the better for the reasons I stated earlier.

Then finally, I would also like to revisit this issue about the sanction. The language it says may uphold or reduce that sanction but does not allow for it to be increased. I know Lisa brought this up and you have answered it, but it's sufficiently important that I'd like to review my two cents worth and rephrase them.

The rationale is that faculty put considerable thought I would imagine, on deciding an appropriate sanction based on the information that they have available at that time. But if there's further investigation, for example, as a result of an appeal, this investigation may reveal new information, as Lisa stated, that would have led the faculty to impose a larger sanction originally if that information had been available in the first place.

This is not just a theoretical possibility. My colleague has experienced this. If there is no possibility to increase the sanction by the appeals board, and I understand you mentioned another mechanism, but let's go back to the appeals board, then at least two undesirable courses of action are possible.

First, students may appeal simply because they have nothing to lose. Of course, students should not be discouraged from appealing. They should always feel free to appeal. If they really think they have a case, then they have no risk to appeal.

But on the other hand, if there's no really good basis for appeal or if they know they've done something wrong, but they've got nothing to lose by appealing, there can be frivolous appeals.

Second, the effect on faculty. Faculty may impose harsher sanctions to begin with because there's no option to have as harsher sanction after more damaging evidence is introduced, say, during the appeal.

Let me stress both of these courses of action are undesirable and a very good way to avoid them is to allow for the possibility of increased sanctioned by the appeals board. I'm not quite sure what the best way to proceed is, I would like the BFC to consider this. I would like the BFC to consider changing the language from may uphold or reduce that sanction to may uphold or reduce or increase that sanction.

It appears twice in part 2, item 3. I'm not sure what's appropriate. Should I be introducing this as a motion?

Okay, so I therefore motion what I just said.

THOMASSEN: Second the motion.

APPLEGATE: There's a motion and a second on the amendment. You also talked about business days. Is there a motion associated with that?

DELIYANNIS: I think that's just a suggestion, but if anybody else would like to make a motion, they should feel free.

APPLEGATE: Possibly the subject of a friendly amendment if we do friendly amendments. Got it.

It's been moved and seconded to amend the draft, or the proposed revisions as stated, primarily to allow the appellate body to increase the sanction.

Is their discussion of that? Jim, then Steve

SHERMAN: Yeah. I'm not a lawyer. Maybe Steve could speak to this. This is not a court of law when we have student misconduct, but I think we can learn something from the legal process of appeal.

Wouldn't that be bizarre if a judge sentenced someone to 35 years in prison? At the appeal, they said, no, you get the injection. It would destroy the whole legal system of criminal law. Although this is a much different venue, I think the same thing applies. I don't think that putting a student at risk for higher penalty by appealing is something that I would want to see.

Now, maybe the lawyer over there could respond.

APPLEGATE: Steve, I believe you're next.

SANDERS: Well, I basically agree with Jim, but I really agree with Kathy who said earlier and, I think, this was well-taken that you don't want to create the situation where the student believes there could potentially be a penalty for the decision to appeal or that some unscrupulous faculty member or dean could warn the student, "You know, there's a possibility that you'll get a higher sanction."

But can this be addressed? You've asked for my opinion as a lawyer, appeals do not typically involve new findings of fact. In other words, the situation I've heard described is, well, the investigation continues, and it turns out that things were worse than we imagined.

The way to handle that would be to say, we will file revised charges or additional charges and then those new charges proceed through the process, and a higher level of sanction could be requested. But it's understood that that's a newer revised level set of charges that comes through the process from the outset.

The appeal is just supposed to be focused on whatever the initial complaint was, whatever the initial charges were. The charges themselves should not be expanded in the appellate process, yet there should be a separate process to bring new or enhanced charges.

Does that make sense? I think you can have it both ways. You've been charged with A, B, and C, and the sanction cannot be increased but it's possible that in the investigation, we're going to come back and file new charges against you for D, E, and F, and then those will be adjudicated on their own, *de novo*, and those might end up meaning you get a harsher sanction, but it's not that the sanction has been increasing, it's that you are now being adjudicated on the basis of a new or expanded set of charges.

