

NASSAU COMMUNITY COLLEGE
Garden City, New York 11530

Board of Trustees Policy & Planning Committee Meeting Minutes

October 9, 2018

The meeting of the Policy & Planning Committee of the Board of Trustees was held on the eleventh floor of the Administrative Tower. The meeting was called to order by Chair Weiss at 5:55 p.m.

Committee Members Present: Kathy Weiss, Chair
John DeGrace
Donna Tuman
Alex Figueroa
Jorge Gardyn (ex-officio)

Also in Attendance: John Durso, George Siberón, Linda Green,
President Keen, Alla, Brodsky, Donna Haugen,
Kate Murray, Craig Wright

1. Chair Weiss requested a motion to approve the minutes of September 4, 2018. Trustee DeGrace moved the motion. Trustee Tuman seconded the motion. Motion carried 4-0.
2. Chair Weiss opened the discussion on Amended Policy 3100 News Media Relations by thanking the staff and Dr. Keen for his leadership in listening to concerns raised by faculty and in making changes that have addressed probably 99% of these issues. The Amended Policy is significantly different from the version introduced last year.

Dr. Keen stated that the original purpose of this Policy was to assure that official campus communications and expressions of positions of the College are protected and issued by our Media Relations office. There was never any intent to infringe upon the rights of individuals to speak freely. There are past court cases that undertake whether or not an individual who speaks as an employee is liable for having infringed upon the institution's prerogatives. He added, John Gross, the external College attorney, provided a document helpful in understanding the legal aspects of free speech at institutions, but the law is complex on the issue of whether or not an employee can speak freely on every issue publicly. This Policy was originally adopted on February 14, 2017. We continued to receive criticism on how the Policy was stated, particularly with respect to passages perceived as unclear on the authority of the administration and on the rights of individual freedom of speech. We consulted with the Governance Council and ASEC to formulate revisions and have published the redline version for all to be able to review the edits.

Kate Murray added that the administration addressed specific points of concern by an outside free speech group and suggestions by the campus community by working diligently with the Governance Council. As an indication of the extreme care taken to get the Policy right, it had been slated for discussion on the Board's September agenda, but was postponed until the October meeting, literally to edit two words.

Chair Weiss asked if there were any comments. There being none, she introduced a resolution to forward Policy 3100 to the Board of Trustees for discussion and a First Read at the scheduled October 9, 2018 meeting.

RESOLVED, THAT THE POLICY & PLANNING COMMITTEE HERewith AFFIRMATIVELY RECOMMENDS AND REFERS POLICY 3100: NEWS MEDIA RELATIONS AS AMENDED TO THE BOARD FOR A FIRST READING AND ADOPTION AT ITS BOARD MEETING SCHEDULED FOR OCTOBER 9, 2018, AND THAT THE SAME BE SUBSEQUENTLY INCORPORATED INTO THE POLICY MANUAL OF THE BOARD OF TRUSTEES OF NASSAU COMMUNITY COLLEGE AFTER THE SECOND READING BY THE BOARD OF TRUSTEES AND THE PASSING OF THE AMENDMENT BY THE BOARD OF TRUSTEES.

Trustee Tuman made the motion; seconded by Trustee Figueroa. Motion carried 4-0.

3. Chair Weiss began discussion on Policy 2200: Sexual Harassment and Sexual Violence by commenting that she had become aware of the change in the law through an article in the ACCT Board journal. The State had not finalized its guidance and model policy documents until October 1, 2018 with the directive to establish policy by October 9. She thanked staff that had to work on this tentative legislation and to wait for changes with such short turnaround time for development and implementation.

Dr. Keen opened discussion by stating that, in what has become a recent tactic, the adoption of the law was incorporated into the budget-making process last Spring. Its primary purpose is to extend compliance with sexual harassment and sexual violence law to all employers, of which the College is one. Legislation from the federal government dates back to the 70s, so our policy is rather extensive and detailed.

Donna Haugen noted that the last amendment focused on students, whereas this one centers on employees. Since the College integrated addresses sexual harassment of students and employees in one policy document, it is a lengthy policy.

