

Purdue University Fort Wayne Senate
Ad Hoc Committee
to Investigate Procedural Handling
of Allegations of Misconduct
in the PFW Women’s Basketball Program

Final Committee Report

Executive Summary

Senate Document 20-34 and 20-45 charged this Ad Hoc Committee to examine four items:

1. “the manner in which the university handled these allegations initially” (SD 20-34)
2. “how it reached [its] decision to reinstate the women’s basketball coach” (SD 20-34)
3. “whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations as well as the investigation.” (SD 20-34)
4. whether existing policies are adequate or need to be revised (additional charge added by the Executive Committee to the Memo based on Senate By-Laws, 5.3.4.2.)

Below is a brief summary of the committee’s finding of each of the items we were charged with examining. Following this summary is a detailed explanation of how we arrived at these conclusions. Following the report is an appendix with relevant communications the committee had with various university officials over the course of its work.

1. “the manner in which the university handled these allegations initially” (SD 20-34)

The university initially handled the allegations of misconduct in the PFW Women’s Basketball program by using Purdue University’s “[Procedures for Resolving Complaints of Discrimination and Harassment](#)” as “a reference point” for the process. The initial handling of these allegations was approached with an interpretation of the “Procedures” that provided university officials with what has been described as latitude to make judgments about what will keep everyone safe and by “the facts & circumstances of any given matter.” This latitude is primarily located within what has been called a “pre-investigation phase” or “inquiry phase,” which has been described as an extension of the in-take process for an allegation. This “inquiry phase” or “pre-investigation phase” is not made explicit in the “Procedures.” Instead, according to reports made to the committee, it forms a part of trainings that Purdue University West Lafayette provides for staff at PFW. In the particular case of the women’s basketball coach, the committee’s understanding is that the initial handling of the allegations in question took place completely within this “inquiry phase” or “pre-investigation phase,” which is not included or specified in the “Procedures” but instead is described in Purdue University West Lafayette training materials. The committee has not been able to review those training materials.

2. “how it reached [its] decision to reinstate the women’s basketball coach” (SD 20-34)

Within the “pre-investigation phase” or “inquiry phase” described above, the decision maker designated by Purdue University West Lafayette (Chancellor Elsenbaumer in the case of employees; Vice Chancellor Creager in the case of students) can implement what are called, in the “Procedures,” “protective interim measures” (i.e. the coach’s administrative leave). When the university received information related to allegations of violations of [Purdue Anti-Harassment Policy \(III.C.1\)](#) in the PFW women’s basketball program in late 2018, the university was prompted to implement “protective interim measures” (i.e. to place the coach on administrative leave (February 12, 2019)) so that the university could engage in an “inquiry,” that is, seek to discover whether there was any corroborating evidence to substantiate the information the university received about potential violations of Purdue University’s Anti-Harassment Policy. The university then engaged in three (3) separate but concurrent inquiry processes: a Human Resources Inquiry (because the coach was an employee); a Title IX inquiry; and an Athletics Department inquiry. These inquiries took place over the course of a nine (9)-day period (February 12 – February 21, 2019) during which student athletes traveled thousands of miles to play three away games (Denver, Colorado; Omaha, Nebraska; Brookings, South Dakota). Because no corroborating evidence was uncovered during this nine (9)-day inquiry period to substantiate the information received regarding alleged violations of Purdue University’s Anti-Harassment Policy in the PFW Women’s Basketball program and because no one filed a Complaint, Formal or Informal, under the “Procedures,” the decision maker who was designated by Purdue University policy, Chancellor Elsenbaumer, concluded that the university could not initiate an investigation and thus made the decision to bring the “protective interim measures” to an end (i.e. decided to reinstate the women’s basketball coach). While the “Procedures” do enable the university to initiate an investigation even when there is no Formal or Informal Complaint filed, the committee’s understanding is that the decision-making process utilized in this case was guided by the trainings and training materials developed and administered by Purdue University West Lafayette.

3. “whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations as well as the investigation.” (SD 20-34)

This process was conducted fully within the “pre-investigation phase” or “inquiry phase,” which is not made explicit in the “Procedures.” The process steps comprising the “pre-investigation” or “inquiry phase” are included in training materials created and administered by Purdue University West Lafayette. The committee has been unable to review these training materials, so it remains unclear whether the university followed the steps outlined in the Purdue University West Lafayette training materials because Purdue University West Lafayette has denied our requests to review those training materials. Our initial request for these materials was characterized as “overbroad,” and subsequent to that request, the committee learned that rather than one inquiry process there were actually three separate and concurrent inquiry processes (one for Human Resources, one for Title IX and one for the Athletics Department). It is unclear if the trainings or even the process steps for the “inquiry phase” or “pre-investigation phase” would be the same for each unit or how those potentially different processes might be used to inform a decision maker. Because the “inquiry phase” is not specified in the “Procedures” and because we do not have access to the training materials where the processes for the “inquiry phase” for each of the three units is detailed, we cannot say conclusively one way or the other that the university did or did not follow the relevant processes.

Any deficiencies in the process of inquiry in the case of the PFW Women’s Basketball coach, then, reside in the policies, materials and procedures developed at Purdue University West Lafayette. As the committee learned in the course of our review of the procedural handling of these allegations, any changes to the way inquiries and investigations are conducted on our campus would need to be approved by the Purdue University Vice President for Ethics and Compliance on the West Lafayette campus.

4. whether existing policies are adequate or need to be revised (additional charge added by the Executive Committee to the Memo based on Senate By-Laws, 5.3.4.2.)

Over the course of its review of the procedural handling of allegations of misconduct in the PFW Women's Basketball Program, the committee has concluded that existing policies are not adequate. The committee has recommendations for Purdue University system policies and procedures as well as recommendations for PFW.

Recommendations for Purdue University system-wide policies and procedures:

- make the “pre-investigation phase” or “inquiry phase” an explicit part of the “Procedures” on the model of other processes for decision making in the “Procedures” (e.g. University-Initiated Investigation, Formal Complaint, Informal Complaint, etc.)
- explore extending the 120-day time limit for filing a Complaint so that Complainants (i.e. those reporting having experienced Harassment or Discrimination) have sufficient time to process their experience and to understand the technicalities of the “Procedures.”
- provide system-wide resources to enable the implementation of an advocate model in the Complaint resolution process like the processes already in place at Purdue University West Lafayette

Recommendations for PFW policies and procedures:

- strengthen the structures of faculty oversight over student participation in athletics
- review Senate Document 16-19 to ensure that the responsibilities of the Faculty Athletic Representative provide guidance for providing oversight of student participation in athletics that is independent of the Athletics Department and housed within academic structures at the university
- review the section of the bylaws related to the charge, responsibilities and structure of the Mastodon Athletics Advisory Subcommittee

Background and Creation of the Ad Hoc Committee

This Ad Hoc committee was created after a resolution ([SD 20-34](#)), passed by voice vote on January 25, 2021, charged the Senate with creating an Ad Hoc committee charged with the following characteristics, as laid out in that resolution's "BE IT RESOLVED" clauses:

"BE IT RESOLVED, that the FW Senate immediately sets up an ad hoc Senate committee that will be responsible for fielding confidential reports from athletes while the FW Senate sets up its independent investigation; and

BE IT FURTHER RESOLVED, that this ad hoc Senate committee does not include any current or past members of the Mastodon Athletics Advisory Subcommittee to ensure impartiality; and

BE IT FURTHER RESOLVED, that contact information for members of this ad hoc Senate committee will be made available to all student athletes at PFW; and

BE IT FURTHER RESOLVED, that the FW Senate take the necessary steps to set up or participate in an independent investigation, ensuring that the people involved in the first version of the investigation are not allowed to be voting members of the investigative team; and

BE IT FURTHER RESOLVED, that Senate takes AAUP's suggestion to "conduct an internal investigation led by an independent committee composed of a majority of faculty and academic administrators, and chaired by a faculty member elected by the Faculty Senate. The charge of this committee will be to examine the manner in which the university handled these allegations initially, how it reached its decision to reinstate the women's basketball coach, and whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations as well as the investigation;" and

BE IT FURTHER RESOLVED, that the university administration and all athletics staff, including the Chancellor and Athletic Director, make clear to the students that the university does not tolerate retaliation and will protect all students and staff who participate in the investigation by ensuring that all allegations of retaliation will be investigated thoroughly."

Subsequent to the passing of this resolution, the Senate Executive Committee met the resolution's charge by meeting with various parties, including Purdue's Chief Privacy Officer and Deputy General Counsel, Trent D. Klingerman, and PFW Associate Director of Compliance and Title IX Coordinator, Christine Marcuccilli. The Executive Committee learned that certain legal obstacles prevented creating a committee to meet all charges in the Senate resolution. The Executive Committee issued a February 15, 2021 memorandum that explained these matters and created a specific set of tasks for the Ad Hoc committee to carry out as our primary charge. The four items comprising the charge include:

1. "the manner in which the university handled these allegations initially" (SD 20-34)
2. "how it reached [its] decision to reinstate the women's basketball coach" (SD 20-34)
3. "whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations as well as the investigation." (SD 20-34)
4. whether existing policies are adequate or need to be revised (additional charge added by the Executive Committee to the Memo based on Senate By-Laws, 5.3.4.2.)

This committee met multiple times as a group between later spring 2021 and spring 2022 (see [SR 20-52](#) for the spring 2021 committee report). The committee also met with participants in the procedural handling of the allegations of misconduct in the PFW Women's Basketball Program. The committee conducted much of its work through a variety of email communications and through various requests for information appropriate to carrying out the charges of the committee outlined by the Executive Committee. In the report below, we report our findings on each of the four items we were charged with examining. Before providing the committee's findings on each one of these charges, we provide a brief summary of the timeline of events.