APPLEGATE: Thank you. John and then Ky.

WALBRIDGE: Yeah. [NOISE] The first time I filed a plagiarism charge, called the woman I thought of as the college's policeman about it, and her comment was, Mr. Smith will not be pleased to hear my name again. The point I think is that let's say, a plagiarism charge is considerably more serious if it's the third of three rather than the first.

The faculty member has no way of knowing whether in fact the student has a consistent record of this thing.

Normally, I'm solidly in agreement with Steve and on such issues but I think in this case, once it gets into the student disciplinary process, there is information potentially available that the faculty member most likely has no way of knowing.

APPLEGATE: Ky, I believe you're next.

FREEMAN: Yes. I guess what I would also want to just keep in mind is that we want to make sure that these processes are rehabilitative for students more than anything. Because again, this is a learning opportunity for them through these experiences.

While I don't want to dilute the fact that students should not be cheating, nonetheless, but if something or a sanction is involved there, we do need to make sure that we're working to the student for them to understand, I think, in its entirety, what it is the situation that they're navigating, as well as how to move forward going from here.

Operating in this retributive type of style where there is this immense punishment that's coming, I don't know how beneficial that's going to be for students in actually understanding the brevity of the things that they're doing. I want to make sure that that's the focus here as opposed to what's the most increased punishment that we can give a student in this regard, because you want to make sure that students feel as if they have a certain level of autonomy through these processes.

I think I would absolutely disagree on behalf of the students in regard to increasing any sanctions through an appeal because I wouldn't even appeal if I'm going to know that something else is going to happen behind that. But keeping that rehabilitative mindset in mind when you're thinking about these as faculty members is the biggest thing that I would like to pose.

APPLEGATE: Lisa?

THOMASSEN: I think these are good comments and I appreciate the—I'm not as fond of the analogy, but [LAUGHTER] the other comments since we're not really talking about hearings and things in that case because certainly, if there were new evidence, there would be new charges in a in a trial situation, which these are not trial situations. What I would suggest and however the motions need to be made, I know that we're still in the midst of discussing one motion. But I think it's quite reasonable and perhaps, beneficial for students to have the policy include information that there may be an additional charge of misconduct with additional penalties.

I think that would be helpful for everybody.

APPLEGATE: You mean this is not as a change to the policy or as an amendment but rather, advice to the division of student affairs?

THOMASSEN: No. I would like to see this as an amendment to the policy.

APPLEGATE: Well, that it would be a second?

THOMASSEN: Yeah, I have to take a number on that.

APPLEGATE: This would be a different amendment.

THOMASSEN: Correct.

APPLEGATE: I think unless the committee members want to speak to this. Jay, I think I owe you a thing. Do you want to reply to that?

DESAWAL: We just want to do a little clarification on a few things.

APPLEGATE: Okay.

ADAMS RIESTER: On your plate, I'm sorry, I can't see your name. Is it Thomassen? Professor Thomassen?

APPLEGATE: Yeah.

ADAMS RIESTER: On your point there and Steve said this very well, if there's new evidence that comes out in an appeal, that would then necessitate a new investigation finding and it would not be combined with the appeal, it would, for that information, start a new process.

That's already part of the process and procedures. I don't know that we need to note it there because that's already how it's happening with that new evidence. Steve's point is also correct that that additional information would not be heard as part of the appeal.

I just want to clarify that that process is already in place for new information and evidence. If we need to do some more training so people understand that well, we are happy to help clarify

some of that because certainly, that would not be fair to the student either coming into an appeal and not knowing all the information that would be presented.

DESAWAL: I think it's important to distinguish between process versus policy, and so what we're dealing with is the Academic Misconduct Code, which is the *policy*, and then alongside of it, operates the *process* for multiple incidences.

Those two things are happening simultaneously, but we don't have to have all process in policy as we look at this. I think that's also something to just note.

APPLEGATE: Thank you. J.

DUNCAN: I had two questions pending before this amendment hit the floor. My third one was to ask you to say what you just said. I no longer need to do that. I politely request that when we're done with[inaudible]

APPLEGATE: But the first two remained and we'll get to them afterwards.

DUNCAN: Yes. Thank you.

