

WAYNE STATE UNIVERSITY
ACADEMIC SENATE
PROCEEDINGS OF THE POLICY COMMITTEE

November 26, 2018

Present: L. Beale; P. Beavers; V. Dallas; r. hoogland; D. Kessel; C. Parrish; B. Roth;
N. Simon; W. Volz; K. Whitfield

Guests: Stephen Lanier, Vice President for Research; Brandy Banks, Title IX Director; Linda Galante, Associate General Counsel

The item marked with an asterisk constitutes the Action of November 26, 2018.

1. Research Support, Compliance Functions, and Research Incentive Functions: Vice President Lanier was invited to the meeting to report on the activities of the Division of Research, how the RCM budget model may affect the research and funding for doctoral students, and the sources of funding and how the funds are spent. The Vice President reviewed changes that he recently made in the Division. He discussed the need for interdisciplinary work in particular among centers and institutes. Although most of the announcements for support have involved STEM funding, VP Lanier indicated that his office provides about \$200 thousand to support research in several non-STEM areas including education and humanities. The grants typically ranged from \$30,000 to \$50,000. Extramural funding in fiscal year 2018 reached \$258 million. The total amount spent on research in FY 2017 was \$226 million. Mr. Lanier reviewed the grant support for the colleges and for the centers and institutes. The centers and institutes have raised \$8 million. Ms. Beale thought there should be more opportunities for funding in the arts, the social sciences, and the humanities, and more assistance to faculty in seeking grants in those areas. Members of the Policy Committee thought Wayne State's collaboration with the Henry Ford Health System could benefit both institutions and increase outside funding. The office launched programmatic initiatives around behavioral health, diabetes, obesity, and environmental sciences. This money has been used for bridge funding.

Mr. Lanier used the funding received for FY 18 to explain the sources of funding for the Research Office. General fund money is used for standard operations, research, and business affairs. The Research Office currently receives 24% of ICR funds, which is about \$8.4 million. (The chart showed expected increases in ICR (F&A) funding of OVPR over the next few fiscal years under the 24% allocation agreement.) Some of that money reflects some of the grants under the old allocation of F&A dollars and will not fully reflect the new allocation until the next fiscal year. Other areas of expenditure are Sponsored Program Administration, business operations, research integrity. We have centers and institutes with a budget of about \$13 million. Ms. Beale noted that although the chart under discussion was titled sources of funds, the information on the graph was a mix of sources (e.g., general fund, ICR) and expenses that did not show a specific source of funds. For example, the chart indicates a 24% allocation of ICR funds directly to OVPR, but also showed an allocation from the President's Office of an additional amount of ICR funds. Other items were simply lists of items funded by OVPR. She commented that she had seen in another setting that \$500 thousand of summer tuition funding is allocated to OVPR and noted that summer tuition funding was not included as a source of funding in the chart. She asked what that funding supported and VP Lanier indicated he would let Policy know. She asked that VP Lanier provide a chart with two parts, one showing each of the different

sources of funds and amounts and another showing the various categories of expenditures and amounts expended under that category. In order to understand the broad impact of the RCM model and how it will affect the Research Office's operations, it is important to know what the dedicated streams of funding are now and what functions they support.

Ms. Beale asked whether OVPR has been running deficits that have required special allocations from the President and Provost. VP Lanier said that a deficit of about \$700,000 has been reduced to \$300,000 this year. One of the sources of funding that helped reduce the deficit is a fee that OVPR collects from corporate sponsors for providing review services. The fees do not totally cover the cost of the services. The office analyzed what it could charge to be competitive and increased the fees this year to \$2500. Policy members were surprised that we charge corporate sponsors of campus research a fee for this service.

OVPR supports a number of research cores every year. About ten of them have revenue-generating components. Most of the cores are around high-end specialization that any individual investigator could have. Prior to Mr. Lanier's arrival at Wayne State, many of the research cores had accumulated deficits; he consolidated them under an account in FY15 and FY16. Some cores were discontinued based on lack of use, cost, and deficit spending. Last year OVPR initiated a formal process to review the cores utilizing an internal survey, a cross-college steering committee and an external panel. The genomic and the MRI cores have been reviewed. This week the analytic instrumentation core is being reviewed. The external reviewers provide a worthwhile service, pointing out what the cores should be doing and what they should eliminate. We may have an operational core budget that includes \$35,000 each. Cores are not cost neutral. Some cores are very high performing and are close to being cost neutral. Others are very important but are not cost neutral. If we don't have competitive pricing, users will go outside the university to get a cheaper price. The office has covered operational costs for some of the facilities over the last four years.

