



TO: Paul LeBel, Provost and Vice President for Academic Affairs
Robert Boyd, Vice President for Student and Outreach Services
Alice Brekke, Vice President for Finance and Operations

FROM: Special Task Force

James Antes, Professor, Psychology Department, Task Force Chair
Linda Baeza, Director of Graduate Admissions and Assistance, Graduate School
Oksana Bondarenko, Student
Robert Bonev, Community Member and Parent
Cheryl Brooks, Disability Specialist, Disability Services for Students
Jordan Buhr, Student
Sharon Carson, Professor, English Department and Philosophy and Religion Department
Michael Crenshaw, Student and Vice President, Student Government
Lillian Elsinga, Associate Vice President for Student Services and Dean of Students
Gregory Gordon, Assistant Professor, Law School and Director, Center for Human Rights and Genocide Studies
Janice Hoffarth, Administrative Assistant, Music Department and President, Staff Senate
Leigh Jeanotte, Assistant to the Vice President for Student and Outreach Services and Director of American Indian Student Services
Michael Loewy, Associate Professor and Chair, Department of Counseling Psychology and Community Services
Douglas Munski, Professor, Geography Department
Kristine Paronica, Director, Conflict Resolution Center
B.J. Rainbow, Student
Dan Rice, Dean and Professor, College of Education and Human Development
Kenneth Seiden, Student
With special acknowledgment of Diane Hadden, Director of Summer Sessions, note-taker

RE: Final Report of the Special Task Force: Improving the Climate for Diversity on Campus and the University's Response to Bias-Related Incidents

DATE: June 4, 2009

Executive Summary

The Special Task Force (STF) was formed in the summer of 2008 by Provost Greg Weisenstein, Vice President Robert Boyd, and Vice President Bob Gallagher as a response to bias-related incidents that had occurred on campus during the prior academic year. The charge to the STF was to make recommendations regarding the University's policies, procedures, and practices for responding to bias-related incidents, especially in three key areas: improvement of the climate for diversity on campus; the University's rapid response process for dealing with bias-related incidents; and coordination of the University's efforts for preventing and responding to bias-related incidents.

The STF met regularly and broke into subgroups to work on specific aspects of its charge. The STF or its subgroups interviewed people on campus and at other institutions who have some responsibility for dealing with bias-related incidents. The STF also examined relevant UND policies and procedures and many documents from UND and other institutions. Also examined were materials associated with three specific bias-related incidents that occurred on campus.

Changes in the UND higher administration, legal issues, mixed messages about the scope of STF work, the high workload associated with the STF charge, and submitting a partial set of recommendations part-way through the STF process all constituted substantial challenges for the STF.

It is the STF observation that, contrary to the stated values of the university, a climate exists on campus wherein diversity is too often associated with trouble or problems, and where ongoing conflict related to racial issues has shut down dialogue and progress on many fronts related to race and other forms of diversity. While many members of the university community do value diversity, there is an overall sense that diversity is not, in fact, sufficiently understood or embraced at UND. An attitude has developed in which people who file complaints are considered to be complainers and incidents are too often viewed as isolated. Some campus officials seem excessively concerned about public relations and legal liability issues. In addition there is skepticism in the University community that existing policies and procedures for handling bias-related incidents actually work. The STF does note that recent changes in campus leadership have already made a positive impact, signaling that constructive progress is indeed possible in relation to current challenges facing UND.

The STF reached the following findings that led to its recommendations: It believes that the policies, procedures and practices for responding to bias-related incidents are designed to work well but could be improved. Areas for improvement include: reporting of bias-related incidents; training of people involved in reporting and responding to bias-related incidents; and overcoming potential undesirable outcomes associated with the requirement for incidents to be addressed at the lowest possible level. The STF believes that bias-related incidents are under-reported. There is lack of clarity as to when raising a concern becomes a complaint and when formal or informal processes should be used. Many members of the University community are unfamiliar with

policies, procedures, and practices related to bias-related incidents and, in general, with what constitutes bias and what the boundaries are regarding free speech.

The STF based its recommendations on several fundamental principles, including campus safety, restorative justice, fairness, education, due process, timeliness, transparency, public disclosure, inclusion, and non-retaliation.

The STF developed 11 recommendations in the three broad categories of staffing, practices, and campus climate:

- 1. Hire a high level full-time Diversity Officer.**
- 2. Hire an Ombuds Officer.**
- 3. Improve the Process for Reporting Bias-Related Incidents.**
- 4. Improve Training of Persons Charged with Responding to Bias-Related Incidents.**
- 5. Specify Options for Investigating Bias Incidents Beyond the Lowest Possible Level.**
- 6. Augment the Rapid Response Process by Establishing a Rapid Response Advisory Team.**
- 7. Ensure that Communication about Incidents is Clear and Timely.**
- 8. Establish Forums for Building Open Dialogue and Spirited Debate Into the Culture of UND.**
- 9. Engage the Campus and Community in Discussion and Clarification of the Concepts of “Bias” and “Free Speech.”**
- 10. Form an Active Faculty/Staff Group Charged with Working to Develop and Support Academic, Interdisciplinary, Scholarly and Professional Projects related to Diversity.**
- 11. Develop a Process for Regular Input from the Campus Community About Campus Climate and Policies, Procedures, and Practices Related to Bias Incidents.**

The STF urges implementation of all of these recommendations and requests an August meeting to hear about progress.

