

11-15-2017

## **Faculty Senate Minutes, November 15, 2017**

Faculty Senate

# EASTERN MICHIGAN UNIVERSITY

## Faculty Senate Final Minutes

### Session-5

3.00—5.00 pm November 15th, 2017 310A Student Center

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Present: Francis, Barton, McVey, Kashiev, Willis, Soldana, Brodsky, Patrick, Bari, Millan, Spolans, Rahman, Saules, Foster, Pawlowski, Chou, Leon, Tout, Kovacevic, Bluhm, Staunton, Curran, Eisenbach, McMahon, Moreno, Pressley-Sanon, Hayworth, Lee, McTague

Guests: Kullberg, Longworth, Tornquist, Chawla, Tew

I. Review and Approval of the Agenda - Approved

Willis – Request to add discussion about the circumstances under which Senate supported the BGS degree. Senate was told, per the minutes “the degree would serve as a potential completion degree (much like our current Individualized Study program) for students who have attended multiple institutions or have followed multiple paths and want to complete a more generalized bachelor's degree. Over half our entering student population are transfer students with significant community college and dual enrollment credits and this degree would provide an option to them to complete their degree. It would also provide a more clearly identified and differentiated credential for students interested in this more generalized degree.”

The Senate agreed to support the BGS based on this understanding. The BGS degree is now being offered as a stand-alone ONLINE degree, something the Senate was not aware of and did not agree to support. It lists 5 areas for students to choose from to pull the 20 hours they need from 3 different programs to meet the requirement in obtaining a BGS degree. These programs were not consulted about using their online courses for this purpose and, in fact, the courses are not designed to be part of a basic overview of the field as they should be if they are to fit into a BGS degree. Willis requests that the faculty Senate therefor rescind their support for this degree.

It was agreed that a full discussion of the matter is needed and will take place at the next Senate meeting.

I. Review and Approval of the Minutes-Approved with noted changes. One abstention.

II. Senate Logistics/infrastructure –

A. Updates on List of senators and alternates. Work is in progress on an email list for full senate – almost complete. Review to see that all information is correct.

III. Committee Vacancies (Further nominations may be made from the floor)

A. Gen Ed Revisions: Writing Committee:

Library: Suzanne Gray (Withdrawal of Elizabeth Bucciarelli)

B. Gen Ed Vetting – 3 CAS and 1 CHHS (3-yrs & 2-3 Meetings/semester)

CAS: Zuzana Thomas; Toni Pressley-Sanon nominated

Vote to accept those nominated by acclamation. Passed.

IV. Policy Discussions

A. Unmanned Aerial Systems (Drone Policy) – Does the policy allow anyone to fly on campus, without checking it out first? Yes. State of Michigan prohibits EMU making

policy on drones for anyone but EMU employees. But there are very few places on campus that meet State and FAA requirements to fly. Chawla and Tornquist worked to preserve faculty use of drones for teaching and research. Contact them before use. Indoor air space is not regulated. Its use is governed by environmental safety regulations. Students are considered hobbyists. A faculty member may oversee student activity.

B. Video Surveillance and Recording Policy

- Where are surveillance cameras on campus? There are approximately 500 on campus – public locations based on safety needs. Cameras are in large lecture halls pointed at podiums to protect computers.
- Can anyone just walk in and request videotape? If they do, they must make a good case to the police chief.
- No cameras currently in faculty offices. This should be specified in the policy.
- What is definition of public space? That needs an answer. Classrooms are not private. Cameras currently there have no audio, but that should also be specified. People (e.g., students and faculty) behave differently when they know they are being recorded. Everyone should know they are being surveilled, if they are.
- Clear records of who accesses these tapes should be made available.
- Faculty offices should be out of bounds. Whenever faculty are assigned to an office with a camera and don't want the camera there, the camera should be removed.
- How do we know this actually improves safety? Supporting evidence, if any, should be cited.
- Request no voice or facial recognition, unless it's an active response.
- Include a time limit for storing tapes.
- May be used in employment matters. How? Spell that out.
- (Sidebar: If faculty don't want to be recorded by students, put it in the syllabus)
- Additional person – not in DPS – should be part of process when public safety/police are under investigation.
- What are acceptable reasons to constrain rights, academic freedom, etc.?
- What criteria will be used to determine where cameras will be located? Is there an audit?
- In general, specify and clarify terms.

V. Guests: Dr. Wade Tornquist, Associate Provost and AVP of Graduate Studies and Dr. Sonia Chawla, Research Compliance Officer

Topics:

**A. Research Data Retention Policy**

Rationale:

1. preserving the research record – responsibilities to maintain data and report on it to funders; publication support
2. transferable technology – things that can be patented and commercialized. Some things EMU is not interested in. Example – books – university has no ownership there.
3. Research compliance.