Alla Brodsky outlined the policy changes. Labor law now requires all New York State employers to have a sexual harassment policy. Since the College already has one, we had to review our policy to determine whether the new state law requirements are already included in our policy, and which policy mandates are missing. One substantive change involves the responsibility of supervisors to report sexual harassment and the consequences of failure to report. The policy was expanded to expressly require identified supervisors to report sexual harassment within five(5) days of learning of suspected sexual harassment. The law also requires either that a complaint form is be attached to the sexual harassment policy or that the policy includes instructions where individuals can obtain a form, such as instructions to download one from the College's website. The State now requires the sexual harassment policy to include a summary of other applicable laws on sexual harassment, including applicable federal, State and local laws, along with instructions on how to file complaints with external agencies, such as the EEOC or the State Division of Human Rights. As required by the legislation, we have listed phone numbers and websites of these external agencies within the policy. Alla Brodsky cited two other changes in the law that do not require policy changes. The State's Public Offices Law, which applies to all New York State employers, now stipulates that if there was a judgment entered against an employee resulting from a sexual harassment claim, and the employer paid such a judgment, the employee must reimburse the employer for such payment within three(3) months. Wages may be garnished if the individual is still employed by the organization at the time, or the employer may file a lawsuit to seek compensation if the individual is no longer employed and

refuses to reimburse the employer. Dr. Keen added that we indemnify our employees, but now through this major change in law we are not responsible for payment were an employee is deemed at fault. Alla Brodsky continued that for all State, municipal, County and school district employees any settlement of a sexual harassment complaint will no longer contain a non-disclosure clause unless the complainant agrees to or asks for it to be included. We are now responsible to protect from sexual harassment not just employees, but vendors, consultants and anyone who comes to campus. Donna Haugen and Chair Weiss each remarked that the College has been upholding this policy before it became codified by law. Alla Brodsky continued that annual training on sexual harassment is mandatory by every State employer for all employees, whether they are Full-Time, Part-Time, temporary or interns. The State has prepared a template of this training, but employers may create their own training program. Initially the State has required training to be completed by December 31, 2018, but after outcry during public comment, the requirement was revised to be completed within a year from when the law took effect, or by October 9, 2019.

Craig Wright stated that the campus will be notified about the training requirement after the Board has approved the policy. The vendor who handles *Not Anymore* online training for new employees and students will be contacted regarding new training focused on sexual harassment specifically to faculty and staff. Going forward, training will be conducted every year.

Donna Haugen conveyed she had requested by email to the committee in advance that due to the State's mandate that the Board consider adding to the Board agenda a first reading and adoption of Policy 2200: Sexual Harassment and Sexual Violence, for which Policy 1300: Formulation, Adoption, and Amendment of Policies allows the Board to expedite passage of policy for extenuating circumstances.

Dr. Keen remarked that typically various campus constituencies would have the opportunity to examine policy proposals, but in this instance review was limited to the Academic Senate and the Committee for Diversity, Equity and Inclusion, the meeting of the latter of which Alla Brodsky and Craig Wright attended to provide guidance.

Further comments from Trustees Weiss and Tuman occurred emphasizing that the change to annual training emanates from a State mandate and not from a College decision, as well as to reinforce accountability, liability and confidentiality.

Craig Wright concurred that it is prudent to reinforce these issues and consequences of an incident, such as the potential impact on their retirement. There is a plan to implement a sign-off for supervisors, from coordinators to Vice Presidents, on the virtual training as well as the in-person training that those who have received training have read the notice. Trustee Weiss further stated that through in-person meetings supervisors should be made aware of this clause in the law that it is their responsibility to procure the sign-offs.

Chair Weiss introduced a resolution to forward Policy 2200 to the Board of Trustees for a First Read and adoption at the scheduled October 9, 2018 meeting.

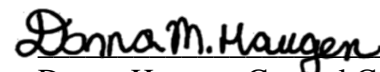
RESOLVED, THAT THE POLICY & PLANNING COMMITTEE HERewith AFFIRMATIVELY RECOMMENDS AND REFERS POLICY 2200: SEXUAL HARASSMENT AND SEXUAL VIOLENCE TO THE BOARD FOR A FIRST READ AND ADOPTION AT ITS

BOARD MEETING SCHEDULED FOR OCTOBER 9, 2018, AND THAT THE SAME BE SUBSEQUENTLY INCORPORATED INTO THE POLICY MANUAL OF THE BOARD OF TRUSTEES OF NASSAU COMMUNITY COLLEGE AFTER THE PASSING OF THE POLICY BY THE BOARD OF TRUSTEES.

Trustee Tuman made the motion; seconded by Trustee DeGrace. Motion carried 4-0.

Chair Weiss asked if there were any other items for the Committee to consider. There being none, the meeting adjourned at 6:17 p.m.

Respectfully submitted,



Donna Haugen, General Counsel