



Clark College

Board of Trustees Regular Meeting

Wednesday, March 10, 2021 at 5:00pm

Via Zoom

Zoom Link: [Here](#)

Meeting ID: 899 5512 8903

Password: 286648

Call In: (253) 215-8782

Board of Trustees Regular Meeting Packet Wednesday, March 10 at 5:00pm via Zoom

- I. Call to Order/Agenda Review - Chair Strong**
- II. Action Items – Chair Strong**
 - A. #1 – February 24, 2021 Regular Board Meeting Minutes
 - B. #2 – Adopting the Emergency Rule Changes to the Student Conduct Code by Adopting the Supplemental Title IX Student Conduct Procedures at WAC 132N-125-300 through 340
 - C. #3 – Consideration of Tenure
- III. Constituent Reports**
 - A. ASCC – Josiah Joner
 - B. AHE – Suzanne Southerland
 - C. WPEA – Chris Layfield
 - D. Foundation – Lisa Gibert
- IV. Student Presentation – Dr. Michele Cruse, Interim Vice President of Student Affairs and Venant Manirafash, International Student Peer Mentor**
- V. Reports from Board Members – Chair Strong**
- VI. President’s Report – President Edwards**
- VII. Public Comment – Chair Strong**

Public comment will be limited to two minutes each.
- VIII. Next Meeting**

The next regular meeting of the Board of Trustees is currently scheduled for Wednesday, April 28, 2021 at 5pm via Zoom.
- IX. Executive Session – Chair Strong**

An Executive Session may be held for any allowable topic under the Open Public Meetings Act.
- X. Adjournment – Chair Strong**

Clark College
Minutes of the Regular Meeting of the Board of Trustees
February 24, 2021
Via Zoom

In Attendance

Rekah Strong, Chair
Jeanne Bennett, Vice Chair
Jane Jacobsen, Trustee
Cristhian Canseco Juarez, Trustee
Paul Speer, Trustee

Administrators

Dr. Karin Edwards, President
Dr. Michele Cruse, Interim Vice President of Student Services
Dr. Sachi Horback, Vice President of Instruction
Darcy Rourk, Interim Vice President of Human Resources
Sabra Sand, Interim Vice President of Administrative Services
Valerie Moreno, Chief Information Officer

Others

Tsering Cornell, Assistant Attorney General
Suzanne Southerland, AHE President
Sarah Thorsen, WPEA Steward
Josiah Jones, ASCC President
Lisa Gibert, CEO, Clark College Foundation
Stephanie Weldy, Recorder

I. Call to Order/Agenda Review

Chair Strong called the meeting to order at 5:02pm.

II. Action Items

- A. #1 – January 27, 2021 Board Meeting Minutes
- B. #2 – February 10, 2021 Board Special Meeting Minutes
- C. #3 – C-Tran Easement Proposal Letter (amended agenda)

MOTION: Trustee Jacobsen made a motion to amend the agenda with Action Item C (C-Tran Easement Proposal Letter). Trustee Speer seconded the motion and Action Item C was added to the agenda.

MOTION: Trustee Jacobsen made a motion to approve Agenda Items II A-C. Trustee Bennett seconded the motion and Agenda Items II A-C unanimously passed.

III. Constituent Reports

A. ASCC

President Joner gave an update on ASCC and highlighted the Canvas page, the Penguin Pantry and Legislative work (Senate Bill 5194) and the ASCC Constitution and Bi-Laws Committee. President Joner shared that he had a meeting with Trustee Canseco Juarez and looks forward to working with him. President Joner introduced Kai Sukles, ASCC Finance Director.

