Proposed MU rule change would allow tenured faculty to be dismissed in some circumstances

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BY AMBER GARRETT

COLUMBIA — A proposed change in the way complaints against faculty for harassment, discrimination and/or misconduct are handled was presented Wednesday to MU’s Faculty Council. Some members expressed concern about how the changes would be applied.

"I really think we identified that we need to work on the implementation of it — the details of it," said Dennis Miller, who presented the changes on behalf of the University of Missouri System's Intercampus Faculty Council subcommittee that proposed the revisions.

The most significant change from previous policy is that administrators will be able to dismiss accused faculty members if found guilty in some circumstances, even if the accused is tenured. But that would involve a nine-step procedure before dismissal, according to an executive summary from the Office of the General Counsel.

UM System President Tim Wolfe is expected to recommend the proposed and revised rules to the UM System Board of Curators at its meeting on Feb. 5 and 6, Miller said. If approved, the proposed and revised rules will become an executive order.

At Wednesday's meeting, attended by about 15 members of MU's Faculty Council, there was also general concern about whether the complaints would remain on a faculty member's record if the process resulted in the faculty member being cleared.

Hank Foley, executive vice president of academic affairs, research and economic development for the system, was at the meeting to answer questions and said he couldn't imagine a case where a faculty member's record would be shared "below the provost level."
"Under no circumstance that I can see would that file be shared with the faculty, the committee, the chair of the department, the college committee, the dean," said Foley, who is also MU senior vice chancellor for research and graduate studies. "It doesn't make any sense."

Faculty Council members were also concerned about serial complainants — not just students but faculty who complain repeatedly about other faculty.

"Not everybody is reasonable, and we’ve had people in power here that were not reasonable," council member Bill Wiebold, professor of plant sciences, said. "I know it sounds like we’re paranoid, but you don’t put a stop sign in a corner for the 90 percent of people that are reasonable that would stop anyhow. It’s for the people that are not reasonable."

Foley said complaints made by the same person would be tracked in a record held in the Title IX office.

In response to the Dowd Bennett law firm's report about Sasha Menu Courey's assault allegations, the Intercampus Faculty Council created a subcommittee in October 2014 to review MU's existing policies, as well as other universities' policies. Miller said the outcome was the proposed new section of the Collected Rules and Regulations and the two modified sections relating to tenure regulations and "dismissal for cause" procedures, which Miller described in an Oct. 15, 2014, letter to UM President Tim Wolfe.

The goal of the subcommittee is to allow the complainant to get his or her education, Miller said. The proposed section and modified sections are mechanisms to ensure that.

"Our goal is not to punish faculty members," Miller said. "Our goal is to minimize and eliminate sexual discrimination."

Right now, the process can take up to a year. The proposed rule would be compliant with the Office for Civil Rights standards of 60 days.

Students and faculty members would have the option to work with trained advisers from the Title IX office during the process, at no cost to students. The provost can penalize a faculty member in various ways, including issuing a warning, placing the faculty member on leave without pay and initiating the process for dismissing the person "for cause."
Rules and regulations that would apply to staff accused of harassment, discrimination and/or misconduct are also being developed, Miller said.

"This is something that we want to improve and make better for students, faculty and staff on campus," Miller said.

Life in Columbia

Then, now and always, pray tell

By Henry J. Waters III

Wednesday, January 7, 2015 at 2:00 pm

On Dec. 19, my wife and I were pleased to be in attendance as former Mayor Darwin Hindman spoke at a luncheon celebrating his formal receipt of an honorary Doctor of Laws degree from the University of Missouri.

Hindman had received a regular law degree from MU before entering local practice and later serving for 15 years as mayor of Columbia. The university recognizes him as an outstanding alumnus with one of its top awards.

We reprinted some of Hindman’s remarks on these pages Sunday.

He indulged in a bit of nostalgia about growing up in Columbia and attending University Laboratory School, tales of particular interest to me since I shared the same experiences. During our days in high school, I hardly knew the younger fellow, behind me by three years, but now, as the exaggerated effect of youthful age differential is long gone, the former mayor and community leader has become a good friend.

As the years pass, we occasionally reminisce about our civic environment. Hindman did that in his talk on the 19th.