Timeline of Events, Allegations, Procedural Handling and the Creation of the Ad Hoc Committee

Late 2018: “the allegations first brought to the attention of the athletic department in late 2018 raised general concerns of fair treatment, they were also referred to the university’s Office of Institutional Equity, which conducted an additional review of the matter, interviewing each student athlete and staff member associated with the women’s basketball program.” (“Statement on Allegations Against Coach Niecee Nelson,” unsigned statement, not circulated on letterhead, forwarded to faculty leadership, AAUP listserv and AAUP chapter leadership; Kim Wagner emailed this statement on 01.22.2021, two days after the IndyStar allegations were published)

Nov 6, 2018 - Feb. 6, 2019: Women’s Basketball team played 12 home games and 11 away games. ([PFW Women’s Basketball Team 2018-2019 Schedule](#))

02.12.2019: Coach Nelson placed on administrative leave [WANE TV News](#)

Feb. 13-20, 2019: Women’s Basketball team played 3 away games ([PFW Women’s Basketball Team 2018-2019 Schedule](#))

02.21.2019: Coach Nelson returned to the bench after what the Athletics department asserted was a “thorough” investigation [NBC News, Fort Wayne](#)

02.28.2019: First game after re-instatement (home game) ([PFW Women’s Basketball Team 2018-2019 Schedule](#))

01.20.2021: Dana Hunsinger Benbow’s article describing allegations of abuse that followed Coach Nelson’s reinstatement was published in the *Indy Star* (“[Toxic abuse alleged inside Purdue-Fort Wayne women's basketball: 'It was brutal', Dana Hunsinger Benbow, Jan. 20, 2021](#)”)

01.25.2021: Fort Wayne Senate passes [SD 20-34](#), which created the Ad Hoc Committee

02.15.2021: Fort Wayne Senate Executive Committee issues its charging memo to the committee (see appendix)

04.02.2021: Ad Hoc Committee seated

04.26.2021: Ad Hoc Committee extended through academic year 2021-2022 ([SD 20-45](#))

04.28.2021: Spring 2021 Committee Report submitted ([SR 20-52](#))

09.13.2021: Replacement member for the Ad Hoc Committee (due to sabbatical of initial committee member) approved by the Senate ([SD 21-3](#))

03.25.2022: Submission of Final Report

Charge 1: “the manner in which the university handled these allegations initially” (SD 20-34)

In order to determine how the university handled the allegations it learned of in late 2018, including the decision to place Coach Nelson on administrative leave on Feb. 12, 2019 and to reinstate her nine days later on Feb. 21, 2019, the committee received information from primarily four people involved in the procedural handling of the allegations of abuse:

1. Trent D. Klingerman, Purdue’s Chief Privacy Officer and Deputy General Counsel
2. Christine Marcuccilli, PFW Associate Director of Compliance and Title IX Coordinator
3. Kelley Hartley Hutton, PFW Athletic Director
4. Chancellor Ron Elsenbaumer

Below we detail what we learned from each person.

1. Trent D. Klingerman, Purdue’s Chief Privacy Officer and Deputy General Counsel (see Appendix for emails, responses and other communications)

In a series of email exchanges with Deputy Counsel Klingerman in May and June 2021, the committee initially sought information that can be grouped into two categories:

1. Learn about training for investigators on campus and to seek information about potential trainings for committee members to conduct the investigation of the procedural handling
2. Receive factual information regarding the specific policies and procedures utilized in the 2019 investigation (including the decision to place the coach on administrative leave) as well as factual information regarding the actual process and procedures followed in advance of an administrative decision to reinstate the coach

The committee attempted to meet with Klingerman on May 21, 2021, but because of technology challenges and Klingerman’s desire not to have the meeting recorded, it was agreed that we could provide questions and that Klingerman would provide written responses to those questions. We initially posed these questions on May 21, 2021. Klingerman provided these responses via email on May 28, 2021. The following is a summary of those responses, organized under the general categories of information the committee was seeking:

1. Training

- a. Klingerman concluded that the committee’s request for all materials used to train investigators in order to understand the handling of the investigation was an overly broad request on the part of the committee and asserted that the committee may, in fact, already have access to a good number of those materials (e.g., annual required Title IX trainings for all employees).
- b. Klingerman mentioned that for the purposes of conducting investigations of this sort, the university both hires investigators as employees and also contracts that work out. In both cases, the university is responsible for providing annual training: “The University provides annual training to its hired and contracted investigators . . .” Training is also offered to faculty and staff who volunteer for the “Advisory Committee on Equity,” which is located in the office of the Vice President for Ethics and Compliance at Purdue.

- c. On [the website](#) of the Advisory Committee on Equity, they mention an online module via One Purdue for faculty and staff to be trained for that committee (if the module is not assigned to you, it appears you can search for it and enroll in it). According to the Office of Ethics and Compliance, groups can request specific trainings adapted to the purposes of that group. Here is [the link to request a training](#).

2. Policies and Procedures

- a. Klingerman indicated that the Feb. 2019 allegations “raised concerns that the accused person violated the university’s anti-harassment policy.” [This is the version of the policy that was current at the time of the Feb. 2019 investigation](#).
- b. For the purposes of the 2019 investigation Klingerman indicated that the university operated under the “**Procedures for Resolving Complaints of Discrimination and Harassment**.” These procedures have been revised numerous times, and all of these revisions are linked on the Committee SharePoint site. [This is the version of the procedures that was current at the time of the Feb. 2019 investigation](#).
- c. That document indicates that the “Procedures” are “used to investigate and/or resolve a report of harassment and/or discrimination,” which may be related to the Anti-Harassment Policy but also may be related to the **Equal Opportunity, Equal Access and Affirmative Action Policy**.

3. Actual Feb. 2019 investigation

- a. The coach, whom Klingerman calls the “accused person” in his response, was put on administrative leave as “an interim measure under “the Procedures.”
- b. Klingerman indicates that “the Procedures” were a reference point for the process but that “the decision-making process is governed by the facts & circumstances of any given matter.”

05.28.2021 Committee Follow-Up Questions

After receiving this response to the committee’s queries, the committee chair created a series of follow-up questions based on the committee priorities expressed in its 05.04.2021 meeting:

- the committee’s requirement “to identify the relevant policies that were used in the initial investigation,”
- the committee’s commitment to “remain focused on the policies in question as well as the administration’s procedures for identifying and investigating violations of those policies”
- the general task to “to ‘investigate the investigation [.]’ [by] . . .[identifying] the policies and procedures in place as well as the actual procedures that were followed.”

With these priorities in mind, follow-up questions focused on ensuring that the committee had a final list of all policies involved in the investigation as well as a clear understanding of the process and procedures that were followed in the Feb. 2019 investigation as they relate to “the Procedures” document that was cited as the reference point for the investigation.

06.09.2021 response to 05.28.2021 follow-up questions:

Below is a summary of the key points from this response:

- Klingerman indicated in this response that Title IX policies were included in the Anti-Harassment Policy when the Feb. 2019 was conducted.
- He noted that the Equal Opportunity, Equal Access and Affirmative Action Policy only has a vague relation to the initial allegations:
- “The initial allegations vaguely mentioned that the head coach had not hired men as assistant coaches. That allegation arguably implicated the Equal Opportunity, Equal Access and Affirmative Action Policy. The focus of the February 2019 response to the allegations was the coach’s fair treatment of student athletes.”
- “The Procedures” mention a 3-member advisor panel that should be convened to provide advice to the decision-maker in the case of a formal resolution process. In reference to questions about this panel, Trent mentioned that no panel was convened.
- No panel was convened because “no individual ever filed a formal complaint in this matter. So, there were no Complainants or Respondent,” which are terms defined in “the Procedures”:
- **Complainant(s):** “a person or persons making a complaint under the Informal Resolution Process or the Formal Resolution Process”
- **Respondent(s):** “The person or persons whose conduct is the subject of concern under these Procedures”

06.09.2021 committee Follow-Up Questions

In an effort to meet the committee’s obligation to “identify the policies and procedures in place as well as the actual procedures that were followed” in compliance with its charge by the Senate Executive Committee to examine “whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations as well as the investigation,” the chair of the committee forwarded some additional follow-up questions focused on factual information about “the Procedures,” with a particular focus on understanding the following:

- To determine which of “the Procedures” were the relevant ones for the university investigation in Feb. 2019: the “informal resolution process” or the “formal resolution process”
- To determine who the relevant decision-maker was to bring the “interim measures” to an end (i.e., reinstate the coach) and how “the Procedures” enabled or led to that decision
- “Interim measures are available under both Informal and Formal Resolution Processes”
- The decision-maker is different under each process, so to meet the Executive Committee’s charge, we needed to know how was the decision reached.
- This was in an effort to meet the Senate Executive Committee’s charge to the Ad Hoc Committee to examine “how [the university] reached [its] decision to reinstate the women’s basketball coach”
- This is related also to the terminology in “the Procedures” since the “Interim Measures” use the term “Respondent” as someone subject to “interim measures,” but Trent used the term “accused person,” which is not a defined term in “the Procedures.”

06.15.2021 response to 06.09.2021 questions

This is a summary of how Klingerman responded to the follow-up questions:

- The investigation did not make use of the “informal resolution process”
- The investigation did not make use of the “formal resolution process”
- When asked which parts of “the Procedures” were relevant if neither the “informal resolution process” nor the “formal resolution process” was used, Trent responded in the following way:

“The entirety of the Procedures were reference points for the university’s response to the allegations. For example, each person interviewed was presented with the Procedures. Each was provided with information about how to file informal or formal [complaints]. Each was

asked numerous questions designed to assist the university decide whether to initiate an investigation of the allegations. Each was assured protection from retaliation should they decide to pursue their rights. Recall that the coach was on leave from her duties at the time these interviews were conducted.”

- Klingerman “does not object” to saying that the coach’s leave was a “protective interim measure” as defined in “the Procedures,” but he also said that it is not correct to say that the coach is the “Respondent” and the student athletes “complainants” since no one filed a complaint
- Two additional key responses to the issues indicated above:
 - **The decision to return the coach to work**
 - “The decision to return the coach to work was made after it was determined that she posed no threat to the student athletes and after an evaluation of the allegations, together with the statements of the student athletes and others interviewed revealed no basis from which the university would initiate an investigation.”
 - **Who was responsible for the decision to return the coach to work?**
 - “Numerous university officials were involved in the decision to return the coach to work including the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and me.”

06.15.2021 Committee Follow-Up Questions:

As a final set of follow-up questions, the chair of the committee sought additional clarification on how “the Procedures” were used given the various terminology at play and the investigation not fitting into either of two resolution procedures nor being a “university-initiated investigation.”

06.23.2021 response to 06.15.2021 questions

Many of Klingerman’s responses to these questions reference previous answers he had given. One question that sought to clarify how “the Procedures” were used was the following:

“Is it correct to say that the university never initiated an investigation and/or never investigated the coach?”

Klingerman responded to the question in the following way:

“It is correct to say the university did not initiate an investigation under the Procedures. It is incorrect to say the university never investigated the coach.”

Klingerman also indicated that the committee would not be able to review the documents that were the product of this investigation because “the documentation comprises attorney-client privileged communications and is confidential personnel information.”

He reaffirmed his statement that the decision to reinstate the coach was a group decision involving the individuals referenced in the previous set of responses: “the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and [Deputy General Counsel].”

Because Klingerman cited the group above as the set of individuals involved in the decision to end the “protective interim measures” and return the coach to working with students, the committee reached out to each of the individuals named as well as the Faculty Athletic Representative.

Christine Marcuccilli agreed to meet with the committee as did the Chancellor. Most of the others provided a statement to the committee (included in the appendix). Marcuccilli’s conversation with the committee helped clarify some of the questions presented by Klingerman’s responses.

2. Christine Marcuccilli, PFW Associate Director of Compliance and Title IX Coordinator (October 26, 2021)

The committee met with Christine Marcuccilli, Associate Director of Compliance and Title IX Coordinator, to learn more about her experience of the procedural handling of the allegations of misconduct in the PFW Women’s Basketball program as well as to follow up on information learned in the exchanges with Klingerman.