The number of proposals for bridge funding has dropped. When Mr. Lanier joined the university, he increased the bridge funding amount from \$30,000 to \$50,000. Researchers use bridge funding to sustain lab staff, post docs, and technicians and to purchase supplies for experiments to get a new grant. It does not cover investigator salaries. The office also has a program called Grant Boost for researchers who have a new grant that does not quite cover costs.

The sources of funding for OVPR also include royalty income from technology commercialization, which is operated through a designated fund. The total budget for technology commercialization is about \$2 million, but it is actually a deficit account. When there are licensing deals or money that comes in as part of the royalty payment there is a prescribed formula for distribution to the inventor, the college and the Technology Commercialization Office. That fund is used to support programmatic development (e.g., Grant Boost and Bridge Program), with \$1.1 million each year for cores, infrastructure upgrades, and the vivarium.

OVPR believes it is important to recruit research faculty. In the past, money was supporting investigators who were at the university to seed some programs but people became more dependent on that money rather than seeking external support. We recognized that we need to bring in new ideas and saw OVPR's role as recruiting researchers in partnership with schools and colleges. Ms. Beale stated that she understands that the current cross-disciplinary research

recruitment effort has brought in some faculty and is expected to bring in more. She asked what the actual expenditure for this fiscal year is and what the actual committed obligation is for the next three years. VP Lanier indicated that about \$700,000 is actually committed for the next fiscal year in this project, but that the expectation had been to spend about \$10 million in all on this recruitment. He indicated that he would provide detailed information on this to the Policy Committee.

Recently an announcement of a faculty competition for postdoctoral fellows was released. Ms. Beale asked for more information about the awards, including why it was limited to STEM programs, how much funding was available and how many fellowships would be awarded. Mr. Parrish added that the award at a \$30,000 level would have to be supplemented by department funds or investigator grants. Non-STEM departments would not have the money for that support. VP Lanier said that there is no limit on the number of awards: his office tries to award as many as qualify. He uses the ICR funds for this purpose. The competition is carried out three times a year. Ms. Beale asked how much money was distributed in the last competition and how many post-docs have been awarded in each school and college. VP Lanier will provide the information.

Each year the Research Office allocates \$250,000 for arts and humanities funding. The proposals are reviewed. The awards range from \$20,000 to \$50,000 for such things as travel abroad to complete a project relative to a book in a research area, placement of art, and engagement in the community. Proposals for non-STEM support typically are referred to the Research Office.

Mr. Lanier said that with the university moving to the RCM model, we have to be careful that there is not a knee-jerk reaction to “circle the wagons” simply to take care of things in each school’s micro-environment. The university would lose the ability to promote the cross-college development that OVPR has tried to support as an important growth effort for the university. That is reflected in some of the recruits that OVPR has done to date. The university needs to be cognizant of it. He suggested that we also have to be careful about thinking of everything in a transactional way because we need to keep the broader aspects of program development in mind. The RCM budget model is a mechanism for transparency, but we need to nurture the signature themes for the university going forward.

VP Lanier agreed to send additional data in response to Policy’s questions.

[Vice President Lanier left the meeting. Joining the meeting were Brandy Banks, Title IX Director, and Linda Galante, Associate General Counsel. Ms. Galante also served as Interim Title IX Coordinator in the recent past.]

2. Title IX: Provost Whitfield introduced the topic. He noted that the university is very interested in Title IX issues. There are many challenges in carrying out the regulations. Ms. Banks recently assumed the role of Director. The Provost suggested that Ms. Banks return at a later date to report on the activities undertaken here to address issues in higher education in general.

Ms. Galante clarified that the person who holds the position in which Ms. Banks serves is usually called the coordinator, but because the university has an employee classification of coordinator, she was given the title of director to avoid confusion.

Ms. Banks can be reached at 313-577-9999 and TitleIX@wayne.edu. President Wilson sent an email to all faculty, staff, and student employees inviting them to complete an online interactive training course by January 15, 2019. This course is not mandatory but can be very helpful to employees and students because it provides practical information on how to handle a situation when someone discloses an incident of sexual misconduct. Another learning objective is to develop a shared language around terms related to domestic violence, dating violence, sexual assault, stalking, and consent. The training is confidential. Ms. Banks receives a record of those who have completed the training, but no one at the university is able to see anyone's responses. To date about 6,000 students and about 300 faculty and staff have completed the module.

