

ERAC Committee Meeting April 2014 Minutes

Campus Climate

Bill DeWalt and legal counsel are here to update us on the different aspects of the harassment policy, what we can do to help the ambassadors, and the OCR investigation. We will get a little more perspective about how that is taking shape right now.

Bill will give us an update on where OCR stands and also on the harassment policy, reporting options, and what the institutional response to a harassment report looks like.

OCR stands for Office of Civil Rights. It is a subdivision of the US Department of Education. OCR is charged with, among other things, enforcing Title Six of the Civil Rights Act of 1964. The Act says that individuals cannot be denied a benefit of a university program or activity on the basis of race, color or national origin if that university receives federal financial assistance. Because the students attending the university receive federal financial aid and they pay it to us (Lehigh University). The law interprets that as Title Six applies.

OCR is looking into our response to the Umoja House incident from the fall. Their investigation was prompted by an anonymous complaint. While anonymous, the student has alleged that the university has violated Title Six in response to the Umoja House incident. The other piece of her complaint was related to the posting of fliers on campus. Earlier in fall, the group "From Beneath The Rug" posted fliers at the University Center and perhaps Linderman and elsewhere. Basically those were 9 or 10 fliers expressing political speech activity. The complainant's understanding was that those fliers were posted by the majority of students – white students - and were an attack on minority students rather than being expressive activity. OCR was looking into that as well as potentially creating what's called a hostile environment. That's what OCR is looking for...Is there a hostile environment on campus and then has the university responded appropriately to address and remediate a hostile environment?

So what is a hostile environment and what is OCR looking for? The de-legal term is what they are looking for – harassing conduct that is sufficiently severe, pervasive or persistent so that it limits an individual's ability to participate in a university program or activity.

OCR launched this investigation in January 2014. They began by asking Lehigh University to submit materials. We sent a 45-page letter and 700 pages of exhibits in response to their opening round of questions. Lehigh University is cooperating with the investigation but OCR is in the driver's seat. While all our submissions have stated that we have not violated Title Six, we also recognize there are steps we can take to improve, things we can do better. We are committed to entering into an agreement with OCR that recognizes that. We have attempted to approach OCR about those improvements and what that agreement might look like and as part of an early stage of their procedure, the complainant actually has the ability to veto whether we enter into such an agreement and she has chosen to do that. She wants OCR to continue investigating. She is not interested in resolving at this moment. As the investigation progresses, the complainant loses the ability to have that power. But OCR will continue to investigate on its own.

One of the next steps might be that OCR comes to campus to start talking to people here. Again, we will be cooperative. The ball is in their court at this point. That's a broad sketch of where things are with OCR.

In 2012, OCR reported a total of 7,000+ complaints not specifically related to Title Six. In the last 3 years, specifically related to Title Six, there was another 7,000. Complaints are not unusual.

Specifically related to the Umoja House investigation, the initial phase of that investigation was an LUPD investigation on the criminal side of things. Student Conduct also took up the case and Staff and Student Conduct office began looking at the incident too by doing interviews, investigating and we have since brought in a team of four attorneys from a Philadelphia law firm to supplement those investigations.

Regarding the harassment policy...As a result of the OCR investigation, one of the things that came out of that is things we can do better. That includes spreading the word about what our harassment policy is, how does it look when someone reports, where can you report – really just getting the word out. That is part of General Counsel's goal today but also they want feedback on our current sense of the policy, reporting and institutional response.

Harassment – there are two general kinds of harassment – quid pro quo sexual harassment is kind of the easy one to identify. It's also one that is particularly serious. "Quid Pro Quo" meaning "this for that." So essentially someone withholding or providing a benefit for sexual conduct. One of the classic cases of that is "I will give you an A if you provide me sexual benefit X or I won't fail you if you provide me with sexual benefit X." The other kind of harassment is hostile environment. It has to be unwelcome conduct, it has to be based on a protective characteristic – age, color, disability, etc. – and it has to deny or limit an individual's participation in a university program or activity. They all require some interpretation. Denying or limiting participation in a university program or activity has been interpreted such that it does set a bar that requires fairly serious conduct.

What do you do if you are the target of harassment? There are a couple of avenues you can pursue. There is a formal reporting avenue, an informal reporting avenue and the LUPD. All are available to any of us at Lehigh.

To get a report of harassment into those avenues - there are forms available online. One is the biased incident reporting form, and one is specific to gender violence. You can also contact the harassment of policy officer who is Lee Kern, full time faculty member in the College of Education. There is also the "informal network." It's a group of over 90 faculty and staff who have received training on intake of reports and informal resolution of that and if appropriate, know how to kick those reports into the appropriate avenues.

If the report is related specifically to sexual harassment, Title Nine (instead of Title Six) is implicated. Our Title Nine coordinator is Provost, Pat Farrell. He has three deputy coordinators. You can report sexual harassment to any of them. Or you can go to campus police. The deputy coordinator for faculty and staff is Judy Zavaldriga; Sharon Basso, Dean of Students, is available to students on the staff side; Karen Adams is the Deputy Coordinator for Athletics. These are your options not only if you are the victim but also if you are the bystander.

If you receive a harassment complaint and you are not in the informal network, you want to immediately refer the matter to Lee Kern. If you receive a sexual harassment complaint, you want to immediately refer the matter to Pat Farrell or LUPD.