In an effort to understand “the manner in which the university handled these allegations initially,” the committee sought to clarify one clear difference between Klingerman’s description of the procedural handling in his written exchanges with the committee and initial descriptions of the procedural handling offered by university administration. While Klingerman asserted that the university “did not initiate an investigation” of the allegations against the coach, the January 25, 2021 Senate meeting saw the procedural handling described as “a full investigation” of the allegations against the coach. Because Klingerman cited Purdue University’s “Procedures for Resolving Complaints of Discrimination and Harassment” (in its 2018 edition) as the relevant policy document for the procedural handling of these allegations, the committee wished to understand more clearly how the procedural steps related with the handling of these allegations related to these official procedures.

Marcuccilli stated that she could not speak to the specifics of PFW Women’s Basketball nor to the specifics of any other case. However, she was able to provide the committee with some clarity about the varying descriptions of the activities involved in the procedural handling of the allegations in the PFW Women’s Basketball program.

Marcuccilli explained that when there are Complaints under the “Procedures,” PFW has two possible decision makers:

1. Chancellor Elsenbaumer for employee-student or employee-employee complaints;
2. Vice Chancellor for Student Affairs Creager for student-student complaints.

These decision makers can put in place “remedial measures” or “protective interim measures” (e.g., administrative leave) as described in the “Procedures” at any point during the process of procedurally handling allegations of abuse, harassment, or misconduct. These decision makers can also bring those “protective interim measures” or “remedial measures” to an end at the decision maker’s own discretion. Those decisions are generally informed by information gathered during the in-take process (i.e. during the reporting of the allegations, whether by a Complainant or a third party).

It was during this description of university policies and procedures that the committee learned of a process that is unspecified in the “Procedures.” This process, described in this meeting as a “pre-investigation,” is an extension of the in-take process in the Office of Institutional Equity and Title IX. When the decision maker (i.e. Chancellor Elsenbaumer or Vice Chancellor Creager) cites a significant time issue, that time issue can prompt what is generally called a “pre-investigation” or information gathering phase. This “pre-investigation” or information gathering ensures that Complainants are safe, have their immediate needs met and have additional support as needed. In addition, the “pre-investigation,” through the in-take process in the Office of Institutional Equity and Title IX, identifies whether there are any emergency situations or any dangers to general campus safety. At this point,

decision makers (Chancellor Elsenbaumer or Vice Chancellor Creager) can take “protective interim measures” against Respondents.

The “pre-investigation” or information gathering phase is not specified in the “Procedures,” but the committee learned that these practices are part of the day-long training that PFW investigators receive from Purdue West Lafayette each year.

The committee was able to conclude through the statement of university policy and procedures that the coach would be understood as a “Respondent” in the procedural handling of allegations in the PFW Women’s Basketball program (this is at odds with how Klingerman described the coach in his written responses to the committee).

During the “pre-investigation” or information gathering phase, the decision maker (Chancellor Elsenbaumer in this case) can use their discretion in imposing or removing “protective interim measures” or “remedial measures.” Similarly, it was clarified to the committee that even if no one initiates a Complaint under the “Informal” or “Formal” processes mentioned in the “Procedures” that the University, via the actions of the relevant decision maker, can still initiate an investigation.

As we learned about university policies and procedures and gathered additional information (listed above and in appendices), the committee was able to conclude that Chancellor Elsenbaumer was the responsible decision maker for returning the women’s basketball coach to working with students and that the allegations were handled through a “pre-investigation” or information gather process that is not detailed in the “Procedures” but is reported to be included in training materials from Purdue West Lafayette. The committee has been unable to review those training materials.

To further understand the initial handling, the committee concluded that we should request a meeting with the remainder of the seven university officials Klingerman identified in his June 15 communication with the committee about parties involved with Chancellor Elsenbaumer’s decision: “the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity.” The other two named university officials—the Title IX Coordinator and Purdue University Deputy General Counsel—have already spoken with the Committee.

These requests were sent on November 22, 2021. All but Chancellor Elsenbaumer declined our requests and sent the committee statements (see appendix).

3. Kelley Hartley Hutton, PFW Athletic Director (November 23, 2022 email communication)

In response to the request for a meeting, the PFW Athletic Director responded that she was declining to speak with the committee, but she did provide a statement, which is included in the appendix. The statement explained that the suspension and reinstatement of the coach “was a private personnel matter that has already been reviewed by an outside, independent investigator at the request of internal general counsel.” The Athletic Director also indicated a willingness to respond in writing to questions from the committee. We requested a copy of the independent investigation with personal information redacted, but the PFW Athletic Director denied our request.

4. Chancellor Ron Elsenbaumer (January 7, 2022)

In its January 2022 meeting with Chancellor Elsenbaumer, the committee sought to discuss the processes and procedures utilized in the initial procedural handling of allegations of misconduct in the PFW Women’s Basketball program. In particular, the committee was interested in learning more about the Chancellor's decision-making process during the initial procedural handling. Specifically, the committee sought to learn more about the process for determining which specific “protective interim measures” to take against “Respondents” under the “Procedures for Resolving Complaints of Discrimination and Harassment” in effect at the time of the procedural handling of the allegations. The Committee emphasized that it had learned that there is an additional, unspecified step of “pre-

investigation” that forms a part of the procedural handling of allegations, a step that can involve “protective interim measures,” as is the case here. The committee asked about which procedures guide decision making during the “pre-investigation” phase of allegations given that they are not specified in the “Procedures.”

In the conversational response that followed, the Chancellor clarified that whenever the university receives information about a possible violation of Purdue’s Anti-Harassment Policy (III.C.1) that there is always what he calls an “inquiry phase” (the “pre-investigation” mentioned above). The Chancellor cited a section of the “Procedures” on p. 23 of the print copy of *Fostering Respect/Creating Community*, a publication of Purdue’s Office of Equal Access and Equal Opportunity that was in effect 08.01.2018 – 08.13.2020. The committee had consulted the online version of the policy archived in Purdue University’s library ([linked here](#)). The section of the document the Chancellor cited is the following (located under the subheading “Reporting and Addressing Harassment”):

“The University reserves the right to investigate circumstances that may involve Harassment in situations where no complaint, formal or informal, has been filed. In appropriate circumstances, sanctions in accordance with this policy will be implemented where the University has initiated an investigation in the absence of a formal or informal complaint” (23).

The Chancellor explained that the “protective interim measures” (the coach’s administrative leave) was permitted under this policy since the University “reserves the right to investigate circumstances that *may* involve Harassment in situations where no complaint, formal or informal, has been filed” (the Chancellor’s emphasis).

The committee followed up this assertion with a question about implementing “protective interim measures” since this section of the document states that “sanctions in accordance with this policy” (i.e. “protective interim measures” like administrative leave) are available when “the University has *initiated an investigation* in the absence of a formal or informal complaint” (the Committee’s emphasis). The committee explained that we had been informed that the University never initiated an investigation, and so it was unclear if “protective interim measures” would be available.

The Chancellor responded by citing language from the policy on p. 27 of the print copy mentioned above under the “Responsibilities” section of the policy, under the subheading “Administrators, Supervisors, and Individuals and Offices Designated as a Resource for Assistance with Harassment.” The following is the language the Chancellor cited in his response explaining his responsibilities:

“Take immediate steps in accordance with University policy and procedure to respond to any conduct involving Harassment or complaints of Harassment brought to their attention that involve University faculty, staff or students under their administrative jurisdiction” (27).

The Chancellor emphasized that the intent of the policy and the responsibilities it assigns to administrators is to give them latitude to make judgments about what will keep everyone safe. He asserted again that the “protective interim measures” (the coach’s administrative leave) were put in place to protect students while an inquiry about the received information regarding potential misconduct was carried out and officials sought corroborating evidence. The Chancellor emphasized that protecting everyone is paramount in these cases and that he felt comfortable with the decision to impose the “protective interim measures.”

Committee members acknowledged the importance of the Chancellor’s response and indicated that these questions were not being asked because they thought too much action had been taken but instead because the committee wanted to understand why there was not enough action taken to protect students. The committee indicated that it was attempting to understand not only the procedures for beginning “protective interim measures” but also the procedures for reaching decisions to bring them to an end, that is, to return the coach to working with students.

The Chancellor provided additional information about that decision-making process, which hadn’t previously been shared with the committee. This information is discussed in the next section of this report where we summarize

what we have learned in the area of the second charge of our committee: how the university reached its decision to reinstate the women's basketball coach.

Charge 2: “how it reached [its] decision to reinstate the women’s basketball coach” (SD 20-34)

Summary of initial handling of allegations

As explained in the section on Charge 1 above, the university initially handled the allegations of misconduct in the PFW Women’s Basketball program by using the “Procedures for Resolving Complaints of Discrimination and Harassment” as what Klingerman, in his May 28, 2021 response, called “a reference point” for the process. As the Chancellor noted in his January 7, 2022 meeting with the committee, the initial handling of these allegations were approached with an interpretation of the “Procedures” that provided what the Chancellor described as latitude to make judgments about what will keep everyone safe and what Klingerman described as a “decision-making process [that] is governed by the facts & circumstances of any given matter.” In the case of the initial handling of the allegations in question here, all decision making (including the decision to return the coach to working with students and the decision not to initiate a formal investigation) took place during an “inquiry phase” or “pre-investigation phase,” which is not included or specified in the “Procedures.” The committee has learned that this “inquiry phase” or “pre-investigation phase” (an extension of the intake process of an allegation) is reported to be incorporated into the training process for employees conducting inquiries and/or investigations. The committee has not been able to review those training materials.

Description of decision-making process in bringing “protective interim measures” to an end

With the information on the initial procedures utilized in handling these allegations, the committee was able to turn from the initial handling to the decision-making process itself. In other words, the committee was interested in understanding not only how the decision for “protective interim measures” (i.e. the coach’s administrative leave) was reached but also how the decision maker (Chancellor Elsenbaumer in this case) arrived at the decision to end “protective interim measures” and return the coach to working with students.

In the January 7, 2022 meeting with the committee, the Chancellor indicated that the decision to bring “protective interim measures” to an end during the “inquiry phase” of the process is related to the corroborating evidence that is uncovered during the inquiry. The Chancellor asserted that if no corroborating evidence is uncovered or no witnesses or complainants are willing to provide corroborating evidence, the university cannot initiate an investigation, and as such, it leads to the decision to bring “protective interim measures” to an end.

To demonstrate how the process and procedures work, the Chancellor provided a hypothetical example. He said that if the university receives a tip or other kind of information suggesting the possibility of Harassment, then there is a referral of that information to Human Resources (if an employee is involved), to the Title IX Coordinator and, if students are involved, to the Dean of Students or similar official (e.g. the Vice Chancellor overseeing Student Affairs or a parallel unit).

At the point of the referral or referrals for inquiry, the goal is to seek evidence to corroborate or provide credibility to the tip or received information. Potential victims of alleged potential harassment are invited to file a complaint, but if no complaint is filed and no actionable evidence is uncovered, the Chancellor asserted that the university finds itself unable to initiate an investigation.

