

Academic Senate Minutes
April 3, 2002, 4:00 pm
Room 132, DeBartolo Hall
Transcript Prepared by Joan Bevan

OVERVIEW:

Major topics presented/discussed: Report of the Senate chair; Report from Ad Hoc Ethics Committee.

POLICY CHANGES: None.

CALL TO ORDER:

Jim Morrison, chair of the Academic Senate, called the meeting to order at 4:11 p.m.

MINUTES OF THE PREVIOUS MEETING:

Minutes of the 6 February 2002 and 6 March 2002 meetings were approved. (Minutes of the 6 February 2002 meeting were not approved at the 6 March 2002 meeting due to the absence of a quorum.) Tom Shipka moved both minutes be approved. Seconded by Dennis Henneman and approved.

SENATE EXECUTIVE COMMITTEE (SEC)/REPORT FROM THE CHAIR: Jim Morrison reported that the Senate Executive Committee will meet soon, and the next item of business will be to begin the process of filling faculty appointments to committees for standing committees and review status of ad hoc committees and whether they will be continued on to the next year. The committee is also being asked to sponsor and coordinate another series of presidential campus conversations, and that information will be distributed shortly.

OHIO FACULTY COUNCIL REPORT: Ohio Faculty Council did not meet, so there was no report.

CHARTER AND BYLAWS, ELECTIONS AND BALLOTING, ACADEMIC STANDARDS, CURRICULUM COMMITTEE, (See Attachment 1 to Senate agenda), ACADEMIC PLANNING COMMITTEE, GENERAL EDUCATION, INTEGRATED TECHNOLOGIES, UNIVERSITY OUTREACH, LIBRARY, ACADEMIC RESEARCH, STUDENT ACADEMIC AFFAIRS, STUDENT ACADEMIC GRIEVANCE, HONORS, ACADEMIC EVENTS COMMITTEES:
No reports.

AD HOC ETHICS COMMITTEE REPORT:

Dr. J-C. Smith, chair of the committee: The committee was appointed for the purpose of reviewing and proposing a comprehensive ethics policy for governing professional

conduct on campus along with procedures related to it. The committee members include Dr. David Burns, Marketing, WCBA; Dr. Dennis Henneman, Communication and Theater, F&PA; Dr. Randy Hoover, Teacher Education, BCOE; Dr. Tammy King, Criminal Justice, H&HS; Dr. Elvin Shields, Mechanical and Industrial Engineering, E&T; and Dr. Tom Shipka, Philosophy and Religious Studies, administrative representative. The committee submitted its final report, the Youngstown State University Ethics Policy. The policy was unanimously approved on April 3, 2002.

The introductory paragraph affirms the basic principles of the pursuit of truth and recognition of the responsible exercise of academic freedom. Part I gives the definition of professional misconduct which includes reference to intentional violation of any other professional code or noncompliance with legal or ethical requirements.

Part II gives a further definition including crucial definition of some of the motivation for formation of the Ethics Committee, a crucial definition of plagiarism. Substantial portions of the document were drawn from the current Board of Trustees' policies. Article 3, Section 35, entitled "Scientific Misconduct" and parts of the plagiarism definition were copied from that as well as from other sources. It also contains references to other practices. It defines what is meant by other practices, including biased funding, negligent administration, misuse of facilities, research malpractice, breaches of confidentiality, theft, and finally, failure to report.

Part III states two regulations, the first of which stipulates what constitutes a violation of the ethics policy, and the second of which requires confidentiality in all proceedings to the ethics policy.

Part IV gives a lengthy description of procedures related to allegations of misconduct and the creation of a standing ethics committee in the Academic Senate which consists of six faculty (one from each undergraduate college) and six administrators (Two of the faculty have to be graduate faculty.). The committee elects its own chair.

Part IV continues with the handling of allegations, i.e., contact informally with the chairperson of the Ethics Committee within 30 days of observation or knowledge of the misconduct with a seven-year statute of limitations. If a misconduct occurred earlier than seven years prior to the discovery, it cannot be pursued under the ethics policy. There are 14 days for the formal filing of an allegation with the chairperson of the Committee. This filing cannot be done anonymously, however, under the conditions that the person filing the allegation is not to give testimony or enter into the chain of evidence that would be involved in pursuit of the allegation. They may remain confidential under that circumstance. They may not be disclosed. In all other cases, they have to be disclosed, but it cannot be done entirely anonymously; there cannot be an allegation of misconduct that is entirely anonymous.

The Ethics Committee then reviews the allegation proceeding with an informal inquiry for 28 days. Fourteen days in, the subject of the allegation must be notified. At the end of the 28 days, there is a vote as to whether a case investigation subcommittee is to be

formed, and that is a vote by simple majority. If there is a vote to appoint a case investigation subcommittee, that committee will have three to five faculty members or administrators or professional staff as deemed appropriate. The chairperson appoints that under advice from the Ethics Committee itself. The case investigation subcommittee then has 60 days to proceed with a formal investigation which may include interviews, transcripts of which will be required, and investigation of other documentation.

At the end of 60 days, the case investigation subcommittee must report back to the Ethics Committee. Within 21 days after that, there must be a vote by simple majority of the Committee in order to proceed to maintain that the allegation of misconduct has been substantiated. That's the vote that matters. Seven (7) days after that vote, if there has been a vote that the allegation of misconduct was substantiated by the investigation, within seven (7) days afterward there is a further vote, again by a simple majority, as to whether a sanction or penalty should be imposed for the misconduct. Within 14 days after that, a misconduct report is filed with the appropriate administrator and other crucial individuals, i.e., the Provost, the chairperson of the Academic Senate, etc., as stipulated.

