

Faculty Senate
Executive Committee
Monday, December 9, 2013
1:30p.m. – 3:30p.m. – Adelbert Hall, Room M2

AGENDA

1:30 p.m.	Approval of Minutes from the November 15, 2013 Executive Committee meeting, <i>attachment</i>	S. Russ
1:35 p.m.	President's Announcements	B. Snyder
1:40 p.m.	Chair's Announcements	S. Russ
1:45 p.m.	Reaffirmation of TOEFL Score Requirement, <i>attachment</i>	R. Bischoff
1:55 p.m.	FSCUE: Statement on Value of the On-Campus Residential Experience, <i>attachment</i>	L. Stark
2:05 p.m.	FSCUE: WSOM Minor in Leadership, <i>attachment</i>	S. Case
2:10 p.m.	FSCUE: CAS Minor in Creative Writing, <i>attachment</i>	M. Grimm
2:15 p.m.	Review of Faculty Comments on Interim Sexual Misconduct Policy, <i>attachment</i>	S. Russ
2:40 p.m.	Approval of December 17, 2013 Faculty Senate Agenda, <i>attachment</i>	S. Russ

Faculty Senate Executive Committee
Minutes of the December 9, 2013 Meeting
Adelbert Hall, Room M2

Committee Members in Attendance

Comm

Review of Faculty Comments on Interim Sexual Misconduct Policy

Rebecca Weiss

**Organizational Behavior Department
Leadership Minor Proposal
September 2013**

Overall Plan: The Organizational Behavior Department of the Weatherhead School of Management would like to offer a minor in the skills of leadership for undergraduate students. The primary objective of the Leadership Minor is to provide students with an in-depth knowledge of the fundamental skills of

leading people in organizations through a combination of theory, introspection, self-development, experiential learning, teamwork, and practice.

As with other minors at the Weatherhead School, the Leadership Minor will comprise five courses. Students electing this minor must take two required courses (ORBH 250 and ORBH 251) and three elective courses selected from among four elective options focusing on leadership skills and topics.

Required Courses:

ORBH 250 - Leading People (LEAD I)

ORBH 251 - Leading Organizations (LEAD II)

- Analyze relevant knowledge of individual level and group-level organizational behavior and

human resource management to become more effective as a leader and manager.

- Develop an accurate self-assessment of your strengths, vision, values and skills to enable you to become a more self-aware leader and manager.
- Identify and explore a long-term career target based on your interests and understanding of self.

context of others based on the here-and-now experience of the group. Prereq: At least sophomore standing.

Learning Outcomes:

1. Understand effective group dynamics and how your behavior contributes to those dynamics.

- Practice methods of influencing and motivating others.
- See how different communication styles bring different team results.
- Understand differences and similarities (race, gender, age, nationality, ethnicity, personality, etc.) and how they affect your relationships and behaviors in teams.
- Become more aware of your own feelings and behaviors in small groups and understand

- the effects of these on others.
- Learn how to take actions to improve group dynamics.

ORBH 370 - Women in Organizations

Description: This course explores the unique challenges of life for women, with a particular focus on entering modern adulthood after getting a degree. At this stage many choices can be made regarding future careers and relationships. The class guides thinking about how to create successful work in life.

interdependent parties. Negotiation skills are critical to influencing others and thus to effective leadership. The good news is that negotiation is a skill that can be developed. In this interactive course, you will learn how to be a more effective negotiator by learning about the theory and processes of negotiation, participating in negotiation simulations, reflecting on your own and others' negotiation

C
(
C
D
P
T
E
D
M
R
S
th
R

F
g
W
M
T
W
inc

Is

If

Do

If

Co

SIGNATURES:

Department Curricula

Department Chair:

College/School Curri

College/School Dean

~~UF Curriculum Con~~

File copy sent to:

**Revised Proposal for a Creative
Comments**

4-29-13

We have revised our proposal in accordance with the Executive Committee.