Sources of Corroborating Evidence: Three (3) Different and Concurrent Inquiries

The committee learned that in the procedural handling of allegations against the coach in question in this case, there were **three separate inquiries** that were conducted over **a nine (9)-day period** (February 12, 2019 – February 21, 2019):

- a Human Resources inquiry (because it involved an employee)
- a Title IX inquiry
- an Athletics Department inquiry

The Chancellor explained that each of these inquiries was consistent with the other, and the preponderance of the evidence pointed in the direction of no credibility for the information received about potential Harassment in the PFW Women's Basketball program.

The committee learned more about the specifics of inquiry processes in its October 26, 2021 conversation with Christine Marcuccilli. For example, the committee asked about how cases for inquiry are allocated within the Office of Institutional Equity and Title IX. Marcuccilli responded that there are two investigators: herself and one other investigator. In the period in question, the other investigator was either Joe Flores or Andia Walker, the latter of whom has a background in law.

At the time of this conversation, the committee was unaware of the inquiry processes that took place in addition to the Title IX inquiry. In response to the committee's November 2021 meeting request to discuss the inquiry process(es) cited by Klingerman in his May/June 2021 response to the committee, the Associate Vice Chancellor for Human Resources and Office of Institutional Equity explained to the committee that all inquiries for Human Resources and the Office of Institutional Equity are handled by Christine Marcuccilli, who is a direct report to the Associate Vice Chancellor. We were provided with no additional details about a separate inquiry from Human Resources as described by the Chancellor.

Regarding the Athletics Department's inquiry, the committee received a response (previously cited above) from Kelley Hartley Hutton, the PFW Athletic Director, who explained that Purdue University West Lafayette's Office of Legal Counsel requested an independent investigation of the inquiry process conducted by the Athletics Department. As already indicated, the committee requested a redacted version of the review of the Athletics Department's inquiry. The committee's request was denied. Subsequently, the committee made two different public records requests: one from PFW and the other from Purdue West Lafayette. While the PFW request (see appendix), found no responsive records to this independent investigation, the public records request from Purdue University West Lafayette did turn up a record. However, our request to review the material was denied because, as the response to our public records request indicated (email communication from February 23, 2022):

“The record you seek was provided to Purdue by its outside counsel at the request of in-house counsel for the purposes of providing recommendations and guidance regarding a matter that is likely to lead to litigation. Therefore, this record is considered to be an attorney/client privileged communication and comprises attorney work product under both federal and state rules of procedure and evidence.”

While the committee was able to determine that the decision to return the coach to working with students was made utilizing information gathered in three separate inquiry processes conducted over a nine (9)-day period (February 12, 2019 – February 21, 2019), we do not have access to the procedures utilized and the process followed nor an awareness of who was interviewed where, when and on what schedule. The Chancellor did indicate that everyone was willing to speak with investigators and that these interviews revealed consistent evidence that did not corroborate the allegations under inquiry.

Regarding the schedule for the “inquiry phase” or “pre-investigation phase” (which is not specified with concrete timelines in the “Procedures”), the committee learned that, according to the Purdue University West Lafayette training materials, a person who serves as Purdue University's designated decision maker (i.e., Chancellor Elsenbaumer (in the case of an employee) or Vice Chancellor Creager (in the case of a student)) has the latitude to cite a significant time issue, which is what can prompt the decision to conduct the process within the “pre-

investigation” or “inquiry phase.” This “pre-investigation” or “inquiry phase” ensures that Complainants are safe, that they have their immediate needs met and that they have additional support as needed. This phase also identifies whether there are any emergency situations or any dangers to general campus safety. Once these initial steps are taken, decision makers (Chancellor Elsenbaumer or Vice Chancellor Creager) can take “protective interim measures” against Respondents. Following this, the inquiry or inquiries can proceed within the “pre-investigation” or “inquiry phase,” which, as already noted, is not included or specified in the “Procedures” but rather in the Purdue West Lafayette training materials the committee was unable to review.

Summary of the decision-making process to reinstate the women’s basketball coach

As Chancellor Elsenbaumer stated, the “inquiry phase” or “pre-investigation phase” of this process (outlined in Purdue University West Lafayette training materials but not in the official “Procedures”) involved three separate inquiry processes: a Human Resources inquiry, a Title IX inquiry and an Athletics Department inquiry. These three separate inquiries were conducted over a nine (9)-day period: February 12, 2019 – February 21, 2019. During the inquiries conducted during those nine (9) days, no corroborating evidence was uncovered to substantiate the information received regarding allegations of misconduct in the PFW Women’s Basketball program. Because of the nine (9)-day inquiry process did not uncover any corroborating evidence, Chancellor Elsenbaumer, as the decision maker designated by Purdue University policy, concluded that the university could not initiate an investigation and thus made the decision to bring the “protective interim measures” to an end (i.e. decided to reinstate the women’s basketball coach).

Continued monitoring of the PFW Women’s Basketball Program

Chancellor Elsenbaumer indicated that the situation in the women’s basketball program continued to be monitored and that there was no undue protection for anyone (the coach included). The Chancellor indicated that he felt comfortable with the way the situation was handled because it was in compliance with Purdue University policies and procedures as well as its system-wide standards, which the committee understands as referencing the Purdue University West Lafayette training on the “pre-investigation” or “inquiry phase.”

Concerns and modifications, while potentially possible, would need to be suggested to the Purdue University Vice President for Ethics and Compliance on the West Lafayette campus.

In the next section, the committee summarizes its findings regarding the extent to which the university followed its own policies and procedures as well as those of Purdue University in the handling of allegations and the subsequent inquiry to find or not find corroboration for them.

Charge 3: “whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations as well as the investigation.” (SD 20-34)

Summary of the initial handling of allegations and the decision to reinstate the coach

As explained above in the sections on Charge 1 and Charge 2, the university initially handled the allegations of misconduct in the PFW Women’s Basketball program by using the “Procedures for Resolving Complaints of Discrimination and Harassment” as “a reference point” for the process. The “Procedures,” with their designation of a decision maker for potential complaints involving employees, enabled Chancellor Elsenbaumer to implement, on behalf of Purdue University, “protective interim measures” (i.e. the coach’s administrative leave). In addition to the “Procedures,” the university relied heavily on training materials from Purdue University West Lafayette to guide decision making during the “pre-investigation” or “inquiry phase” in which the university’s review of the allegations was conducted. The “pre-investigation” or “inquiry phase” is often prompted when a significant time issue is cited. The committee was unable to determine the specifics of the time issue that may or may not have prompted the decision to conduct the review within the “inquiry phase.” During the “inquiry phase,” which precedes any decision to initiate an investigation, the university ensures that Complainants are safe, that they have their immediate needs met and that they have additional support as needed. This phase also identifies whether there are any emergency situations or any dangers to general campus safety. Once these initial steps are taken, decision makers (Chancellor Elsenbaumer (for employees) or Vice Chancellor Creager (for students)) can take “protective interim measures” against Respondents. Following this, the inquiry or inquiries can proceed within the “pre-investigation” or “inquiry phase” according to the practices outlined in Purdue University West Lafayette training materials. The committee has been unable to review these training materials.

In the case of the PFW Women’s Basketball coach, three separate and concurrent inquiries were conducted a Human Resources inquiry, a Title IX inquiry and an Athletics Department inquiry. These three separate inquiries were conducted over a nine (9)-day period: February 12, 2019 – February 21, 2019. During the inquiries conducted during those nine (9) days, no corroborating evidence was uncovered to substantiate the information received regarding allegations of misconduct in the PFW Women’s Basketball program. Because the nine (9)-day inquiry process did not uncover any corroborating evidence, Chancellor Elsenbaumer, as the decision maker designated by Purdue University policy, concluded that the university could not initiate an investigation and thus made the decision to bring the “protective interim measures” to an end (i.e. decided to reinstate the women’s basketball coach).

Committee conclusions on the use of university policies and procedures in this case

The key policies and materials that played a role in the allegations and their procedural handling are as follows:

[Purdue Anti-Harassment Policy \(III.C.1\)](#) (version: July 1, 2018 – August 14, 2020)

[“Procedures for Resolving Complaints of Discrimination and Harassment”](#) (version: July 1, 2018 - August 14, 2020)

[Purdue University West Lafayette Training Materials](#): in-take processes and the “pre-investigation” or “inquiry phase”

In the sections on Charge 1 and Charge 2 above, there is a detailed description of the activities involved in the procedural handling of the allegations against the PFW Women's Basketball coach. The procedural handling began after the university received, in late 2018, information about potential violations of the Anti-Harassment Policy (III.C.1). Actions taken after receiving the information were conducted within a "pre-investigation" or "inquiry phase" that is not explicitly detailed in the "Procedures." This phase of the process is an extension of the intake process and is outlined in training materials provided by Purdue University West Lafayette.

The decision to conduct the process via the "pre-investigation" or "inquiry phase" is one that is guided by Purdue University West Lafayette training materials rather than by the "Procedures" themselves, where there is no specified "inquiry phase." The committee has learned in the process of reviewing the procedural handling of these allegations that (as noted in the Charge 2 section of this report) the training materials developed by Purdue University West Lafayette and the trainings given by Purdue University West Lafayette are structured to provide the university's designated decision maker latitude sufficient to implement and also remove "interim measures" as laid out in the "Procedures."

The committee was not given access to these training materials. In our request for these training materials in May 2021, Klingerman asserted that all actions taken during the "inquiry phase" were guided by the "Procedures," which are publicly available. As he also says, however, "the decision-making process is governed by the fact & circumstances of any given matter." The decision making described in this second statement, which we take to parallel the Chancellor's description of the "inquiry process," is, to our understanding, guided by training materials developed by Purdue University West Lafayette rather than by the "Procedures." When the Chancellor provided the committee with materials used in the decision-making process, we were only provided with the "Procedures." But because the "pre-investigation" or "inquiry phase" are not detailed in the "Procedures," it is our understanding that the decision-making process is guided by the trainings Purdue University West Lafayette conducts for decision makers and investigators.

It is not clear whether the university followed the steps outlined in the training materials created and administered by Purdue University West Lafayette because we have not been able to review those materials. Our initial request for these materials was characterized as "overbroad." While Klingerman suggested he may be able to provide us with some training materials if the requests were specific, our subsequent conversations with others involved in the process have continued to reveal new information that would complicate those requests and likely lead to our requests being denied again. More specifically, because we learned that there were three separate and concurrent inquiry processes (one for Human Resources, one for Title IX and one for the Athletics Department), it is unclear if the trainings or even the procedures for the "inquiry phase" would be the same for each investigation or how those potentially different processes might be used to inform a decision maker.