APPLEGATE: Okay. I would like to call the question on the amendment. Does everyone understand the amendment which is to change the proposal to permit an increase of the sanction in the course of the appeal process?

All in favor? Please indicate by saying aye.

UNKNOWN: Aye.

APPLEGATE: Or raise hands. I'm sorry.

APPLEGATE: Those opposed? The amendment fails.

We can now turn to the main one, J first, and then Lisa, if you still wish to have one, then we can turn to you. But J.

DUNCAN: Thank you. I have two places where I wanted clarifications. The first one is you mentioned that if faculty members have unusual circumstances, they might request an exemption to the timing rules. I would like you to be pretty explicit for the record about what that process would be like and what circumstances you imagine to be reasonable.

Secondly, my current understanding is that your timer starts when essentially you have imposed a sanction, and that imposing that sanction could come anytime you've notified the student of imposing the sanction. I frequently meet with students on these situations and in our discussion, if they are very candid about what happened, that makes it easy on me and I can tell them, "My policy in this situation that you'll find in the syllabus is that you will receive the following

penalty. Be aware that if this is a complicated case, I will need to review all of your other work in the course. I'll get back to you about that."

Have I at that time given them a finding or have I not until I've finished reviewing all their other work?

RYAN: Starting with your latter question and then I'm going to ask you to restate the first one. But I would say at that point, you've let the student know, you've put the student on notice that you are going to go back and continue to investigate, that you have not completed your investigation.

I would say at the point that you've completed your investigation and saying, I guess there's this intermediate where you've said, "I'm finding you responsible for this one action. I'm going to go back and look at this other work."

So that does put the student on notice that there is going to be an ongoing investigation. My guess is at the end of that ongoing investigation, you put the student on notice again saying, I either found more or I did not find more. So here is the final outcome that I am giving to you based on that. That's going to be when you're by five business days starts because you're still investigating up until that point.

Hopefully that helps clarify that.

Can you restate your first question, I'm sorry?

DUNCAN: Yes. I wanted to know very explicitly what the process was for requesting an exception. Do I need to email someone, is there a form? Do I merely notify the students that I will be doing this?

Secondly, could you speak to what circumstances would be upheld as reasonable exceptions?

RYAN: That's a very good question and it's quite broad. Truly, in my experience in this process, how faculty choose to go about it, I guess all of the above would be on the table as I think if you've Identified misconduct and you've let the student know, hey, I think this is going on.

I'd like to meet with you, but because of this circumstance, we can't meet until next week or the week after. I think that's almost going above and beyond truly. You could just let the student know; I'd like to schedule a meeting for this time.

I think the important thing when filling out the report is letting us know what has happened and having documentation of this is when I found the misconduct. This is when I determined that there was responsibility because of X situation because I have 260 students and I was giving another exam, I couldn't quite figure out. I didn't have the time to fill out the form or whatever that may look like, just documenting that and saying, because I was dealing with a lot of students at the time, even though students at the beginning of that process, I had issued

decisions for them, but maybe I'm still meeting with some other students and in case new information came out, I didn't want to submit the reports for any of the students until I was completely done.

That might be reasons why you would want to.

ADAMS RIESTER: I would add on the last part of Mike's example that if you have a case involving multiple people and you feel like you need more time, I would also let your academic unit know or the Office of Student Conduct or both saying, "Hey, I have a complicated case and I need to request more time to do a thorough investigation." and that would be granted as part of that.

APPLEGATE: Thank you. Lisa, in view of the prior vote, did you want to renew your suggestion as a motion?

THOMASSEN: Yes. I'd like to make a motion that in the appeals process, let's see exactly where I am, in the unit board hearing and somewhere or perhaps faculty and students, since apparently faculty are unaware of this, I think it should be explicitly stated that any evidence about new misconduct may result in additional charges or, what do we call these, findings of academic misconduct or opening a new investigation.

I'm not going to wordsmith it right now, but I think that's one of the things that as I've seen, some of my colleagues nod their heads that that is certainly satisfactory being aware of this. Because we may not know the scope of it until we dig into it, and we certainly don't want to keep students waiting till the end of the semester after the semester to pull all of this evidence. That's certainly not what the intention of this policy is.

