

**MEETING OF THE BUSINESS AFFAIRS COMMITTEE
OF THE BOARD OF TRUSTEES
Community College of Philadelphia
Wednesday, October 24, 2018 – 10:00 A.M.**

Present: Ms. Suzanne Biemiller (presiding *via* Zoom); Mr. Steve Herzog (*via* Zoom), Mr. Joseph Martz (*via* Zoom), Dr. Donald Generals, Mr. Jacob Eapen, Dr. Samuel Hirsch, Mr. Randolph Merced, Jessica Hurst, Esq., Victoria Zellers, Esq., Mr. Gim Lim (*via* Zoom) and Mr. James P. Spiewak (*via* Zoom)

AGENDA

EXECUTIVE SESSION

PUBLIC SESSION

(1) Expressive Demonstration: Time, Place and Manner Policy (Action Item):

Discussion: Ms. Biemiller opened the meeting and thanked those in attendance to voice their positions regarding the Expressive Demonstration: Time, Place and Manner Policy. She referred to the Agenda for the meeting which noted that in the interest of public safety for the College community, and in accordance with Dr. Generals' duties as President of the College, Article XXI of the Full-Time Collective Bargaining Agreement, and the Public Employee Relations Act ("Act 195"), it is the intent of the President to implement the attached Expressive Demonstration: Time, Place, and Manner Policy. Please refer to Attachment A. As noted on the Agenda, the Business Affairs Standing Committee voted against recommending the policy and the Institution Wide Committee (IWC) voted not to deliberate on the policy. Representatives of the Business Affairs Standing Committee and the IWC were asked to place any arguments in writing to the Board of Trustees Business Affairs Committee and have their representatives argue their positions at the October 24th meeting of the Business Affairs Committee of the Board of Trustees.

Ms. Biemiller noted that a student speaker needed to attend class and invited him to speak first.

Mr. Liam Knight, Vice President of Phi Theta Kappa and a student delegate to the Business Affairs Standing Committee expressed his arguments. He argued that the policy is incorrect for the College and that the process in Article XXI of the Full-Time Faculty Collective Bargaining Agreement was not followed. He also expressed concern with whether the policy violated First Amendment rights given that the College is a public institution. He noted that the policy would not prevent hate speech on campus. He requested that the College form a committee of students, faculty and administrators to draft a new policy.

Ms. Biemiller thanked Mr. Knight for his comments.

Mr. James P. Spiewak, Associate Vice President, Budgets and Business Services, a current member of the Business Affairs Standing Committee, former Co-Chair of the Business

Affairs Standing Committee, and an Alternate on the IWC presented an argument on behalf of the Administrators on the Business Affairs Standing Committee and the IWC in support of implementing the policy. Please refer to Mr. Spiewak's memorandum dated October 19, 2018 found in Attachment B which he read to the Committee. Mr. Spiewak concluded his remarks recommending that the Board of Trustees Business Affairs Committee vote to implement the proposed policy (attached to the Board Business Affairs' Committee Agenda) effective immediately upon ratification of the full Board with guidance that the applicable Standing Committees may recommend any further changes as outlined in the applicable Collective Bargaining Agreement.

Ms. Bridget McFadden, a delegate to IWC and previous Co-Chair of IWC, thanked the Trustees for allowing the faculty and students to express their concerns regarding the policy. She stated that the Middle States Commission on Higher Education requires that each institution has a clearly developed governance structure which they consistently follow. She argued that, in order to meet the College's accreditation guidelines, it is essential that the governance process is followed correctly. She further emphasized that the student representatives were not included in Dr. General's original memorandum of October 8th. Please refer to Attachment C. She further noted that students were sent the memo and invited to the October 24th Business Affairs Committee on Monday, October 22nd, only allowing them to have two days' notice to prepare their remarks.

Ms. Margaret Stephens, a faculty delegate and Co-Chair on the Business Affairs Standing Committee thanked the Trustees for their dedication to our students. She pointed out flaws with the policy such as:

- It does not prevent or solve the problems that have occurred on campus in the past year or prevent or solve even more dangerous acts of violence that occurred elsewhere in the United States.
- The proposed policy is too expansive, too broad. The existing policy could be used to hamper or suppress legitimate, peaceful protests and demonstrations by students, staff and other groups.