B. AHE

Suzanne Southerland shared an update with the Board regarding a response from the faculty survey and as a result, a faculty social (via Zoom) was planned. Ms. Southerland shared that faculty are looking forward to hearing more about the re-entry plan. Ms. Southerland gave a lobbying update and that more information would be made available after the Senate Budget is released in March. Ms. Southerland shared that there are 50 adjuncts who are currently out of work and that there is \$500 available (per adjunct who is currently not working) for a one-time grant. Ms. Southerland shared that the faculty have been participating in Clark's Equity Conference and shared her appreciation to Ms. Rashida Willard and the Diversity, Equity and Inclusion team and committee.

C. WPEA

Sarah Thorsen shared that WPEA has met with Labor Management and that conversations are ongoing. WPEA welcomed new Employee Relations Manager, Yaju Dharmarajah. Ms. Thorsen shared that based on a negotiated agreement between Clark and WPEA, there will be a training facilitated by Public Employment Relations Commission (PERC) regarding labor law for the Executive Cabinet and other Supervisors.

D. Foundation

CEO Gibert shared her appreciation in regard to Clark's Equity Conference and shared her gratitude to Ms. Rashida Willard and the Diversity, Equity and Inclusion team and committee. CEO Gibert shared that the Foundation hosted an event last night with Dennis Hayes, Founder of Earth Day. She noted that in the Foundation Report there were some questions answered that were asked by Trustee Speer. CEO Gibert shared that she has met with Trustee Canseco Juarez and is looking forward to his engagement on the Board.

IV. Faculty Presentation – Dr. Sachi Horback, Vice President of Instruction and Justin Allen, Adjunct Faculty, Transitional Studies (English)

Dr. Sachi Horback introduced Justin Allen, Adjunct Faculty, Transitional Studies (English). Mr. Allen shared a PowerPoint presentation and highlighted sections in his syllabus that focus on equity and justice. Mr. Allen shared the definition of the College Culture, Vision and Strategic Plan, Racial Justice Statement developed by the English Department, a Solidarity Statement and Policies pertaining to disabilities (ADA Accommodations). The Board thanked Mr. Allen for his presentation.

V. Reports from Board Members

Trustee Bennett shared that she participated in a business engagement meeting with folx from the college and a local business. Trustee Bennett shared that she participated in a Board Equity Training and thanked Ms. Willard and her team for their excellent work. Trustee Bennett shared that she has had the opportunity to meet with President Edwards and is appreciative of her leadership at the College. Trustee Bennett shared that she is currently participating in the Northwest Regional Equity Conference and is excited to learn more.

Trustee Canseco Juarez shared that he has been completing the onboarding process and has met with individual Executive Cabinet members, Lisa Gibert (Foundation), Josiah Joner (ASCC) and Tsering Cornell (AAG). Trustee Canseco Juarez shared that he participated in the Community College National Legislative Summit and Trustee Tuesday events. Trustee Canseco Juarez shared that he participated in the Board Equity Training and shared his appreciation to Ms. Rashida Willard and her team at the Office of Diversity, Equity and Inclusion. Trustee Canseco Juarez shared that prior to today's Board meeting, he participated in an Executive Session interviewing tenure candidates.

Trustee Jacobsen shared that she participated in the Board Equity Training and thanked Ms. Willard and her team's work. Trustee Jacobsen shared that she participated in a legislative meeting with Senator Annette Cleveland (49th District). Trustee Jacobsen shared that there was advocacy supporting the Capitol Budget and House Bill 1044 and Senate Bill 5227. Trustee Jacobsen shared that she is attending the Northwest Regional Equity Conference and is looking forward to the rest of it.

Trustee Speer acknowledged that February is Black History Month. Trustee Speer shared his report based on the Colleges four priorities for this academic year. Trustee Speer shared that from the lens of student success, he continues to be an active member of the ACT Equity Committee and that he is participating in the Equity Conference. Trustee Speer shared that from the lens of achieving financial stability, he has met with the Board Budget Committee and that he looks forward to learning more about the updated budget procedures. Trustee Speer shared that from the lens of improving campus climate, he participated workshops provided by Ms. Melissa Williams and the Office of Diversity, Equity and Inclusion team, regarding Dreamers and African American Housing Update. Trustee Speer congratulated the ODEI team for the substantial impact they have had in the community with workshops and presentations. From the lens of expanding and deepening community engagement, he had a meeting with RealWear and other Clark College representatives.