The report concerning these substantiations of an allegation of misconduct and any penalty or sanctions that are recommended by the Ethics Committee shall be sent to the administrator who is the superior of the person deemed to have been guilty of professional misconduct. The relevant superior then has 30 days to implement the recommended sanction or penalty. If the administrator does not act in the way recommended, then the Ethics Committee can move publicly, either before the Senate or in any other way deemed appropriate. There are other notifications also that are required: notifications to legal authorities, funding agencies, and to the professional society or association whose code has been abused in the course of the investigation.

Dr. Smith invited discussion.

Tom Shipka (Philosophy and Religious Studies): So that we can have this before us officially for discussion and a vote, **I move the adoption of the Youngstown State University Ethics Policy as recommended by the Ad Hoc Ethics Committee, and I'd like the opportunity to speak to my motion. Dennis Henneman seconded the motion; discussion followed.**

Shipka: I was a member of this committee and would like to make several observations to the Senate, mostly dealing with procedures. The Ad Hoc Ethics Committee has spent the entire current school year developing the proposal before you. First, we collected and studied ethics policies in effect at nine of the public universities that sent them on request. We also studied ethics policies already approved by our Board of Trustees. We also collected and studied ethics policies of various professional societies and various higher education labor organizations. We then, after reviewing our options and an enormous amount of information, decided to build upon existing policy. By this, I mean the YSU Board of Trustees' policy on scientific misconduct. I have a copy of that before me. Much of the first several pages of our policy is pretty much verbatim from the current policy on scientific misconduct. To this current policy, slightly amended, we added the

standing Ethics Committee of the Senate which, of course, will require Senate bylaws changes to be proposed eventually by the appropriate committee. And we added guidelines and procedures for filing investigative charges of professional misconduct. Also, we targeted what seemed to us the three appropriate groups on campus (faculty, administrators, and professional staff), so this is a policy that covers all three groups.

Next, I would point out that if the Senate approves this ethics policy, it will go next for review to negotiators for the faculty union and to the administration for their review. It will go also simultaneously to the Provost, the President, and other upper-echelon administrators for their review and, finally, presuming there is a consensus on all sides, it will go to the YSU Board of Trustees to become official YSU policy. I'd also like to point out that any discipline recommended by the Ethics Committee to the administration, which is how this works, will be imposed within the framework of law and of applicable labor agreements and the job security and due process and grievance provisions within them, so all of us as members of bargaining units will retain all of the protections afforded in the labor agreements if and when there should be a finding of professional misconduct and some sort of recommendation for a penalty or a sanction against you by the Ethics Committee.

Finally, I would point out that this is certainly not a perfect document; it's not as detailed as many that we encountered at places such as Bowling Green and Akron, but it is a document that reflects considerable research, reflection, debate, and discussion and certainly compromise. In my judgment, having worked here now for 33 long years, it's a major step forward for our institution. It gives us, I think, for the first time a workable vehicle to address problems in the area of professional misconduct before they become public scandals as was unfortunately the case in the not-too-distant past. So, despite what defects it has and what flaws it might have, overall, I think it's been carefully thought through. It has balance. It gives us a workable vehicle to deal with these problems, and I certainly recommend approval by the full Senate. Thank you.

Jim Zupanic (Engineering and Technology): I just had a question on Page 6 on Section F.1. and also in 4.a. that says that the standard that we have to meet to declare someone to be unethical is by a simple majority. I wonder if there was some discussion or support for the idea that that may not be a high enough standard to meet when you're going to label someone with such a serious brand. Is that the standard thing you've found in other committees or other ethics documents, or what? I'm just wondering.

Smith: To answer the last part first, yes, I think that is the standard that we encountered for the most part, but there are two things I'd point out in that regard. The Committee did struggle with this issue. Actually, even today at this last meeting this morning, that issue came up specifically, and we had a thorough discussion of it. Two points came up. First of all, there are twelve people on this committee, and a typical committee on this campus has difficulty making a quorum, but this is a simple majority of the Committee, not a simple majority of the quorum, so if you had nine people show up, seven of those nine people are going to have to vote in favor in order to have the simple majority of the Committee, so I think typically you would end up requiring two-thirds. On the occasions

where all twelve members showed up, then of course there wouldn't be the two-thirds, but I think that that would be how it turns out.

The other point I'd like to make is that the vote of the simple majority occurs repeatedly. Perhaps a simple majority that takes it from the inquiry phase to the investigation phase would perhaps be a simple majority—well, you've got the activity within the procedure within the investigation committee, and then you also have the vote that occurs for substantiation of whether it's been substantiated and again a simple majority for substantiation of any sanction or penalty, so there are multiple or stacked simple majority votes that would have to be put together, and, typically, I think it would end up being two-thirds or more of the committee.

Gabriel Palmer (Philosophy and Religious Studies): A question on I.a. One possible way of reading that line, and if I may quote it, “fabrication, falsification, plagiarism, and other intentional deception...,” one possible way of reading that line is that fabrication, falsification, and plagiarism are forms of intentional deception, so that intention is necessary in order to prove an act to be fabrication, falsification, or plagiarism. Is that what the committee intends, that namely any of those three forms of deception are intentional deceptions? And I have a follow-up question, if I may.