The federal government requires universities to have training available but does not mandate completion of the training. Prior to renting a dorm room or a campus apartment this year the Office of Housing and Residential Life required students to complete a Title IX training module. Ms. Galante said that the university was able to mandate that students who live on campus complete the training because they must agree to the Housing Office's regulations. Ms. Beale pointed out that students who arrived just before classes began did not have an opportunity to raise concerns about the instrument, such as the confidentiality of the information they provided. Ms. Banks acknowledged that there were problems with the launch of the student module in mid-August. They sent an email with the questions they anticipated students would have, but they found that students had more concerns than had been addressed. In response, Ms. Banks updated the email message; furthermore, students in on-campus housing will not be required to complete the module in the future. To disseminate information, Ms. Banks also makes presentations to colleges and departments when requested and at orientation. Two student organizations are working with Ms. Banks to get information to their peers. Dean of Students David Strauss is interested in Ms. Banks making a presentation to the Board of Governors.

Ms. Galante noted that significant changes to the Title IX regulations have been proposed. When the proposal is available, anyone may comment on the proposed changes on the Department of Education's website. Michigan's public universities will comment as a group through the Michigan Association of State Universities. Ms. Beale noted that perhaps Policy should also comment.

Ms. Galante pointed out some of the significant changes. Currently the standard of knowledge of the conduct under which a university can be held liable for inaction is constructive knowledge. If anyone within the university has knowledge, it is treated as the university's knowledge and the university has to respond to a complaint. That is being changed to an actual knowledge standard. The only time the institution would have to respond to a complaint is if they had actual knowledge, i.e., when someone tells the Title IX Director or one of the deputy coordinators or a person who has the authority to take action on behalf of the university. A university still may have mandatory reporting.

Mr. Parrish asked about the authority of a department chair to take action if a faculty member is accused of sexual misconduct. Ms. Galante replied that the chair should report any knowledge to the Title IX coordinator, but Mr. Parrish stressed the need for a chair to take action immediately to protect the accuser. Ms. Galante responded that the proposed changes to Title IX are not final. In the training sessions, all employees are told that they have a duty to report, meet with faculty in the schools and colleges to tell them about their duties when they receive a

report of sexual misconduct. It may be important to consider what actions can legitimately be taken to protect victims immediately when complaints are made.

Ms. Galante expects the federal government to publish the proposed changes by the end of December, with a 60-day comment period. [*Addendum after the meeting. The proposed regulations were released on November 30 on the Education website, and the comment period will run for 60 days, ending in late January.*] When enacted, the rules will have the effect of law. Further changes under the proposed rules include that the sexual misconduct has to occur within the school's educational program or activities. Under the current rules, in contrast, if there was a charge of sexual misconduct that occurred off campus between two students who attend the same school and has nothing to do with the school's program or activities, and the accuser said that it was having a negative effect on their educational environment, the school was obligated to investigate. The proposal says that if the incident does not fall within the school's programs or activities, it has no obligation to do anything, though the school can take action if it decides to do so. Ms. Galante expects that Wayne State will offer supportive measures to the accuser even if the misconduct occurs off campus. The university will have the authority, for example, to change a student's classroom and issue no-contact orders.

The university has no obligation to investigate if the complainant does not sign a formal complaint. Under the proposed regulations if a university has allegations by more than one person against an individual, the Title IX Director must file a director's complaint and the allegations will be investigated.

Also proposed is the elimination of a single investigator and more trial-like procedures. Wayne State currently follows Board of Governors Statute 2.31.02 Student Code of Conduct where a faculty/staff and student hearing panel hears cases of misconduct. Under the rules, the respondent is entitled to a live hearing and is allowed to cross-examine the accuser and the accuser's witnesses. To prevent trauma to the victim, WSU will let the accused's lawyer examine the witnesses. Under the proposed rules, the investigator cannot be the decision-maker. The investigator merely gathers the facts and turns the case over to the Student Code of Conduct process. Under current rules, the respondent has two options under that process: the respondent can have (i) a formal hearing before a hearing panel or (ii) an informal disciplinary conference with the Dean of Students. The university is considering whether to add an outsider to the hearing panel. Furthermore, if lawyers will examine witnesses, the university will likely need a lawyer to supervise the hearing. More training will be needed for both faculty/academic staff and students who serve on the panels. If an accuser appeals the decision, they have to provide evidence that it was not fair. An example would be a case decided on gender rather than fact. The appeal is made to the President or his/her designee.