IMPROVING THE CLIMATE FOR DIVERSITY ON CAMPUS AND THE UNIVERSITY'S
RESPONSE TO BIAS-RELATED INCIDENTS
Final Report of the Special Task Force
June 4, 2009

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Context of this Report

The purpose of this report is to provide recommendations of the Special Task Force (STF) in accordance with the mission set out in its charge.

The STF was formed during the summer of 2008 at the initiation of Provost Greg Weisenstein, VP Robert Boyd, and VP Bob Gallagher as a response to two major bias-related incidents on campus during the prior academic year: a sorority party in which UND students dressed in stereotypical “Indian” garb and posed for photos which were then posted on Facebook, and a series of incidents involving anti-Semitic harassment of a Jewish student in the residence halls, accompanied by several vandalism incidents involving swastikas in different locations on campus. Both of these incidents garnered national media attention and caused significant stress and upset for students, staff and faculty at UND as well as for members in the community. Several other incidents (e.g., *Dakota Student* blog) reinforced the need for the STF and its work.

Task Force Charge

Based upon the original letter of invitation, our meetings with the Provost and VPs Boyd and Gallagher, and our meeting with President Kelley, we understand our charge as developing recommendations in these areas:

1. Improving policies, procedures, and practices regarding the University’s response to bias-related incidents.
2. Prevention—educating the campus to improve its environment for living and working.
3. Designing a rapid response team, to assist the President and others on campus in dealing with a bias-related incident in a wise and timely manner when one occurs.
4. Coordination—enhancing effective communication and cooperative relationships among entities that might be involved in preventing or responding to bias-related incidents.

Task Force Process

The STF met as a group 23 times since it was formed in mid-July. One of the early challenges was to find a time for 17 busy people to meet, which we were eventually able to do (with the exception of one member). Once we established weekly 90-minute meetings we focused our attention on several important procedural issues that we believed we needed to address.

STF Charge. We wanted to be absolutely certain what the expectations are for the work of STF and to whom STF would report. We met twice with the Provost and Vice Presidents Boyd and Gallagher (July 17 and September 8) and once with President Kelley (September 22) to attain this clarity.

STF Membership. Members were concerned that STF membership did not adequately represent the diversity of the student body and, after some discussion, arranged with the

Provost and Vice Presidents Boyd and Gallagher to expand STF by two student members, one Native American student and one international student.

STF Decision-making. We discussed how STF would reach decisions and concluded that we would seek consensus, sincerely seeking to craft recommendations with which every member would be satisfied. We understood that we may not always be able to achieve consensus and agreed to a decision rule in those circumstances of 2/3 majority.

Assembly of Materials. Lillian Elsinga and Diane Hadden compiled materials into binders for members of the task force that included relevant UND policies and a description of a relevant bias-related case. A Blackboard site was established for STF where agendas, minutes, and other documents are posted.

Organizing our Work. We saw that our work could be divided generally into three broad areas:

- (1) Examining existing relevant policies, procedures, and practices;
- (2) Designing the portfolio and operating procedures of a rapid response team;
- (3) Developing ways to assess and improve the climate for diversity on campus.

We subdivided into three groups to carry out those three tasks and agreed to meet monthly as an entire task force. (Membership in each of the subgroups is identified in Appendix B.) Prior to the start of the subgroup work, we devoted three STF meetings to learning details of two specific recent campus bias-related incidents (the sorority party and the swastika incident) to provide members with concrete illustrations. Subgroups met regularly since dividing into groups on October 6.

Interim Report. An interim progress report was submitted to the vice presidents and the President on November 12, 2008. It described the STF process and its progress toward meeting its charge. The anticipated completion date of early April was reported.

Draft Rapid Response Recommendations. Because the vice presidents expressed substantial interest in receiving recommendations regarding rapid response, even before we fully considered other aspects of our charge, the STF rapid response subgroup devoted great time and energy to its recommendations during the fall. We asked the vice presidents and the President if they wanted a draft of the rapid response recommendations prior to our full consideration of policy implications. After hearing from President Kelley that he was interested in receiving the draft recommendations soon, materials associated with draft rapid response recommendations were submitted on December 11. The vice presidents requested a meeting to discuss the draft and that meeting, involving the vice presidents (two of whom were new), task force representatives, Affirmative Action Officer, and UND General Counsel, was held on February 6. At that meeting the vice presidents expressed the desire to confer with each other and then provide further

guidance for our work. We received a memorandum from them, dated March 10, 2009, providing their summary of the key objectives that were apparent to them in our draft recommendations, as well as a set of concerns. The memorandum also expressed the desire to meet with the task force and that meeting was eventually held April 6, 2009. It was clear at that meeting that forwarding the RRT recommendations out of context and without reference to the full project of the task force had, in fact, been problematic.

Resources Accessed. In the course of our work the STF, or its subgroups, consulted a wide range and extensive list of persons and documents, which are listed in specific detail in the Appendix A.

Task Force Challenges

During the course of our work on this project there were several challenges that emerged that made our efforts more difficult. It is helpful to know these challenges so that the context for our recommendations may be more fully understood.

Administrative changes. The task force was formed just as Robert Kelley began his service as UND President. Because the STF had been formed prior to his arrival on campus, there was substantial uncertainty among STF members about the level of support that President Kelley would show toward the STF. We arranged a meeting with him in September to discuss this issue.