Smith: I believe that that is the intention of the Committee, that it must be judged to be intentional on the part of the individual. Notice on Page 3 at the end of “Other practices,” it says, “Nothing in these definitions shall be deemed to include unintentional error, omission, or oversight or to obviate sincere and genuine differences in interpretations or judgments of policies, resources, or data.” The Committee, I think, understands that assessments of whether something is intentional or not can be quite difficult, but the Committee also held that there is no way to avoid interpretation by the Ethics Committee once they've actually looked at the facts of the case and made a judgment there in any event, and this is one area in which the Committee should be making a judgment.

Palmer: That is a much weaker standard than what we subject to our students. First, the student code of honor only requires plagiarism, not the demonstration of intentional plagiarism. That is somewhat problematic for someone like me. Second, it seems to me then an act of intentional deception that is not present here is intentional deception in applying for grants, such as misrepresenting my background, area of expertise, etc.

Smith: I think there is a part that would fall under (I.b.,c.,and d.). Any other practices that violate generally accepted standards, I think it could be covered that way, but I believe a bit further within there is also an area in which that could be brought out under the research, at least within that. A further comment--in my synopsis, I didn't bring out that you should be aware that the Committee thought about struggling through each and every possible area of misconduct; for example, intimate relations with students--how should we handle that? We immediately found that in the Committee of seven there were seven different views with regard to how that be handled, and we anticipated that with regard to many of the issues of professional misconduct there would be that sort of

problem, and as a result, the committee would never be able to come forward with any proposal of a comprehensive ethics policy.

We then landed upon the approach of adopting what is currently the playing field for us all as members of various professions, whether or not you're actually a member of a professional society or association. The generally accepted codes are out there for each and every professional area represented on campus (faculty, administrative, and professional staff). There are explicit written codes out there that are generally accepted, or maybe more than one for several different areas. Those codes, if you look at them as I have over the past 15 years of teaching professional ethics at YSU, those codes are quite uneven. Some of them go specifically after intimate relations, and they have a particular statement of policy concerning that. Other codes are very generalized and would not raise specific issues such as intimate relations with students. Now that's an unevenness that already exists in the professional field among the professions, and the Committee decided that we would simply endorse that. If you are in an area that has a generally accepted code that is quite stringent, your conduct at YSU under this policy will be looked at more stringently than the conduct of someone else, but that's not an unevenness that we are creating by way of this policy; that's one that already exists among the professions.

Charles Singler (Geology): I have several questions I'd like to ask. If anyone wishes to speak to these as I go along, I would gladly yield the floor. My question starts on Page 3 and continues on Page 4, it speaks to the makeup of the membership, and it says that the Ethics Committee shall elect its own chairperson. Am I to understand from that that the chairperson shall come from the twelve who have been appointed, and that there is not a thirteenth member from outside? To follow up, if this person is to serve a three-year term, does that mean that if they are in their second or third year of service to that committee they are ineligible, or is their term automatically extended to a three-year term? As part of that, could it be clarified why an election to chair of the Committee would not be a one-year appointment with the potential for renewability if the language used says that the chairperson shall serve a three-year term as chair and member?

Shipka: I think that's my language; I plead guilty. This language particularly focuses on the initial appointment of the committee, the staggered terms, the three-year terms, and the rationale behind the three-year term was to try to have continuity. It would be difficult, I think, for a person to come in and in a few months learn the procedures, familiarize oneself with all of the applicable policies the University imposes on us, and so forth. So a one-year term as chair seemed to me to be too short to get a competent, well-informed chair, so we wanted it longer. Could it be less than three? I guess, theoretically, it could, but at least at the start-up, we were hoping that it could be for three years.

Singler: Even at the start, if some of the members are elected for a one-year term, and some of the members are elected for two-year terms, then at the start-up you would be automatically excluding certain members from being selected as chair. May I make a suggestion, and this could be made as a formal amendment, to make this a one-year term and renewable for however long you prefer. It also takes away the condition that if somebody new comes into a committee, you don't necessarily want to elect them if

they're not aware of the procedures and policies and the details of what an ethics committee is supposed to do.

Smith: It was our intention that the first chair serves for three years, but I certainly would not agree with limiting the election of the chair to only those people who were elected for three-year terms. One way or another, we will address the issue, and we will resolve that.

Singler: Second question. On the same page under this is the standing committee of the Senate, could you clarify for me starting with C on Page 4 and beyond at what point the chair of the Senate is informed of either an allegation or of an inquiry being made into the allegation? I don't find it there, and just wonder if there is a point at which the information is brought beyond that thrust to the chair of the Senate or to the Executive Committee:

Smith: I believe the way it stands now the chairperson of the Academic Senate is only informed after the entire investigation and voting process has been completed.

Singler: So, other than someone making an allegation, and the person alleged against being informed, and the twelve members of the committee, no one in the University supposedly knows about this. At the point at which an allegation now is substantiated or not substantiated, and the chair of the Senate is finally informed and others perhaps, and time has gone on and a lot of inquiry has gone on.

Smith: That's right. Those people who are contacted in the course of the inquiry and investigation, of course, would know about it, but in terms of official notification of an allegation being processed, there is no official report until that procedure is completed.

Singler: As a standing committee of the Senate, I have the feeling that perhaps somewhere along the line, either the Executive Committee as a whole, or at minimum, the chair of the Senate should be made aware that such an allegation has been made and such an inquiry is being conducted.