She also raised concerns about the College not following the process outlined in Article XXI of the Collective Bargaining Agreement. Ms. McFadden's and Ms. Stephens' joint comments are included in Attachment D.

The last speaker, Mr. Randolph Merced, Director of Public Safety, expressed concern regarding disruptive activities that took place across the United States at Auburn University, Middlebury College, and the University of California, Berkeley. He stated that one faction accuses the other of attempting to silence speech, while the other faction in turn accuses its counterpart of hiding behind First Amendment protections to promote speech that each believe disparages the other and promotes hate and violence. He highlighted that caught in the middle are colleges and universities grappling with how to promote diversity of thoughts and the exchange of ideas without events developing into violent protests. The events that took place in Charlottesville, VA resulted in a death. An internal University of Virginia working group faulted the University for being "ill-prepared."

Mr. Merced pointed out that preparing for campus demonstrations and protests should involve four key focus areas: Education, Coordination, Communication and Policy. The capability to manage demonstrations and protests on campus must begin with the establishment of clear policies that support the college's commitment to the free expression of ideas and facilitate an environment in which civil discourse can take place lawfully and safely. The policy addresses the time, place and manner in which protests, rallies or equivalent activities occur on campus or in campus facilities. Policies must emphasize that demonstrations may take place in support or opposition to any issue, provided the demonstration does not endanger the safety or security of the College community, infringe upon the rights of others, or disrupt normal College operations. Considerations for approving a demonstration should also be clearly stated so that the campus community understands the safety and security factors that are considered when approving a speaker or demonstration. Mr. Merced requested that the Business Affairs Committee implement the policy.

Ms. Biemiller again thanked everyone for their remarks regarding the Expressive Demonstration: Time, Place and Manner Policy and asked for a motion from the Committee.

Action: Mr. Martz moved and Mr. Herzog seconded the motion that the Committee recommend to the full Board the approval of the Expressive Demonstration: Time, Place and Manner Policy appended in Attachment A.

Ms. Biemiller asked to amend the Action. Ms. Biemiller expressed that as a Trustee of the College, she has an obligation to balance public safety with policies of free speech. She emphasized that it is important to keep a policy in place. She asked for an amended motion that the Expressive Demonstration: Time, Place and Manner Policy, (Attachment A), be implemented upon ratification of the full Board with guidance that the applicable Standing Committee may recommend any further changes to the policy as outlined in Article XXI of the Full-Time Faculty Collective Bargaining Agreement. Ms. Biemiller also directed the College Administration to appoint an administrator to the subcommittee of the Business Affairs Standing Committee that will consider recommendations for changes to the policy.

Amended Action: Mr. Martz moved the amended motion as stated by Ms. Biemiller and Mr. Herzog seconded the motion that the Committee recommend the implementation, upon the full Board's ratification, of the Expressive Demonstration: Time, Place and Manner Policy (Attachment A), with guidance that the applicable Standing Committee may recommend any further changes to the policy as outlined in Article XXI of the Full-Time Faculty Collective Bargaining Agreement. The motion passed unanimously.

(2) Ellucian Constituent Relationship Management (CRM) Recruit Product Procurement (Action Item):

Discussion: Mr. Eapen stated that the College's Enterprise Resource Planning (ERP) system is Ellucian. ERP includes the College's Student, Human Resources/Payroll, and Finance systems. In an effort to improve the intake process for all students applying to the College, staff is asking for the Committee's approval to purchase the New Ellucian CRM Recruit and Analytics products.

Dr. Hirsch mentioned that five years ago, the College acquired CRM. It served the College well until recently when its features were not compatible in today's environment. He stated that the Ellucian (CRM) Recruit product will be a cloud-based solution that will provide a strong and interactive interface for students being recruited and applying to the College. It will also allow for tracking of these students through the Ellucian Analytics tool. Not only will the CRM tool bring a new look and feel to the student application, but it will expedite the student application process.

