

The eighth meeting of the Committee of Six for the academic year 2020–2021 was called to order by President Martin via Zoom at 2:30 P.M. on Monday, September 21, 2020. Present, in addition to the president, were Professors del Moral, Kingston, Leise, Manion, Trapani, and Umphrey; Provost and Dean of the Faculty Epstein; and Associate Provost Tobin, recorder.

The meeting began with the members agreeing that teaching evaluations for January 2021 courses will not become part of the reappointment dossiers of candidates who are standing for reappointment this spring, as there will not be enough time to solicit retrospective letters. End-of-semester evaluations and retrospective letters for courses taught in January will become part of future tenure dossiers, the committee concurred.

Provost Epstein next informed the members that Norm Jones, chief equity and inclusion officer, and Jesse Barba, director of institutional research and registrar services, have concluded that it would be best to conduct the demographic survey of faculty and staff after the new Workday system is operational. Otherwise, all the data that are collected will need to be re-entered into Workday, which would be labor intensive. The survey will be done this spring, Provost Epstein said.

Conversation turned to the question of whether to hold a faculty meeting on October 6. Professor Trapani commented on the concern and anxiety that many tenure-track faculty members are feeling about the future. He expressed the view that bringing the faculty together for a meeting on October 6 to listen and provide additional reassurance that the college is here to support them, and that the impact of the pandemic will be taken into account as part of reappointment and tenure deliberations, would be helpful. Professor Manion suggested that, rather than holding a listening session about the committee's proposed revision to the college's Statement of Academic and Expressive Freedom, as the members had agreed to do at their last meeting, it would be preferable to have a committee-of-the-whole discussion of the proposal at a faculty meeting, because faculty already have the time reserved and would be more likely to participate. Professor Trapani said that he supports this approach, as a listening session would likely draw a narrow group of faculty participants, in particular those who hold strong views about this issue. Having a discussion with the full faculty would be most informative.

In regard to bringing such a proposal forward, Professor Umphrey continued to advocate for a more gradual and deliberative approach. She said that she prefers, as a first step, holding a listening session, as proposed by last year's Committee of Six. This approach would allow time to hone the committee's proposed language, based on colleagues' feedback, and be responsive to questions that are raised. Professor Umphrey also expressed the view that having committee-of-the-whole conversations via Zoom does not typically provide an ideal forum for faculty deliberation. President Martin and Provost Epstein expressed support for having a faculty meeting, both to consider the proposal to revise the Statement of Academic and Expressive Freedom, as well as to provide an opportunity to update the faculty about planning for spring 2021 and to answer questions. As guests were expected to join the Committee of Six's meeting imminently, the members agreed to continue their discussion about the faculty meeting after the conversation with the visitors concluded.

At 2:45 P.M., Lisa Rutherford, chief policy officer and general counsel, and N. Jones joined the meeting. L. Rutherford offered general legal advice related to the tenure process and answered questions posed by the committee. Prior to the meeting, the committee had been provided with a document titled "Practical Advice regarding Tenure," which had been written by former attorneys for the college, and "Good Practice in Tenure Evaluation," a document prepared by the American Association of University Professors (AAUP). Professors Umphrey and Manion asked if these documents might be shared with departments, if doing so is not the practice already. Professor Manion found the information to be helpful and thought that departments would as well, she said. Associate Provost Tobin informed the members that these documents are not shared currently. L. Rutherford responded that it is fine to make the AAUP document available and that she would review the second document to make sure that all logistics are accurate. It can then be distributed as well, she said. In her remarks to the committee, L. Rutherford emphasized the importance of applying consistently the criteria for tenure and of limiting the committee's discussion and consideration to

the defined criteria of scholarship, teaching, and service. She advised the members to strive for consistency and to follow established procedures. N. Jones spoke with the committee about approaches to mitigating bias when reading teaching evaluations, and in the tenure process more generally. He then responded to the members' questions.