Smith: I would definitely agree that there should be a recording, and I assume this is something that Bylaws would address, but I would be very much opposed to any informing of the Executive Committee of the details concerning any allegation that has not been completely processed. In the case of an unsubstantiated allegation as a final result of the investigation, the committee votes a simple majority and does not agree that there was misconduct so we have an unsubstantiated allegation, it is up to the person who was the subject of the allegation as to whether anyone will be informed of that process having been completed. I would think that the chairperson of the Ethics Committee should be reporting to the Executive Committee of the Senate, "We currently have three allegations in various phases," but not with regard to those details. That's a confidential matter that shouldn't be exposed.

Singler: It would not be my intention that the confidentiality should be bridged, but rather that at least somewhere along the line, the Senate or other parties would be brought into at least an informal, informational setting to know that something is going on.

Smith: Not with regard to whom. That is something that the Committee definitely wanted to avoid. There should be no notification because it's the case of an unsubstantiated allegation. You want to be very careful that information has not come out along the way. The second regulation severely restricts information. There should be no disclosure to anyone not involved directly in the investigation of the case in regard to who is the subject of an allegation or how it is proceeding.

Singler: That assumes then that the members of the committee hold the confidentiality on the policy they're working on.

Smith: That's right, and if they don't, they will be subject to allegation of misconduct. That is stated very clearly in several points and Regulation III.B. is directly about that.

Singler: On Page 7, I had the same question Mr. Zupanic had, but perhaps you can answer for me. When I read the language about the membership elected by a simple majority of members of the Ethics Committee needing to vote that way, why would you need a minimum of seven members of the Ethics Committee to vote this way? When I read that, I didn't know whether that meant all appointed members or whether just those who were voting or those who were present making up a quorum. It was unclear to me, just as it was to Mr. Zupanic. Why was not seven set as a minimum if they felt that was necessary?

Smith: It could have been stated as seven. The simple majority language, I think, was just adopted probably by reference as part of the language in the scientific misconduct article. I could look at that. The simple majority language came into it, but that would be seven. I would have no objection to replacing such references with seven members of the committee. That would be fine because that it is clearly the intent, and elsewhere a quorum is addressed. It's stated that seven members constitute a quorum, for example, so when it's stated as a simple majority of all members of the committee, and it's stated elsewhere that the committee shall have twelve members, then that's seven members.

Singler: Can we just ask for clarification or is an amendment sufficient to change the language, Mr. Chairman?

Morrison: I would think a simple insertion saying "a minimum of seven members."

Smith: I would be willing to insert "seven members" parenthetically after each reference to "a simple majority of all members of the committee."

Morrison: That would not change the intent.

Singer: My concern was just a clarification. On Page 7, Item b, “If no simple majority of Committee members agrees upon any penalty or sanction, then the Chairperson shall report that result.” To whom?

Smith: This is a section that addresses the nature of the professional misconduct report and describes what is to be contained in that report and to whom that is to be submitted, so the implication and the reason it is stated that way is because of what was thought to be implied that it was part of the professional misconduct report.

Singler: So it’s to go to those parties who are addressed above in that same paragraph?

Smith: That’s correct. That’s the report.

Singler: At the bottom of Page 7, 5.a., it says, “The Chairperson should normally be guided by whether or not a public announcement will be helpful or cause further harm...” In terms of an unsubstantiated claim, I’m curious that that is only one person. Are we giving the responsibility to a single person the judgment of whether this should go public or not?

Smith: Please note that is exactly the way the current Board of Trustees’ policy on scientific misconduct reads, although not with regard to a chairperson of an ethics committee; that’s with regard to the Provost. The scientific misconduct language or section has the Provost doing the job of the Ethics Committee in this current ethics policy, so the Chairperson of the Ethics Committee was substituted in for the Provost. It is noted elsewhere that the Chairperson proceeds from the advice of the Ethics Committee, but it is not noted directly here.

Singler: It strikes me that it is an awesome responsibility to put on one person, and it would be better for that individual if a simple majority of the committee were to agree or instruct the Chairperson that it shall be public or not.

Smith: It’s not the Committee. This is on an unsubstantiated allegation, and the initial aspect is the consultation with the person or persons who were the subject(s) of the allegation, and this statement should be regarded as to whether or not it will be helpful or cause further harm subordinate to that consultation with the subject of the allegation. The Committee did agree that it should be primarily in the hands of the person who was the subject of an unsubstantiated allegation. They may wish to have their record cleared in public. They may wish it to go away. It should be up to them. We were very concerned about the possibility of an unsubstantiated allegation, nevertheless, causing harm to the subject of the allegation.

Singler: But this doesn’t say *they* choose to make the summation, it says the Chairperson.

Smith: It says, “...the Chairperson should consult with the person or persons...to determine (1) whether the announcement...” It is not entirely up to them, but the

Chairperson carries that responsibility of consultation. I would think under this language, if the subject came in and said “I definitely did not want this disclosed,” I don’t see how the Chairperson could without some unusual justification disclose.

Singler: Do you think it would be inappropriate to say, “The Chairperson with the concurrence of the majority of the Ethics Committee?” I just feel that any two individuals (and I have great faith in people), but one individual might say it should go public, and another individual might say it should not go public, and you have one person making the decision on somebody’s... and on an unsubstantiated allegation, that it might be public or not be made public by one individual. If nothing else, then it’s a checkpoint.