The Hobsons' product that is currently being used will be replaced by the CRM Recruit product giving it a personalized look and feel. The College will not use the Hobsons' product starting in July 2019 resulting in an annual savings of \$45,875. This personalized web presence should be attractive to today's student and will allow the College to target content to these prospects.

The first year will be a pro-rated cost since the first full year of cloud-hosted service will be July 1, 2019 through June 30, 2020. The annual subscription fee for both products combined will be \$59,700 in FY20. Implementation costs will be a one-time fee not to exceed \$94,636.

The staff is requesting that the Committee recommend to the full Board the purchase of the New Ellucian CRM Recruit and Analytics products for an annual cost of \$59,700 and a one-time cost of \$94,636.

Action: Mr. Martz moved and Mr. Herzog seconded the motion that the Committee recommend to the full Board the purchase of the New Ellucian CRM Recruit and Analytics products for an annual cost of \$59,700 and a one-time cost of \$94,636. The motion passed unanimously

(3) Quad Learning (Information Item)

Ms. Zellers reported to the Committee that College staff was informed that Wellspring International Education, LLC ("Wellspring") will be acquiring Quad Learning, Inc. (QL) through an Asset Purchase Agreement. QL markets and recruits international students for the College. She stated that there are currently 67 international students who were recruited by QL. The anticipated closing date is October 31, 2018. In accordance with the College's Agreement with QL, which was entered on December 1, 2015, QL is requesting that the College consent to assignment of the College's Agreement with QL to Wellspring. The College has reserved its right to respond under Section 9.A. of the Agreement until it has more information regarding WellSpring. The College is obtaining references for WellSpring.

(4) Next Meeting Date:

The next regularly scheduled meeting of the Committee will be held on Wednesday, November 28, 2018 at 10:00 A.M. in the Isadore A. Shrager Boardroom, M2-1.

The meeting adjourned at 11:15 A.M.

ATTACHMENT A

Expressive Demonstration: Time, Place and Manner Policy

Expressive Demonstration: Time, Place, and Manner Policy

Community College of Philadelphia recognizes that institutions of higher education are marketplaces of ideas. The College upholds the rights of freedom of assembly, expression, and speech as essential to this exchange of ideas. The College also recognizes that an individual's right to freedom of assembly, expression, and speech must be harmonized with the right of the College community to engage in College activities without disruption. In order to balance the rights of assembly, expression and speech with the rights of pursuing College activities without disruption, the College has implemented this content- and viewpoint-neutral time, place, and manner policy to govern demonstrations on College premises.

Scope of Policy

This policy applies to all members of the College community, including employees, faculty, students, trustees, and College-recognized organizations, as well as guests and visitors to the College. This policy also applies to all College premises, including the Main Campus and all Regional Centers. This policy applies to demonstrations as defined below, but not to commercial speech or activity which is governed by the College's Solicitation in Campus Facilities Policy. This policy also does not address the distribution or posting of literature or other materials on College premises, which are governed by the College's Solicitation in Campus Facilities Policy and the College's Posting in College Facilities Policy, respectively.

See Related Policies: Policy # 153 – *Policy Governing Use of College Facilities*
 Policy # 158 - *Solicitation in Campus Facilities*
 Policy # 159 - *Posting in College Facilities*
 Policy # 161 – *Statement of Acceptable Behavior for College Guests and Visitors*

Responsible Offices

The Office of the Dean of Students, Department of Public Safety, and Office of Marketing and Government Relations are responsible for the implementation of this policy.

Relevant Definitions

Demonstration: the presence or gathering of a group of people with the primary purpose of expressive activity or the communication or expression of views or grievances in a manner that attracts attention (*e.g.*, protests, rallies, sit-ins, vigils, or similar forms of expression).

Time, Place, and Manner Limits

Time

- a) No demonstration may exceed four (4) hours in length in a 24-hour day.
- b) Demonstrations are not permitted outside of the College's normal operational hours unless authorized by the appropriate office (see Procedures section below).