Shortly after the STF work was underway Vice President Gallagher announced his retirement and Alice Brekke assumed his position on an interim basis (now no longer interim). Somewhat later Provost Weisenstein took a president's position elsewhere and Paul LeBel was appointed to serve as Provost until a national search could produce a replacement. Thus two of the three senior administrators who constituted the committee are no longer employed at UND and their replacements did not at first have full background about STF and its charge. This led to concerns on the part of STF members that the work of STF would not have the priority it once had and that higher administration to whom our final report is to be sent would not have the full context of our work.

Legal constraints and mixed messages. There are two instances in which the work of STF was slowed (at best) or compromised (at worst) by conflicting messages we received from different university offices. First, we were assured by the vice presidents that there would be no constraints on the parameters of our work (STF Minutes, July 17, 2008). But when our draft rapid response recommendations were made, legal concerns were raised concerning the modification of the UND Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment implied in our recommendation and the jeopardy in which this might place the University with respect to an open case with the United States Office of Civil Rights (February 6 meeting with vice presidents, Affirmative Action Officer, and UND General Counsel).

Second, we experienced frustrating delays in receiving requested materials from the UND Housing office related to the spring swastika incidents. Several months after our initial request we learned (at our February 6 meeting with the vice presidents, Affirmative Action

Officer, and UND General Counsel) that University legal advice constrained UND Housing with regard to what could be reported to STF. However, STF members were not directly informed about these constraints, leading to a perception that lack of transparency was a problem.

Workload issues. It quickly became obvious once the STF gained clarity on its charge that the original October deadline for completing its work was much too ambitious. With weekly meetings and research conducted between meetings by 17 already-busy people, an academic year time frame would have been much more realistic. We agreed not to be pressured by the press of time, with one exception described in the next point.

The workload made it especially difficult for students to participate meaningfully. In addition, the formation of the STF during the summer months also limited student participation.

Submitting a partial set of recommendations. During the fall, the vice presidents were especially eager to receive recommendations relating to rapid response and urged the STF to focus its attention first on that topic and submit those recommendations. We succumbed to that pressure and submitted draft recommendations in December, without fully exploring policy implications or consulting persons potentially affected. The result could have been predicted. The draft recommendations were criticized for not being fully thought-out and STF members were frustrated because of a sense that the full scope of its ongoing work was not understood.

Observations on the UND Climate

To preface our recommendations, we offer a few observations and concerns about current conditions on the campus of UND related to issues of diversity and its critical role in quality education. These observations reflect a strong consensus among members of the STF that *diversity is a pre-condition for excellence in higher education*. The comments below are drawn from long discussions of our own experiences on campus, our work over many years with a wide range of colleagues and students at UND, and our discussions with other faculty, staff and students during the course of the work of the STF. We recognize that climate at UND must be understood in the broader contexts of our region: UND as a campus community exists within broader cultural patterns that affect dynamics on campus. Reciprocally, climate at UND can influence dynamics related to diversity in the broader community.

We emphasize that the following perceptions about the climate shaping our campus and community are offered to contribute to fuller and more open discussion, debate, and collaborative work for the campus on these matters. The environment in which we live and work can be likened to the water in a fish bowl, invisible to the inhabitants but nevertheless exerting a dramatic influence on them. During our discussions regarding the “fish bowl water” in which we all swim at UND, we were struck by the degree to which we ourselves participate in some of these patterns and practices. We offer this commentary in the spirit of constructive and honest self-criticism for the campus community.

There seems to be a wide perception that over the past years, UND has become an institution too strongly conditioned by a sense that diversity inevitably leads to irreconcilable and unconstructive conflict. There is a perception shared by many that we have a campus and community environment where diversity is too often associated with Trouble or Problems. We refer here to a relative lack of experience both on campus and in the region with truly robust social and political dynamics that come with wide ranging diversity, and especially with racial/ethnic, religious, cross- cultural or sexual identity diversity.

In addition to this relative lack of experience, there is strong agreement among many members of the UND community that the now decades-old controversy over UND's use of American Indian cultural imagery in its athletic programs has brought many people on our campus and in the wider community into ongoing difficult conflict over matters related to race, culture, history, and relative political power, and has brought to UND and our region significant media coverage – mostly negative – focused on a highly charged controversy.

In our view, this longstanding association of diversity with conflict and trouble has conditioned the campus in significant and increasingly damaging ways. Most of these effects seem to us to inhibit UND's intellectual and social vitality, especially as controversy over the past years has led to a closed climate regarding discussion, debate, and acknowledgement of issues related to diversity, not to mention a litigation-sparked closed climate related to acknowledgment of actual problems on the campus.

Additionally, we cite the perception that there has occurred over time an erosion of trust in UND's ability to respond effectively to concerns and/or incidents related to bias or diversity. Trust is an essential element of a healthy campus environment. Along with this concern, we are happy to note that there are many UND community members who are strongly committed to working to build (and rebuild) trust on the campus.

We are encouraged by recent changes at UND in upper level administrative approaches to these dynamics. Specifically, President Kelley has demonstrated a genuine commitment to addressing complex issues directly. He is clearly committed to careful analysis of actual conditions on the campus, and to involving a wide range of people in the collaborative work necessary for progress related to diversity. But because many social patterns and institutional practices currently in place have their own long history, we remain concerned about the challenges posed by strongly engrained cultural habits at UND and in the community.