As noted earlier, the current standard under which a university can be liable is if it reasonably should have known (a constructive knowledge standard) and acts with deliberate indifference. Under the changed rules, the university can only be liable if it had actual knowledge and acted with deliberate indifference. A Policy Committee member interpreted the changes as designed primarily to protect the university against liability and not to protect the accused from non-due-process procedures. Ms. Galante agreed; Title IX only precludes conduct by the university and this standard makes it less likely that the university will be liable.

A further disturbing change in the proposed rules is the definition of sexual harassment, which has been considerably narrowed. Sexual harassment will be limited to cases where the unwelcome conduct based on sex is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the accuser's educational program. Policy members expressed concern that this standard would allow a student to grope another student on multiple occasions without the behavior being treated as sexual harassment, if the student continued in the class and managed to fare okay in the academic program.

Ms. Galante said that the rules still do say universities have flexibility in handling cases. Comments from individuals to the Department of Education about the proposed changes are very important. She does not expect the changes to be enacted before summer 2019. Ms. Galante will notify the Senate when the proposed changes are published so the Policy Committee can comment on them.

Ms. Galante estimated that about 50 to 60 allegations of sexual harassment and sexual misconduct were reported to the Title IX Director last year with 10 to 15 of the cases involving claims against faculty and other employees.

Another issue raised by the Faculty Affairs Committee is the bullying of female faculty. Ms. Hoogland reported that Associate Provost for Faculty Development and Faculty Success Annmarie Cano held a seminar on bullying of female faculty. Thirty-eight people attended. Some of the participants' reports were harrowing. Bullying based on gender falls under Title IX. The university does not have specific rules to handle bullying and it can create particular problems when the bully is an administrator with career influence over the female faculty, such as a department chair or a school/college associate dean. It would be important for the university to develop programming around this issue.

[Ms. Banks and Ms. Galante left the meeting.]

3. Report from the Chair: Provost Whitfield mentioned some issues that arose in the searches for Deans.
4. Report from the Senate President: Policy Committee reviewed the enrollment for the winter 2019 term. The number of transfer students is down but the number of continuing students is up compared with the same time last year. Ms. Simon said that, at a meeting earlier in the day, it was reported that enough students in the FTIAC cohort who do not have financial holds have not registered to reach the goal for enrollment for the winter term. Many students register late and we have to try to understand why they do and how to assist them if possible.
- *5. Approval of Proceedings: Policy Committee approved the Proceedings of its meeting of November 19, 2018.
6. Agenda for the Academic Senate Meeting: Policy Committee approved the agenda for the meeting of December 5, 2018.
7. Reports from Liaisons:
 - a. Facilities, Support Services and Technology Committee: Ms. Simon, the liaison to the FSST, reported that the Committee met on November 14. The 5-year Capital Outlay Request is going

to the Board of Governors on December 7. The Mackenzie House will be moved in January or February to make room for the Hilberry Gateway project. A report was made on the initial findings of DumontJanks, which is assisting the university in developing a master plan. The university has more than \$1.1 billion in deferred maintenance. The infrastructure is deteriorating and may mean that we should raze some buildings. We have more classroom space than we need but we don't have the classroom space where we need it when we need it. Our FTE to office space is much greater than it should be. The campus is 118 acres and we have 4.1 million square feet of assignable space of which 8% is non-laboratory classroom space, 25% is lab facilities, and 33% is office facilities. That is more office space than the typical 20% to 25% range. We have 10% study space, 7% special-use facilities, and 10% general use facilities. A master planning event will be held at IBio on December 5 and further meetings will be planned throughout the planning process, which should be finalized in June or July of 2019.

- b. Research Committee: Mr. Kessel reported that the Research Committee met with the School of Medicine research committee. They told the Senate Committee that a list of items intended to improve the SoM research effort had been submitted to the Dean. It appears that many of these were considered useful but some will likely require funds not immediately available. Some problems in the School were discussed: elevators in the parking structure need replacing, elevators in Scott Hall need repairs, the cafeteria is being closed, and the clocks in the building do not indicate the correct time and will soon be removed.

Approved as revised at the Policy Committee meeting of December 10, 2018
Corrected at the Academic Senate meeting of March 6, 2019