Because the "inquiry phase" is not specified in the "Procedures" and because we do not have access to the training materials where the processes for the "inquiry phase" for each of the three units is detailed, we cannot say conclusively one way or the other that the university did or did not follow the relevant processes. The Chancellor explained how the training he received led him to understand his decision-making processes as falling within the "Procedures," which is the relevant system policy. The decision-making processes for the "inquiry phase," to our understanding, were developed at Purdue University West Lafayette and communicated to staff at PFW through trainings offered by Purdue University West Lafayette. They are not explicitly included in the "Procedures," and it is not clear if the decision-making process in this case followed those training materials because we did not have access to them.

Any deficiencies in the process of inquiry in the case of the PFW Women's Basketball coach, then, reside in the policies, materials and procedures developed at Purdue University West Lafayette. As the committee learned in the course of our review of the procedural handling of these allegations, any changes to the way inquiries and investigations are conducted on our campus would need to be approved by the Purdue University Vice President for Ethics and Compliance on the West Lafayette campus.

In terms of the existing support for those on our campus who wish to report allegations of harassment or discrimination, the committee did learn about some of the things that the Office of Institutional Equity is able to provide. But the committee also identified some areas of potential concern.

For example, one of the primary reasons the university did not initiate an investigation in the case of the women's basketball coach is that no one filed a formal nor an informal complaint. The committee was told that lack of a complaint process prevented the university from acting. However, the "Procedures" suggest that this is not the case. A "University-Initiated Investigation" is defined as the following:

"An investigation initiated by the University *in the absence of a Formal Complaint* submitted by a Complainant. In a University-Initiated Investigation, a Respondent will be provided with written notice of the allegations forming the basis of the University-Initiated Investigation, and Section I of these Procedures will govern such investigations to the greatest extent practicable." (our emphasis)

In other words, a complaint is not required to implement a University-Initiated Investigation. As we learned in the January 7, 2022 meeting, the university continued to monitor the women's basketball program, demonstrating ongoing concern for the allegations. A University-Initiated Investigation has a clearly outlined process in the "Procedures," unlike the "inquiry phase," which has been reported to us as being included in Purdue University West Lafayette trainings.

Because it is the case that Complaints, Formal or Informal, can facilitate investigations of allegations, the committee did ask whether sufficient support is provided to enable potential victims to share information and/or file a complaint.

The committee learned from Marcuccilli that the university does offer some support:

- annual trainings to students, faculty and staff on mandatory reporting and Title IX
- outreach with advisors and the Dean of Students office
- the Office of Institutional Equity and Title IX website
- office hours on the PFW main campus, since the Office of Institutional Equity and Title IX moved to the South Campus and away from where the majority of students interact with the institution

During conversations about support resources for victims, committee members expressed dissatisfaction with the available existing resources, noting that from a student experience, it is unlikely that someone would be able to persist all the way through the resolution process. While the University has numerous well-trained and highly paid officials looking out for its interests in these matters, students, staff, and faculty do not have this same support structure looking out for their interests.

The Committee still lacks clarity regarding why the procedural handling of these allegations happened on such a short timeline (9 calendar days during which student athletes traveled thousands of miles to play 3 away games) and what led Chancellor Elsenbaumer to decline to initiate an investigation under the "Procedures," which would have provided investigators more time to do their work and would have avoided student-athletes needing to participate in this process under what were likely the stressful circumstances of extensive travel, competitive play away from Fort Wayne, distance from normal support structures, a demanding academic schedule, fear of effects on playing time or scholarship and so on.

We still have some gaps in knowledge because the university has denied committee requests to review materials as well as committee public records requests. The university, at the request of in-house legal counsel, hired outside legal counsel to conduct its own review of the inquiry processes given that this "matter that is likely to lead to litigation" (email correspondence, denial of Public Records Request from Purdue University West Lafayette).

In the final section of this report, we provide our recommendations based on what we have learned about how this “inquiry process” was conducted.

Item 4: whether existing policies are adequate or need to be revised (additional charge added by the Executive Committee to the Memo based on Senate By-Laws, 5.3.4.2.)

Over the course of its review of the procedural handling of allegations of misconduct in the PFW Women's Basketball Program, the committee has concluded that existing policies are not adequate.

The most obvious deficiency is that the "pre-investigation phase" or "inquiry phase" is not described in the "Procedures." Because the entirety of this process took place within the "pre-investigation phase" or "inquiry phase," it seems appropriate that it would be made explicit in the "Procedures" in the same way as the other processes (e.g. University-Initiated Investigation, Formal Complaint, Informal Complaint, etc.).

Another significant modification to policies and procedures that would merit consideration is to explore extending the 120-day time limit for filing a Complaint. The "Procedures" are a fairly technical document, which is often being reviewed by a Complainant (i.e. the person reporting having experienced Harassment or Discrimination) in the context of significant stress or trauma. For example, the student athletes who might have filed a Complaint under the procedures were processing this technical document under the stressful circumstances of extensive travel, competitive play away from Fort Wayne, distance from normal support structures, a demanding academic schedule, fear of effects on playing time or scholarship and so on. An extended time frame may be more effective in enabling people to utilize the "Procedures" because it provides them with sufficient time to process their experience and to understand the technicalities of the document. As the committee learned in this review process, had a Complaint been filed, it is more likely that the coach would not have been returned to working with students. An extended time frame would facilitate the filing of those documents and thus enable the necessary review of actions and behaviors that may be in violation of university policies.

In addition to recommending the exploration of extending the time frame for filing Complaints, the committee spoke extensively about the need for additional support structures for students and others who find themselves in the situation of needing to file a Complaint. The process is sometimes technical (e.g. specific time frames for reporting or responding), sometimes emotionally challenging or confusing and sometimes a cumbersome experience that can lead a student or others to decline to face the challenge of filing extensive paperwork or the challenge of dealing with emotionally challenging issues without support. The committee recommends the creation of a group of trained faculty who could serve as trained advocates supporting Complainants (e.g. students) all the way through the resolution process. The idea motivating this recommendation is the need to focus modifications on improving the Complainant (e.g. student) experience of the process. The committee learned that Purdue University West Lafayette has an advocate model like the one we are suggesting. The challenge is that implementing such a model requires additional resources.

These suggestions for system-wide changes would require action both on our campus and at Purdue University West Lafayette. The committee recommends that the PFW representative on the Intercampus Faculty Council bring these issues to the attention to faculty at other Purdue campuses to engage in discussion for further steps. The committee also recommends that the PFW representative at the Purdue University West Lafayette Senate bring these matters to the attention of senators at West Lafayette to encourage discussion and engage in efforts to modify existing policies in ways that improve the safety and well-being of each and every person in the university community.

On our own campus, the committee recommends that Fort Wayne Senate review the structures of faculty oversight over student participation in athletics. The Faculty Athletic Representative was not included and had no knowledge of the allegations nor the alleged behaviors that were reportedly cited as prompting the communication of information related to the allegations at the center of the inquiries reviewed in this report. The committee recommends a review of Senate Document 16-19 in order to ensure that the Faculty Athletic Representative

maintains oversight of student participation in athletics that is independent of the Athletics Department by, for example, being housed within the academic structures of the university. In addition to SD 16-19, the committee recommends that the senate review the section of the bylaws related to the charge, responsibilities and structure of the Mastodon Athletic Advisory Subcommittee.

Conclusion

This committee has taken its responsibilities and the senate charging memo seriously. We have engaged in numerous conversations (over email, in virtual meetings) and reviewed numerous documents. We made requests for information and reviewed the information carefully. When we were unable to gain access to information needed to carry out our charge, we have explained those circumstances. With the information we were able to access, we believe our findings to be the best representation possible of the procedural handling of allegations in the PFW Women's Basketball Program. Our hope is that we take the opportunity to reflect on what this committee has learned and, more importantly, take concrete steps to improve our processes so that each and every member of the university community has the opportunity to grow, learn and thrive.

Appendix

Policies and Procedures

[Purdue Anti-Harassment Policy \(III.C.1\)](https://earchives.lib.purdue.edu/digital/collection/PPA/id/7493/rec/93) (version: July 1, 2018 – August 14, 2020):
<https://earchives.lib.purdue.edu/digital/collection/PPA/id/7493/rec/93>

[“Procedures for Resolving Complaints of Discrimination and Harassment”](https://earchives.lib.purdue.edu/digital/collection/PPA/id/7739/rec/910) (version: July 1, 2018 - August 14, 2020)
<https://earchives.lib.purdue.edu/digital/collection/PPA/id/7739/rec/910>

Senate Documents and References

[SD 20-34](https://www.pfw.edu/committees/senate/documents/documents/2020-21/SD20-34approved.pdf): Senate Oversight in Abuse Allegations Against Coach Nelson:
<https://www.pfw.edu/committees/senate/documents/documents/2020-21/SD20-34approved.pdf>

[SD 20-45](https://www.pfw.edu/committees/senate/documents/documents/2020-21/SD20-45.approved.pdf): Request to Re-authorize the Ad-hoc Committee Established by SD20-34 for the Next AY:
<https://www.pfw.edu/committees/senate/documents/documents/2020-21/SD20-45.approved.pdf>

[SR 20-52](https://www.pfw.edu/committees/senate/documents/references/2020-21/SR20-52.pdf): Ad Hoc Committee to Investigate Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program - Spring 2021 Committee Report:
<https://www.pfw.edu/committees/senate/documents/references/2020-21/SR20-52.pdf>

[SD 16-19](https://www.pfw.edu/committees/senate/documents/documents/2016-17/SD%2016-19.pdf): Faculty Athletics Representative Document:
<https://www.pfw.edu/committees/senate/documents/documents/2016-17/SD%2016-19.pdf>

[Senate Bylaws](https://www.pfw.edu/committees/senate/about/docs/Bylaws.3.14.2022.pdf): Section 5.3.4.3, Mastodon Athletics Advisory Subcommittee:
<https://www.pfw.edu/committees/senate/about/docs/Bylaws.3.14.2022.pdf>

Committee Documents (listed the order of appearance in the following pages)

1. 05.28.202 – Klingerman response to committee queries
2. 06.09.2021 – Klingerman response to committee queries
3. 06.15.2021 – Klingerman response to committee queries
4. 06.23.2021 – Klingerman response to committee queries
5. 11.22.2021 – Springer response to request for meeting
6. 11.23.2021 – Elsenbaumer response to request for meeting
7. 11.23.2021 – Hartley Hutton response to the committee
8. 11.30.2021 – Clegg response to the committee

May 28, 2021

Via Email: buttess@pfw.edu

Stephen Buttess

Chair, Ad Hoc Committee to Investigate Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program

Re: *Ad Hoc Committee's Questions*

Dear Stephen:

This follows our May 21 meeting, which was cut short due to several committee members' apparent inability to attend. The committee suggested that I provide written responses to its questions (as set forth on the meeting agenda). Please see the following responses:

1. What [university investigator] trainings are available to faculty, and can the committee receive this training to better carry out its charge?

Response: The University provides annual training to its hired and contracted investigators as well as faculty and staff who volunteer to serve as members of its Advisory Committee on Equity. The training is programmed each year and aspects of the program vary. No date has been set for the 2021-2022 training.