At 3:25 P.M., Pawan Dhingra and Allen Hart, faculty equity and inclusion officers, and Laurie Frankl, Title IX coordinator, joined the meeting to discuss a draft of a policy on identity-based harassment and non-discrimination and a proposal for a bias-reporting and response protocol. The discussion began with Professor Trapani asking if some context could be provided for the creation of the two drafts, and if there is a relationship between them. Professor Hart said that the processes can be seen as two pieces of a puzzle. The Committee on Diversity, Equity, and Inclusion (formerly known as the Presidential Task Force on Diversity and Inclusion) drafted the bias-reporting and response protocol, and Laurie Frankl drafted the harassment and non-discrimination policy. Professor Hart first described the organizational structure that is being proposed to address reports of identity-based discrimination and harassment, as well as bias incidents. The goal, he noted, is to put in place policies and processes that provide a mechanism for the community to report, respond to, and repair harm surrounding identity-based incidents of discrimination, harassment, and bias.

Continuing, Professor Hart noted that, under the proposed structure, when a report is received from a member of the community, a review team would forward the report to the appropriate office. The team would take into account whether aspects of the report involve discrimination and harassment, Title IX violations, community standards, and/or bias. One team would manage reports of discrimination and harassment and resolve them using adjudication processes that are already in place for students, faculty, and staff. The Title IX team would manage Title IX complaints, which fall under the interim Title IX policy, under which resolution would be sought through formal and/or informal processes. The community standards team would address reports of possible violations of community standards, resolving them under formal adjudication process or informal resolutions. Incidents of bias that do not meet the criteria for discrimination or harassment would be addressed by the Bias Education Response Team (BERT).

Professor Manion thanked the colleagues who have been undertaking this complex and important work. She asked if the purpose of the policy on identity-based harassment and discrimination is to enforce relevant state and federal law, and if the bias-reporting and response protocol is anticipated to function as a way of building a campus culture of inclusion and respect. She expressed discomfort with anonymous reporting, a feature of the proposed non-discrimination and harassment policy and bias-reporting and response protocol, and asked L. Frankl to clarify if this is indeed "best practice." L. Frankl commented that some members of the community who initially bring forward concerns anonymously may reveal their identities once a relationship of trust is built. She noted that the Ethics Point reporting tool allows her to communicate with those who make reports, while preserving their anonymity if they wish.

Continuing the conversation, Professor Manion asked about the investigatory piece of the proposed harassment and non-discrimination policy. L. Frankl noted that, under the policy, every report would be investigated, and that either a college staff member or an outside investigator would conduct the investigation. Commenting that the proposal notes that a report would be produced and would be used by the review team, Professor Manion asked who else will have access to such a report. L. Frankl responded that the reports would inform grievance processes that are used for formal complaints, in which case they would be available to all parties involved. They might also be used as part of efforts to resolve more informal concerns, she said. The reports may range from one-page memo to lengthy documents, depending on the nature of the situation. Continuing, L. Frankl informed the members that, if the review team determines that a report describes actions that appear not to rise to the level of discrimination or harassment as defined in the policy, but which are otherwise in violation of the honor code, the BERT would be notified. It was noted that, under the proposed bias-reporting and response protocol, the team would attempt to bring together the reporting party, the involved party, and/or any relevant affiliated organizations, with the purpose of identifying, addressing, and repairing the harm that had been caused. As

part of this effort, the team would recommend follow-up measures.

Professor Umphrey, who also acknowledged colleagues for their efforts and commented on the importance of their work, asked what the timeline is for implementing the bias-reporting and response protocol, and what resources are being allocated to support the development and administration of the new system. She attended restorative practices training and had found it to be informative and helpful, she said. Professor Hart noted that forty-five members of the Amherst community—students, faculty, and staff—had participated in the two-day introduction to restorative practices held last January. He said that it is hoped that the college will be able to create a cohort of highly trained community members to facilitate restorative circles and other practices. David Karp, professor and director of the Center for Restorative Justice in the School of Leadership and Education Sciences at the University of San Diego, has been engaged to offer additional training this fall, Professor Hart informed the committee.

Continuing, Professor Hart noted that the college is laying a strong foundation for future restorative work with the launch of the Center for Restorative Practices. (Professor Hart will serve as the inaugural director, and a search is under way for an assistant director.) N. Jones informed the members that the Office of the President is providing start-up funds for this work; he expects the center to grow into a national model, he noted. Professor Umphrey expressed enthusiasm for this project, including linking the bias-reporting and response protocol to efforts to foster restorative justice at the college, and the leadership role that Amherst intends to play in this work. She said that she shares Professor Manion's concern about anonymous reporting, however, commenting on the possibility that unintended consequences could arise. In particular, she is worried that there is a lack of clarity in some of the wording of the proposal that could lead to complaints of harassment or discrimination bumping up against issues of academic freedom. The question is how to provide a climate free from harassment and discrimination, without having a chilling effect on one of the foundational principles of the academic enterprise, Professor Umphrey noted.