The intention of the policy is meet with the student, make a determination, let the student know and, in many instances, just move on and finish the course. But in some instances, particularly if we go to appeal because students are perfectly right to wish to appeal, even just the report itself even if there is no penalty, because now there is a document that the student has a faculty member found them guilty of misconduct, I think it's very important that it be included for faculty and for students.

APPLEGATE: I think we're at the wordsmithing stage here so if you have a specific place and some form of words, I think we need that for everybody to be able to vote on it.

I'm not asking you to do that completely on the fly. If you could give us some thoughts on that, in the meantime, I think the gist of your suggestion is clear. I will ask for a second and then we can have discussion of it.

Is there a second on the amendment that Professor Thomason is proposing?

DAVIS: I'll second.

APPLEGATE: Second. So, discussion of that proposal which by the time we vote, we need to have some precision about. Yes, J?

DUNCAN: This is more of a general comment. But I wanted to remind people that if you're in a situation where you feel there is not enough time currently to do something about a motion that's on the table, you always have the option to refer something back to committee for further discussion.

APPLEGATE: Thank you. Jim?

SHERMAN: I think even adding those words will be a deterrent for some students to seek an appeal and to me that would be a bad outcome.

APPLEGATE: Any other? Ky?

FREEMAN: I have a clarifying question. I've heard you all state that that's already something that happens pre-existing. Is there a policy that references that, because if it is it's just like could you just add the policy thing to reference that in the document instead of creating in a whole new language around it? That's what my brain just said.

RYAN: That's a great question. Thank you for that question. There's not a separate part of the policy. The way the appeal policies are written is, like Steve said, it's focused on the initial charges that were brought forth themselves. If new evidence comes out in an appeal process, the faculty member would simply have to file a new report.

When you got evidence initially to file that first report if new evidence came out, then you can submit another report saying, "Hey, this is also what I'm alleging you of, based on that information I've made my decision and I'm submitting this new report within five days based on the evidence that I found". It's not anywhere written in there because it's filing another report, essentially, if that makes sense.

DESAWAL: I think the important thing is that it's the process. To the point about it being a deterrent for a student, if you say in here that if more evidence is found then additional charges will be made, it reads as though to the student that you're going to continue to look for stuff. Because now you're skeptical of what the student has done, and so you're going to continue to look at things versus the process, and the way the policy is currently set up, is so that we have an academic misconduct, we file the charge.

It goes through this process. If we find new evidence, we file another academic misconduct piece and we go through the process. The policy is to deal with each incident, the process is to separate the incidences. Does that make sense? Okay.

APPLEGATE: Other comments? Well, so the vote is on. We don't have a specific set of words, and so I'm reluctant to put a question that does not have a specific set of words—yes, I see—on it. We'll have one further comment. But what I think the effect of a vote for this

amendment would be in effect of vote to recommit this to the committee to work on that language.

Yes?

SACKS: I think there was a majority view that we don't want to discourage students from appealing by having a policy that their punishment could get worse. But, in fact, their punishment could get worse if they appeal. Currently, I think the way things stand we want students to proceed in ignorance or misunderstanding of their situation.

I don't think that's the intention at all. I guess even if we don't have it in a policy, I'd like to know. If a student is considering appealing and talking to academic affairs, what advice do they get? Do they get the advice like, you got off lightly, you shouldn't appeal this because more information might come out, or they're always going to be encouraged to appeal?

RYAN: That's a great question. I think for clarifying, the appeal is about the charges specifically there. A student would only be getting additional sanctions added if new evidence was presented that another behavior not already charged was coming out. Through *that* appeal process, our office generally does not give guidance on what students should or should not do for appeals because we're the ones who, either that would be like a conflict of interests for us to persuade or dissuade a student from them appealing a decision that we have.

But students do work very closely with the Student Advocates Office, which is a free resource to students on campus. They do help advise those students. They help craft students' statements and things like that to help guide students through the appeal process.

In any letter that a student gets from the Office of Student Conduct, including at the very beginning that initial letter that, hey, there's alleged misconduct that took place, the Student Advocates Office is referenced, and they're given that information. Every student that goes to our process knows that they can speak with that office to get help.