2. The investigation was required because the allegations made violated which specific policy or policies?

Response: No university policy or procedure "required" an investigation into the February 2019 allegations. Some of the allegations received raised concerns that the accused person violated the university's anti-harassment policy. Most of the allegations raised more general concerns about the accused's job performance, particularly her coaching and fair treatment of student athletes in her program.

3. The committee needs to examine the text of the policies as they existed at the time of the allegations and the investigation.

Response: I suggest reviewing the university's anti-harassment policy and the Procedures for Resolving Complaints of Discrimination and Harassment that were in existence in February 2019, but all archived policies are available *via* University Libraries and School of Information Studies. *See*

https://cdm16678.contentdm.oclc.org/digital/collection/PPA/search?_ga=2.268518201.950028192.1622112639-590775500.1571434481 .

Stephen Buttes

May 28, 2021

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4. At some point, it was decided the coach needed to be placed on administrative leave and an investigation conducted. What procedures govern the decision-making process for putting an employee on leave during an investigation of allegations associated with violations of the policies in question here?

Response: The placement of an employee on administrative leave is an interim measure under the Procedures reference in response to Question 3. The Procedures do not “govern the decision-making process.” The decision-making process is governed by the facts & circumstances of any given matter

5. What procedures guide who the investigator will be and who the decision-maker will be?

Response: See the Procedures referenced in response to Question 3 above as to allegations of discrimination and harassment.

6. What time frames and process steps organize these kinds of investigations according to these procedure documents?

Response: See the Procedures referenced in response to Question 3 above as to allegations of discrimination and harassment.

7. Training Materials

- for the Title IX coordinator and investigator
- for additional investigators,
- for others involved in resolving the allegations associated with this investigation
- for the final decision-makers who concluded the coach should be reinstated

Response: This is an overbroad request to the extent it seeks all training materials each of the above-referenced individuals have accrued over their careers. We can discuss what particular training of which individual the committee believes is relevant and how to request those materials directly from the individual. While I believe the materials are largely irrelevant to this matter, I can also provide materials related to the university’s general training on Title IX’s mandatory reporter duties and other, similar training offered by the university. Please confirm that you want (and do not already have access to) those materials.

Very truly yours,



Trenten D. Klingerman
Deputy General Counsel

June 9, 2021

Via Email: buttess@pfw.edu

Stephen Buttess

Chair, Ad Hoc Committee to Investigate Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program

Re: *Ad Hoc Committee's Follow Up Questions*

Dear Stephen:

This letter responds to the Committee's follow up questions of May 28, 2021. Please see the following responses:

1. Is it correct to say that Title IX policies were not involved the Feb. 2019 allegations? This is what the document seems to imply.

Response: No. Prior to August 2020, the University did not separate the concepts of "Title IX Harassment" (and the separate procedures that attend with it) from other forms of harassment covered by the Anti-harassment policy. In February 2019, the Anti-harassment policy could fairly be referred to as a "Title IX policy."

2. In the Procedures document you mention, under "[4. Investigation of Formal Complaints](#)", it indicates that investigators are required to report in their "initial assessment" whether the allegations would "constitute a violation of one or both of the Policies." In the [Definitions section](#), it says that "the Policies" are the Anti-Harassment Policy and the Equal Opportunity, Equal Access and Affirmative Action Policy. While you mention the former in the document you sent, you did not mention the latter.
 - a. Were the allegations found to involve this other policy or ONLY the Anti-Harassment Policy?

Response: The initial allegations vaguely mentioned that the head coach had not hired men as assistant coaches. That allegation arguably implicated the Equal Opportunity, Equal Access and Affirmative Action Policy. The focus of the February 2019 response to the allegations was the coach's fair treatment of student athletes.

3. In the "[5. Determination](#)" section of the Procedures, it indicates that after receiving the University Investigator's report that a three-member panel will be convened to provide advice on interpreting the University Investigator's report.
 - a. Can you provide the names of the people who formed a part of this advisory panel?

Stephen Buttes

June 9, 2021

Page 2

Response: No panel was convened in this matter.

- b. Since the Procedures indicate three possible options (as well as, I assume, Eligible Designees) as those who can convene the panel, could you indicate who convened the panel?

Response: No panel was convened in this matter.

- c. Were Complainants and Respondent provided an opportunity to meet with the decision-maker and the panel (if they requested it)?

Response: No panel was convened in this matter. By way of clarification, no individual ever filed a formal complaint in this matter. So, there were no Complainants or Respondent.

Very truly yours,



Trenten D. Klingerman
Deputy General Counsel

June 15, 2021

Via Email: buttess@pfw.edu

Stephen Buttess

Chair, Ad Hoc Committee to Investigate Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program

Re: *Ad Hoc Committee's Follow Up Questions*

Dear Stephen:

This letter responds to the Committee's follow up questions of June 9, 2021. Please see the following responses:

1. Is it correct to say that "the allegations" and "general concerns of fair treatment" (official university statement) or, from your response, "the allegations [regarding] the coach's fair treatment of student athletes" did not go through the Formal Resolution Process in the "Procedures for Resolving Complaints of Discrimination and Harassment?"

Response: Yes.

2. Did "the allegations" move through the Informal Resolution Process?

Response: No.

2.c. If the Informal Resolution Process was not used, which specific part or parts of the "Procedures for Resolving Complaints of Discrimination and Harassment" was/were the reference points for you, compliance officers, equity investigators, university administrators or anyone else involved in investigating and resolving "the allegations"?

Response: The entirety of the Procedures were reference points for the university's response to the allegations. For example, each person interviewed was presented with the Procedures. Each was provided with information about how to file informal or formal complains. Each was asked numerous questions designed to assist the university decide whether to initiate an investigation of the allegations. Each was assured protection from retaliation should they decide to pursue their rights. Recall that the coach was on leave from her duties at the time these interviews were conducted.

3.a. Is it correct to say that the coach is the "Respondent" and the "student athletes" the "Complainants?"

Response: No.

Stephen Buttes

June 15, 2021

Page 2

3.b. Is it correct to say that the coach's administrative leave is classified as a "protective interim measure" as defined in the "interim measures" section of the "Procedures" document?

Response: I do not have any objection to that characterization.

3.c.i. Is administrative leave ("University-imposed leave") a standard practice outside of the Formal Resolution Process?

Response: No.

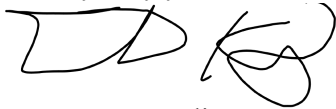
3.c.ii. How was the decision to end the "interim measure" (i.e. return the coach to the team) reached if neither the Formal Resolution Process nor the Informal Resolution Process was followed?

Response: The decision to return the coach to work was made after it was determined that she posed no threat to the student athletes and after an evaluation of the allegations, together with the statements of the student athletes and others interviewed revealed no basis from which the university would initiate an investigation.

4. For the purposes of resolving "the allegations" and returning the coach to the team, who was the decision-maker since no advisory panel was convened?

Response: Numerous university officials were involved in the decision to return the coach to work including the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and me.

Very truly yours,



Trenten D. Klingerman
Deputy General Counsel

June 23, 2021

Via Email: buttess@pfw.edu

Stephen Buttes

Chair, Ad Hoc Committee to Investigate Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program

Re: *Ad Hoc Committee's Follow Up Questions*

Dear Stephen:

This letter responds to the Committee's follow up questions of June 15, 2021. Please see the following responses:

1. Is it correct to say that, for the purposes of the "Procedures," there were no "complaints" of discrimination or harassment?

Response: Yes.

2. Is it correct to say, for the purposes of the "Procedures," that instead of "complaints" of discrimination or harassment that there were, instead, "reports of harassment and/or discrimination," in the meaning of the sentence from the policy cited above?

Response: I do not object to the characterization.

3a. Is it correct to say the coach is the "Respondent," i.e. "the person or persons whose conduct is the subject of concern under these procedures?"

Response: This question has been previously answered. See June 9 letter, Response to question 3.c; June 15 letter, Response to question 3.a.

3.b. Is it correct to say that the "protective interim measures" were taken in response to "reports of harassment and/or discrimination"?

Response: I do not object to that characterization.

4. Is it correct to say that the university never initiated an investigation and/or never investigated the coach?

Response: It is correct to say the university did not initiate an investigation under the Procedures. It is incorrect to say the university never investigated the coach.

5a. Are there written documents that were used in making "the decision" (e.g. findings of fact, summaries of student statements, etc.)?

Response: Yes.

Stephen Buttes

June 23, 2021

Page 2

Would the committee be able to review some version of these documents if they exist (e.g. redacting names and personal identifying information)?

Response: No. The documentation comprises attorney-client privileged communications and is confidential personnel information.

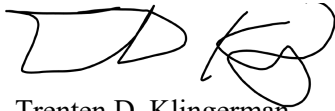
5.b. Is it correct to say that part of "the decision" was also a decision not to investigate the coach?

Response: No.

5.c. Who made "the decision?"

Response: The group of individuals identified in my response to question 4 in the June 15 letter made the decision.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Trenten D. Klingerman', written over a horizontal line.

Trenten D. Klingerman
Deputy General Counsel

Re: Meeting Request - Senate Ad Hoc Committee

Cynthia Springer <springec@pfw.edu>

Mon 11/22/2021 3:08 PM

To: Stephen Buttes <buttes@pfw.edu>

Hi Steve,

As you know, Christine Marcuccilli, who reports to me, leads these HR|OIE processes. Questions regarding interim measures and specifics identified below concerning interviews were handling through Christine Marcuccilli. I could not offer any specifics as to responses in regards to these topics.

Let me know if you want to discuss further.

Cynthia

Sent from my iPhone

On Nov 22, 2021, at 2:45 PM, Stephen Buttes <buttes@pfw.edu> wrote:

Dear Cynthia:

I am writing to you in my capacity as Chair of the PFW Senate Ad Hoc Committee to Investigate the Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program.

As you may know, the Fort Wayne Senate created our committee in its January 2021 meeting (see SD 20-34 in [PFW Senate Minutes for Jan. 11 and Jan. 25, 2021](#)) and voted to have it continue its work in the 2021-2022 academic year (see SD 20-45 in [PFW Senate Minutes for April 12, 19 and 26, 2021](#)).

After consulting with Christine Marcuccilli (Associate Director of Compliance and Title IX Coordinator) and Trent Klingerman (Purdue University, Deputy General Counsel) to ensure that the committee's work would avoid issues of privacy and confidentiality, the Senate Executive Committee subsequently created a charging memo for this committee to meet the charge of SD 20-34 in a way that complies with all matters of confidentiality and privacy.

To that end, the Senate Executive Committee charged this committee with examining four items:

1. "the manner in which the university handled these allegations initially;"
2. "how it reached [its] decision to reinstate the women's basketball coach;"

3. “Whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations and the investigation;” and
4. “whether existing policies are adequate or need to be revised.”

The committee had extended written exchanges with Trent Klingerman regarding the procedural handling of the allegations made in the PFW Women’s Basketball Program.