As suggested, we have taken out not only any mention of any focus in the minor but also any mention of infringe on the Dramatic Writing track. The students now will be in Fiction and Poetry. In regards to the following comments (

Further, the CSPSC was concerned that the p

a) that the courses to make up the new minor

b) that the point of the minor was to attract

c) that the inauguration of the minor would

We revised the first page of the Program

points a and b, I added bullet points to

targeting. It's true that our creative writing

we hope to attract more students to the

structured affiliation with the English I

We also added language in the 3rd paragraph

program for graduate students.

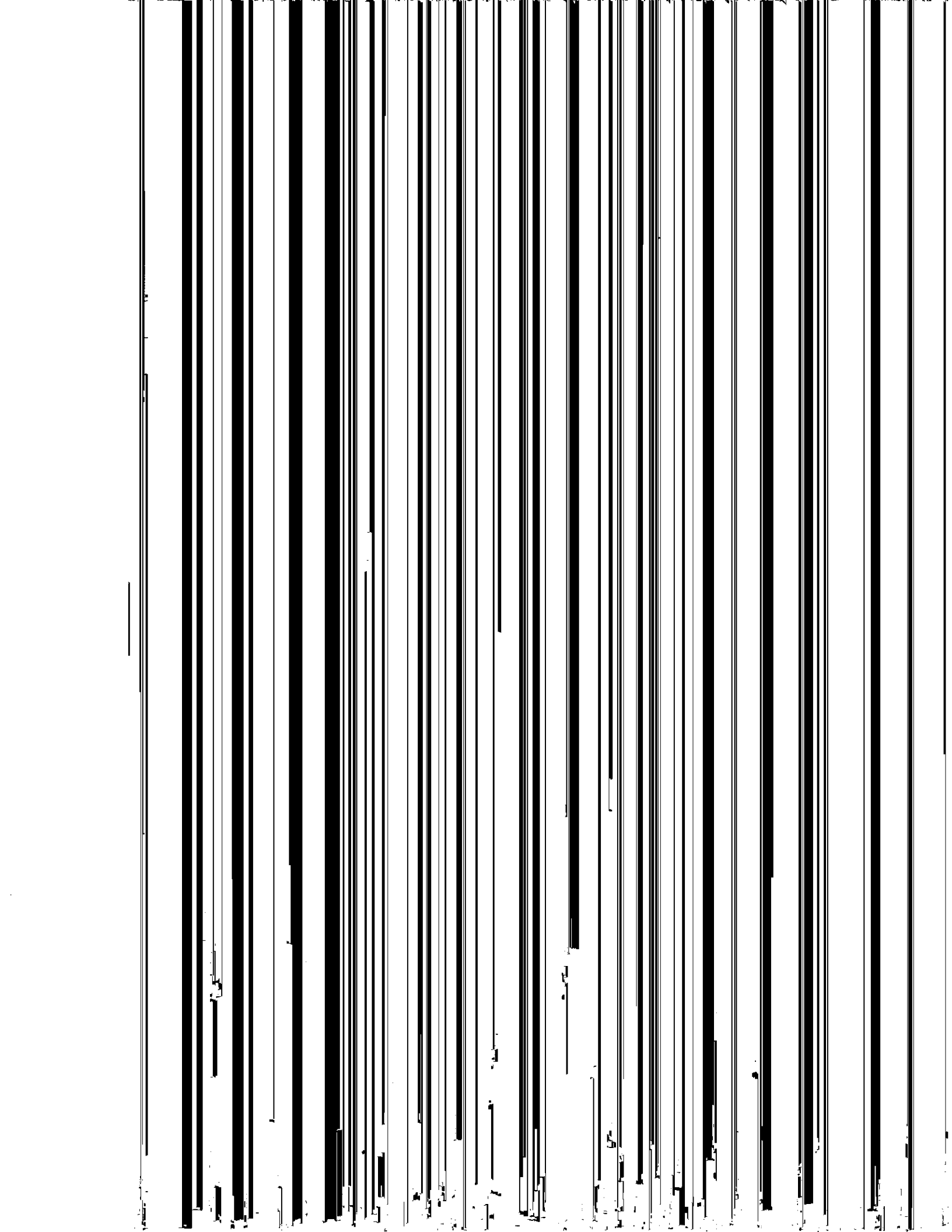
THE UNIVERSITY OF CHICAGO PRESS

This proposal
of a priority

1. The
and i
expe
succ
addit
2. Pleas
Asse
writi
Hanu
offer
only
stude
(Emj
3. As st
infor
resou
this s
cour:
4. Poss:
allow
5. Not a
6. **A. In**
Direc
a wel
gene
"exp
incre
B. "I
in cre
under
well-
an ou
satisfi
C. C
stude
into t