Specifically, we identify the following dynamics as important for further consideration:

An embedded general defensiveness on the campus and in the community related to matters requiring the full recognition of minority viewpoints, rights or identities.
High levels of worry about public relations and the image of the campus related to matters of diversity, which makes acknowledgment of real problems difficult.

A campus culture emerging over the past few years, especially in the context of Office of Civil Rights complaints, the NCAA lawsuit, and the swastika incidents, etc., wherein criticism or dissent is associated with disloyalty to the institution. Honest criticism, rigorous debate of policy or academic dissent is seen not as the lifeblood of a quality university but as “rocking the boat” in a negative way.

Initial public responses from campus officials have too often seemed hyper-sensitive to liability concerns and legal matters, rather than educational issues and welfare of persons. An atmosphere where people who do file complaints related to bias or diversity are positioned as complainers, who challenge the normative pressure at UND to maintain that “we are a happy community.”

A tendency to treat serious incidents, large and small, as isolated events.

Structural barriers within the institution can impede our ability to identify larger problems or patterns: it can be difficult to connect the dots.

There seems to be a campus and community presumption that our area does not have a problem with bias or bias incidents, a presumption that can in some cases be expressed in the form of resistance to looking at patterns of repeated types of incidents or problems.

A climate where to a troubling degree, good people with a range of important insights have disconnected from official campus process or left the table in response to ongoing conflicts and problems.

We believe that these conditions are inhibiting the creativity, rigor, and vitality of UND’s efforts to increase genuine and deep-level diversity, and may have strongly negative impacts on recruitment of a wider range of students and faculty. We argue that these limits diminish the quality of the UND academic experience – and stifle intellectual growth – for all students, staff and faculty. Further, we are concerned that these limits inhibit our students as they begin to work in an increasingly international and globalized economy and social world, whether they stay in North Dakota or move elsewhere.

Our Key Findings

It was not a part of the charge of the STF to investigate specific incidents that have occurred on campus, although we did receive substantial amounts of information from multiple sources related to the swastika incidents that occurred during the spring semester of 2008, the sorority party incident, and the *Dakota Student* incident. We undertook in-depth review of existing policies and procedures related to the University’s handling of bias-related incidents and interviewed UND officials holding key roles in implementing those policies. Based upon this information and the experiences of members of the STF we offer these key findings related to handling and preventing bias-related incidents.

1. In general, UND’s policies, procedures, and practices for responding to bias-related incidents seem designed to work well, but there are areas in which improvement is warranted. Those areas include reporting of bias-related incidents, training of people involved in reporting and responding to bias-related incidents, and overcoming potential

undesirable outcomes associated with the requirement for incidents to be addressed at the lowest possible level. More detail is provided below.

2. Some persons responsible for implementing aspects of the policies need to receive more training. This applies especially to persons for whom responding to bias-related incidents is only a small portion of their responsibilities. This includes many of those responsible for handling complaints under the UND Equal Opportunity/Affirmative Action Policy and Procedures for Complaints of Discrimination or Harassment, such as academic deans and all department heads. It also includes the Housing staff who have the direct daily contact with students. We know that the Housing office has an ongoing commitment to training its staff and has recently placed even greater emphasis on training.
3. The number of bias-related incidents is very likely under-reported. Cases rising to the level of hate crime are basically non-existent according to UND Police records. The Affirmative Action Office reports complaints numbering between about 40 and 60 per year over the last three years. Yet we heard of many specific incidents that are not a part of these records—international students who fear losing their status in this country if they file a complaint, staff members who experience sexual harassment from supervisors but don't see a way of responding without jeopardy to their job, staff members who work out complaints informally without reporting them.

It is important to have full and accurate reporting of bias-related incidents as well as to deal effectively with them. It is possible that these two values can conflict with each other. For instance, the reporting of an incident tends to create an adversarial atmosphere, which in turn may limit the learning opportunities that may be present in the situation.

4. It is appropriate that there are opportunities for individuals to explore concerns without filing a complaint and that formal and informal processes exist for handling bias-related incidents. However, there is lack of clarity as to when raising a concern becomes a complaint and when formal or informal processes should be used. In addition it is not clear if or how expressions of concern and incidents that are managed informally are reported. Some of these incidents result in complaints, are handled formally, and thus appear to be a part of the statistics that are reported. Other incidents (we estimate that this number is large) do not result in complaint and are managed informally by the parties, sometimes involving consultation with others, such as the Affirmative Action Office or the Conflict Resolution Center.
5. The requirement under UND Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment to handle complaints "...at the lowest possible level to ensure a quick and effective response" can have the unintended consequence of stifling complaints. The apparent goals of this requirement to gain a quick response and to hold local units responsible for responding to complaints are laudable. But if members of the local unit are subjects of the allegation, the complaints are not likely to be reported or handled well. We learned from the Affirmative Action Officer that in such circumstances, complaints can be handled in that office or at a

different level of the organization. This is important and members of the University community need to be made aware of this possibility.