In his June 15 response to the committee’s questions, Mr. Klingerman identified seven “university officials [who] were involved in the decision to return the [PFW Women’s Basketball] coach to work:”

“Numerous university officials were involved in the decision to return the coach to work including the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and [Purdue University Deputy General Counsel].”

It is the committee’s understanding that Chancellor Elsenbaumer is the decision maker who is responsible for the decision to return the coach to working with students.

However, given this list of participants in the decision-making process, the committee would like to have a conversation with you about two specific aspects of the procedural handling of the allegations against the PFW Women’s Basketball coach so that we can meet the charge of our committee.

Specifically, we are looking to understand the following in a clearer way:

a. the process for determining which specific “protective interim measures” to take against “Respondents” under the “[Procedures for Resolving Complaints of Discrimination and Harassment](#)” in effect at the time of the procedural handling of the allegations. The Committee has learned that there is an additional, unspecified step of “pre-investigation” that forms a part of the procedural handling of allegations, a step that can involve “protective interim measures,” as is the case here.

What procedures guide decision making during the “pre-investigation” phase of allegations such as those at issue in our committee’s charge?

b. the step-by-step process for procedurally handling the allegations against the PFW Women’s Basketball coach.

We know from media reports that on Feb. 12, 2019 the coach (the “Respondent”) was placed on administrative leave (confirmed by Mr. Klingerman in his June 15 response as a “protective interim measure” as defined in the “[Procedures for Resolving Complaints of Discrimination and](#)

[Harassment](#)”) and that those “protective interim measures” were ended on Feb. 21, 2019 after what university officials at the time termed a “thorough” investigation.

During those 9 days of “protective interim measures,” the PFW Women’s Basketball team played 3 away games (which obviously also included extensive travel):

- Denver, CO (Feb. 13; 1,149 miles from Fort Wayne [approximately 18 hours travel time by car])
- Omaha, NE (Feb. 16; 613 miles from Fort Wayne [approximately 10 hours travel time by car]);
- Brookings, SD (Feb. 20; 783 miles [approximately 12 hours travel time by car]).

To be clear, we do not wish to know specific names of those making allegations or the content of allegations since they are not related to meeting our charge.

Instead, we are interested in knowing, for example, dates of interviews, length of interviews conducted, location of interviews, support services offered before, during and after interviews, the length of time provided for various aspects of report filing and decision making.

Knowing this anonymized information would enable us to meet the four items of our committee charge more fully.

Would you be willing to meet with the committee to discuss these two items? Please respond to this email by **December 3, 2021** to communicate to the committee whether you are willing or are not willing to meet with the committee to discuss the two specific items noted above.

On behalf of the committee,

Steve Buttes,

Chair, PFW Senate Ad Hoc Committee to Investigate the Procedural Handling of Allegations of Misconduct in the PFW Women’s Basketball Program

Re: Meeting Request - Senate Ad Hoc Committee

Stephen Buttes <buttess@pfw.edu>

Tue 11/23/2021 1:28 PM

To: Ronald Elsenbaumer <ronald.elsenbaumer@pfw.edu>

Cc: chancellor <chancellor@pfw.edu>; Kimberly Wagner <kimberly.wagner@pfw.edu>; Gayle Bellam <bellamg@pfw.edu>

Dear Chancellor Elsenbaumer:

Many thanks for responding. I will let the committee know. May I work with Gayle to identify a time that works for both you and the committee?

Thank you, and enjoy the holiday,

Steve

From: Ronald Elsenbaumer <ronald.elsenbaumer@pfw.edu>

Sent: Tuesday, November 23, 2021 1:20 PM

To: Stephen Buttes <buttess@pfw.edu>

Cc: chancellor <chancellor@pfw.edu>; Kimberly Wagner <kimberly.wagner@pfw.edu>; Gayle Bellam <bellamg@pfw.edu>

Subject: Re: Meeting Request - Senate Ad Hoc Committee

Stephen,

Happy to meet with the committee sometime after December 6. We can work to see what fits on the calendar.

Thanks,

Ron

Ronald L. Elsenbaumer, Ph.D.

Chancellor

Purdue University Fort Wayne

2101 East Coliseum Boulevard

Kettler Hall, Room 166

Fort Wayne, IN 46805-1499

Phone: 260-481-6103

Email: Ronald.Elsenbaumer@pfw.edu

PURDUE
UNIVERSITY

FORT WAYNE

From: Stephen Buttes <buttess@pfw.edu>

Date: Monday, November 22, 2021 at 2:45 PM

To: Ronald Elsenbaumer <ronald.elsenbaumer@pfw.edu>

Cc: chancellor <chancellor@pfw.edu>, Kimberly Wagner <kimberly.wagner@pfw.edu>, Gayle Bellam <bellamg@pfw.edu>

Subject: Meeting Request - Senate Ad Hoc Committee

Dear Chancellor Elsenbaumer:

I am writing to you in my capacity as Chair of the PFW Senate Ad Hoc Committee to Investigate the Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program.

As you may know, the Fort Wayne Senate created our committee in its January 2021 meeting (see SD 20-34 in [PFW Senate Minutes for Jan. 11 and Jan. 25, 2021](#)) and voted to have it continue its work in the 2021-2022 academic year (see SD 20-45 in [PFW Senate Minutes for April 12, 19 and 26, 2021](#)).

After consulting with Christine Marcuccilli (Associate Director of Compliance and Title IX Coordinator) and Trent Klingerman (Purdue University, Deputy General Counsel) to ensure that the committee's work would avoid issues of privacy and confidentiality, the Senate Executive Committee subsequently created a charging memo for this committee to meet the charge of SD 20-34 in a way that complies with all matters of confidentiality and privacy.

To that end, the Senate Executive Committee charged this committee with examining four items:

1. "the manner in which the university handled these allegations initially;"
- 2.
3. "how it reached [its] decision to reinstate the women's basketball coach;"
- 4.
5. "Whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations and the investigation;" and
- 6.
7. "whether existing policies are adequate or need to be revised."

The committee had extended written exchanges with Trent Klingerman regarding the procedural handling of the allegations made in the PFW Women's Basketball Program.

In his June 15 response to the committee's questions, Mr. Klingerman identified seven "university officials [who] were involved in the decision to return the [PFW Women's Basketball] coach to work:"

"Numerous university officials were involved in the decision to return the coach to work including the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and [Purdue University Deputy General Counsel]."

It is the committee's understanding that Chancellor Elsenbaumer is the decision maker who is responsible for the decision to return the coach to working with students.

In an effort to meet our charge and understand the decision-making process more clearly, the committee would like to have a conversation with you about two specific aspects of the

procedural handling of the allegations against the PFW Women's Basketball coach so that we can meet the charge of our committee.

Specifically, we are looking to understand the following in a clearer way:

a. the process for determining which specific “protective interim measures” to take against “Respondents” under the [“Procedures for Resolving Complaints of Discrimination and Harassment” in effect](#) at the time of the procedural handling of the allegations. The Committee has learned that there is an additional, unspecified step of “pre-investigation” that forms a part of the procedural handling of allegations, a step that can involve “protective interim measures,” as is the case here.

What procedures guide decision making during the “pre-investigation” phase of allegations such as those at issue in our committee’s charge?

b. the step-by-step process for procedurally handling the allegations against the PFW Women's Basketball coach.

We know from media reports that on Feb. 12, 2019 the coach (the “Respondent”) was placed on administrative leave (confirmed by Mr. Klingerman in his June 15 response as a “protective interim measure” as defined in the [“Procedures for Resolving Complaints of Discrimination and Harassment”](#)) and that those “protective interim measures” were ended on Feb. 21, 2019 after what university officials at the time termed a “thorough” investigation.

During those 9 days of “protective interim measures,” the PFW Women's Basketball team played 3 away games (which obviously also included extensive travel):

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- - To be clear, we do not wish to know specific names of those making allegations or the content of allegations since they are not related to meeting our charge.

Instead, we are interested in knowing, for example, dates of interviews, length of interviews conducted, location of interviews, support services offered before, during and after interviews, the length of time provided for various aspects of report filing and decision making.

Knowing this anonymized information would enable us to meet the four items of our committee charge more fully.

•

Would you be willing to meet with the committee to discuss these two items? Please respond to this email by **December 3, 2021** to communicate to the committee whether you are willing or are not willing to meet with the committee to discuss the two specific items noted above.

On behalf of the committee,

Steve Buttes,

Chair, PFW Senate Ad Hoc Committee to Investigate the Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program

Re: Meeting Request - Senate Ad Hoc Committee

Kelley Hartley Hutton <hartleyk@pfw.edu>

Tue 11/23/2021 1:03 PM

To: Stephen Buttes <buttess@pfw.edu>

Cc: Christine Kuznar <kuznarc@pfw.edu>; Rachel Holycross <newstedr@pfw.edu>; Glen Nakata <gnakata@pfw.edu>

Stephen,

We are not able to provide a copy of that report. My suggestion is that you reach out to Trent Klingerman at WL for that request.

Kelley

On Nov 23, 2021, at 11:34 AM, Stephen Buttes <buttess@pfw.edu> wrote:

Dear Kelley (if I may):

Thank you for responding. I will communicate your response to the committee.

Would you or Vice Chancellor Nakata be able to provide the committee with a copy of the report you mention? Your email suggests that it has the information the committee needs to fulfill its charge, so it would be helpful to review it.

Thank you,

Steve Buttes

From: Kelley Hartley Hutton <hartleyk@pfw.edu>

Sent: Tuesday, November 23, 2021 11:21 AM

To: Stephen Buttes <buttess@pfw.edu>

Cc: Christine Kuznar <kuznarc@pfw.edu>; Rachel Holycross <newstedr@pfw.edu>; Glen Nakata <gnakata@pfw.edu>

Subject: RE: Meeting Request - Senate Ad Hoc Committee

Stephen,

Since this was a private personnel matter that has already been reviewed by an outside, independent investigator at the request of internal general council I respectfully decline the invitation to meet on this topic. All of these questions should be addressed in that report and others.

If you have specific questions I can answer, please provide them to me in writing and I will do my very best to provide that information.

Thank you,
Kelley Hartley Hutton

KELLEY HARTLEY HUTTON *Athletic Director*
hartleyk@pfw.edu | O: (260) 481-5445



From: Stephen Buttes <buttes@pfw.edu>
Sent: Monday, November 22, 2021 2:46 PM
To: Kelley Hartley Hutton <hartleyk@pfw.edu>
Subject: Meeting Request - Senate Ad Hoc Committee

Dear Director Hartley Hutton:

I am writing to you in my capacity as Chair of the PFW Senate Ad Hoc Committee to Investigate the Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program.

As you may know, the Fort Wayne Senate created our committee in its January 2021 meeting (see SD 20-34 in [PFW Senate Minutes for Jan. 11 and Jan. 25, 2021](#)) and voted to have it continue its work in the 2021-2022 academic year (see SD 20-45 in [PFW Senate Minutes for April 12, 19 and 26, 2021](#)).