Chair Strong thanked Dr. Edwards for her work and helping connecting folx, relationship repair and focus on racial equity. Chair Strong shared that she participated in the Board Equity Training and will be participating in Clark's Equity Conference. Chair Strong shared that she has met with Trustee Canseco Juarez and is looking forward to working with him on the Board. Chair Strong shared that she participated in the Executive Session prior to the regular meeting interviewing tenure candidates.

VI. President's Report – President Edwards

A. President's Updates

President Edwards shared that there are conversations for developing a comprehensive re-entry plan (tiered approach) for the fall. A task force has been identified that is a subcommittee of the Recovery Management Team. President Edwards shared that while all students and programs have been impacted, some have been more disadvantaged than others. We will look for ways to bring them back to engage in person. President Edwards shared that there are requests and conversations regarding in-person commencement. More information will be made available after a student survey has been conducted. President Edwards shared that she participated in the National Community College Legislative Summit. President Edwards shared that there is an Educational Opportunity Center Grant (due by March 1) being submitted. President Edwards shared that on a Federal level, there will be another relief package allocated to supporting education; will potentially provide some more relief to students and the institution. President Edwards shared that the State Budget Forecast will be released in March. President Edwards thanked the Office of Diversity, Equity and Inclusion for their work facilitating the Northwest

Regional Equity Conference. President Edwards shared that she will participate in some upcoming meetings in March; a Budget Kickoff Meeting, the State of the College, a meeting with the Mayor of Ridgefield and a virtual Sakura event.

VII. **Public Comment**

There was no public comment.

VIII. **Next Meeting**

The next regular meeting of the Board of Trustees is currently scheduled for Wednesday, March 10, 2021 at 5:00pm via Zoom.

IX. **Executive Session**

The Board will convene in Executive Session under RCW 42.30.110(1) at 6:31pm to discuss with legal counsel representing the agency matters relating to agency enforcement actions or, litigation or potential litigation. The Executive Session is expected to last until 6:47pm. No final action will be taken during this executive session.

X. **Adjournment**

There being no further business, the meeting adjourned at 6:50pm.

Rekah Strong, Chair

Stephanie Weldy
February 24, 2021

D



RULE-MAKING ORDER

EMERGENCY RULE ONLY

CR-103E (December 2017) (Implements RCW 34.05.350 and 34.05.360)

Agency: Clark College

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: On May 19, 2020, the Federal Register printed amendments to Title IX regulations [85 FR 30575]. The new regulations address the grievance process for formal complaints of sexual harassment and are scheduled to take effect on August 14, 2020. This requires emergency updates to the College's Code of Student Conduct to be compliant with federal regulations.

Citation of rules affected by this order:

New: Discipline Procedures for Cases Involving Allegations of Violation of Title IX, WAC 132N-125-300, WAC 132N-125-305, WAC 132N-125-310, WAC 132N-125-315, WAC 132N-125-320, WAC 132N-125-325, WAC 132N-125-330, WAC 132N-125-335, WAC 132N-125-340

Repealed:

Amended:

Suspended:

Statutory authority for adoption: Chapter 34.05 RCW and RCW 28B.50.140(13); 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Clark College is required by the United States Department of Education to comply with the recently adopted Title IX regulations, which take effect on August 14, 2020.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	<u>9</u>	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New 9 Amended ____ Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	____	Repealed	____

Date Adopted: 3/10/2021

Name: Bob Williamson

Title: Special Projects Coordinator

Signature:

**DISCIPLINE PROCEDURES FOR CASES INVOLVING ALLEGATIONS OF VIOLATION OF
TITLE IX**

NEW SECTION

WAC 132N-125-300 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with Clark College's standard disciplinary procedures, WAC 132N-125-005 through 132N-125-225, these supplemental procedures shall take precedence.

