

Baylor University Faculty Senate Meeting – Rough Notes
16 June 2016
Law School Room 127 • 3:30 p.m.

In response to the Pepper Hamilton findings and recommendations, and the actions of the Baylor Board of Regents pertaining to Title IX issues at Baylor University, the Baylor Faculty Senate met on three additional occasions during the summer of 2016. Though a complete attendance list was not recorded, a majority of senators were present on each occasion and the senators newly elected for the 2016-17 academic year were invited to participate.

Faculty Senate Chair Ron Beal called the meeting to order at 3:31pm and introduced the Chair of the Baylor Board of Regents, Ronald Murff. Chair Murff thanked the senate for the invitation to meet and expressed a desire to keep open lines of communication between the board of regents and the faculty senate. He began with an update on the status of Coach Briles' dismissal, sharing a message to be delivered publicly by Interim President David Garland. The message related that the university had suspended Art Briles on May 26 with the intent to terminate. Speculation had since arisen that the board was considering reinstating the coach, but the board had not wavered in its resolve to continue with this termination. The board was disappointed in the unfounded rumors that surfaced, but was resolved in its determination to continue acting responsibly for the good of the university.

Following these opening statements, the regent chair invited questions from faculty senators:

- Q: There is a great concern among the faculty about the lack of data in the findings and recommendations made available from the board and Pepper Hamilton.
- A: The board has determined that there will be no further written reports released from Pepper Hamilton. He frankly hoped that some of the data from the report never comes out, because of the ugly nature of the incidents reported. The university is bound by FERPA to protect student information in some situations. There are confidentiality agreements with some victims. For other victims, the university is concerned to protect their safety, and to avoid traumatizing them again by making their situations public. There are also litigation issues, and data cannot be released in order to protect the university. Interim President Garland is in agreement with these decisions.
- Q: Why did the university not quash rumor immediately when the media began reporting on board actions that had not been made public?

- A: The board did make a statement to the media. In the case of recent rumors of a reinstatement for Art Briles, the rumors were unfounded. A vote to reinstate the coach never came up. The board cannot control rumors.
- Q: It was announced on May 26 that other athletic personnel firings and suspensions would take place. Has there been follow through on this announced action?
- A: This is a continuing process. The chair cannot answer with specifics at this time.
- Q: The media has reported that the entire coaching staff, other than Coach Briles, has remained intact. Yet the Findings of Fact documents culpability with multiple coaches. Can you reconcile this discrepancy?
- A: The regents are not taking direct action on all of the findings; some issues are being left to the president and other leaders at Baylor. The approach of the board is to delegate power to act on the information that the regents can provide.
- Q: Can you release who was involved in covering up sexual assaults?
- A: No more information will be made public from the findings.
- Q: Many members of the Baylor community may be tainted unfairly because of the lack of information in the reported findings. Can you release information to prevent this?
- A: What has been released already is all that will be released.
- Q: Have you consulted public relations as well as legal advice in your decision making?
- A: Internally, yes. We understand the criticisms of the regents' actions, but much of the silence and slowness in the process is about trying to be careful to handle the situation responsibly.
- Q: Pepper Hamilton has published substantial written reports on Title IX reviews at other schools, such as Occidental College in Los Angeles. Why is our situation different?
- A: The board certainly talked to Pepper Hamilton about this, and agreed with the firm on what was published. FERPA confidentiality requirements made this the best route. The chair understands the criticism; but this decision has been made.

- Q: The two documents released are a set of recommendations on Pepper Hamilton letterhead and a Findings of Fact that appears to have been composed by the regents. Why was the Findings of Fact not composed by Pepper Hamilton?
- A: Pepper Hamilton was involved in the preparation of the Findings of Facts, and considered it fair and complete. There were some legal reasons (which the chair could not recall) for not publishing that document on Pepper Hamilton letterhead.
- Q: During our meeting with board representatives on May 26, it was announced that the board would share some of Pepper Hamilton's investigative findings with the police. Do you anticipate this coming up in the press?
- A: That will be up to the proper authorities.
- Q: We expected more movement on the recommendations since May 26, but so far we have met with silence. We are concerned that a lack of information will drive the rumor mill. We are concerned about the well being of the university.
- A: The last three weeks have certainly been uncomfortable. The chair lives in Dallas, but the media has been just as active in Baylor news there. The chair has to reaffirm that the board believes the actions they have taken to be right.
- Q: Can you respond to intimation in the May 26 announcements that the board itself has troubles: that they may have acted as fans rather than fiduciaries?
- A: The observation was not that the board acted inappropriately, but that the board must be careful of this tendency. There is a group that monitors best practices for boards, and Baylor is looking there for guidance.
- Q: Are you going to shrink the board of regents?
- A: There have been many different discussions, but the board has recently expanded to thirty four members. Looking at best practices, the Baylor board is below the average for private universities. Baylor's bylaws have some range of stipulations. The Baylor board has never had an executive committee; but will look at that possibility.
- Q: The faculty regent was not a party to the Pepper Hamilton presentations or subsequent discussions. The senate would have preferred that a faculty member had been involved in the process. Is it possible to reconsider the role of the faculty regent?

