

October 3rd, 2022

Meeting with the President Notes

Via Teams

In attendance: President Maxwell, Secretary Killman, Past-President Luna, President-Elect Allen, Senators Ojo, Liu, Fornehed, SSmith, Comer, Rand, Manginelli, Crockett, Craven, Witcher, Frye, Lee, Spears, Mullen, Fennewald, Upole, Smith-Andrews, Turner, Hassan, Park, Allcott, Hajdik, Isbell, Null, Ding, Meadows, Alley, Sisk, O'Connor, TSmith, Loftis, Weathers, Burch, Hermann-Turner, Adams, Winkle, Brachey, Rajabali, Pickering, Howard, Reames, Canfield, Shipley, Mills, Hutson

Guests: Mark Creter, Troy Pardue, Mark Cramer, President Oldham, Lee Wray

Absent: Senators Duncan, Swartling, Langford

Call to Order:

President Lori Maxwell called the meeting to order at 3:35pm and welcomed guests including President Oldham and COS Lee Ray and general counsel Troy Pardue.

President Oldham shared the stats from Preview Day, where there were 450 prospective students and their families on campus. He praised faculty and staff for coming together to make it a successful event. He said it was a good and very productive day. He thanked all involved for the great event. Related to the drag show issue, President Oldham said that Troy will fill in some gaps from a legal perspective, but he stressed that there is a review in process and he didn't want to circumvent that process.

Troy Pardue stated that he would like to have a conversation but it would be fine to start with questions from the faculty senate.

Question:

Is there a time frame on the temporary pause? (#1 question received)

Answer:

Legally, a pause eventually becomes a problem. Student Affairs is looking into student groups and what triggers reviews. What are the policies that we have? And are they functioning well? There was a meeting today, and they are far along, but do not know when the pause will be over.

Question:

What applicable laws safeguarding underage children are potentially out of compliance?

Answer:

Frame of reference is immediately to policies. The legal issue is not what policy is violated. The legal issue is what legal standards were potentially violated for indecent exposure, exploitation of a minor, disbursing obscene material to minors, child abuse, contributing to delinquency of a minor, and location of activities. All of these are some examples of legal boundaries.

Question:

What aspects of the show or the short clip of the 2-hour show fit the legal description of any of the items that you just mentioned?

Answer:

It was 180 degrees the other direction. It is not 'did this 45 second clip show those things', rather it was a 2-hour show -- no one has made a claim that the 45 second clip showed that. The university statement did not conquer that information either. Some of it got very close, but what happened other than that? That is where we have obligations to ask questions about what else happened. It is not a determination of what happened but are we aware of what the rules are. Did the performers know what the boundaries are? It is not detectable from the 45 second clip.

Question:

You opened with that list, so what aspects fell into that list. You listed all the potential issues with minors, but if they were not observed, why are we focused on that list? You noted you were focused on the legal aspects, the legal definitions.

Answer:

It is a presumption from what is seen in the 45 second clip. If you don't see anything, then we are all good to go home; however, that is not how the law works. Say we hear that a fraternity was drinking and a minor was there. Is there a video? We don't have to ask does this occur on a regular basis, we have a legal obligation to say there is a clip, but that person is not a minor, etc. We have to investigate and ask was there a minor? We are legally obligated to find out those facts.

Question:

At the running of the freshmen, which is led by President Oldham, there is partial nudity. Some students take off their shirts and paint up. How is that different from this? It is a public event on campus and there are minors there. Why are we not stopping all football games? Could you clarify how this is different from a legal standpoint?

Answer:

The statues that he was referencing are crimes. Categories of criminal activities were listed and then one used as example. It is a crime to intentionally engage in simulated sexual activity that is offensive and having a minor view that simulated sexual activity (TCA -3913529 subsection B). Guys running down the field shirtless is not because that is not a simulated sexual activity.

Question:

Was there a suggestion in the 45 second clip of simulated sex?

Answer:

It's not about the 45 seconds, but the opposite. He noted it was a 2 hour show and for 45 seconds of the show that was not observed, so we should investigate. He made the comment that he is not sure of the comparison of the running of the freshman unless they take their pants off at the endzone. If someone starts taking off clothes, that is typically the end, the big reveal so he doubts that it goes much further, but he is not sure. He went onto discuss public indecency.

Question:

If some of the same moves are performed at the drag show that the cheerleaders dancing reveal, why is it not ok for the show but it is for the cheerleaders?

Answer:

Potentially traveling performers could be unaware that their behaviors could be against policies.