6. Members of the University community are generally unfamiliar with policies, procedures, and practices related to bias incidents and do not know what the policies call for should an incident occur. The University is not well served by this because the result too often is an incident that is not reported and is handled poorly.
7. There are important values to consider and balance in handling bias-related complaints associated with the alleged victim and the alleged perpetrator. Victims need to be protected, discrimination and harassment need to stop, complaints should be investigated completely, and persons found responsible should be held accountable. Those who are accused should be able to defend themselves, and innocent people should not be under a cloud of suspicion or have their reputations damaged. The STF discussed this matter thoroughly and did not reach consensus on how these values should be maintained, especially with respect to the reporting of incidents.
8. There is lack of clarity on what constitutes “bias” and what the boundaries are regarding what constitutes “free speech.”

Principles Supporting Our Recommendations

The STF is committed to the belief that the University’s policies, procedures, and practices should be principle-based. That is, they should be guided by underlying fundamental values. The ultimate measure, then, of the University’s response to bias-related incidents is the extent to which the principles are followed.

Regardless of whether the specific recommendations contained in this report are adopted, the STF strongly encourages the implementation of policies, procedures, and practices that are supported by these and related principles:

1. Principle of Campus Safety

The University of North Dakota attempts to foster a safe living and learning environment on campus for all members of the UND community.

2. Principle of Restorative Justice

Restorative justice is a concept of justice that emphasizes repairing the harm caused or revealed by the action or inaction of any person or group. It is best accomplished through cooperative processes that include all parties impacted by events.¹

¹ www.restorativejustice.org, retrieved April 21, 2009

3. Principle of Fairness

All information and circumstances must be considered in a fair and even-handed manner for all parties involved. Fairness is an essential precondition for collective trust in campus processes.

4. Principle of Education

Education of the individuals involved and the community at large remains central to UND's mission as described in the UND Mission Statement and the Code of Student Life (2-1): The philosophical approach to discipline should be educational in nature, even (if possible) when discipline requires criminal prosecution or other campus sanctions.

5. Principle of Due Process

Due process protections will be afforded persons against whom complaints are alleged. Individuals have the right: (a) to be notified of the charges and the possible consequences that may result and (b) to be heard by a fair and impartial decision maker.

6. Principle of Timeliness

Bias-related incidents must be dealt with as expeditiously as possible.

7. Principle of Transparency

Bias-related incidents must be dealt with in such a manner that everyone involved is aware of relevant policies and procedures involved and actions taken, to the extent allowed by law.

8. Principle of Public Disclosure

Because bias-related incidents can impact many people on campus and in the community, UND and the larger community must be informed of bias incidents (and the eventual outcomes) in a timely and appropriate manner to the extent allowed by applicable laws and these principles.

9. Principle of Inclusion

All citizens of the campus community should be guaranteed access to existing campus governance systems such as University Senate, Staff Senate, Student Policy Committee, and other policy groups. Where such access is found to be difficult, it should be an institutional priority to correct the problem through structural means that will insure access to all members of the community.

10. Principle of Non-Retaliation

Members of the campus community have the right to file a complaint or report discrimination or harassment without fear of retaliation.

11. Principle of Proportionality

Responses to bias incidents should be calibrated in reciprocal proportion to the scope and particular details of each incident, and consequences and remediation should likewise be proportionate.

12. Principle of Shared Responsibility

All members of the campus community share the responsibility and obligation to insure that diversity is welcomed and honored in the campus community, and that bias incidents are handled directly and effectively.

13. Principle of Civility and Respect for Difference

The university community is a unique environment where genuine respect for difference is integral to campus excellence, and where all members of the community are held accountable to heightened expectations of civility and collegiality in their interactions with one another.

Recommendations

Our recommendations below are clustered according to three broad categories:

Staffing

Practices

Campus Climate

Recommendations for Staffing Changes

1. Hire a high level full-time Diversity Officer.

The University should hire a full-time Diversity Officer, either at the VP/Cabinet Level, or at a very high level of independent responsibility reporting directly to the President. This appointment would signal the seriousness with which the University takes the goal of enhancing diversity and improving campus climate. Further, it would serve an important coordinating function in both focusing and expanding campus diversity efforts.

This person – in active collaboration with others already doing related work – would be responsible for developing, implementing, coordinating and providing active assessment of various diversity efforts on campus, involving various groups and officers charged with enhancing diversity, various units charged with enforcing equal opportunity and responding to bias incidents, and various student groups and community groups working to advance diversity. This is meant to include tracking of the progress of all complaints filed under the UND Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment. This person would also be responsible for actively communicating about UND diversity efforts to all members of the campus community and would be consistently engaged in mutual dialogue with the public over matters related to diversity.

It is extremely important that this critical post, at this critical time, be filled by means of a highly competitive national search, and that the Diversity Officer not be limited by public relations

pressures. In other words, the Diversity Officer needs to be able to deal openly and directly with both successes and problems related to diversity at UND.

It is also important that one of the first tasks of a newly appointed Diversity Officer would be to coordinate and embark on a rigorous effort to talk with as wide a range of people as possible about actual conditions on the campus related to diversity. The rationale for this piece of the recommendation comes from a widely shared view on the Task Force that communication on campus has closed down on diversity matters in ways that are destructive to good process and open dialogue. We need to find ways to get more input and get more people back at the collaborative table.

In coordinating diversity efforts on campus, the Diversity Officer should evaluate existing structural elements on campus related to diversity, including the roles of various cultural centers, with an eye toward supporting their unique needs and functions. Similarly, the Diversity Officer should evaluate campus-wide committees that have diversity as a component of their mission, including the Council on Campus Climate and Diversity Advisory Committee. The Diversity Officer should have the authority to discontinue these committees or restructure them.