The part I wanted to recount in print primarily had to do with why people like Columbia and choose to settle or remain here. In a trite phrase, the reason is quality of life.
During his time of direct influence, Mayor Hindman worked unremittingly to make Columbia a pleasant and productive place for humans to inhabit. At the time, we didn’t appreciate the full importance, but his efforts to create trails and parks and other recreational environments now obviously pay off in every way. People are happier, and economic growth is strong and steady. Columbia is one of the cities in America with the most attractive image. People want to live here — no small factor when companies contemplate where to operate.

Building trails, bike paths and sidewalks is not always the most popular political enterprise. Columbia’s progress in these areas would not have happened without the steady support of Mayor Hindman.

As we remember his cultural contributions, we might forget the solid leadership he provided in more mundane areas. Development promoters experienced a fair, even hand at City Hall. Sometimes the mayor said no, but always with intelligent consideration and accommodation where indicated. When Mayor Hindman and his able city staff proposed a policy, the chore of achieving community support was largely accomplished.

The Darwin Hindman heritage remains valuable to our city and our way of life.

The Chronicle of Higher Education

Seeking to Strengthen Sex-Assault Policies, Colleges Draw Fire From All Sides

January 8, 2015

By Katherine Mangan

NO MU MENTION

Depending on whom you talk to these days, Harvard University’s policies to prevent sexual assault either are woefully inadequate or risk trampling on the rights of men following tipsy, consensual hookups.

Similar sentiments swirl in discussions at Ohio State University, another institution caught in a tug of war as it struggles to revise sexual-misconduct policies in ways that are fair to both the accusers and the accused. Both campuses have been faulted by the federal government for failing to adequately protect victims, while simultaneously being lambasted by those who say the institutions are overcorrecting and being unfair to the accused.

Sitting in the hot seat are Title IX coordinators who have the unenviable job of overseeing compliance with a 1972 law that bans gender discrimination in education programs that receive federal financial aid.
They’re doing so under the watchful eye of the Education Department’s Office for Civil Rights, which, as of this week, is investigating 94 colleges for possible sexual-assault violations. Meanwhile, both women and men are filing Title IX lawsuits against their colleges, charging that they were not taken seriously enough or were dealt with too harshly because of their gender.

On Wednesday, for instance, the woman who accused Florida State University’s star quarterback, Jameis Winston, of rape filed a Title IX lawsuit against the university for allegedly dragging its heels in investigating her complaint, creating "a sexually hostile environment where her rapist roamed free."

Florida State officials have denied any such delay, and say they asked the woman and her lawyer at least nine times over 20 months to make a statement to begin a Title IX complaint. An outside investigator determined last month that there was not enough evidence to find Mr. Winston responsible for any violations of the university’s student-conduct code.

Title IX requires that campus officials investigate reports of sexual harassment and assault, whether or not the police are involved. Colleges that fail to respond to complaints promptly and fairly can face sanctions, including the loss of all federal funds.

The federal government has been enforcing the law much more aggressively since 2011, when the Education Department released a strongly worded "Dear Colleague" letter prescribing how colleges should handle reports of sexual misconduct. Last year the Obama administration cranked the heat up even more by issuing 20 pages of guidelines on how colleges should be identifying, responding to, and preventing sexual assault.

Among the institutions it cracked down on in recent years are the Virginia Military Institute, Tufts University, and Princeton University.

Meanwhile, new players are entering the enforcement arena. The U.S. Justice Department, which joined the Office for Civil Rights in an investigation of the University of Montana at Missoula in 2012, notified the University of New Mexico last month that it’s looking into complaints there too.

Spotlight on Harvard

But perhaps nowhere has the controversy been more intense recently than at Harvard, where the law school agreed last month to strengthen its response to sexual-assault complaints after the Office for Civil Rights, or OCR, found that the school’s handling of such cases violated Title IX.

The conditions of the agreement included a number of steps that are typical in such resolutions with OCR. The law school agreed to review complaints filed during the 2012-13 and 2013-14 academic years, conduct annual "climate assessments," and expand training for staff members.

The resolution doesn’t affect a separate universitywide policy that has been the subject of considerable dispute since it was adopted, in July. That policy, which is still being reviewed by OCR, centralized the handling of all sexual-harassment and sexual-assault cases. It also adopted a new, lower "preponderance of the evidence" standard for assessing guilt. That standard, which OCR requires, allows an accused student to be found guilty if the college is at least 51 percent sure of his or her responsibility for an alleged incident.

