Minutes of a meeting of the Council of the Princeton University Community held September 29, 2014 in 101 Friend Center. Present were Council members Ms. Banks, Mr. Boyle, Professor Braverman, Professor Burnett, Ms. Burnett, Mr. Cannon, Mr. Chang, Ms. Cherrey, Ms. Clifton, Mr. Davidescu, Mr. Durkee, Mr. Edington, President Eisgruber (chair), Professor Hare, Professor Harman, Professor Hartog, Professor Haykel, Mr. Jackson, Mr. Johnson, Ms. Johnston, Mr. Keller, Mr. Khoury, Provost Lee, Dr. Matese, Dr. McClure, Professor Meyers, Mr. Moser, Mr. Mozley, Mr. Nan, Mr. Nuckols, Mr. Okuda-Lim, Professor Priestly, Ms. Principi, Mr. Ravikumar, Dean Smith, Professor Stilz, Ms. Stoneman, Mr. Suryanarayan, Ms. Taubin, Ms. Voelcker, Professor Wilcove, and Professor Wysocki. Ms. Halliday was secretary.

Question and Answer Session; Order of Business; Committee Assignments

The President called the meeting to order at 4:30 p.m., and after the roll call he thanked the members of the Council for their service. He asked for but received no questions. He turned to opening of the year business. On recommendation from the Council’s Executive Committee the Order of Business (Appendix A) and the standing committee assignments (Appendix B) were approved. The Council delegated authority to the Executive Committee to approve any additional committee assignments.

Changes to University Policies regarding Sexual Misconduct

The President thanked members of the CPUC’s Executive Committee, whose faculty members constitute the Faculty Advisory Committee on Policy, for meeting this summer and early fall to develop recommendations for changes to the policies and procedures on sexual misconduct, which the committee at the present meeting would introduce for a vote by the Council. He asked Provost Lee to describe the changes and the reasons they must be made.

The Provost informed the Council that in July the U.S. Department of Education’s Office of Civil Rights (OCR) notified the University that Princeton was out of compliance with OCR’s interpretation of Title IX requirements regarding sexual misconduct policies and procedures. He and the President convened the FACP and council’s Executive Committee to help address these issues. He thanked these committee members for their attention to detail and efforts to make the policy clear. He noted that student discipline procedures regarding sexual misconduct were approved by the faculty at their September 15 meeting. The Council is being asked to approve the policy on sexual misconduct which incorporates these procedures. He also noted that the President has convened an ad hoc committee to be chaired by Professor Deborah Nord and Vice Provost for Institutional Equity and Diversity Michele Minter to consider these procedures and policies as they are implemented to ensure that they serve the University community. He asked Vice Provost Minter to describe the changes.

Ms. Minter said that it was incumbent on the University to act quickly to bring Princeton into compliance with OCR’s interpretation of Title IX requirements noting that OCR can strip federal funding for failure to comply. Princeton’s faculty has authority over discipline procedures
and the Faculty Advisory Committee on Policy worked this summer to develop new procedures that the faculty approved earlier in September and that are incorporated into the policy before the Council. She summarized the major changes in procedures which include

- Imposition of a preponderance of evidence standard in deciding whether a violation has occurred (up until now the University has used a standard of “clear and persuasive” evidence for all student discipline hearings)
- Removal of students from adjudication roles in sexual misconduct cases (up until now students have served on the Committee on Discipline’s Subcommittee on Sexual Misconduct) and increased training for adjudicators
- Presence of advisors choice: Students may have the advisor of their choice; the advisor need not be a member of the University, and, for example, can be a lawyer
- Parity to right of appeal of the complainant and the respondent (up to now only the respondent can appeal).

She mentioned that the only change necessary for faculty/staff procedures concerns parity of appeal.

Ms. Minter referred the Council to the proposed new policies that had been circulated in advance of the meeting. This document is attached as Appendix C-1. The council also received in advance a version of the policy annotated with comments about the changes, attached as Appendix C-2; a memo from the Acting General Counsel regarding relevant law, attached as Appendix C-3; editorial revisions to Rights, Rules, Responsibilities to bring it into conformance with the policy changes, attached as Appendix C-4; and necessary changes to the Nondiscrimination/Anti-Harassment Policy and Complaint Procedures, attached as Appendix C-5. Overall these changes integrate all policies on sexual misconduct related to students, faculty, and staff into one place. They clarify the rights of participants (regarding confidentiality, privacy, degree of participation, etc.) and clarify the University’s responsibility to investigate. They include information about how to access resources and make complaints. And, while no new violations are added to the policy, the policy expands and clarifies the definitions of violations. Many of these changes are intended to make the policy clear, understandable, and easy to access. A new website will be launched as well to help with communication efforts. The ad hoc Nord-Minter committee’s charge includes assessing policy and procedures over time and recommending refinements; collecting campus feedback; and offering guidance on communication and training for all constituencies.