Finally, the Diversity Officer would be responsible to help collaboratively develop a robust and ongoing recruitment and training program for staff, students and faculty on matters related to all kinds of diversity. It would be difficult to overstate the need for creative, rigorous and meaningful development of:

- curriculum infusion

- professional development related to diversity for all staff and faculty

- programming at all levels related to enhancing and deepening diversity at UND.

This training must go well beyond surface efforts to add “diversity” as a passing training topic or job listing category. While we recognize there may be some value in initial steps like online employee training programs, additional efforts to develop training must honestly address residual cynicism left with a large strata of UND employees required to go through the online “exercise” in response to the OCR settlement.

2. Hire an Ombuds Officer.

There is widespread misinformation and lack of awareness of policies and procedures available to faculty, staff, and students when they have concerns about how they are treated or when they have questions about acts that may be discriminatory. As a consequence, mistreatment may go unaddressed or handled poorly. More seriously, when individuals believe they have been mistreated by others with supervisory or evaluative authority, they may believe they have no recourse and that they have no one to help them think through their options.

These concerns speak strongly to the need for an independent campus Ombuds Officer, who can provide assistance in precisely these kinds of situations. The ombuds office on campus serves faculty, staff, and students by providing confidential consultation and information on campus policies and procedures as individuals negotiate the administrative chain of command.

Concerned members of the campus community can report incidents to the ombuds office without fear of retribution and can obtain valuable assistance in considering their own options for handling difficult situations. The Ombuds Officer reports to the President, and through a confidential record-keeping system identifies and communicates trends, and makes organizational recommendations to administrators and decision-making bodies.

Recommendations About Existing Practices

3. Improve the Process for Reporting Bias-Related Incidents.

The STF strongly believes that to fully embrace diversity the University needs a complete and accurate reporting of bias-related incidents. This includes not only incidents that rise to the level of a crime and those for which a complaint is filed—incidents that are investigated by the UND Police or offices listed under the UND Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment—but also incidents at a “pre-complaint” stage, those that are handled informally, and those that are currently not reported for fear of retaliation or other adverse consequences. At a minimum the records should include a categorization of the type of concern, whether a complaint was filed or crime was alleged, whether an investigation was conducted (under UND Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment), and disposition. The STF could not reach consensus on records that should be kept about alleged perpetrators.

The incidents about which an accurate accounting is most difficult to obtain are those at the “pre-complaint” stage, those that are handled informally, and those that are currently not reported for fear of adverse consequences. The STF believes that more complete information about such incidents may be obtained by (1) having the designated entity receiving the reports be neutral (and perceived to be so) and outside the current chain of command in the University; (2) developing a simple and widely publicized process for reporting incidents; and (3) providing special training for individuals most likely to become aware of such incidents (e.g., Housing staff, unit heads, department chairs). The policy implication of this is that the person/entity receiving the report would need to inform the reporting party that if an investigation is desired, a report would also need to be made to the appropriate unit as described in UND policy.

If a complaint is informal or the complaining party wishes to remain anonymous and/or chooses not to pursue further action, the University may deem it appropriate and necessary to carry a complaint forward on behalf of the institution. If a concern, in the opinion of the person/entity receiving the report, rises to this level, the Diversity Officer will be informed who will make the determination about carrying the complaint forward. In this case, the University will become the complainant and file a formal complaint.

The STF also believes that summary data about these records, in aggregate form and categorized as described above, should be readily available to the public, in a way that does not violate

individual rights of privacy. This information would constitute a portion of an annual “State of Diversity” report made by the Diversity Officer to the University and community.

4. Improve Training of Persons Charged with Responding to Bias-Related Incidents.

Some individuals and entities on campus are regularly involved with responding to bias-related incidents. This includes the Affirmative Action Office, UND Police, Dean of Students Office, and Crisis Team. This recommendation is not meant to apply to them but to others who have some responsibility in responding to bias-related incidents.

One such group is staff of the residence halls who interact on an ongoing basis with students living on campus. It is very important that they know how to respond to suspected bias-related incidents and how to report those incidents. It is noteworthy that the UND Housing office has recently placed additional emphasis on the training of its staff for this purpose.

Another such group are unit heads responsible for investigating bias-related complaints under the UND Policy and Procedures for Complaints of Discrimination or Harassment. Each of these unit heads should have a pool of trained personnel available to be involved with these investigations. This will expedite the process throughout the calendar year, including breaks and summer.

The training should be comprehensive and ongoing and be led by external experts.

There are groups on campus that are already trained to investigate issues or conduct hearings—notably the Student Relations Committee (students), HR processes (classified staff) and Special Review Committees (faculty)—and the University should utilize those resources whenever appropriate.

5. Specify Options for Investigating Bias Incidents Beyond the Lowest Possible Level.

As described earlier, UND policies state that reporting of incidents is to occur at the lowest possible level (although we are recommending a change—see recommendation 3) and that level is responsible for investigating the incident. Part of the rationale for recommendation 3 in changing the reporting process is that some persons may fear adverse consequences by reporting to the local unit. The same rationale applies to the investigation phase of a complaint. In our interview the Affirmative Action Officer stated that it is currently possible in such situations for investigations to occur at a level beyond the lowest level. The STF believes that this option should be stated specifically in UND procedures and be available at the request of the complaining party.