Place

- a) *Outdoor Demonstrations*
 - i. Demonstrations will be permitted on College premises generally open to the public (public areas), which include public outdoor spaces in accordance with the guidelines below. Public areas do not include indoor spaces at the College.

- b) *Indoor Demonstrations*
 - i. Generally, indoor College spaces are not appropriate for demonstrations. However, indoor demonstrations will be permitted if they:
 - (1) involve members of the College community with valid College ID's, not guests or visitors;
 - (2) do not interfere with the operations of the indoor space or otherwise disrupt any College activity or business;
 - (3) do not block hallways, entranceways, doors, or any other path of ingress and egress;
 - (4) do not prevent others from pursuing College business or activities;
 - (5) do not involve sound amplification devices or equipment;
 - (6) do not extend beyond the business hours of the indoor space; and
 - (7) otherwise comply with this policy and all other College policies.

- c) Demonstrations are prohibited in the following areas:
 - i. in classrooms or near classrooms;
 - ii. in hallways adjacent to classrooms;
 - iii. in learning commons, library areas, learning labs, laboratories, or other designated quiet areas or instructional spaces; and
 - iv. within 25 feet of any entrance or exit point of a College building.

- d) A demonstration on the College's Main Campus should generally take place in the Freedom Circle/Winnet Courtyard area between 17th and 18th Streets if:
 - i. the demonstration is by visitors or guests to the College; or
 - ii. space for the demonstration was not reserved in advance in accordance with this policy.

- e) Individuals must also abide by the College's room/facility reservation policies, as applicable.

Manner

- a) All participants in a demonstration must comply with the reasonable, lawful instructions of College officials or other authorities and all other College policies.
- b) College premises must be left in the original condition at the conclusion of the demonstration. The College reserves the right to impose reasonable charges to enforce this requirement.
- c) Demonstrations on College premises:
 - i. May not infringe upon the legal rights of the College community or other individuals.
 - ii. May not prevent or disrupt other College activities or business.
 - iii. May not prevent or disrupt College ceremonies or events.
 - iv. May not prevent or interfere with ingress to or egress from any College facility.

- v. May not prevent or interfere with any individual's ability to pursue College activities or business.
- vi. May not impede the flow of pedestrian or vehicular traffic.
- vii. May not jeopardize the safety or security of any member of the College community or any other individual, including attempting to coerce or intimidate a person with the intent to cause that person to fear for his or her safety.
- viii. May not attract a crowd larger than the demonstration location can safely contain.
- ix. May not engage in or threaten physical harm or violence or destruction of property.
- x. May not consist of obscene or defamatory language, true threats, or fighting words; or otherwise contain expression not entitled to constitutional protection.
- xi. May not be conducted in a manner that violates federal, state, or local law or applicable fire and safety regulations.
- xii. May not be conducted in a manner that is likely to incite imminent lawless action.
- xiii. May not be conducted in a manner that violates rules, regulations, and/or policies of the College.
- xiv. May not involve firearms, explosives, knives, sticks, dangerous chemicals, weapons or other objects or devices that may be used as weapons.
- xv. May not involve camping on College premises, whether overnight or otherwise.
- xvi. May not involve the use of sound amplification devices or equipment unless previously indicated in a reservation, and then only for outdoor demonstrations to the extent such use does not disrupt other College activities or businesses.
- xvii. May not involve the erection of temporary, permanent or semi-permanent structures unless approved in advance by the Director of Public Safety and the Director of Facilities.
- xviii. May not involve the use of booths or tables unless approved in advance.

Procedures

Any individual, group, or organization may reserve an outdoor demonstration area of the College for a demonstration by directing the reservation request to:

Director, Department of Public Safety
publicsafety@ccp.edu
(215) 751-8111

Reservation requests should provide the name of the organization or contact person; phone number and email; the date, time, and location requested; the general nature of use; the expected attendance; and specify whether any equipment (*i.e.*, sound amplification, tables, booths, other structures) will be used.