A: The board has talked about the possibility of making the faculty regent a full voting member. There are also student regents, but a voting position would not be appropriate in that case. The observation is fair, and the board will discuss this with the current faculty regent.

Q: In breaking ties with Coach Briles, will we see a monetary agreement in the millions of dollars? Should not this dismissal involve a zero dollar determination. Paying the coach to leave symbolically removes his culpability.

A: The chair understands the point, but cannot comment.

Q: Isn't the hiring and firing of coaches supposed to be the purview of university presidents and athletic directors rather than the board of regents?

A: That is true, but because the president was involved in regent actions, the board took action directly in the case of the coach.

Q: Will Interim President Garland have this authority?

A: Yes

Q: Will the university be able to find a new president with all of the unknowns of these recent actions?

A: Yes, Baylor is a great place. The chair has complete confidence that the university will find a new president. It's like a Church; the institution survives, because of our mission and calling.

Q: Is there a timeline for a new athletic director and president?

A: No, these searches are under discussion; it's a longer term process. The university needs and deserves to have input from multiple constituencies. The athletic director replacement is a different process under the purview of the president. The chair believes the university will be able to hire top notch people.

Q: Will faculty be involved in the task forces?

A: Yes.

Q: Can you give us an idea of what those task forces are?

A: The chair doesn't know all the details; but Baylor university needs to address Title IX problems, and the maturity and Christian walk of students before

more problems occur. The board has added the spiritual growth of students to the recommendations.

Q: Is the board involved in dealings with the NCAA?

A: Yes. The board was in contact with the NCAA even before public announcements were made. The NCAA will probably conduct its own investigations at some time.

Q: Why can the board not release a redacted version of the Pepper Hamilton report, one that has been edited to protect students and satisfy FERPA requirements? Section III of the Pepper Hamilton recommendations seems to imply that board members were involved in improper actions with athletics. Perhaps we are reading too much into these recommendations, but how are we to know without more information? President Starr called for complete transparency when he asked for Pepper Hamilton to conduct their review. Isn't this lack of transparency, to extend the church metaphor, a failure to walk in the light?

A: The chair understands these concerns, but to answer would only be repeating himself. The answers are the same as before.

Following this question and answer session, the chair of the board of regents thanked the faculty senate for their time and departed.

The senate followed these proceedings with a discussion. Many faculty members were dissatisfied with the determination of the board to release no further information. Other faculty members asked if the legal issues really required the degree to which information was withheld. A senator answered that it was impossible to know without more information. Some senators proposed inviting former President Starr to talk to the senate, but other senators believed that he would not be at liberty to divulge any more information.

Senators expressed concern that the senate not remain silent on the issues presented this summer, while others remarked that the senate silence has come from the lack of information. One senator expressed that the charge to work on the Christian character of our students shifts blame from the university's failure to address the needs of victims. Another senator disagreed, hearing this charge as important and preventative.

The executive committee shared points of discussion from a meeting earlier in the week with Baylor regent David Harper. Harper recognized that Baylor donors were too close to athletic personnel. He noted that the reason that the head coach and the president were the only personnel addressed by the direct actions of the board is because of the purview of the board. The board was trying to delegate action rather than micromanage. The lack of a final Pepper Hamilton report was on the advice of

others, whom Regent Harper did not feel at liberty to name. When asked how the implementation teams could pursue their tasks without more information from the Pepper Hamilton report, he replied that the teams would be provided with the information required as needed and in a way to preserve confidentiality.

The faculty senate executive committee reminded the senate that they had made recommendations of faculty members for the implementation teams on behalf of the senate. The Provost has already assigned chairs to these teams but many of the team members have not yet been named; but the executive committee was assured that there would be good faculty representation on the teams. Senator Andrea Dixon informed the senate that she had been assigned to chair the team on culture and climate. She received a call the previous week, and had talked at length to the provost about the responsibilities and research needs of her team. Some of the staff assigned to her team will have information pertinent to their work due to their positions at the university.

Senators continued to discuss what further actions could be taken by the senate. Some senators expressed a need to question the lack of transparency; others to question the purview of the board in the actions taken. Senators disagreed on whether the board had shown sufficient cause for dismissing President Starr.

Some senators asked about the needs of students and parents during freshman orientation. Are their questions and concerns being answered sufficiently and appropriately? One senator replied that he had been working in orientation sessions and had not noticed a great deal of concern about the administrative changes from parents and incoming students. Their questions continued to revolve around classes, residence halls, and other normal concerns. Title IX information was made available at orientations sessions.

Though some senators wanted to take further action to press for transparency from the board of regents, others suggested that to do so would jeopardize the progress that the senate was currently making in placing faculty on the implementation teams and the presidential search. One senator noted that Baylor's board of regents had membership in the Association of Governing Boards, and that the implementation team on governance and compliance would be able to make recommendations regarding the board. The team leader is President David Garland.

The meeting was adjourned at 5:19, with no additional action taken.

Respectfully submitted,

Steven Pounders
Recording Secretary