6. Augment the Rapid Response Process by Establishing a Rapid Response Advisory Team.

The current rapid response process works well, involving the Crisis Team, UND Police, Dean of Students Office, Affirmative Action Office and others. There is always room to improve and the STF believes that this may be accomplished by establishing a Rapid Response Advisory Team

whose function would be to offer recommendations to the President for improving the rapid response process and practices, and to convene quickly at the call of the President to provide counsel to the President related to a specific incident. Members of the advisory team would represent areas of special background not already present in the existing rapid response process, including but not necessarily limited to, members of the Native American community, Jewish community, African American community, Muslim community, International student community, and GLBT community.

Further, we recommend that the process of forming the Rapid Response Advisory Team include a review of the initial recommendations of the RRT report prepared by this task force. Although some of the particulars of that report may no longer apply, the sub-group tasked with developing a RRT response worked hard to include methods and procedures culled from best practices elsewhere, and there may be much of use in that original report.

7. Ensure that Communication about Incidents is Clear and Timely.

The UND President should be responsible for on and off campus communications regarding bias-related incidents.

All University protocols for reporting and responding to bias-related incidents should incorporate timely communication, notably to department heads, deans, vice-presidents, and the President.

Recommendations for Improving Campus Climate

Although the STF anticipates that implementing the above recommendations would have the effect of improving the climate for diversity on campus, there are additional recommendations specifically focused on campus climate.

8. Establish Forums for Building Open Dialogue and Spirited Debate Into the Culture of UND.

We recommend that UND faculty, staff and students continue, and begin anew, collaboration on a series of creatively designed discussions, workshops, and debates aimed at better creating an environment where it is clear that our campus values open debate, honest and respectful disagreement, and productive exchanges on complex ideas. We propose that it is especially important that students are leaders in these discussions, and that part of their educational experience at UND involves planning and participating in the discussion of complex ideas and issues with as wide a range of people as possible. We encourage the development of new forms and smaller-scale methods that involve participants more actively in open dialogue and informal but vigorous debate. This could be modeled even during Welcome Weekend, new students' first exposure to how the University of North Dakota functions. What better way to show new students that differences are valued and open and respectful discussion is central to the mission of the University?

9. Engage the Campus and Community in Discussion and Clarification of the Concepts of “Bias” and “Free Speech.”

There is much confusion about what constitutes bias and what actions and language constitute free speech. Gaining widespread clarity on these concepts will help the campus community engage in spirited debate on controversial issues and to understand the appropriate framework for such discussions. This increased clarification will also aid in the process of reporting and responding to bias incidents.

10. Form an Active Faculty/Staff Group Charged with Working to Develop and Support Academic, Interdisciplinary, Scholarly and Professional Projects related to Diversity.

We recommend the formation of a committed and active interdisciplinary faculty/staff group that will report jointly to the UND VP For Academic Affairs/Provost and the Diversity Officer, and will work to support – and create anew – diversity efforts in curriculum, research, teaching, community organizing and community education.

We recommend that the faculty/staff group begin by focusing on three areas:

- A. Scholarship and Teaching: Disciplinary, Cross-Disciplinary and Interdisciplinary research and curriculum development; facilitating research and teaching collaboration among colleagues on campus and among people working at other regional campuses, including tribal and two year colleges; serving as a clearinghouse to regularly inform a wide range of people about these projects, course offerings, collaborations.
- B. Planning an Annual Conference at UND focused on scholarly, academic and community issues related to diversity. This conference would build a place to actively support the ongoing exchange of creative ideas and innovations, and would be devoted to animated debates, interdisciplinary scholarly work, student presentations, community involvement, workshops, and humanities/fine arts projects of all sorts.
- C. Development of more extensive and ongoing training for all staff and faculty, especially related to the wide range of diversity issues commonly encountered in the classroom, workplace, and community, and with an eye toward helping all staff and faculty increase their confidence and effectiveness in working well with a range of people and issues.

11. Develop a Process for Regular Input from the Campus Community About Campus Climate and Policies, Procedures, and Practices Related to Bias Incidents.

Regular self-evaluation is important in establishing and maintaining excellence in campus climate and response to bias incidents. The responsibility for coordinating this effort may well be assigned to the new Diversity Officer.

This recommendation is meant to apply to all components of the campus community, including students, staff, administrators, and faculty. One aspect of the self-assessment should be evaluating the extent to which policies and procedures are equitable across these different constituencies.

Next Steps

The STF devoted hundreds of person-hours to the consideration of the issues associated with its charge and the development of these recommendations. We urge the implementation of all of them. Whatever decisions are made regarding the implementation of these recommendations we strongly encourage decision-makers to bear in mind the principles supporting these recommendations, described earlier. We stand ready to consult with decision-makers about them and respond to requests for further information.

We specifically request a meeting with Provost LeBel and Vice Presidents Boyd and Brekke to be held during the latter half of August so that we may be apprised of the status of the consideration of the recommendations. We respectfully request a written update at that time. After that meeting, we expect to give thought to the question of whether there is an additional role for the STF to perform. We will also discuss any ways that STF members might be able to support this work and/or the implementation of the recommendations, even after the dissolution of the STF.