Reservations are required at least two (2) business days in advance for:

- a) Demonstrations organized by visitors or guests to the College; or
- b) College-community organized demonstrations where the expected attendance for the demonstration is 25 or more individuals unless such demonstration is prompted by news or affairs coming into public knowledge less than forty-eight (48) hours prior to such event. In order to continue, immediate notice of any such spontaneous demonstration must be provided to the Department of Public Safety using the contact information above.

In all other cases, reservations are encouraged but not required. Demonstrations will be permitted without a reservation if they do not conflict with any other College-sponsored event or other previously-made reservation, and if the demonstration is in all other respects compliant with this policy.

Reservations will generally be granted on a first-come, first-served basis provided the request complies with this policy, although priority will be given to College community-sponsored events. In the event of a conflict, a reasonably comparable space will be offered to the extent available. The requestor will be notified in writing whether the request has been approved. Requests will only be denied due to scheduling conflicts or if the proposed demonstration violates this policy. Before issuing a denial, the College may suggest any remedies that may bring a proposed demonstration into compliance with this policy. A denied request may be appealed to the College's President or his designee, whose decision will be final.

Any individual, group or organization intending to conduct a demonstration is strongly encouraged to coordinate with the Department of Public Safety so that appropriate arrangements can be made.

Objections to Demonstrations

The College recognizes that members of the College community have the right to disagree with any demonstration which occurs at the College. However, individuals who disagree with the sentiments expressed in a demonstration also bear the responsibility of recognizing the rights of the demonstrators to free speech, expression, and assembly. An individual, organization or group who wishes to protest a demonstration will be subject to the same standards as the demonstrators, including the obligation to act lawfully and in compliance with College policies.

ATTACHMENT B

**Support for the Expressive Demonstration:
Time, Place and Manner Policy**

James P. Spiewak

To: Business Affairs Committee of the Board of Trustees
From: Jim Spiewak, Associate Vice President, Budgets and Business Services; Former Co-Chair of the Business Affairs Standing Committee and Alternate on IWC on behalf of the Administrators on the Business Affairs Committee and IWC
Date: October 19, 2018
Re: Support for the Expressive Demonstration: Time, Place and Matter Policy

The Business Affairs Standing Committee discussed the merits of the Expressive Demonstration: Time, Place and Manner Policy (TPM) at four meetings: October 2017, March 2018, April 2018 and October 2018.

In October, 2017 the Committee was addressed by Victoria Zellers, the College's General Counsel, concerning the need for the College to establish a policy which would detail the rules on where, when and in what manner expressive demonstration activities may take place at our Main Campus and Regional Centers. Ms. Zellers discussed the recent violent protests that occurred at the University of Virginia and throughout Charlottesville, Virginia in August 2017. She explained the purpose of such policies and various legal requirements. Ms. Zellers explained that a College policy would apply to students and employees as well as outside individuals and groups. She noted that the College also had concerns about not having rules in place to guide demonstrators from various outside groups that had been on campus over the last two years. She explained that a policy would be drafted and presented to the Committee for recommendation.

A proposed policy was brought before the Business Affairs Standing Committee in March, 2018 and presented by Randy Merced, the College's Director, Public Safety. Mr. Merced explained that he worked on the policy with the College's Assistant General Counsel, the then Interim Dean of Students, the Director, Communications, and others in the College community. They reviewed similar policies at other public colleges and universities as well as sample policies supported by First Amendment rights advocates. Mr. Merced provided background information on the rationale for the policy and the objectives of the policy – to protect free speech, ensure a safe environment, ensure the continuity of College operations and activities, and protect students and employees from engaging in behaviors that could result in harm to them or the demonstrators. A considerable amount of discussion took place concerning the policy. Comments made by some members of the Committee indicated that they were concerned about students' and staff's ability to conduct demonstrations inside of the College. They were also concerned that certain terms in the policy, such as "fear,"

“disruptive,” and “interfere” were too subjective. Some members did not see the need for a policy stating that other “creative things” could be done to control the environment. Student guests mentioned that, as students, they shouldn’t be subjected to the same guidelines as outside groups. The Committee agreed to request changes to some aspects of the policy that concerned certain members. Two topics that were addressed concerned the ability for employees or students to conduct “sit-ins” near administrative offices and the proposed acceptable distance from entrance-ways for expressive demonstration activities to take place.