The informal process looks a lot like mediation. A resolution does not go into the individual's personnel file although the harassment policy officer is notified of it so it's tracked on a higher level and it's not appropriate for certain kinds of things. For example, an instance of sexual assault should not be resolved informally. Retaliation is also one of those serious incidents where it is not appropriate for informal resolution.

The formal route starts with an investigation. Who does the investigation depends on the alleged perpetrator. On the staff side it is Judy Zavalydriga and a second person will be appointed to investigate the matter. They will decide on a sanction. There is also an appeals process and that resolution will be part of the individual's personnel file. In addition to launching an investigation, the university is also going to offer resources. Human Resources and counseling services are available, there are also interim measures available if you are uncomfortable being around someone in the workplace.

Partnering with Groups Across Campus

Our subcommittee is working with Tyrone Russell, Rita Jones, Trish Boyles. We have been in contact with the Faculty and Staff of Color Network. They have discussed meeting with them on a more frequent basis – introducing ourselves, networking and figuring out ways to advance this conversation. Those two introductions have been made and we should take advantage of them. Within the next two to three weeks, there will be another invitation that goes out to ERAC asking for those of you who want to join Tom and whoever else at a Faculty and Staff of Color Network meeting. Usually they get together over lunch and then two days later another informal group gets together. It's a way for us for us to open the door a little bit and build that relationship with them and find ways that we can further the conversation. Look for the invitation and if interested let Tom know.

The new committee "Diversity Campus Climate" – the biggest thing we can take away from this year's efforts is people now know that ERAC as a group is very interested...in supporting efforts, in educating, in getting the word out – that is probably one of our biggest successes that we've had this year. While there may not be a lot of action yet, we are getting people together and talking. ERAC is being recognized as a group needing to be included in the discussions. Perhaps we, as ERAC members, need to help educate ourselves on some of the issues. One of the things that came out is the harassment online module that exists. It was sent out to the campus community on February 20th from the Office of the President. We should all make an effort to review the module and provide feedback. The group talked about programming and upcoming events...LGBTQIA hosted the Lehigh Valley intercollegiate conference last weekend, coming up is Safe Zone training. This may be something that ERAC takes training for over the summer. Office of Multi-Cultural Affairs – April 14th and 15th are doing a session on code switching. Code switching is when you find yourself belonging to a group and you change your language dependent upon the group that you are with. It's something that you do naturally and instinctively. The Dance Fest is April 18th 7pm in Baker's. The Women's Center – April 23rd – Walk a Mile in Her Shoes – this event is to raise awareness in the role that men can play in combatting sexual violence.

Rita Jones mentioned that she is creating a Cultural Identity Awareness session. She has offered the session to ERAC as a way for her to pilot it. If we are interested, that would be over the summer.

Elections Update

We had a really good response to our elections this year. We had over 350 voters which last year we had approximately 150. We more than doubled our responses. The top winners for the ones that will automatically – not the ones we are recommending to Pat Johnson – be included are Angela Scott and Katrina Kraft from the exempt side and Ashley Baker and Joanne DeSalvatore from the non-exempt side. Brenda agreed to say on for an additional year. Jeanne Kassis is stepping off of ERAC due to time commitments. Yatin Karpe and Catherine Headman are stepping off as well. We thank them for their terms served. (Note: Yatin has agreed to stay another year to fill Jeannie's slot and keep ERAC at the full membership of 18)

Distinguished Service Award

Yatin Karpe, Catherine Headman, Dan Zeroka and Cindy Moser met. There were 8 nominees. Yatin was nominated but is not eligible. Both Grant Hittinger and Sara Wing are being recommended to receive the award. Is it possible to have two awards – one for exempt staff and one for non-exempt staff? We have never had two awards before. We would need to propose that to Pat Johnson. ERAC pays for the award itself. The university pays the employee's award money. Should we attempt to award two people? We need to consult with Mary Jo to get all the facts.

Focus Group Update

We have 9 focus groups slated between May 5th and May 15th. They will occur over the lunch period - a 90 minute session with a boxed lunch. We are looking for approximately 10 people in each of the 9 sessions. The groups we are anticipating having include: campus liaisons, CEC, Faculty and Staff Network of Color, REACH – those are being lumped into one focus group audience. There are three sessions assigned to that group. We have ERAC alumni. We hope to get enough to fill two groups. The remaining groups will consist of random staff. We have it broken down into those who have worked fewer than 5 years and then those who have worked more than 5 years. We are looking to fill 4 groups. The focus groups are a chance to take 90 minutes to discuss a lot of the things we have discussed this year in our general meetings, in our committee work – trying to figure out exactly what the perception of ERAC is. Knowing full well that for many on campus, it is either an unknown or it's not well thought of. This is a non-judgmental focus group session where the 6 people from the ERAC communication team will be sitting in on the sessions. If you are interested in participating, you can certainly let us know. We are doing nothing more than welcoming and then letting them role with the questions that we throw out. It is really based around the idea of “Who is ERAC? Who should we be to you, as staff? What are the issues you want us to focus on?” We want to take that information so that next year we have the staff voice as part of what we are doing.

Meeting was adjourned at 11:41 am. Yatin Karpe made the motion to adjourn the meeting and Jeanne Kassis seconded the motion.