Question:

In an investigation process, you cannot just look at an isolated 45 second or 5 minute video, you have to look at the totality of the event or due diligence is not there. Is there a video available of the entire performance?

Answer:

I do not have a video, and to the best of my knowledge I do not know, but I would be happy to find out. The student affairs committee is not hunting down a video.

Question:

The 45 seconds doesn't indicate any of that illegal behavior, but there might have been such. Do we need to start recording our lectures because there might have been some nudity in those? Do we need to check all those because there "might have been"?

Answer:

If you are put on notice of illegal activity, you have to do something. There is no notice that that is happening in your classes.

Question:

Was there a complaint of illegal activity of the show?

Answer:

There does not have to be a complaint to a police officer or anything. If the janitor comes by and notes that you are putting on a show in class, more questions would have to be asked. It is not that a formal complaint has been issued. We have a duty to investigate. We aren't investigating who did what, but more do we have a process to avoid crossing these boundaries and do people know what the boundaries are.

Question:

Was there a formal complaint or was it a response to negative publicity on social media?

Answer:

I was notified that this came up, but could not answer the specifics of that question.

Question:

Who can answer that question?

Answer:

President Oldham said he would not characterize anything as formal, but there were a lot of complaints.

Comments:

Traditionally, these groups have had Drag-o-ween, and it's October, so I am sure that these students would like to continue with an event that they have traditionally had on this campus

The way you are describing things seems to invite slotting, which is where there is false reporting of activities that might involved police showing up. Things are very loose in this definition. Regarding Drag-

o-ween, I believe the group has said while this investigation is going on, that it would be 18 and over. There seems to be a response from the outside from a position of bias.

Question:

Was a legal trigger pulled? If so, are you saying the entire event must be looked at, not just the 45 second clip?

Answer:

Yes, and we are required to investigate. Investigation of the activities has already occurred. Currently looking at how do student groups know the boundaries and when it's ok for minors to be present. Must figure out how to let students know what the boundaries are and what principles can apply to all groups.

Comment:

Policy 120 seems to exempt the general public. It seems to only imply LGBTQ events, but not other events such as football games, which seems discriminatory.

Response:

Policy has to comply with state statutes.

Comment:

The performers who are working with a drag group to come to the campus are interested in presenting something that shows their creativity, creating a character, etc. They are wearing way more clothing than what cheerleaders are wearing. It seems like the university's response to a bad yelp review. These performers are not trying to sneak anything in.

Comment:

Seems there is something discriminatory going on. Thinking about the males that take their shirts off, cheerleaders, etc. I saw the 45 second clip and did not see anything wrong. This was a public event and the parent's brought their kids in, the parents have the rights over their kids. If something went wrong policy wise, the state statutes are what we need to obey. If they are violated, but parents are present, who takes precedent?

Answer:

The law would say despite what the parent says, the child should not be there according to the government. Most of the time, parents have the control. These statutes are criminal in which the parents' approval is not sufficient. The criminal law says parental rights are trumped by societal concern for minors. When it comes to minors, the government gets more aggressive in trying to regulate behavior.

Question:

Are other student performers always told about these statutes before their shows?

Answer:

That is what the student affairs committee is looking at. Where else is this happening so that it is not targeted to one group.

Question:

If it is being checked across the board, then why is it that a certain group has been stopped and not all groups?

Answer:

I cannot answer that, but it is a worthwhile question.

Question:

President Oldham, why only this group? It feels biased. Why not cancel all groups?

Answer:

Our approach is always to be the least disruptive as possible. Questions were raised about this activity that I felt needed to be explored. The approach that's being taken is to try and be even-handed. Where are the boundaries? How do we make sure that is reflected in our management of student organizations and their activities?

Comment:

Questions regarding the 1st amendment trump state statutes, which is absolutely correct, but the 1st amendment does not apply to these behaviors.

The issue still stands we need a broader policy to cover all events in the future. How can that be expedited?

President Maxwell thanked the guests for their contribution and participation and guided the meeting to the next topic.

Topic: Research

President Oldham stated that Dr. Taylor announced stepping down from her role in the research office and that work is being done to begin a search thinking it will take 6-9 months. Dr. Carl Pinkert is semi-retired and has agreed to spend the next 6-9 months filling the role in more of a consultant role, not interim. He brings a wealth of experience from multiple institutions and should be on campus shortly. The good news is our research funds continue to grow. We saw about a 6% increase over the last year in awards and it continues to be positive. We have booked 8-10 million worth of awards for this year. We need to continue to grow the infrastructure that supports this, but we need to be smart about it. Dr. Pinkert can help us navigate this.