At the April 2018 meeting, a revised policy was presented by Randy Merced which addressed some of the concerns raised by members of the Business Affairs Standing Committee. The revised policy reduced the distance from entrances at which expressive demonstration activities may occur from 35 feet to 25 feet and removed language that did not allow for demonstrations by employees/students near administrative offices. The revised policy was discussed intensely and ultimately a vote was taken. It is the opinion of the administrators on the Committee that the minutes do not reflect the Motion that was made. This is supported by conversations had after the April 2018 meeting that state “the Committee agrees on the need for a policy” As an aside, the administrators of the Committee agree that the method of “approving” the April, 2018 minutes was improper and not agreed to by one of the Co-Chairs of the Committee. In sum, the Business Affairs Committee voted against recommending the policy.

As co-chair of the Business Affairs Standing Committee, I provided a report to one of the Co-Chairs of the IWC regarding the Business Affairs Standing Committee’s actions related to the TPM policy for deliberation and recommendation in accordance with the Full-Time Faculty Collective Bargaining Agreement. Members of the IWC twice voted to remove consideration of the policy from the IWC’s agenda thereby preventing further deliberations or recommendations by the IWC. After two unsuccessful attempts to allow the IWC to consider the policy, with the second attempt at the IWC’s September, 2018 meeting, the President was informed of the IWC’s and Business Affairs Committee’s actions on the TPM policy.

At the October, 2018 meeting of the Business Affairs Standing Committee, the “Board of Trustee Meeting on the TPM policy” was placed on the agenda which led to discussion concerning the policy proposed in April, 2018. Among the motions made were one that stated:

“Accept the TPM policy that President General proposes implementing until such time that the recommendations of the Business Affairs Standing Committee are made and considered through the existing governance structure.” The vote for this motion was 6 against; 5 for; 1 abstention.

The administrators on the Business Affairs Standing Committee and IWC are in favor of implementing the proposed Expressive Demonstration: Time, Place, and Manner Policy in its current form for the following reasons:

- To protect freedom of assembly, expression and speech;
- To provide a safe environment for the College community;
- To prevent disruption to College activities and operations;
- To protect students and staff as well as demonstrators;
- To provide the framework under which staff, specifically Public Safety, will interact with individuals involved in expressive demonstration activities;
- To provide legal protection to the College; and
- To enable the College to seek injunctive or other legal relief as needed to ensure the safety of the College community and continuous operations.

Additionally, the administrators believe the objections by the other committee members do not fairly consider the overall potential liability to the College of not having a policy. The administrators also believe the two revisions in April 2018 addressed the two major objections to the policy.

The administrators on the Business Affairs Standing Committee and IWC recommend that the Board of Trustees Business Affairs Committee vote to implement the proposed policy (attached to the Board Business Affairs' Committee Agenda) effective immediately upon ratification of the full Board with guidance that the applicable Standing Committees may recommend any further changes as outlined in the applicable Collective Bargaining Agreement.

ATTACHMENT C

**Memorandum from Dr. Generals
Dated October 8, 2018**

**Community
College
of Philadelphia**

1700 Spring Garden Street
Philadelphia, PA 19130-3991
215.751.8000 www.ccp.edu



Office of the President

TO: Carol de Fries
Jacob Eapen
Judith Gay
Samuel Hirsch
Jody Bauer
Simon Brown
Mary Anne Celenza
Jim Spiewak
Gary Bixby
Charletha Porter
Carol Whitney
Lisa Hutcherson
Gim Lim
Elizabeth Majewski
Hannah McGarry

Todd Jones
Bridget McFadden
Rainah Chambliss
Jalyn Warren
Junior Brainard
Steve Jones
Eric Neumann
Alexine Fleck
Cynthia Reid
Jessica Rossi
Margaret Stephens
Edward Jorden

FROM: Donald General, Ed.
President

DATE: October 8, 2018

SUBJECT: Open Expression – Time Place Manner Policy

In the interest of public safety for our College Community, and in accordance with my duties as President of the College, Article XXI of the Full-Time Faculty Collective Bargaining Agreement, and the Public Employee Relations Act ("Act 195"), I intend to implement the attached Expressive Demonstration: Time, Place, and Manner Policy.