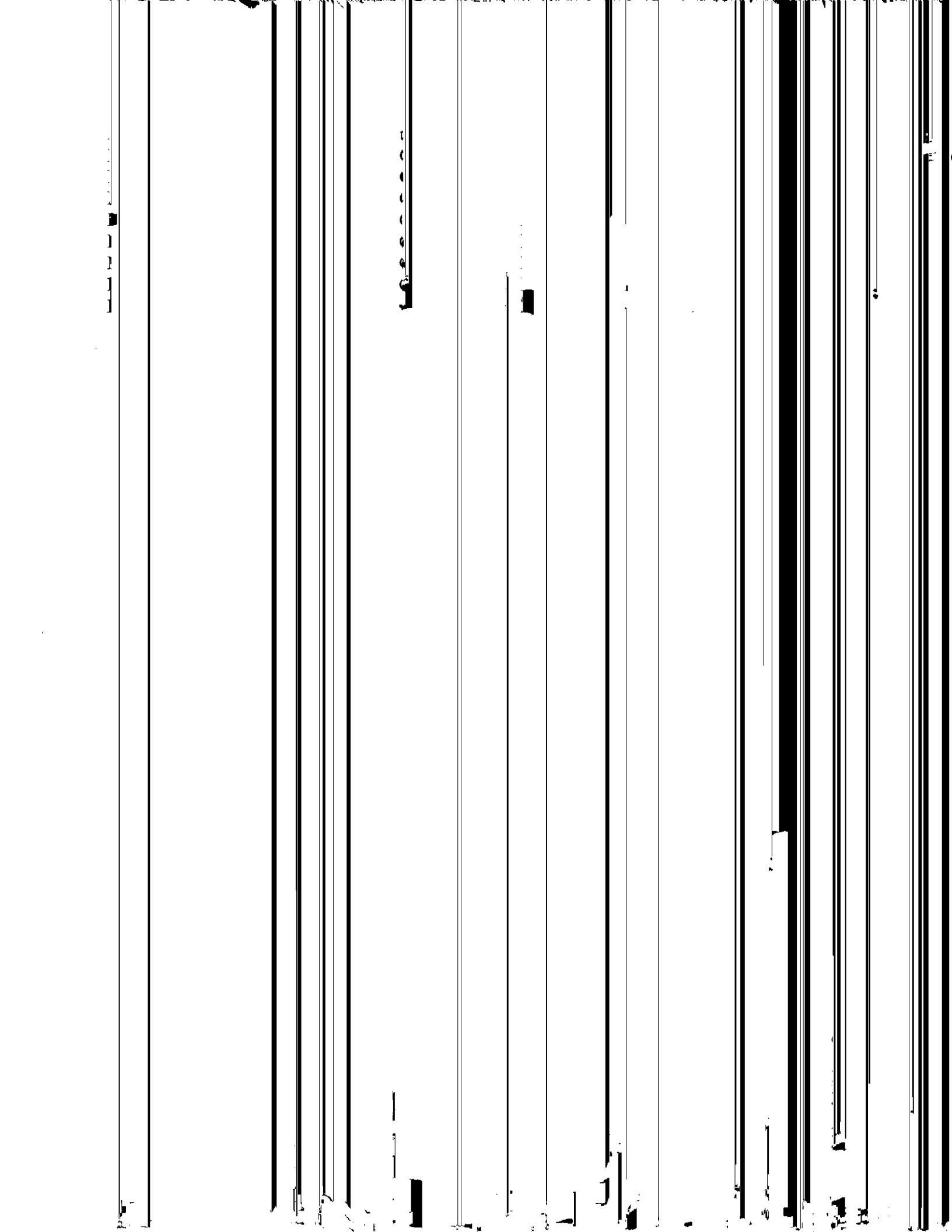
7. **A. Collaboration/Partnership** will foster a collaboration/partnership with a minor. There has already been an effort to involve co-sponsorship of outside classes each semester.
B. Culture, Creativity and Design is one of the university's key goals that inspire us as individuals and communities. We will explore the nature of innovation from a student's view. Activities range from the student's exercise of skills in these areas, especially Learning how to express one's self, and a "reframe" of the exercise of skills.
8. The creative writing minor will help high-achieving students to add this to their curriculum. It will reflect the flexible yet rigorous nature of the movements and trends in the large undergraduate population, and fully support this sequence of classes.
9. As stated above, this minor is a required, informal and elective sense. The department will accommodate the demand for creative writing and support this sequence of classes.