After consulting with Christine Marcuccilli (Associate Director of Compliance and Title IX Coordinator) and Trent Klingerman (Purdue University, Deputy General Counsel) to ensure that the committee's work would avoid issues of privacy and confidentiality, the Senate Executive Committee subsequently created a charging memo for this committee to meet the charge of SD 20-34 in a way that complies with all matters of confidentiality and privacy.

To that end, the Senate Executive Committee charged this committee with examining four items:

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3. "how it reached [its] decision to reinstate the women's basketball coach;"
- 4.
5. "Whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations and the investigation;" and
- 6.
7. "whether existing policies are adequate or need to be revised."

The committee had extended written exchanges with Trent Klingerman regarding the procedural handling of the allegations made in the PFW Women's Basketball Program.

In his June 15 response to the committee's questions, Mr. Klingerman identified seven "university officials [who] were involved in the decision to return the [PFW Women's Basketball] coach to work:"

"Numerous university officials were involved in the decision to return the coach to work including the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and [Purdue University Deputy General Counsel]."

It is the committee's understanding that Chancellor Elsenbaumer is the decision maker who is responsible for the decision to return the coach to working with students.

However, given this list of participants in the decision-making process, the committee would like to have a conversation with you about two specific aspects of the procedural handling of the allegations against the PFW Women's Basketball coach so that we can meet the charge of our committee.

Specifically, we are looking to understand the following in a clearer way:

a. the process for determining which specific "protective interim measures" to take against "Respondents" under the ["Procedures for Resolving Complaints of Discrimination and Harassment" in effect](#) at the time of the procedural handling of the allegations. The Committee has learned that there is an additional, unspecified step of "pre-investigation" that forms a part of the procedural handling of allegations, a step that can involve "protective interim measures," as is the case here.

What procedures guide decision making during the "pre-investigation" phase of allegations such as those at issue in our committee's charge?

b. the step-by-step process for procedurally handling the allegations against the PFW Women's Basketball coach.

We know from media reports that on Feb. 12, 2019 the coach (the "Respondent") was placed on administrative leave (confirmed by Mr. Klingerman in his June 15 response as a "protective interim measure" as defined in the ["Procedures for Resolving Complaints of Discrimination and Harassment"](#)) and that those "protective interim measures" were ended on Feb. 21, 2019 after what university officials at the time termed a "thorough" investigation.

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Instead, we are interested in knowing, for example, dates of interviews, length of interviews conducted, location of interviews, support services offered before, during and after interviews, the length of time provided for various aspects of report filing and decision making.

Knowing this anonymized information would enable us to meet the four items of our committee charge more fully.

-

Would you be willing to meet with the committee to discuss these two items? Please respond to this email by **December 3, 2021** to communicate to the committee whether you are willing or are not willing to meet with the committee to discuss the two specific items noted above.

On behalf of the committee,

Steve Buttes,

Chair, PFW Senate Ad Hoc Committee to Investigate the Procedural Handling
of Allegations of Misconduct in the PFW Women's Basketball Program

Re: Meeting Request - Senate Ad Hoc Committee

Jens Clegg <cleggj@pfw.edu>

Tue 11/30/2021 12:58 PM

To: Stephen Buttes <buttess@pfw.edu>; Ronald Elsenbaumer <ronald.elsenbaumer@pfw.edu>

Due to my extremely limited involvement in this specific case, I feel that I have nothing of substance to contribute to the conversation. Therefore, I have decided not to meet with the committee, but I send the following statement.

As the FAR I was in no way involved or informed at any stage in the process of the handling of allegations of misconduct in the PFW Women's Basketball Program that your committee has been charged by the faculty senate with investigating. I learned about the specific allegations at the same time as the rest of the faculty when they were released by the media. The allegations against the women's basketball coach reported by the media seem horrendous and unacceptable. In my experience working with athletics these allegations are very out of character for the coaches and student athletes. I reached out to the Chancellor about the allegations, and he informed me that because the allegations involved issues related to Title IX that I would not, and could not, be informed or consulted as those issues must be handled and investigated privately by the office of compliance. I reached out to Christine Marcuccilli to confirm what the chancellor said about the FAR not being involved or consulted and she confirmed that the chancellor was correct and that, legally, the specifics of these allegations could not be shared with the FAR. Based on that information I have no role in this process and processes like it that involve these types of allegations.

As the FAR I am a mandatory reporter and if allegations of this nature were ever reported to me by anyone in athletics (student or employee) I would immediately report them to the office of compliance as I am required. To date in my time as FAR no allegations of this nature, or similar allegations, have been reported to me. The student athletes that I work with are generally happy with their experience here at PFW with their coaches, advisors, and other athletics staff.

Regarding the FAR's relationship with athletics, The Department of Athletics has always been very transparent with me and involved me in the decision-making process in all areas, including hiring, policy making, training, academic issues, mental health, and many other processes. They actively seek my input and involvement in all areas of the student athlete experience, and they listen to that input. As a department they show great care and concern for the student athletes and work hard to make sure that they have a good experience. In my time as FAR, the Athletics Department has consistently focused its efforts on putting academics and the student athlete experience at the forefront.

Jens Clegg
Associate Professor of Spanish
Department of International Language and Culture Studies
Faculty Athletic Representative

From: Stephen Buttes <buttess@pfw.edu>
Sent: Monday, November 22, 2021 2:45 PM
To: Jens Clegg <cleggj@pfw.edu>
Subject: Meeting Request - Senate Ad Hoc Committee

Dear Dr. Clegg:

I am writing to you in my capacity as Chair of the PFW Senate Ad Hoc Committee to Investigate the

Procedural Handling of Allegations of Misconduct in the PFW Women's Basketball Program.

As you may know, the Fort Wayne Senate created our committee in its January 2021 meeting (see SD 20-34 in [PFW Senate Minutes for Jan. 11 and Jan. 25, 2021](#)) and voted to have it continue its work in the 2021-2022 academic year (see SD 20-45 in [PFW Senate Minutes for April 12, 19 and 26, 2021](#)).

After consulting with Christine Marcuccilli (Associate Director of Compliance and Title IX Coordinator) and Trent Klingerman (Purdue University, Deputy General Counsel) to ensure that the committee's work would avoid issues of privacy and confidentiality, the Senate Executive Committee subsequently created a charging memo for this committee to meet the charge of SD 20-34 in a way that complies with all matters of confidentiality and privacy.

To that end, the Senate Executive Committee charged this committee with examining four items:

1. "the manner in which the university handled these allegations initially;"
2. "how it reached [its] decision to reinstate the women's basketball coach;" "
3. "Whether the university followed its own internal policies as well as those of Purdue University in the handling of both the allegations and the investigation;" and
4. "whether existing policies are adequate or need to be revised."

The committee had extended written exchanges with Trent Klingerman regarding the procedural handling of the allegations made in the PFW Women's Basketball Program.

In his June 15 response to the committee's questions, Mr. Klingerman identified seven "university officials [who] were involved in the decision to return the [PFW Women's Basketball] coach to work:"

"Numerous university officials were involved in the decision to return the coach to work including the Chancellor, Athletic Director, Senior Woman Administrator, Associate Athletic Director for Compliance, Associate Vice Chancellor for Human Resources & Office of Institutional Equity, Campus Title IX Coordinator and [Purdue University Deputy General Counsel]."

It is the committee's understanding that Chancellor Elsenbaumer is the decision maker who is responsible for the decision to return the coach to working with students.

However, given this list of participants in the decision-making process and the lack of faculty oversight in the process, the committee would like to have a conversation with you about the role of faculty in the process of procedural handling of allegations of misconduct so that we can meet the charge of our committee.

As you know, Senate Bylaws state that the Mastodon Athletics Advisory Subcommittee is a subcommittee of the Student Affairs Committee.

The Student Affairs Committee “shall be concerned with **the general social, cultural, and practical welfare of all PFW students**. Specific non-classroom **matters of concern shall include** but not be limited to intramural and **intercollegiate athletics**, counseling, orientation of new students, scholarships, loans, conduct and discipline, health, living conditions, student political activities and organizations, student government actions and recommendations, extracurricular activities, **provision of equal rights and opportunities**, recruiting and placement policies, and **other matters which would enhance the university environment of the student for learning and living**. The Committee shall establish a Mastodon Athletics Advisory Subcommittee” (our emphasis, 5.3.4.2).

The Mastodon Athletics Advisory Subcommittee, assisting the Student Affairs Committee in performing duties related to ensuring the “general, social, cultural, and practical welfare of all PFW students” in the area of athletics, “shall . . . Advise the ex-officio members” (5.3.4.3.2.6), which include athletics administrators, and “shall . . . When requested by administrators, make personnel recommendations in the athletic area to the Chief Administrative Officer” (5.3.4.3.2.7).

Similarly, SD 16-19, the Faculty Athletic Representative (FAR) Document, states that the FAR is “the most visible sign of faculty involvement in the intercollegiate athletics program” (SD 16-19). As the document states, the FAR’s role is:

“To be **an independent participant in the process of monitoring compliance with NCAA**, conference, and **institutional rules** by the athletic program;

- To provide a faculty viewpoint in the administration of the intercollegiate athletics programs;

- To **act as a resource for student-athletes**, coaches, and athletic department staff; and

- To **advise the chancellor** on matters related to these functions.

The FAR should carry out these duties particularly **mindful of the need to protect** the academic integrity of the athletics program and **the welfare of the student-athletes**” (our emphasis SD 16-19)

In a more specific way, the FAR, among other things, “oversee[s] the annual administration of the coaches certification exam,” “actively participate[s] in the student-athlete exit interview process and review[s] student-athlete responses to the annual program evaluations,” and “meet[s] regularly with the Chancellor on matters related to the intercollegiate athletics program.”

The committee is looking to understand more clearly why the FAR, the Mastodon Athletics Advisory Subcommittee and the Student Affairs Committee do not appear to have been involved in advising the Chancellor Elsenbaumer when he was engaging in the decision-making process to end “protective interim measures” against the coach and return her to working with students.

Because our committee is charged with reporting on “whether existing policies are adequate or need to be revised,” we would like to speak with you regarding the FAR’s role in the procedural handling of the allegations of misconduct in the PFW Women’s Basketball program specifically and the independence of faculty oversight of athletics more generally.

Given that SD 16-19 charges the FAR to “serve as a liaison between faculty, administration and student-athletes and assist in the mediation of any conflicts between these groups” (SD 16-19), we

believe that meeting with this committee falls within the FAR's enumerated responsibilities.

Would you be willing to meet with the committee to discuss the issues outlined above? Please respond to this email by **December 3, 2021** to communicate to the committee whether you are willing or are not willing to meet with the committee to discuss these matters.

On behalf of the committee,

Steve Buttes,

Chair, PFW Senate Ad Hoc Committee to Investigate the Procedural Handling
of Allegations of Misconduct in the PFW Women's Basketball Program