Smith: I wouldn’t object to the language “with the concurrence of the majority of the Ethics Committee.”

Singler: I do move to insert that.

Morrison: Please state your motion.

Singler: **The very last sentence on Page 7, 5.a, “the Chairperson with the concurrence of a majority of the Ethics Committee shall be guided by whether or not a public announcement will be helpful.”**

Dr. Shipka seconded the motion. Motion carried.

Janice Elias (Office of the Provost): At the bottom of Page 5, the statement is made, “If the investigation includes taking testimony from the complainant and/or others as deemed appropriate, the person(s) against whom the allegation has been made shall not be present...” My question is even though that person is not present to hear the testimony, I do have some concerns about that, but I can understand some rationale for that. Does the person have access to the transcript of the testimony of the people that they were not present for and at what point in the proceedings?

Smith: Yes, I believe it is the intention that the person would have access to the transcript.

Elias: I would feel a lot more comfortable if that were stated explicitly.

Smith: I believe it is stated explicitly.

Elias: Okay, I must have missed it then.

Smith: E3

Elias: It says they will keep records of the investigation including transcripts, but my question is whether the person who is accused would have an opportunity to review those before the conclusion of the proceedings, or if it would be possible for the entire

procedure to be completed and the person who was accused would not be aware of all the testimony and have an opportunity to refute it.

Smith: With regard to the interview phase, they can designate a representative to be present, and that representative has rights of discovery and cross examination. There is no way you could prohibit their representative from informing the person involved of all details concerning that. Rights of discovery are given to that representative as well.

Elias: I guess my concern is that I'm not sure that a representative is as capable as the person who is being accused of being aware of all the possible details that the accused person might be in listening to what someone else has to say. But if it's understood that the transcripts that are being kept are available to the person, then I think that would be fine. I don't see that that is clear there.

Smith: That is definitely the understanding.

Elias: A second question has to do with maintaining the records for a period of three years, and I'm wondering if the committee did check. There's always the possibility of legal proceedings following something like this, and about the time period in which something like that might occur and the need to have that information. I'm wondering if the committee did check with legal council about that, and if three years is a sufficient amount of time?

Smith: No, we did not.

Elias: I'm making that suggestion.

Smith: Please note that in the Board of Trustees' policy it says with regard to the Associate Provost's question], "Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry," and that's where that language comes from. I would say that between 60 to 70 percent of this document is language drawn directly from the current Board of Trustees' policy on scientific misconduct. It merely changes references in order to incorporate all faculty, administrators, and professional staff.

Bill Jenkins (History/General Education): As a historian, I first want to say that Stephen Ambrose and Doris Kearns-Goodwin did commit plagiarism, and I don't approve. I'm trying to establish some credibility.

In regards to this, I want to commend the committee on what they have undertaken. I think it is very important that there be peer review regarding what are essentially very serious matters. I also want to commend J-C. for the openness of the committee and creating a CT website, so we can discuss it with them and get feedback and so forth. Generally, I think this is, overall, a good idea, but I have some serious concerns about how the term plagiarism applies, particularly to public forums. It seems to me in looking at the history of plagiarism as a violation, that is often applied to the written area quite

clearly, and that as a society we don't have a cohesive or a coherent agreement as to what constitutes plagiarism in a public forum depending, indeed, what that public forum is. Is it a classroom?

If you put together lecture notes from a variety of sources and then present those without listing exactly where they came from, is that plagiarism? I wasn't particularly taught that within my discipline--that I needed in the classroom to give the sources of all of the material that I had or that I gained from a variety of secondary sources for presentation. Also, I would note a scientist who may take problems out of another textbook—is there a requirement that that person cite where those problems have come from, for example? Is that what is intended here? I don't think that's been the practice to this point.

There are also questions relating to public forum. If you give a talk to a Rotary Club, are you going to give the documentation that you would have in a written paper? Certainly, I haven't in the past unless I was exactly quoting the person. In the case of words, I really have no problem with the notion that that is plagiarism if you don't stand there and say, "Well, I got this from so and so, or so and so says" etc. However, I'm particularly concerned about the fact that this covers ideas and the question of what are public forums and how does it count even within your own profession?

On April 20, I am scheduled to give a presidential address to the Ohio Academy of History, and it's all my research. I attended those meetings over the years, and when people give these sorts of talks, it is at lunch time; it is for purposes of scholarly interest and ideas, but there is no citation generally given, other than for the words that might be specifically taken from some other author. It would appear to me that this definition of plagiarism would mean that if I did not go to this public forum, the Ohio Academy of History, and cite my 30 footnotes, that I would be guilty of plagiarism and could be tried and convicted by this committee. I don't think that's their intent, but it does raise the issue of what exactly are public forums and under what circumstances and how do you have to cite? I have no disagreement with the notion that you need to cite if you are using the exact words of someone else and are presenting, obviously, as if it were your own. To me, that would be plagiarism in a public forum, although, as we all know, our president has speechwriters and ghostwriters and presents those words without public charges of plagiarism.

This is kind of a new area—what are we stepping into? is the question I guess that I'm raising in regard to ideas and the gathering of ideas. In a public forum, how do you communicate what your sources are? Does it have to be complete? Does it have to a resource? How far do you have to go? I think the present practice is that in a variety of circumstances you don't do that. The idea is entertainment, the stimulation of ideas. Even in the classroom, the same kind of thing.