**B. Academic Integrity Committee**

1. Review disclosure of conflict.
2. Responsible conduct and ethical processes
3. Responding to misconduct allegations – must sequester all of the data. Does it exist and is EMU able to access it.

As part of audit from federal agencies, there needs to be access to the data.  
Dissemination of data is up to PI. Publishing from someone else's data is academic misconduct.

#### Discussion DATA RETENTION

Why are we developing this policy now?

- Questions of data security were raised but that's a different topic.
- Data analysis when data set is not generated here – ownership is spelled out in the contract. Purchase is use of data – not ownership. IRB must match this policy.
- EMU must retain access to data for federal regulators or it's not in compliance. Annual unannounced visit from USDA is an example.
- Policy draft indicates EMU owns data. Chawla and Tornquist suggest ownership is needed to be in compliance with ability to access data for federal regulators.
- Considerable discussion about **data ownership**.
- Holding data and ownership of data are very different things. Clarify and include in both tech transfer and data retention policies. Develop a draft IRB form consistent with these policies for faculty input.
- Who can request your data? It would be a FOIA request through legal. Faculty have duty to produce data if requested because it's a public university.
- Draft policy includes "rights to unfettered access" to faculty data. What is the rationale for this? Terms must be defined.
- Is EMU ownership really necessary in all cases? What does ownership mean?
- What about data identifiers? Long term stored data should be de-identified.
- Research conducted on campus or with EMU resources if *owned* by EMU will create a disincentive to do research that is credited to EMU.
- Policy and ownership applies to any sponsored research, including State.
- Faculty can always take data with them when they leave. Spell this out in the policy.

VI. AAUP President Judith Kullberg: Contractual Issues on the above policy discussions

#### DATA RETENTION

It is our position that the university's claim that it owns all research data that is federally-funded or unfunded is an overreach. Current Federal regulations do not make a blanket assertion that all research data supported by the federal government belong to the university; it depends on the granting agency, and the type of research conducted. Universities have requirements regarding the handling, sharing and retention of data, but this does not mean that the university "owns" the data.

Further, **in the opinion of both the national AAUP and the courts, faculty are not mere employees, but professionals: they do not perform "work for hire" that would give the employer a claim to own the products of their work.** Faculty conduct research independently and create data as part of the scholarly process. This is true even if the faculty member is using campus facilities, equipment, etc. Similarly, **the EMU-AAUP has never accepted an understanding of faculty as mere employees working for the administration and producing products that belong to the employer. Faculty are not corporate employees where anything they produce belongs to the university.**

Under federal and state law, ownership is not as black and white as is depicted in the draft EMU policy. Facts are not copyrightable, but works of authorship are. In many cases, research data are not mere facts, but some combination of facts and creative work. For example, results from a survey can be digitized and are thus a type of "data", but they are

not mere "facts"; rather they are "social facts," responses to an instrument created by a scholar. Who "owns" the data in this case? Similarly, research relying on transcripts of interviews may involve copyrights jointly held by researcher and by interview subjects.

In addition, funding agencies have varying requirements regarding ownership of the results of research and expectations of how data generated through research will be used.

We would thus recommend a shift in the language to one of rights and responsibilities of the Primary Investigator and University regarding the disposition of research data.

The current draft policy is based on early/older thinking. The University of California policy is one example reflecting more current thinking on the topic and may be useful as a model for EMU.

Q (Chawla): What is EMU authority to access data if a claim is filed against them, if they don't have ownership of the data?

A (Kullberg): If data are stored properly, they should be available, even after the faculty member leaves.

#### VIDEO SURVEILLANCE

AAUP position is that the union should be negotiating video surveillance. Language about use in employment matters is so broad and vague that it doesn't adequately protect faculty interests. Because the draft policy would allow cameras in locations where employees are working, such as offices, classrooms and lounges, and also would allow video recordings made by such cameras to be used in employment-related investigations, we believe this policy is a mandatory subject of bargaining under the Michigan Public Employment Relations Act. We will thus submit a request to the administration to negotiate this policy.

- VII. Provost Minutes -Thank you to those who submitted to MLK day. Consider nominations for MLK humanitarian awards. Thank a teacher recognition: Encourage students to use that process to thank faculty, instructors, lecturers, adjuncts, etc. Good wishes for holiday season and thank you for your hard work.
- VIII. Announcements
- IX. Adjournment – 5pm