See also **Appendix B**, *The Director's*



Appendix B.

<http://www.awpwriter.org/df/DirectorsHandbook2012.pdf>



Appen
List of

ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL
ENGL

Also, ar

that can f

Cha
Ren
Mil
18th
Vic
20th
Maj
, 358 Am
Afr
Imm
Post
Min
Chi
Stu
Stu
Stu

course wi

**Apper
Potenti**

Poetry

ENGL 1

ENGL 2

ENGL 3

ENGL 2

Fiction

ENGL 2

ENGL 3

ENGL 3

ENGL 3

MEMORANDUM

TO: Sandra Russ, Faculty Senate President

From: Dave Carney, Chair
Faculty Senate Bylaws Committee

Re: Proposed Sexual Misconduct Policy

Date: December 5, 2013

The Faculty Senate Bylaws Committee would like to make the following comments about the proposed Sexual Misconduct Policy. We begin by thanking the drafters of this policy for their hard work at a thankless task. The Department of Education's "Dear Colleague" letter imposed a number of mandates upon the University, and required the University to combine its existing Sexual Assault and Sexual Harassment policies. That forced combination caused most of our concerns, and we recognize that there are no perfect solutions to some of these concerns. With that said, however, we wish to note three basic areas of concern:

1. First, the draft policy is too long and hard to understand. As a result, it sometimes fails to sufficiently protect those it should, fails to clearly state the University's rules for sexual misconduct, and those applying or consulting the policy may find it hard to interpret or use.
2. Second, the policy does not do as much as it could to protect the victims of sexual assault. The policy does not clearly authorize immediate action to remove victims from dangerous situations, does not clearly communicate how first responders can best protect victims, and does not include procedural safeguards to protect victims of sexual assault, including "rape shield" rules like those adopted in all 50 states.
3. Third, although the policy provides the minimum level of due process required, we believe those accused of the most serious offences under the policy should have the right to counsel to assist in their defense. Similar protections can and should be provided to complainants in such cases. The existing policy allows well-connected and sophisticated respondents to use an attorney (such as a member of the law faculty) as their "advisor," while barring the less well-connected from us(s)-1(s)-Each of these concerns is explained in more depth below.

1. THE POLICY IS TOO LONG AND HARD TO UNDERSTAND.

The federal government has required the University to combine its sexual harassment and sexual assault policies. But as a result, the draft "sexual misconduct" policy is 25 single-spaced

The Federal Government's mandate that sexual assault and sexual harassment policies be combined causes another difficulty in tone, especially when investigative procedures are discussed. "Sexual misconduct" covers a wide range of potential conduct, ranging from insensitive comments to criminal sexual assaults. As a result, the procedures and punishments proscribed by a sexual misconduct policy must be flexible, to allow appropriate responses to everything from an inappropriate joke implying women are bad at math to a rape or other sexual assault. Thus, the University's existing sexual harassment policy allows for both an informal track involving "awareness, education, and/or facilitated discussion" and a formal track involving discipline, hearings, and potential sanctions. (Policy, p. 15).