The policy includes two suggested revisions from the Business Affairs Standing Committee. As the Business Affairs Standing Committee voted against the policy and the IWC voted not to deliberate on the policy, I am inviting representatives of the Business Affairs Standing Committee and the IWC to have their representatives place any argument in writing to the Board of Trustees Business Affairs Committee and have their representatives argue their positions at the Board of Trustees Business Affairs Committee meeting on October 24, 2018 at 10:00 a.m., in the Isadore A. Shrager Boardroom, Room M2-1.

Please let me know which representative(s) would like to present any arguments.

ATTACHMENT D

**Opposition for the Expressive Demonstration:
Time, Place and Manner Policy**

Bridget McFadden and Margaret Stephens

To: Business Affairs Committee of the Board of Trustees, Community College of Philadelphia

From: Faculty and Staff Federation Delegates to the Institution Wide Committee and Business Affairs Committee

Re: Memo from President Generals dated October 8, 2018 with subject "Open Expression – Time Place Manner Policy"

Date: October 24, 2018

**Statement presented at the Business Affairs Committee of the Board of Trustees
Community College of Philadelphia
October 24, 2018**

Good morning, my name is Bridget McFadden, and I am the previous year's faculty Co-chair of the IWC. I am here with several of my colleagues today representing the Faculty and Staff Federation delegations to the Institution Wide and Business Affairs Committees. We are here to speak to you about the subject of the memo dated October 8, 2018, sent by President Generals to administrators and Federation members of those two committees. As you know, both committees are part of the shared governance structure of the College, recognized in the Full-Time Faculty Collective Bargaining Agreement and established through longstanding precedent. The governance structure is designed to include the expertise and input of the various constituent groups of the College for each of the divisional areas in terms of setting policies and programs. The Middle States Commission on Higher Education requires that each institution has a clearly developed governance structure which they consistently follow. Therefore, in order to meet our accreditation guidelines, it is essential that the governance process is followed correctly.

As you may be aware, according to the Full-Time Faculty Collective Bargaining Agreement, students, administrators, and Employees are entitled to equal numbers of representatives on each Standing Committee. We are concerned to see that the student representatives were not included in President Generals' original memo of October 8. Students were sent a memo and invited to this meeting only on Monday, October 22, so they had only two days' notice to prepare. Certainly, we would all agree that students' participation is essential in maintaining a campus climate of safety and security for all. So failing to include students in these exchanges and in the development of any policy that so directly affects their learning environment is unwise at best. Additionally, the proposed implementation of a policy by the President not properly brought forth through the Standing Committee and IWC structure is an abrogation of the governance process. I will turn it over to my colleague, Margaret Stephens, a delegate and Co-chair on the Business Affairs Standing Committee, to explain further.

Margaret Stephens: Good morning, and thank you, members of the board, for your work on behalf of our students and for your attention now.

1) Let us be clear: This is not an "argument" or appeal to the Board's Business Affairs Committee; rather, it is a statement of fact and concern as well as an abiding concern for the integrity of the shared governance structure of the College.

Simply put, there was no recommendation of a Standing Committee to the Institution-Wide Committee about a policy on open expression. I am not a lawyer. However, Article XXI of the Full-Time Faculty Collective Bargaining Agreement, which establishes the Standing Committee

structure “through which recommendations on policies and procedures will be channeled to the President and the board” is straightforward. Each Standing Committee considers and evaluates policies and makes recommendations to the Institution Wide Committee (IWC). Section (D) states, “The recommendations or reports of any Standing Committee shall be submitted in writing to an Institution-wide Committee for deliberation and action.” It continues: “Written recommendations of the Institution-wide Committee shall be acted upon with dispatch by the President.”

To repeat: There was no recommendation from the Business Affairs Committee to the Institution Wide Committee and there was, therefore, no mechanism for deliberation or recommendation on this matter by the IWC.