Question:

Will the director search continue to move forward?

Answer:

We are trying to fill all vacancies as quickly as possible. We are making sure individuals are aware of what they are getting into. There is some work to do regarding competitive salary to have someone relocate, but we are not holding up on any positions or hires.

Question:

Is the position Dr. Taylor moved to a new position?

Answer:

It is a part of the transition, but it is not permanent.

Question:

How is faculty involved in the restructuring of the research office? You mentioned last time they would be involved, but I wonder if you have a more solid answer now.

Answer:

We are not there yet. I met with some PI's about research a while ago, and a number of faculty have been involved. For restructuring in the future, Dr. Pinkert, might have some recommendations and conversations with faculty and research leaders to determine points of friction and issues. There is no question we have a lot of work to do to build the infrastructure that is needed, but that is a part of the challenge Dr. Pinkert has. Where are we now and where do we need to be in 3 months, 6 months, and we really hope to set the stage for the new VP, but until he gets here, I cannot really tell you how.

Topic: Library

Question:

Could you explain why funding for the library is cut when a robust library is important, and can you give a status update about library funding since last year as we have lost access to databases and journals?

Answer:

Any previous cuts in the library were managed more locally, in terms of either the provost office, or the library itself where resources were prioritized. I do recognize the materials budget has been inadequate and that conversation has been going on for multiple years. It is my understanding through Dr. Bruce a substantial increase in the library budget was made, but I have not physically verified that it took place.

Comment:

We are about 20-25% lower than where we were 10 years ago when I started in the library. The majority of databases are subscription and have about a 5% increase each year, so thinking about what we could afford with \$1M - we would not be able to buy the same materials or maintain them. Potential influx is not going to help much either. Tennessee Board of Regions has stopped paying for several databases that we didn't have to pay for previously. The pressure continues to grow on what we have to provide.

Comment:

We have budget advisory this Friday, and one thing we have seen, is the library is funded with one time money, rather than reoccurring. So, something we would like to look at would be reoccurring to have a better understanding and functionality of the money.

President Oldham:

Everyone in Derryberry is committed to getting a larger budget to the library for materials. But the question is how fast can we move? And how is it protected? In the past, previous administrators decided to do other things. One time money does not help the same long-term. But it needs to have fences around it to protect its allocation.

Comment:

I understand, but I have a difficult time understanding how you say we have to find a way to put a priority on this and put fences around it because you are the president and you operate with a cabinet that answers to you. You have a CFO that answers to you. If you want something to have a priority, you are the president and you can set that. There's perception on this campus that the tail is wagging the dog. There is perception that the CFO tells you what to do on this campus, now I don't know if that is

true. Faculty is not happy about it. Her office got 60% of that raise pool that went out, it undermines the faculty's faith in your leadership. I'm not criticizing, so don't shoot the messenger.

Response:

Of our total E&G budget, Academic affairs takes 2/3 of it, which includes supporting the library. We push a lot of resources to departments and colleges and a lot of opportunities for local decisions to be made. If you want me as president, to be setting all of the budget decisions, I think it is a mistake, I might attempt, but I do not think you want me to tell you how to prioritize resources in the departments.

Comment:

An increase in protection is important. 1/3 of the library budget was taken by ITS.

Response:

We need a plan. What does the library need to look like? What should be our target? What are we looking for? We can say we need more resources, but to what end? That's the other piece. Not criticizing, just an honest observation. How do we carve out the necessary resources to make that happen?

Question:

When we apply for a research grant, there is an indirect cost of 43% that goes to the university. This generally was always partially allocated to journals, subscriptions, etc toward the library. Is that happening here? I understand the administrative cost that comes from the indirect cost, but how much support for research is really going in from the indirect cost?

Answer:

For federal grants, years ago it was impossible to identify everything that might be used to satisfy the grant - utility cost, etc. You just cannot identify those direct cost definitely. All of those cost have to be audited and negotiated. We are actually in a negotiation with the indirect cost with the federal government. It's discretionary revenue. The university does not have to spend it on anything that was calculated in the base cost. These costs are distributed 1/3 general, 1/3 office of research, 1/3 college and PI. The institution chose this was the way they wanted to disburse the funds. Currently, none of the indirect cost goes to the library. If we ever change the distribution, it could be the case, but currently that is not the case.

President Maxwell thanked President Oldham and Chief Ray. Reminded senators of the Trustee breakfast on Thursday. Meeting concluded at 5:00pm

Respectfully submitted by Christy Killman