Therefore, I object to the fact that this does not apply, and **I would like to make a motion that II.C. which has the definition of plagiarism--that there be an added statement at the bottom of that section [saying] "This definition of plagiarism shall**

not apply to the classroom or to other forms of public presentation in which the speaker is not expected to cite sources for the ideas presented.”

Motion seconded.

Palmer: Expected by whom, Bill?

Jenkins: Obviously, my professional organization doesn't expect me to cite sources when I make that speech, and we could put in there professional organization, but in terms of Rotary or if you were speaking to any number of community organizations, if they're not expecting or anticipating that you would be citing sources, I guess I would include them also.

Palmer: I would suggest something else. I give a lot of Rotary talks and so on, (24 so far this year), and I do give citations because I believe the expectation goes to one's discipline regardless of the audience, whether it's a classroom, Rotary, Youngstown Country Club, or the Ohio Historical Society. Discipline sets the standards, and we are expected to meet the standard of the discipline regardless of the audience or forum.

Jenkins: Are you saying that your discipline represents all other disciplines? You're not, right?

Palmer: No, I'm not suggesting that.

Jenkins: I believe that is your discipline. It's not clear in this document that multiple standards of different disciplines would apply, but I'm not objecting to the notion of including that it is not expected by professional...

Palmer: I think it's quite possible to plagiarize easily in the classroom even if our students do not expect that we cite, so regardless of the expectations of the audience, I can plagiarize in the classroom, so where do the expectations go? I submit that they go to the standards of the academic profession.

Rick Shale (English): I'm pretty supportive of what Bill is suggesting here, but I'm troubled by the word "classroom" because it sounds to me like if someone did a casual reading it looks like we as professors are absolving ourselves of some responsibility. It is in the classroom that we hold our students responsible for plagiarism, and it sounds like just the way that word would be interpreted disturbs me. Either we find a different way to say it, or perhaps not make it appear that we are making rules for others and not for ourselves in these circumstances.

Shipka: The language in this paragraph C. was changed to try to accommodate the point of view of Dr. Jenkins, and apparently we did not succeed fully. I would point out that in the second sentence, "Within closed or private forums or communications, including official meetings of classes and administrative committees and communications limited to their members, determination of plagiarism shall be based upon [several]

considerations of...”, J-C., correct me if I’m wrong--this is taken from the fair use provisions in the copyright law, is it not?

Smith: Yes

Shipka: I think we’ve addressed within the framework of law, the question of fair use in the classroom and tried to speak to that, and, finally, in that last paragraph under C., notice “...casual conversations...private communications...[other nonprofessional] exchanges,” and so on are excluded. This may not be perfect language, but I think it’s responsible language. I would speak against the amendment.

Jenkins: Just quickly, fair use applies to copyright issues and not necessarily to all the documentation that may be utilized by historians for giving evidence that such and such occurred, such and such was said, etc., that this is a narrow option, a narrow loophole.

Smith: I’m definitely opposed to any alteration of this section on plagiarism. I would virtually guarantee that any issue you might consider in reflecting on this at this point the Committee worked over in detail. We struggled with this over and over again. The plagiarism for well-known reasons was a primary motivation for the formation of this committee, so it’s really focused a lot of time and energy. The language concerning reference to their words, ideas, or methods is directly from existing Board policy, Section 35, which states “...plagiarism means representing the words, ideas, or methods of another person’s as one’s own.”

We tried to do two things. First of all, to make a distinction between public professional presentation and presentations in the classroom, and then also between professional presentations of any sort and private representation. We did not want a plagiarism charge to come from any sort of private or casual exchange or communication. We didn’t think the Ethics Committee should find itself looking at an allegation that some faculty member failed to cite something in an e-mail to some other faculty member. These are the sorts of exchanges that should not be treated.

The use of the Copyright Act material was not because it’s copyrighted, it’s because it makes sense. Those are four conditions. No matter how you state this, the Ethics Committee is going to be making an interpretation and a judgment as to whether this was appropriate conduct on the part of the person. The Copyright Act fair use provision within the Copyright Act goes to very reasonable conditions for such judgments. The decisions with regard to violation of that law are very much subject to interpretation. At this point, they are being made case-by-case; there’s no way to predict really how it’s going to come out. These conditions were offered in an attempt to help guide such deliberations, to help guide such interpretations and judgments. We thought that was very good.

If a faculty member goes into the classroom, as has been reported to us, and reads a chapter from an unassigned text and represents that as their own lecture notes, that person should be found guilty of plagiarism. If, on the other hand--what Bill’s concerned with--

the faculty has notes that they've developed as I certainly do and all the rest of you have developed over the years from your professors, and they got them from their professors, and so forth, there is no way that this provision would ever apply to that. The judgment is on the basis of the amount and substantiality of the portion in relation to the work as a whole—the nature of the work, the purpose and character of the use. Was it a truly self-serving use? These are the very reasonable conditions that we are directing the Ethics Committee to take under consideration.