But the Policy does not **guarantee** that complaints of rape will be assigned to the formal track. Instead, ANY claim of sexual misconduct, from the least to the most serious, is to be investigated and then assigned to either the formal process OR the informal process. (Policy, Role of the Designated Reporting Representative and/or Sexual Misconduct Investigator(s) 15). Perhaps recognizing that this provision fails to take claims of rape seriously enough, the "informal process" discussion on page 15 states that "**NORMALLY**, the informal process will not be used to resolve allegations of ... Forced Sexual Intercourse." (Policy, "Informal Process," p. 15 (emphasis added by author of this memo)).

This "clarification" is itself unclear: Why is "normally" an appropriate word choice here? Because in "abnormal" rapes, the informal facilitation process may be appropriate? We question the need for the conditional language "normally" here – if a rape occurred, it should not be addressed through "facilitated discussion." Any language leaving open the possibility that an instance of rape will be resolved by "education and facilitated discussion" trivializes the offense and sends a message that the University fails to take such complaints seriously.

A similar unfortunate ambiguity covers the penalties for sexual misconduct, which are listed on page 20 of the policy. Among the University-approved punishments for "sexual misconduct" are "a. Apology; b. Participation in educational ... or management training; and c. "written warning." While these sanctions might be appropriate for certain types of sexual harassment or insensitive behavior, the policy does not clearly state that "apology" is not an appropriate remedy for rape.

The policy should be amended to clearly communicate that rape is taken seriously, and that serious accusations will be treated seriously by the University. The language of the current policy fails to accomplish that goal.

Finally, the policy will be consulted by individuals with widely-varied levels of training and familiarity with University processes. The policy might be consulted by any of the following:

- (i) victims checking to see if they can report conduct;
- (ii) a co-worker wondering if they should or must report;
- (iii) students;
- (iv) research or teaching assistants working in temporary appointments;
- (v) law enforcement personnel or campus HR and legal staff;
- (vi) student housing officers;
- (vii) faculty and/or students selected to serve as hearing officers for a formal hearing.

This wide range of potential audiences is one argument for two or more policies – trying

misconduct obligate the first responder to act

CONCLUSION

Again, we appreciate the drafters attempt to create a coherent sexual misconduct policy, and recognize the difficulty and the complexity of that assignment

Summary of Feedback on Interim Sexual Misconduct Policy

Prepared by Sandra Russ, Chair, Faculty Senate, Dec. 6, 2013

We received very thoughtful feedback from the Personnel Committee, Graduate Studies Committee, Minority Affairs Committee, Women Faculty Committee, FSCUE, and the Bylaws Committee. Because of the level of detail in their report, the Bylaws Committee report is in a separate document.

The following is a summary of the points raised.

1. What are the plans and procedures for educating the university community? What is the best way to communicate key details? Perhaps, a "What to do When" fact sheet would be helpful.

Should the education and training process itself be spelled out in the policy statement?

Make the whole report more "user friendly" (See report of Bylaws Committee).

4. Develop clear steps for protecting the sexual assault victim.

" ... those responding to sexual assaults must be trained and prepared to take quick and decisive action to protect victims from ongoing dangers to their health and from intimidation and harassment. There are several examples of recent high profile sexual assaults in the educational context which provide warning examples. From Florida State to Steubenville, sexual assaults in educational settings are common. [4r(bn 2(t)-2vo(on)v4r(b ube)12

But our policy does not communicate clearly enough that any retaliation by any person against a complainant cannot be tolerated, and the policy also does not spell out the types of remedies that the University and the law can provide victims on an imminent or emergency basis. Such remedies can include moving students out of a dorm where the assault occurred, making sure that non-witness peer groups understand that harassment of

domestic violence protective order. Many instances of sexual assault involve former or current romantic partners, and emergency shelters and temporary restraining orders are tools which can be used to protect victims and make them more safe. The draft policy fails to focus first on the protection of the victim.

Our university currently does an excellent job of protecting students, ensuring appropriate treatment, and coordinating with law enforcement when the victim reports problems to the right individuals. But the draft sexual misconduct policy does not focus on victim prevention, and does not list available resources which exist to protect victims. As a result, the extent to which a victim is protected and provided with appropriate resources many depend on who receives the complaint, and whether that person is aware that a resource or protection exists. A clearer guide for first responders is needed.