Therefore, we take issue with the premise of President Generals’ memo of October 8 and with his intended implementation of a policy that was not recommended by the Standing Committees.

Implementation of a policy in this unilateral manner subverts the College’s governance structure and undermines our trust.

The administration itself originally brought up this matter to the Business Affairs Committee and called for votes in that committee and then tried to introduce the matter again in the IWC. Thus, the claim that the president can implement a policy unilaterally is contradicted by the president’s own actions.

2) We are not here today to argue for or against or debate the proposed policy itself. However, we do want to point out a few obvious flaws that would make it ineffective in its stated intentions, as we understand them.

First, the proposed policy does **not**, in fact, prevent or solve the problems that have occurred on our campus in the past year with a so-called pastor and his followers spewing hateful invectives and attempting to incite and agitate. Nor does the proposed policy prevent or solve even more dangerous acts of violence that have occurred elsewhere in the United States.

For example, the proposed policy would limit a demonstration to four hours in a 24-hour day, and it specifies that demonstrations “by visitors or guests to the College” or when space “was not reserved in advance” should “generally take place in the Freedom Circle.” Four hours is more than enough time for an outside agitator intent on creating havoc or worse to do so.

Second -- and this should be important to anyone concerned about rights of free speech and assembly -- the proposed policy is too expansive, too broad. In its current form, the proposed policy could be used to hamper or suppress legitimate, peaceful protests and demonstrations by students, Employees, or other groups. That is unacceptable to us, and should be unacceptable to all.

3) We recognize the critical importance of balancing safety and security with the rights of free speech and peaceful protest on campus. We applaud the professionalism and good work of our Director of Public Safety, Mr. Randy Merced, and all the security personnel at the College, as well as the other members of our College community who have developed creative and peaceful methods to mitigate the harm caused by agitators like the so-called pastor. It is vital to our safety

that each of us -- regardless of our rank, official capacity or affiliation -- remains vigilant and continues to cooperate with one another for our individual and collective protection.

We want to state, emphatically, that we remain willing to work with the Director of Public Safety, student representatives, colleagues on the Standing Committees, and other interested parties to develop a plan and/or policy that continues to address all these concerns effectively.

In fact, the only official actions of a Standing Committee related to this matter have been motions passed in the Business Affairs Committee in the spring semester and in our most recent meeting on October 10, 2018. The motions acknowledged our shared concerns and called for the establishment of working groups or committees to address the issue. At its October 10 meeting, the Business Affairs Committee established such a subcommittee that ought to have one member representing each group in the governance structure, namely students, administration, and the Federation. That subcommittee is to provide an interim report to the full Business Affairs Committee at its November meeting and issue a complete report with recommendations at the December meeting.

Unfortunately, as of this writing, the administration has not sent a representative to that subcommittee. We do not see how that serves the interests of public safety that President Generals cites in his memo of October 8.

4) In summary, we call upon the board and President Generals to follow the established college governance and Standing Committee processes and, specifically, to direct all appropriate offices at the College to work collaboratively and cooperate fully in a shared governance process. This means to await the recommendations of the BAC to the IWC.

Thank you for your time and consideration. We would be glad to answer any questions.

Addenda

Motions passed at the Oct. 10, 2018 meeting of the Business Affairs Standing Committee:

1) MOTION: "Whereas the Business Affairs Committee (BAC):

Discussed and considered the TPM proposed last year, after which it recommended against a policy modeled on the TPM policy in order to design a policy that meets the security and educational needs of the College;

Recognized the need to address concerns raised by the presence of outside hate groups on and near campus;

Continues to follow the College's established shared governance structure and processes;

The BAC moves to convene a committee made up of Security, Student Life, Student Governing Association, Faculty and Staff Federation, and other interested parties to

propose a policy to respond to concerns associated with protest on campus and protect the right to free speech and peaceful assembly.”

2) MOTION: “The BAC will nominate one member from Administration representatives, one member from Student representatives, and one member from Federation representatives to develop a committee structure made up of equal parts Administration, Federation, and Students. That committee will report back to BAC’s November meeting and issue a complete report with recommendations to BAC’s December meeting.”