Continuing the discussion, Professor Umphrey expressed the view that more work needs to be done on the language of the proposal, in order to address the classroom as a protected space. In particular, the section that discusses the possibility of "academic discomfort" resulting from reasonable educational purposes should be clarified and revised in a way to reduce the tension with academic freedom that is conveyed. Professor Hart said that he welcomes the committee's help in thinking about how to bring the proposed policies into mutual agreement with a commitment to academic freedom. He said that anonymous reporting presents a particular challenge for restorative practices. If an individual feels harmed, how can there be a structured conversation between two parties, for example, if one party is not known? In discussing harm that may take place in the classroom, Professor Dhingra noted that there is a difference between a professor discussing a sensitive topic, articulating arguments surrounding it, and encouraging a debate about ideas—and targeting students based on their identities. Professor Manion pointed out the complexity of the task at hand, noting that she teaches texts in which deplorable ideas are espoused to justify heinous laws. She feels that faculty should be more responsive to student concerns. For example, she noted that many people defend the right of Charles Murray to speak about his debunked racist theories about racial difference, but that, increasingly, students are challenging us to reconsider whether this is actually right and necessary, given the negative impact these ideas and events have on students of color and the community more broadly. Reading through the proposed bias-reporting and response protocol's examples of incidents that might contain components of identity-based bias, Professor Manion wondered who would judge whether a given incident would constitute bias. She is concerned about the lack of clarity in the examples that are given to delineate what is and isn't bias. She hopes that excellent models from other colleges and universities were consulted.

Professor Umphrey concurred with some of Professor Manion's concerns. She noted that, while the BSU students have proposed the use of "targeted speech" to describe harassing and hateful speech that is directed at an individual, she thinks it might be clearer to use wording such as "intention to demean." She feels that it is important to define the provocations that can be termed as causing "harm," particularly in the classroom. Professor Umphrey said that it would be helpful to have specific examples to think about, and

more detailed and specific language. Professor Hart said that he will work to reinforce the importance of academic freedom as a principle, without conveying a sense that reporting incidents of bias necessarily creates tension with the principle. Professor Umphrey said that she continues to see a distinction between unprofessional behavior in the classroom and academic freedom. An epithet expressed in ways intended to demean is not speech worthy of being called an idea, and doesn't have any academic value, she reiterated. If a classroom conversation about the content of a text has academic value, however, that matters materially to how these situations should be assessed, she noted.

N. Jones commented that it is important to come back to the whole notion of harm. One of the merits of a bias-reporting and response protocol, in his view, is that it allows individuals to bring their concerns about harm forward. The college can then respond. While recognizing the principle of academic freedom, it is still possible to recognize the legitimacy of a student's experience with harm in the classroom. A student can feel harmed, even if what takes place in a classroom is protected under academic freedom, he noted. Professor Manion reiterated her view that the faculty should listen to what students are saying about feeling harmed by material that includes sexual assault and racial violence, and take more responsibility for the impact of such content on some students' well-being and ability to learn. Professor Manion said that her understanding of the severity of the impact has changed her as a teacher.

Professor Kingston commented that, in one section of the bias-reporting and response proposal, it is noted that, if there is disagreement about the facts surrounding an incident, the college may engage in a different kind of resolution. He asked what is envisioned in this regard. Professor Hart said that, depending on the nature of the incident, a process other than restorative practices could be used. Restorative practices center around the nature of the harm; there is no dispute about the facts or investigation. The important thing is for individuals to take responsibility for their actions and to recognize the impact of their behavior. Professor Kingston noted that, in the proposal, there are four different investigatory categories (non-discrimination and harassment, Title IX, community standards, and bias), and that it appears that some incidents could fall into more than one category, and that the boundaries among the categories are permeable. Professor Hart responded that three of the four processes are already in place, with bias being the new addition. Under the proposal, some incidents could fall into more than one category, the boundaries among the categories would be permeable, and components of a single reported incident could be addressed through more than one process. The review team would determine the categories into which an incident would fall. He noted that there are legal parameters that govern some incidents, for example laws surrounding Title IX and non-discrimination and harassment. The college wants to know if a community member experiences harm, but it is not up to the community member to know how the college defines and addresses particular kinds of harm.

