



MINUTES

Committee Members Present: Mike Bailey, Mark Baldwin, Julia Brim-Edwards, Darry Callahan (*vice chair*), Michele Longo Eder, Angel Mandujano-Guevara, Julie Manning, Laura Naumes, Preston Pulliams, and Kirk Schueler

University Staff Present: Jennifer Almquist, Susan Capalbo, Steve Clark, Debbie Colbert, A. Morrie Craig, Becca Gose, and Lauren Skousen

Guests: Dan Armstrong (*partner, Heilig Misfeldt & Armstrong LLP*) and Mike Porter (*partner, Miller Nash Graham & Dunn LLP*)

1. Call to Order/Roll/Declaration of a Quorum

Vice Chair Darry Callahan called the meeting to order at 1:38 p.m., asked the assistant board secretary to call the role, and noted a quorum.

2. Consent Agenda

a. Minutes of the April 16, 2018 Board Meeting

A motion was made and seconded to approve the minutes of the April 16, 2018, Board Meeting. The motion carried.

3. Action Item

a. Tenured Faculty Sanction-For-Cause Appeal

Callahan introduced an appeal to the Board by Dr. A. Morrie Craig of his For Cause Termination. He began with an overview of the process to date and then provided a description of the approach for the Board's discussion. Next, Callahan asked Board Secretary Debbie Colbert to describe the options before the Board. Colbert said that under OSU Policy 580-021-0370(2), the Board must review the record to determine the path the appeal will take and described the paths available under the policy.

Callahan invited Mr. Dan Armstrong, attorney for Craig, to provide comments regarding the procedural path for the appeal. Armstrong reminded trustees that the Board should make its determination of the case pursuant to policies, as it deems just. He then described the process to date and encouraged the Board to consider whether Craig was afforded a fair process because he objected to General Counsel Becca Gose's role advising OSU's Faculty Sanctions for Cause Hearing Committee and information that was "redacted" in the record. Armstrong urged the Board to send the case back for a full hearing. Callahan then invited Mr. Mike Porter, outside counsel for the university administration, and Senior Vice Provost Susan Capalbo to make comments. Capalbo described the

university's commitment to creating and maintaining a climate free of discrimination and harassment. She summarized the policy violations by Craig that led to his termination for cause and encouraged the Board to review the case on the record only. Porter provided additional information about the Conditions of Service Policy, OSU Policy 580-21, described the process that had been followed; explained that Gose's legal representation was ethical, legal and standard; and concluded that the facts supported a review of the case on the record only. In response to a question by Trustee Kirk Schueler, Porter said that he was not aware of a university policy that prohibited General Counsel Becca Gose from acting as legal counsel to the Faculty Sanctions for Cause Hearing Committee. A motion was made and seconded that the full Board review the case on the record only. The motion carried unanimously.

Callahan said that since the Board voted to review the case on the record only, they could proceed to make a determination on the case itself, as it deemed just. He then asked Gose to describe the standard recommended for making a determination. Gose first described the preponderance of evidence standard used by the Faculty Sanctions for Cause Hearing Committee and President Ed Ray, as outlined in the Conditions of Service Policy. She then described the substantial evidence standard of review that is typically used in administrative appeals such as this. In response to a question by Schueler, Gose said that, per this standard, the Board's determination would focus on whether President Ed Ray's decision is supported by substantial evidence in the record.

Callahan invited Armstrong to address the question of whether there is substantial evidence in the record to support Ray's decision. Armstrong referenced the transcript of testimony, which he said did not support the findings. He encouraged trustees to review the transcript of the hearing thoroughly before making a decision. Next, Porter described the evidence in the record that he said demonstrated why the decision by Ray should be upheld. A motion was made and seconded that the President's decision is supported by substantial evidence in the record and that the decision to terminate Dr. Craig is just and is effective May 31, 2018. Regarding the motion, Trustee Mark Baldwin commended his fellow trustees, noting that they made a fully informed decision and recognizing that they do not take the decision lightly. The motion carried unanimously.

4. Adjournment

With no further business proposed, Vice Chair Callahan adjourned the meeting at 2:37 p.m.

Respectfully submitted,



Jennifer M. Almquist
Assistant Board Secretary