If, on the other hand, you step out there before the public, in your professional role—notice we exclude any activity where you are not acting as a representative of the University or in any professional role—if you step out in the public in your professional role, qua “professor of this department,” and you deliver a talk, whether it's to the Rotary Club or to a professional association or to a society, and you are intentionally representing someone else's work as your own, you are guilty of plagiarism, regardless of the expectation of the audience, and I have sat through years and years and years of conferences in which I have heard at the smallest talks of members of my profession say, “as so and so has argued in the past” where there's no direct language that's being quoted, quotation marks are not being required there, but they are letting people know this is not my original idea—this is an idea that has come from some other source. I'm letting you know that. Or, in the following, “I will draw upon the work of so and so,” showing I'm not really clear about which ideas, but I know these other people have had a role in formation of my opinions. Those are responsible things to do. If that raises the bar just a little bit for some of us, then so be it. The purpose, in part, of the ethics policy is to be inspirational—to stimulate us to be more concerned about our professionalism, about our professional conduct, of when you're in that role. You should be taking care to avoid plagiarism along these lines. I would definitely recommend against the amendment.

Morrison: It is quite apparent that we have lost the quorum; therefore, at the next meeting, the first item of business will be the amendment to the main motion which was on the floor. I will, however, keep the meeting open on an informal basis for anyone who wishes to speak not only just to the amendment but to other points on this for a few minutes.

[Sound and tape were unclear for Ritchey's comments, which follow.]

Nate Ritchey (Mathematics): I may prove my ignorance by revealing my comments, I think this is a great policy, but I also have this picture that there will be a little red book that says “Ethics Policy.” It seems to me that ethics is a lot bigger than the ethics we talk about here. The document seems to talk about plagiarism, falsification, grants, namely, scholarly activities, and as you've said, there are hundreds of other documents that take care of the rest of it. But this is called the “Ethics Policy,” and I do note that you put in I.C. anything else that we don't include here. That is okay, but if one is finally found to be at fault of substantiated allegations, it seems that pretty much all of the things included have to do with those scholarly activities that we may have been involved in. They don't include any sort of ideas of other things, and I'm wondering about the title. If a student has a problem with a faculty member with regard to something, I know there are channels

for that, and before we speak to that, I've read documents of other universities relative to evaluation, and I agree that some of their ethics books are just books, but this is our ethics document, and I think it is a limited document in that it is for faculty and related to scholarly activity.

Smith: Of course it does address administrative conduct and the conduct of professional staff throughout. It's not loaded on the faculty side, but it isn't intended to be a general document. We did not want at all to wade into private conduct and private areas. That's a morass from which there is no return. The sanctions, of course, are embellished toward the end when you look at the notifications, and there are notifications to agencies and the like but also to the professional society or association involved.

Ritchey: Do you believe that since it's a specific document that it should have a different title? Ethics Policy?

Smith: There were some other titles on earlier versions, "Code of Faculty and Administration," "Code of Professional Conduct," etc., but in the end, we decided to be succinct.

Ritchey: Is it the proper document for students?

Smith: This is not a document for students, and, of course, students are not functioning in a professional role on campus either. This is not a document for nonprofessionals on campus who are employees. This is supposed to address the specific domains of a professional level of conduct on the campus, and I think that also should go to the problem that Dr. Palmer-Fernandez raised concerning the difference on plagiarism between students and the others.

Ritchey: The cover of this document should say something. Under F.1, I could be wrong, but doesn't it say "simple majority."

Smith: Thank you.

Shipka: May I say a word to Nate? It could be called the policy on professional conduct or some such thing, Nate, instead of Ethics Policy, but on your worry about this being too circumscribed, it is as J-C. said, a policy on professional conduct and misconduct, not a general ethics policy, not a code of ethics, but I would point out on the second half of Page 2 under the clarification of other practices, [it] does have a pretty broad reach. You may want to read that section.

Singler: I'm confused about some things I heard of Bill Jenkins's words regarding his concern about going to very public forums, and I need to sort out some things in my own mind. Within the sciences, of which I am a member, we often deal with great volumes of data and not all of that data have we personally generated, but I would ask a question in this kind of a forum. If I'm invited by a fourth-grade class to speak about fossils and bring some specimens along which I have not collected but have taken out of the

department collection, do I have to go into that audience and say that “all of the information that I have for you about vertebrates, I borrowed from Romer in his book [on vertebrate paleontology], and all the inferences I make to invertebrates fossils, I have taken from Moore, Lalicker, and Fischer in their textbook, and all of these fossils I have on hand to show you I have taken from the [. . .] collection or the [. . .] collection?” Am I obligated to go to the extreme or am I excluded from that by some kind of an exception?

Shipka: I think J-C. made the point earlier that when you’re drawing on the research of others, there are a number of convenient ways to do that. It’s very simple to say, “We have here the fossil collection from my department,” and “this is the general body of knowledge . . .” (I presume, of which there is a consensus in your discipline) I don’t think that necessarily needs to be attributed, but if you’re identifying a particular person’s theory, such as punctuated equilibrium’s role in evolution, it seems to me that you might make a mention of that. I guess I might say with a little bit of exasperation, no one on this Committee can answer all of the questions. What you have to ask is, do we want a reasonably workable professional ethics policy which has a committee of one’s peers to examine issues—do we want that or not? If you hold back on this until every possible issue that one can doubt about is answered to someone’s satisfaction, you’re never going to have an ethics policy.

Smith: In addressing the specific case, if you’re giving a talk to a fourth-grade class on that subject, that’s a closed forum; it’s private. That includes official meetings [and] classes. The purpose and character of the use will then be taken into account, and I can’t imagine the Ethics Committee would require you to cite to a fourth-grade class. However, if you go into that school, and there is a general assembly of all the students with parents invited and all the teachers there, I would think that would be a different matter. That is a public presentation. Those are addressed very differently under the current language.