The policy should be amended to more clearly guide first responders, identify University and other resources which can assist victims, and help first responders to protect victims of sexual misconduct. The policy should clarify that claims of sexual assault or other serious sexual misconduct obligate the first responder to act to protect the victim, ensure the victim's safety, and preserve evidence from any possible assault. The "interim University Actions" section of the policy on page 14 allows "interim actions," but the provision is focused on providing notice to the accused and a copy of the relevant policy, and only secondarily concerned with the safety and protection of victims. (Bylaws Committee)

5. Concern about not having legal support at the hearing. There should be "changes to ensure that all participants know that they have the right to bring an attorney into the hearing as a "support person" if the charges against them involve the highest level of possible sanctions (termination or expulsion). In addition, the policy should be revised to make it clear when such sanctions are a possible result of a formal hearing – the current policy lacks this basic notice provision." (Bylaws Committee)

Also, regarding representation The "Dear Colleague" letter only requires that if one side has the ability to bring counsel so should the other. The Personnel Committee was concerned that offering counsel is not the same as being able to secure/afford counsel. An offer to allow a student to seek legal counsel if a faculty member is also able to do so, may be meaningless if it is difficult to secure or afford counsel. There was a concern that students may be disadvantaged if this option was given. We cannot assume that parents would be able to assist...or even be aware of the situation. (Personnel Committee)

6. Concern that individuals participating in the hearing would not know if the recording of the hearing could later be used in a legal proceeding. This answer is "it depends" then

(anyone that is present...not just the two most involved) signs. (Personnel Comm.)

7. C

p. 7- last paragraph most resources fall in the middle... of what

Introductory paragraph (change in bold)

Case Western Reserve University is a community based upon trust and respect for its constituent members. Sexual misconduct is a violation of that trust and respect and will not be tolerated. Members of the Case Western Reserve community, guests and visitors have the right to be free from sexual misconduct. All members of the community are expected to conduct ~~themselves~~ in a manner that does not infringe upon the rights of others. The purpose of this policy is to define sexual misconduct and the procedures the university uses to investigate and take appropriate action on complaints of sexual misconduct. When ~~complaints~~ are reported, the university will act to end any discrimination found to have taken place

Accepted Standards for Investigation of
Harassment and Discrimination Complaints

It is also important that the investigators selected have not had any relationship with any parties in the investigation.

Gender differences in perception of sexual and gender harassment should be considered when choosing an investigator. It is common practice for investigative teams to include members of both sexes. Accepted guidelines recommend having the team of investigators be both male and female in order to improve the quality of the investigation (Levy & Paludi, 1997; 2002). There are many reasons for this. It provides credibility for both parties in the case, makes the investigation appear more impartial, introduces different gender perspectives into the process, and allows for corroboration of facts and views during the process (Cole, 1997; Ehrlich, 1997; ReesT* [(t)3(t)-2(p.(s)-1(* [(t)3(t)-2()3(p))4(xu [(t)3(t)-d-2(i)-2(gs)-1(9)-10(a)(h

It is important to ask open-ended questions about what may have happened without leading the witness and without forcing relevant information by prejudging the claimant, the accused, or relevant events.

6. Document review is necessary to corroborate/dispute the allegations.

Factual documentation can provide important corroboration and allow investigators to draw appropriate conclusions. These include:

Personnel files. Performance evaluation and reprimands provide a picture of how a claimant's work performance has been judged and whether the performance has changed significantly after experiencing harassment. It also allows an examination of how the alleged harasser has performed and if there are patterns of similar harassment or discriminatory behavior documented.

Payroll records. Show promotions, pay raises and leaves taken.

Calendars. Provide information to establish dates an event occurred. Computer calendars may show appointments and times when witnesses were together.

Electronic communication. In tracking an office romance, it would be important to review electronic communication. In tracking an office romance, it would be important to review electronic communication.