DESAWAL: I would also add as a reminder that the first level of appeal is within the unit of the school and the college. The encouragement of appeal comes from the faculty and the academic units themselves. I would encourage any faculty member who tells a student that they've issued academic misconduct and they're skeptical of that is that they're right is to appeal. Because if you're confident about what you've presented, then you should be confident about them being able to appeal and you should encourage them to exercise their process as part of our IU community.

APPLEGATE: Kelly, I think I missed you. Were you speaking to this?

[INAUDIBLE]

APPLEGATE: Then the question is on the amendment. We do not have language so as I said I will take it as a vote—a yes vote—is to recommit the report to the committee and professor

Thomassen will provide some language presumably in discussion with the committee, and the committee will of course decide whether to propose it at a third reading.

A vote against the motion is a vote to continue discussion on the proposed language or the language as proposed by the committee. Is that clear?

SANDERS: A point of order.

APPLEGATE: Yes?

SANDERS: I'm still not even sure what the committee is being...maybe I wasn't paying attention to Lisa as closely as I should have been, but I'm not really sure what we're even asking the committee to do, so I'm not sure whether I should vote to recommit or not.

Could we just get a quick statement of what we're asking the committee to do as in terms of new work or a potential new language?

APPLEGATE: As I understand it, the committee is being asked to consider language that would alert students, caution students, that if new evidence appears during the course of the investigator or the appeal process, then new charges could be filed.

Do I have that right?

SHERMAN: What if the committee doesn't want to include something like that?

APPLEGATE: Then it will come back to us. The vote is just on recommitting it to the committee, indicating that's the committee's prerogative to decide whether it wants to adopt a change like that. If it does or does not, we can as a whole agree or disagree with them.

Clear enough?

Those in favor of the amendment or recommitting it to the committee please raise your hands.

Those against please raise your hands.

I think the motion fails; in which case we return to the main thread of the discussion. Kelly?

ESKEW: Thank you. There are references in the policy to arbitrariness but it's not clear to me, and I'm sitting in the lawyers' corner, so you can see nobody wanted to sit on either side of us. I apologize for that.

It's not clear if arbitrariness is a proof standard, which it is under the law, or a behavior. Also, there's no real clarity about who has the burden of proof and what that burden of proof is to prove bias or a due process error.

It seems to me like the faculty member should bear the burden to prove by a preponderance, 50 percent plus a peppercorn that misconduct occurred. But that the students should bear the burden, maybe a heavier burden, to prove that there has been bias or error or arbitrariness and disproportionality.

I also think that it should be made clear that the preponderance standard applies only to establishing whether the misconduct occurred. In part 2 number 3, the language does not clarify the standard by which the unit hearing board is supposed to determine whether the standard or the sanction imposed should be upheld or reduced.

I'd suggest that the students should have to prove maybe by a clear and convincing evidence standard, that the sanction is arbitrary and capricious or an abuse of discretion. The reason I say that is that unit hearing board should not be empowered to simply substitute their judgment for what the appropriate sanctions should be for that of the instructor, unless the instructor has exceeded what should be the broad discretion that they hold.

APPLEGATE: Are there specific changes that you will recommend or that you are moving?

ESKEW: I guess I would move that we add language to the policy. I would move to refer back to the committee for discussion. Adding additional language that clarifies who's got the burden of proof and what that burden is, both at the initial stage and at the unit hearing stage. I would suggest that they consider, as I said, and I'm happy to share notes with them.

Do you need more than that?

APPLEGATE: This is the challenge of working on a very complex document and it is a genuine challenge. I take that as a motion to amend, so I need a second.

I have a second. Discussion first from the committee please.

DESAWAL: Yeah, we'll do a little clarification.

ADAMS RIESTER: The burden of proof, you are correct that the faculty has that burden of proof in determining the academic misconduct. The student, the reason why we're adding the prongs for appeal, like why they can appeal, is so that they have to make a case, that there is something that went wrong in the process, or that there is bias, or that the sanction is disproportionate in order to appeal that sanction.