That’s far lower than the standard applied when rape cases are tried in criminal court. Prosecutors generally must prove "beyond a reasonable doubt" that someone is guilty—a requirement that women’s advocates argue can be overly burdensome.
Some higher-education experts predict that disagreements over Title IX requirements will ultimately be decided by the courts. The "preponderance of the evidence" standard that OCR calls for is one such sticking point because it raises questions about fairness, according to Peter F. Lake, director of the Center for Excellence in Higher Education Law and Policy at Stetson University.

Meanwhile, arguments over Harvard’s sexual-assault policies show no signs of dying down. This fall 28 current and former Harvard Law School faculty members, including a former dean, wrote a letter, published in The Boston Globe, calling Harvard’s procedures "overwhelmingly stacked against the accused."

That letter, in turn, prompted a rebuttal by a student group, which calls itself Our Harvard Can Do Better, that says that if the university’s policy is stacked against anyone, it’s the alleged victims.

According to the law professors, Harvard’s universitywide policy would put students at serious risk of being found guilty of rape if the students involved were "impaired" by alcohol or drugs, rather than "incapacitated," said Elizabeth Bartholet, a Harvard law professor who signed the letter.

A ‘Moment of Madness’?

"This means that students who engage in sexual touching or sexual intercourse while having a few drinks are all at risk of being held guilty of the very serious charges of sexual assault and rape," she wrote in an email to The Chronicle, "regardless of their understanding at the time that they mutually consented to such activity."

Harvard, she said, should have played a leadership role for other colleges grappling with these issues by resisting the federal requirements.

"I believe that history will demonstrate the federal government’s position to be wrong, that our society will look back on this time as a moment of madness, and that Harvard University will be deeply shamed at the role it played in simply caving to the government’s position," she wrote.

Harvard’s Title IX officer, Mia Karvonides, was unavailable for comment.

Few universities are going to be willing to take on the federal government when so much federal money is at stake, Mr. Lake said. "OCR holds everyone’s funding in the palm of their hands," he said. "When you’re playing with a nuclear force on the table, it changes the negotiating dynamics."

Like Harvard, Ohio State has found itself in the cross hairs of both federal regulators and advocates for accused students. In September the university agreed to strengthen its sexual-harassment and sexual-assault policies after OCR concluded that it had violated Title IX.

Investigators praised the university, though, for its efforts to clamp down on sexual misconduct in the university’s renowned marching band, including its decision to fire the band's director, Jonathan Waters, in July. The university did so after determining that the band had a "sexualized culture" that Mr. Waters didn’t do enough to stop.

But Title IX came back to haunt the university from a different direction when, in September, Mr. Waters filed a federal lawsuit against the university and its top leaders seeking reinstatement and at least $1-million. The lawsuit said, in part, that Ohio State had violated his rights under Title IX by treating him more harshly because he is a man.
Band alumni also leapt to his defense with their own 67-page report that accused the university of conducting a shoddy investigation and of "sacrificing" Mr. Waters to show OCR that it was complying with Title IX.

Meanwhile, women have filed dozens of Title IX complaints against their colleges, although relatively few of them have been resolved. And increasingly, men are joining in, arguing, like Mr. Waters of Ohio State, that they’re being discriminated against because of their gender.

A website called A Voice for Male Students lists 56 cases it says were brought by "young men wrongly accused of sex crimes [who] found themselves hustled through a vague and misshapen adjudication process with slipshod checks and balances and Kafkaesque standards of evidence."

Joshua A. Engel, a lawyer who also represents men who feel they’ve been unjustly accused of rape, said many colleges "provide significant resources for students who make allegations, but no support for students who are accused; many cannot afford legal help and must act alone."

Brett A. Sokolow, president of the National Center for Higher Education Risk Management—a consulting and law firm that advises colleges—said he gets about two new cases a week from men who feel they’ve been wrongly accused of sexual misconduct. That number has remained steady despite all the recent media attention to sexual assault, and despite the backlash over the misreporting of an alleged gang rape at the University of Virginia.

"Perhaps," he said, "colleges are getting the word about respecting the equal dignity of all students."