The Provost invited comments from members of the CPUC Executive Committee who spoke to their efforts to refine policy language to improve clarity and the close scrutiny they had given to these policies. Members of the committee said there are aspects especially of the new procedures that they, as one member put it, “had to swallow hard about.” But the committee also recognized that these changes are mandated by OCR. Where possible, their reservations had been addressed and committee members believed that the revised policy does bring clarity about available University resources and about how to access these resources. They commented that the revised investigation procedure will bolster confidence about fairness. The Undergraduate Student Government and the Graduate Student Government had discussed the revisions and supported them. Reservations remain, but members of the committee pointed out that the ad hoc committee will help assure that questions as they arise will be given attention.
The President noted that the proposal to revise the sexual misconduct policy is a motion from a standing CPUC committee to the Council and he invited other comment. The discussion was vigorous and included comments from faculty, staff, students and alumni. Objections had been raised in a letter from an alumnus and parent about the fairness of the “preponderance of evidence” standard. As part of the procedures regarding sexual misconduct, this standard had already been approved by the faculty earlier in September. But the President emphasized that this standard is mandated by OCR. The President commented that any challenge about the legality of the standard would have to be addressed to OCR and a judicial review would uphold this federal agency’s authority to interpret a statute and to enforce its interpretation.

The USG had hosted a town hall meeting about the revisions and several recurring questions had been raised. Students expressed concern at that meeting and at the Council meeting about responsibility to report alleged sexual misconduct, especially by RCAs, and the University’s responsibility to investigate reports of alleged sexual misconduct, whether or not a complainant decides to report the alleged violation. Ms. Minter and others noted that confidential resources are available, and SHARE in addition offers ready access also to counseling. The University also wants to place emphasis on preventing sexual misconduct. Mr. Zhan noted that the USG had adopted a resolution which, while raising these same questions, supports the adoption of the proposed revisions.

There was discussion about the investigation and adjudication procedures and questions about whether having the same 3-person panel both investigate and adjudicate an alleged violation could undermine fairness. Under this procedure, the panel would include a member of Vice Provost Minter’s staff, a member of the Graduate School or of ODUS (depending on the students’ status), and a lawyer who specializes in these types of cases. This procedure allows for in-depth training and opportunity for these individuals to build up the necessary expertise to hear these cases. The procedure lessens the time necessary to come to a determination about a complaint. It also avoids students having to repeat personal and painful actions to more than one person or group. In response to a question about the Honor Committee’s procedures, it was noted that academic violations are much different than incidents of sexual misconduct and there was no intention to apply the same procedures to academic violations or to behavioral violations other than sexual misconduct. It was also noted that the proposed procedure has been in place for several years for faculty and staff sexual misconduct cases and it has worked well.

Council members asked about reports to the University community on sexual misconduct cases and statistical information about sexual misconduct on campus. Dean Deignan said that the aim was transparency and a new reporting system would be instituted this year. She also responded to a question about training of those involved in carrying out these procedures. The University has used successfully a trainer/academic whose help will continue to be part of the training. They are also looking at other possible training and would like to develop customized training tools. There are currently individuals on campus who are trained to address sexual misconduct cases if they arise in the near future.

The President then asked for a vote on the policies as described in the proposed section 1.9 Rights, Rules, Responsibilities; to the technical and conforming editorial changes to other sections of RRR; and to the technical and conforming changes to the Nondiscrimination/Anti-Harassment Policy and Complaint Procedures. The Council gave its unanimous approval. The President
thanked members of the FACP and others on the CPUC Executive Committee and thanked especially Ms. Minter for their efforts and thanked members of the Council. These are difficult issues and he believed that the discussion demonstrated the University community’s deep concern to treat all fairly, to protect the community and to create a safe environment.

Emergency Management Update

Executive Vice President Treby Williams reminded the Council that last May there had been a discussion about improvements in the works for emergency management. She invited her colleagues, Paul Ominsky, the executive director of Public Safety, and Robin Izzo, the director of Environmental Health & Safety, to report on changes. Mr. Ominsky referred to efforts to develop a clear structure and definition of levels of emergency responses. He reported that he and Ms. Izzo had actually been called to a “Level 1” response during the meeting – Level 1 is defined as a localized incident of short duration – and had implemented the new procedures successfully. Level 2 events include major incidents, an imminent threat or catastrophic event. There now is a 5-phase approach guiding the University’s reaction to an emergency, as explained in Appendix D. Ms. Izzo described improvements in communication resources for members of the University community which were instituted in response to suggestions made last spring. These include a new Web portal and applications for iPhones. In addition, training sessions are being held on campus this fall.

The President thanked them for their efforts to improve campus safety.

The meeting was adjourned at 6:00 p.m.

Respectfully submitted,

Ann Halliday
Secretary