At that level then what happens is that I believe that goes to the academic dean or their designee, that person then will determine based on what the student has written, is there enough information here that they've given me that supports this? If it is, then really, they're going to move it to a neutral body to make the decision about the academic misconduct.

If they think there isn't, then they can uphold the decision or move the decision through that. I guess there's not really an appeal than that the dean or whoever is hearing that is the person

who's deciding is there merit to the appeal. As part of that as they review the appeal and then makes a decision based on that where the next step is in that process.

They would probably have to use the preponderance standard, which is our typical standard, or they have to say there's enough that calls this into question that I need a neutral body, which is the internal academic board to hear this.

ESKEW: It does seem that they should have a standard by which they review that and not just whether or not they think it has merit, which is the preponderance.

ADAMS RIESTER: Which is the preponderance of that. The only standard we use is preponderance of evidence. We don't go higher than that because it's really not possible in our setting. People don't have enough skills generally to do things beyond a preponderance of evidence. It's not a court process, it's an academic [OVERLAPPING] administrative process.

APPLEGATE: Kelly, that was an attempt to answer your concerns. Does that answer them sufficiently that you want to withdraw your motion, or do you want to continue with it?

ESKEW: I would make a motion that the standard by which the review is considered as just discussed be articulated in the policy, that it not simply be whether or not it has merit, that it be that let's determine by a preponderance of the evidence whether or not it has merit.

APPLEGATE: Is that simply a clarification? It's just a fixing of wording?

ADAMS RIESTER: I think it could be. I need to figure. I'm not sure exactly where you're suggesting we insert this.

ESKEW: I'll have to look. I'm working from notes, sorry.

ADAMS RIESTER: We're looking too, hang on.

ESKEW: But it seems to me that it's a wording issue, but obviously that's for them.

[OVERLAPPING]

APPLEGATE: A friendly amendment and I think under our process, if that satisfies Kelly, she could withdraw her motion with the understanding that that will be clarified, does that work for you?

I'm not trying to put words in your mouth.

ESKEW: Works for me, I'll withdraw.

APPLEGATE: Great.

ESKEW: Thank you.

APPLEGATE: Thank you. Other comments...and the committee understands what's needed. Great.

DESAWAL: We also think we might have found it.

APPLEGATE: Even better. J and then one last round on the main string and I think we should be ready to vote.

DUNCAN: First of all, I'd like to, again, thank the people who are having to deal with this. This is an extremely difficult process to go through. Thank you for your endurance.

Should we approve this change at the moment? When does it come into effect?

DESAWAL: That's a fabulous question.

Given the fact that it's so complicated, we're doing it now so that it will go into effect for Fall 2022, which will then provide enough time for documents to be updated as well as for school unit officials to be trained, questions answered, and really some intentional time to make sure that everybody is on the same page with the process, so that we do that during our academic year and we don't do this at the last minute, and then break for summer and then say, "Hey, get excited we got a new thing going on for 2022, 2023."

The timing is important in order for us to get this up and running for Fall 2022.

APPLEGATE: Alright. Any—Steve?

SANDERS: This is not an amendment again, it's more than the manner of just a good faith suggestion. Kelly talked about the need to clarify the standard, the preponderance of evidence. I would also suggest that there be an explicit statement in the policy which I don't think there is now, that in proving the allegation of misconduct, the burden of proof is on the faculty member or on the school.

Again, that's implicit. I think you've said it it's no question, that's the case. But I think it's useful to say that I could imagine a student, and none of our students are lawyers, somehow imagining that they've been charged now it's their burden to disprove the charge.

I just think it's useful to state at the outset of the policy where the burden was.

APPLEGATE: Thank you. Again, I'll take that as a friendly amendment.

Excellent. Any other comments? Any further discussion?

Seeing none... The question is on the proposed revisions to the academic misconduct procedures in the student code of conduct, as linked from our agenda.

All in favor, please raise your hands.

All opposed please raise your hands.

The motion carries and echoing J, you have our serious and profound thanks not only for your work on this particular policy, but all you do for our students and faculty at IU Bloomington.

With that, we are at the end of our agenda, and we are adjourned.

Thank you.