Since Jim Antes will be leaving the community during the early part of the summer, the STF has agreed that Dan Rice will assume the coordinating function. Thus, contact with the STF during the summer should be made through him.

We appreciate the opportunity to study this important matter and to provide our input. We know the UND higher administration shares with us the commitment to making UND a better place.

Appendix A: People and Documents Consulted by the STF

People/Groups interviewed or consulted

Robert Kelley, UND President
Greg Weisenstein, UND Provost
Paul LeBel, UND Provost
Robert Boyd, UND Vice President for Student and Outreach Services
Bob Gallager, UND Vice President for Finance and Operations
Alice Brekke, UND Interim Vice President for Finance and Operations
Sally Page, UND Affirmative Action Officer
Wayne Onger, UND Police Department
Julie Evans, UND General Counsel
Lillian Elsinga, UND Dean of Students
Cara Halgren, UND Associate Dean of Student Life
Jeffrey Powell, UND Student Services Officer
Kathy Sukalski, UND Student Relations Committee
Kristine Paranica, UND Conflict Resolution Center Director
Leigh Jeanotte, UND American Indian Student Services Director
Linda Neuerburg, UND American Indian Student Services Assistant Director
Michelle Kozel, UND American Indian Student Services Program Director
NAACP
Anti-Defamation League
United States Department of Justice
St. Cloud State University

Documents reviewed

UND Code of Student Life
Community Values Statement
I-1 Equal Opportunity/Affirmative Action Policy Statement
I-3 Prohibition of Harassing Behavior
I-4 Hazing
I-13 Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
I-29 Retaliation Prohibited
Section 2: Conduct Regulations and Procedures
Appendix I: Equal Opportunity/Affirmative Action Policy Statement and Procedures for Complaints of Discrimination or Harassment
Appendix VI: Police Services at UND
UND Affirmative Action Office materials
Harassment/Discrimination statement
Statement of AAO Mission and Services
Notification of Procedures for Complaints of Discrimination or Harassment
UND Harassment Policy and Procedures

Discrimination Complaint Form
Discrimination/Harassment Department Reporting Form
December 7 email from Sally Page containing comments about RRT draft
December 11 email from Sally Page containing statistics of reported incidents
January 5 email from Sally Page responding to questions about statistics
Dean of Students Office materials
Flow chart distinguishing actions associated with a UND Code violations
from criminal violations
Chronology of a complaint against *The Dakota Student*
Executive summary and chronology of the UND “sorority incident”
Excerpt July 18, 2008 U. S. Supreme Court document on reasoned decision
making
Gary Pavela history of FERPA
Faculty Handbook
II-1.1 Faculty Responsibilities
II-1.2 Administrators’ Responsibilities
UND Housing Office materials
Process Chart for Disciplinary Procedures
UND Residence Services Mission Statement
Diversity Statement for Residence Halls
Statement on Diversity for Apartments
Charts displaying types of violations by residence FY06 – FY08
Materials associated with the Spring 2008 swastika incidents
“Archive of documents related to the hate incidents on the University of North
Dakota,” compiled by Jack Weinstein, [redacted] and [redacted]
Copies of notices sent by UND Housing to students regarding the incidents
Case Study—Incident Prepared for the Special Task Force, prepared by Judy
Sargent
Residence Life Principles for Responding to Student Emergency Including
Bias Incident, prepared by Judy Sargent
Task Force Item—Resident Hall Staff Orientation, and Training, prepared by
Judy Sargent
Chronology of Housing Office responses to incidents, prepared by Judy
Sargent
Examples of Housing Re-educational Efforts in Support of Positive Campus
Climate, Prepared by Judy Sargent
UND Police materials
Alleged Crimes and/or Arrests Reported to University Officials or Law
Enforcement Officials, January 1, 2005 to December 31, 2005
Alleged Crimes and/or Arrests Reported to University Officials or Law
Enforcement Officials, January 1, 2006 to December 31, 2006

Alleged Crimes and/or Arrests Reported to University Officials or Law Enforcement Officials, January 1, 2007 to December 31, 2007

Example of UND Police Complaint Summary

Summary of UND Police Bias Incident File with incidents from February 25, 2008 to February 10, 2009, compiled by Jim Antes

Bias incident response policy from Hamline University

Bias incident response policy from University of Minnesota

Bias incident response policy from University of Iowa

Bias incident response policy from North Dakota State University

2006-2007 NDUS Campus Climate Report

Diversity Advisory Committee Materials

Membership list

Summary of Activities FY08

Meeting Reports (9.18.08; 10.23.08; 11.20.08; 12.18.08)

Holy days email exchange, fall 2008

Letter of invitation from Weisenstein, Boyd, and Gallagher to join the task force

December 23 letter from President Kelley responding to the submission of the draft rapid response recommendations

March 10 letter from Boyd, Brekke, and LeBel describing key principles and concerns

Appendix B: Membership in Task Force Subgroups

Group 1 – Policy and Procedures

Cheryl Brooks
Lillian Elsinga
Leigh Jeanotte
Douglas Munski, Chair
Kenneth Seiden

Group 2 - Climate

James Antes
Sharon Carson, Chair
Michael Crenshaw
Kristine Paranica
B.J. Rainbow
Dan Rice

Group 3 - Rapid Response

Linda Baeza
Robert Bonev
Gregory Gordon, Chair
Janice Hoffarth
Michael Loewy