NEW SECTION

WAC 132N-125-305 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, Clark College may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" encompasses the following conduct:

(1) Quid pro quo harassment. A Clark College employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities, or employment.

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half

related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. Consensual sexual intercourse between someone who is eighteen years of age or older and someone who is under the age of sixteen.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

NEW SECTION

WAC 132N-125-310 Title IX jurisdiction. (1) This supplemental procedure applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a Clark College educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which the college exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by the Clark College.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit Clark College from pursuing other disciplinary action based on allegations that the respondent violated other provisions of the college's student conduct code, WAC 132N-125-200.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

NEW SECTION

WAC 132N-125-315 Initiation of discipline. (1) Upon receiving the Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
 - (b) Identify the alleged Title IX violation(s);
 - (c) Set forth the facts underlying the allegation(s);
 - (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and
 - (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
 - (i) The advisors will be responsible for questioning all witnesses on the party's behalf;
 - (ii) An advisor may be an attorney; and
 - (iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.
- (3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

NEW SECTION

WAC 132N-125-320 Prehearing procedure. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132N-125-125. In no event will the hearing date be set less than ten days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the inves-

tigation, regardless of whether Clark College intends to offer the evidence at the hearing.

NEW SECTION

WAC 132N-125-325 Rights of parties. (1) Clark College's student conduct procedures, WAC 132N-125-120, 132N-125-125, 132N-125-130, and 132N-125-200, and this supplemental procedure shall apply equally to all parties.

(2) The college bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of the college's choosing on the party's behalf at no expense to the party.

NEW SECTION

WAC 132N-125-330 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

- (c) Privileges applicable to members of the clergy and priests;
- (d) Privileges applicable to medical providers, mental health therapists, and counselors;
- (e) Privileges applicable to sexual assault and domestic violence advocates; and
- (f) Other legal privileges identified in RCW 5.60.060.

NEW SECTION

WAC 132N-125-335 Initial order. (1) In addition to complying with WAC 132N-125-135, the student conduct committee will be responsible for conferring and drafting an initial order that:

- (a) Identifies the allegations of sexual harassment;
 - (b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
 - (c) Makes findings of fact supporting the determination of responsibility;
 - (d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;
 - (e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;
 - (f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;
 - (g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to Clark College's education programs or activities; and
 - (h) Describes the process for appealing the initial order to the Clark College president.
- (2) The committee chair will serve the initial order on the parties simultaneously.

NEW SECTION

WAC 132N-125-340 Appeals. (1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132N-125-215.

(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) President's office shall serve the final decision on the parties simultaneously.



MEMORANDUM

To: Dr. Karin Edwards
President

From: Dr. Sachi Horback
Vice President of Instruction

Date: February 5, 2021

Re: Recommendations for Granting Tenure

The Tenure Review Committees have forwarded their recommendations on whether or not to grant tenure for the following third year tenure-track faculty:

3rd Year Tenure-Track Faculty	RIF
1. Cavalli, Joseph	HISTORY
2. Eddinger, Allen (Mark)	MATHEMATICS
3. Ewing-Johnson, Amy	DENTAL HYGIENE
4. Favara, Melissa	ENGLISH
5. Frank, Tyler	CAREER AND ACADEMIC PREPARATION
6. Harris, Douglas	MUSIC
7. Howard, Christina	BIOLOGY
8. Kuzera, Sarah	MEDICAL ASSISTING
9. Mayer, Michelle	MATHEMATICS
10. Sherwood, Kristin	COLLEGE 101
11. Slovic, Elizabeth (Beth)	JOURNALISM
12. Smith, Christina	ENGLISH

The Board will vote regarding tenure on Wednesday, March 10, 2021.