Concluding the conversation, some members said that it appears that too much leeway is being given to faculty in the proposed bias-reporting and response protocol. It was noted that harm that might arise from a discussion of course content is being differentiated from harm that may be experienced through an intentional comment, for example. N. Jones noted that, while it may be hard for a student to accept and confront certain content, this is not a matter of bias. Professor Trapani said that he sees the virtue of having an avenue for students to report experiences that they feel have harmed them. Other people behind the scenes can then determine if bias is involved, he noted. President Martin asked if the subjective experience of harm is assumed to constitute harm, and she wonders if the college is moving forward with this idea in mind. If so, this needs to be made clear. Professor Hart said that course content is not covered by the bias-reporting and response protocol. President Martin noted that, if this is the intention, it is important to say so. Professor Manion reiterated that there is a lot of complexity involved. In her view, there should be accountability for the common practices of some faculty, though she is aware that the language of a statement will not accomplish this. Offering a final point, Professor Umphrey noted that, while the idea seems to be that students will largely engage in bias reporting, the policy has been written for the entire community. It is possible that unexpected situations could arise, for example a faculty member bringing a complaint against a student for bias in a teaching evaluation—an important concern under discussion at the

college this year. She suggested that those developing the bias-reporting and response protocol consider how they expect the community to engage with the system. The members expressed their appreciation to the colleagues who had joined the meeting, who, in turn, thanked the committee for its feedback and left the meeting at 4:42 P.M.

Under “Questions from Committee Members,” Professor del Moral asked, on behalf of a colleague, if it is anticipated that faculty on leave will be allowed to use travel and research funds for travel this spring. Provost Epstein responded that college-funded travel has been suspended until further notice, due to the pandemic. Continuing, Professor del Moral said that a colleague asked her to inquire whether the provost will provide data on retention and tenure rates for Black and Latinx faculty. Provost Epstein said that she will consult with Jesse Barba, director of institutional research and registrar services, to see if these data can be made available without identifying individuals, given the small sample size. The provost also noted plans for N. Jones to create a dashboard of data on his website that may include information sorted by demographic.

Concluding “Questions from Committee Members,” Professor Umphrey asked if Professors Edwards and Hicks, in their roles as members of the Consultative Group for Tenure-Track Faculty, have been in communication with the provost about a possible charge for the group. Provost Epstein said that she has not heard from Professors Edwards and Hicks about this issue, but would be happy to check in with them about it.

In the time remaining, the members discussed their proposal to revise the Statement of Academic and Expressive Freedom. The committee agreed that the revision should convey that the targeted use of racial or other derogatory epithets falls outside protected speech. Professor Umphrey said that the proposed language of the revision should make very clear what is not permitted. It was agreed that epithets and derogatory remarks intended to demean those to whom they are addressed on the basis of actual or perceived group identity should be prohibited. Professor Trapani suggested that the [Statement on Respect for Persons](#) also be revised to make this prohibition clear in that statement. Professor Umphrey noted that the Statement on Respect for Persons may ultimately be superseded by the new college policies and protocols under discussion, and she recommended continuing to refine the language of the proposed revision to the Statement of Academic and Expressive Freedom. She also continues to believe that the committee should hold a listening session before having a committee-of-the-whole conversation at a faculty meeting, or in the alternative, that it would be helpful to present the faculty with several possible proposals to revise the statement—and a list of pros and cons of each. Professor Trapani suggested sharing the committee’s proposed revision with the Black Student Union before bringing the language to the faculty. The other members did not think it was appropriate to do so, given that the Statement of Academic and Expressive Freedom is a faculty policy. Most members agreed that the committee-of-the-whole format would lend itself well to laying out the arguments for revising the statement, and garnering feedback on the committee’s proposed language. The committee agreed to take this approach and to approve an agenda for an October 6 faculty meeting as soon as possible.

The meeting adjourned at 5:00 P.M.

Respectfully submitted,

Catherine Epstein  
Provost and Dean of the Faculty