A 'Chilly Climate' on Campus

January 8, 2015

By Jake New

NO MU MENTION

Women and students of color continue to encounter psychologically damaging racism and sexism on college campuses, creating a climate where students struggle to graduate and are unsure who to turn to for help.

That’s according to an article published this week based on the findings of Harvard University’s Voices of Diversity project. The report is based on the interview and online survey responses of more than 200 students across four institutions—Missouri State University; two anonymous public institutions in the South and the Midwest; and a private, elite university in the Northeast.
Since the 1970s, the percentage of students on predominantly white campuses who are black has grown from 10 to 13 percent. The representation of Hispanic students on those campuses has grown from 4 to 12, and the percentage of Asian and Pacific Islander students has grown from 2 to 7 percent. Women now account for 57 percent of the collective student bodies at those institutions. At the same time, graduation rates for African-American, Hispanic, and Native American students are much lower than for other populations, and women account for only about one-third of full-time professors.

"Simply changing the representation of various groups does not in and of itself ensure that the experiences of racial/ethnic minority and women students are as positive as those of their white and male counterparts," the authors wrote. "Since institutional change tends to be slow, one cannot assume that increases in numbers of students of color have been accompanied by adequate changes in what has been called the 'chilly climate' for students of color and for women in undergraduate populations at predominantly white institutions."

The bulk of the incidents described in the report are what social scientists call "microaggressions." While these insults are more covert than blatant forms of racism and sexism, the actions cause prolonged doubt and stress, leaving students questioning their place on campus and whether they belong. The incidents not only hurt and offend, but often also lead to a student wondering how much “one can trust one’s own judgment,” the authors wrote.

“People who are [the targets of microaggression] spend a great deal of time in internal dialogue, asking themselves whether they imagined or misinterpreted what the other person said or did and, given the less blatant form of mistreatment, feeling apprehension and anguish about whether, if they try to name and object to what was done to them, they will only be told that they are overly sensitive or even that they are imagining it,” the authors said.

One South Asian-American woman recalled another student asking her if she’s carrying a bomb in her backpack. When she responded angrily, the student scolded her for not getting that it was a “joke.” An African-American senior at an elite, private institution said students – particularly white women – often express surprise that he is a student there or act afraid of him. A Native American student at the same university said that during a pow-wow organized by native students on campus, a man was shocked to learn that Native Americans attended the institution.

A Latino student said that, while hanging up posters in a dormitory, a white student mistook him for a custodian. Several black students reported instances where security officers were called to campus events, libraries, and even their own residences, because other students didn’t believe the black students were actually students at the university and assumed they were there to cause trouble. A Latina senior named Gladys described feeling “overwhelming emotion” when faced with racist and sexist incidents, then feeling weak because she isn’t sure how to react.

“I go nuts, I do,” she said. “It hurts so much, so much. It’s indescribable the way it makes you feel. Your whole body becomes hot and your eyes automatically become glassy, because you just feel so inferior.”

Students, particularly women, also reported not feeling welcome in the classroom. They reported faculty and classmates saying demeaning things about their intelligence or professors calling on women far less than on men during discussions. A dearth of female instructors and women featured in course materials left female students feeling unwelcome, they said. They also reported feeling unsafe on campus, providing specific examples of harassment, sexual assault, and rape. Groping wasn’t uncommon at parties and social clubs, women said.
Many women said that male students, even those who tended not to make racist statements, seemed to feel comfortable making sexist jokes in their company. While there were more instances of sexism than racism reported by students, the authors wrote, the participants were more likely to consider race-based rather than sex-based actions to be serious problems. Some students said they had accepted sexist actions as an unfortunate but "normal part of life."

"Because of the nature of students' experiences of sexism and racism on campus," the authors concluded, "it is essential for university administrators to pay close and intense attention to the suffering that results from mistreatment and to take steps to change the chilliness of the climate for women and students of color."

The Voices of Diversity project, which aimed to "develop a picture of how stereotype threat and microaggressions" affect women and students of color, was funded by the W.K. Kellogg Foundation and directed by Paula Caplan, an associate at Harvard's DuBois Institute. Henry Louis Gates Jr., and the Educational Testing Service's Michael Nettles served as the project's principal investigators.