- x Ensure the investigation is proceeding correctly. This includes ensuring an unbiased investigation and a reasonable deadline for completion.
- x Assess issues of retaliation, safety, and workgroup functioning.
- x Gather referral information for counseling and other services that might be appropriate.
- x Develop a plan to diagnose what led to the harassment.
- x Develop a written agreement requiring confidentiality guidelines and prohibitions against retaliation.
- x Since some investigations of harassment may also involve a criminal charge, prepare a separate Garrity warning, similar to a Miranda warning in a criminal trial, which gives them “the right to remain silent...”
- x Develop a consistent place for keeping investigative files separate from personnel files.
- x Design a way to organize and present the evidence being collected effectively and persuasively.
- x Decide what will be publicly reported.

What formal planning process will we have in place so that these steps will not be ignored?

8. A uniform standard of investigative guidelines needs to be followed.

Guidelines include the following activities:

- x There should be a signed and dated form covering confidentiality of each witness that states who needs to know what information and disclosure only to those people.
- x There are prohibitions in place against retaliation with penalties spelled out for those who violate the policy. This should also be signed and dated by the witnesses.
- x The timeline is usually no more than 30 days to do a thorough investigation, and if there are extenuating circumstances, then documentation of why it took longer.
- x The complainant is notified of his or her rights.
- x Uniform standards for documenting investigations of sexual harassment are followed.
- x The standards for proof of harassment are “preponderance of evidence” which means that the investigators job is to determine if the allegations are more likely than not to be true.
- x The standards for rape are “beyond a reasonable doubt” since this is a criminal charge. The investigation needs to ensure it does not have appearance of being

about the alleged incidents and other alleged harassment or gender discrimination so that these individuals could be interviewed.

Even with witness interviewing there is a proper order. First to be interviewed are “direct witnesses” who saw the event described. Then the “contemporaneous witnesses” are interviewed who did not see the event but who were spoken to about the event shortly after it occurred. The next groups of witnesses are those

Although written witness statements are not necessary in all cases, to ensure accuracy and completeness of the material being reported, it is accepted procedure to allow the people who have been interviewed to review what has been written and make any changes they want. Then each party signs the written statement written by the investigators with the changes. Although this may slow down the process, it ensures that if the investigator has misunderstood what was said in the interview, the party or witness has the opportunity to read it and change it. It also allows each to add other material they now remember. It prevents parties and witnesses from coming back later and saying that they were misunderstood and the investigator didn't get things right. ~~Why~~ sign indicates that the document accurately reflects their concerns and recollection of events.

Making Determination

11. Allegations need corroboration in order to assess veracity.

There are many examples of corroboration that have been accepted by the courts (Salisbury & Dominick, 2004, p. 120). These include the following:

- x The complainant told someone about the incidents at about the time they occurred and said that she did not welcome the behavior.
- x The complainant took steps to avoid the ~~use~~ by seeking a transfer, staying out of a particular work area, or passing up an overtime opportunity.
- x Complainant's performance, attendance, attitude, and health deteriorated.
- x Others experienced similar behavior from the accused. Were there ~~witnesses~~ who could document inappropriate and offensive treatment?
- x Others have witnessed all or part of the offensive behavior.
- x Were there other individuals who witnessed the effects of the behavior on the complainant?
- x The complainant documented significant incidents or events in a diary, journal, or work log.
- x The complainant ~~tape~~ recorded incidents.

12. Appropriate witnesses need to be interviewed who were essential to corroborate the complaint or to provide alternative views of the situation.

claimants, or the accused had motives to lie to protect themselves. Did others have motives to lie? Were things exaggerated, misunderstood, or taken out of

alleged harasser and the complainant as witnesses who can provide relevant information concerning the charges being investigated. Aspects of the investigation that are listed in the previous part of the document need to be done.

17. The investigation needs to be impartial. See the document that address this.

18. The investigators need to be effective in investigating the complaint.

Effective investigators act as a detective, uncovering and discovering relevant information from reluctant witnesses. They act as a therapist by listening without judgment. They act as a judge, determining what occurred and ferreting out the truth. They act as a reporter, accurately describing what is discovered. This involves sophisticated interpersonal communication that maintains trust while asking difficult and prying questions.

These communication skills required include listening accurately while simultaneously recording, processing, and analyzing information. New ways need to be tried to obtain and look at potentially relevant information. The goal is to uncover "the truth."