Palmer: There are two existing policies: Board of Trustees’ policy, one initiated in the Senate titled “Principles of Ethical Conduct.” Then there is the existing scientific misconduct Board of Trustees policy. Is it the intention of this committee that this single policy will supersede those two existing Board of Trustee policies? What do you foresee with regard to existing policies.

Smith: Yes, it is the intention of the Committee. It didn’t seem to be a proper part of the document itself. Thank you for raising that. It is the intention of the Committee that this Ethics Policy will supersede both of those, both the ethics statement that was adopted and subsequently incorporated into the Board policy and the scientific conduct.

Palmer: There are a number of important issues for the wellbeing of the institution and the community of this institution that are addressed in one of those policies but not in this one, the issues of collegiality, issues of respect with regard to diversity, and the like. Might you entertain a friendly amendment that incorporates that policy into this one?

Shipka: I think there are actually three Board policies on the books. One is a Cynthia Brincat formulated policy about which you refer. As I understand our policy, contrary to our chair of the Committee, that policy would remain in effect without any impact by this policy should it be approved. There is also a policy adopted late in the Cochran administration that applies to administrators. This policy would supersede that as I understand it. The scope of this would be faculty, administrators, and professional staff.

Morrison: I would agree with Dr. Shipka. The YSU Statement of Ethical Principles which was developed in the past by the Senate was taken to the Board, and they included it within their guidelines. It would be difficult to suggest that that is really a policy.

Palmer: Well, it is a Board of Trustees policy, and I can get the number right away. It was passed by the Board of Trustees, probably qua March 20, 2000. It is existing Board of Trustees policy, the very same principles passed by the Senate covering a range of conduct within this institution not covered in this document. It is called the “Board of Trustees Policy on the Professional Conduct of Exempt Administrative Staff.”

Smith: That policy incorporates by reference the ethics statement.

Morrison: I’m not sure whether that has a policy number or not attached to the Ethical Principles. The other two do, certainly. In any event, I’m not convinced that there’s anything in this particular document which interferes with or supersedes in any way that statement of ethical principles.

Smith: I would disagree with that. Since we have incorporated reference to the explicit, generally accepted professional written codes of the different professions, there may be some difference there. There may be some contradiction. One may be vague, the other much more explicit and the like. Every professional code that I know of makes reference to collegial relations, respect for the profession, and so forth, and does so in much clearer fashion, generally, than what we find in that ethics statement. I did misspeak. The only thing that came up in committee was that this policy would supersede the section on scientific misconduct, but I would be in favor of this becoming *the* ethics instrument on campus. I’d be afraid of having it spread around through various documents. I think that would be unmanageable.

Jonathan Zacharias (Junior, Mechanical Engineering): I have a couple of questions about students’ rules. You already addressed to Dr. Ritchey the fact that this wouldn’t cover students, but I wanted to clarify that would be in all cases, including when students are functioning in roles that certainly aren’t professional but could be interpreted as such, such as research that would result in publication, not research as a student to receive a grade, but research under professors through a grant program where they’re not functioning quite in the role of the student. Would this supersede the code in that instance, or possible instances of a . . . student disrupting classes? I’m sure there are other instances, i.e. internships and such.

Smith: In terms of the latter, disruption of a class by a student, that would not fall

under the code in any way that I can think of, but where a student who is working for a professor under the regulation A or as student assistant to any of the foregoing, that is, faculty, professional administrative staff, classified staff, individual working under an independent contract for services, or as a student assistant to any of the foregoing, the violation of the policy for them to engage in or contribute to a violation of standards and procedures contained herein, this would hold for any paraprofessional or nonprofessional on campus who is engaged in services for a member of the professional community on campus. They would be bound by this. On Page 3, Regulation III.A., is the central regulation of the policy. If they are functioning in the role in relation to servicing the professional, then this code won't apply to them.

Zacharias: This code will not apply to them if they are functioning in a role similar to what I said, as research or part of a grant system?

Smith: If they're a research assistant to the professional member, it would apply, yes.

Zacharias: It is my understanding that this will be the only committee as far as Academic Senate is concerned that will not have student members, is that correct?

Smith: No, that is not the case. There are a few others that do not have students on them.

Zacharias: A friendly question of membership—is it your intention to keep the membership exclusively to people who are permanently or at least semi-permanently the majority of their time in professional roles, I guess for interpretation's sake, when it comes to discretionary procedures?

Smith: It's an interesting question. It's not anticipated that the issue of student misconduct in their role and relation to a professional member of the faculty or administration would come up very often, and student membership upon the committee then would have the student playing the role in evaluations at a professional level which they would not be assumed to be competent for. It's not a general ethics issue—it's a professional ethics issue *only* that's being evaluated. Also, I noticed that faculty who are not tenured are excluded as well from membership on the Ethics Committee to avoid the pressures that might be associated with the process of seeking tenure. They may not be inclined to act with undistorted judgment concerning issues or allegations that are addressed, so if those members of the professional community who may very well be subject to the ethics policy are excluded from the committee, I would think students should be as well.

Morrison: In the interest of freeing our secretary of her indentured servitude, this concludes the formal process at this point. **We will take up the issue on the floor of the Senate as it was. I would ask the Committee, however, if they could consider the question that Dr. Palmer-Fernandez raised about the relationship between YSU's Statement of Ethical Principles and this document.**

UNFINISHED BUSINESS: None.

NEW BUSINESS: None

ADJOURNMENT: The meeting adjourned at 5:40 p.m.