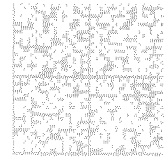




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MAR 10 2021

ATTORNEY GENERAL
OF WASHINGTON

March 5, 2021

Bob Ferguson
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Honorable Attorney General Ferguson,

As the President of Eastern Washington University (EWU), I am asking for your office to provide an Attorney General Opinion regarding the application of the Open Public Meetings Act (OPMA), chapter 42.30 RCW, to a specific group at EWU. EWU is a state agency created pursuant to chapter 28B.35 RCW. EWU is governed by a Board of Trustees. RCW 28B.35.100. EWU acknowledges and understands that the meetings of its Board of Trustees are subject to the OPMA. EWU is seeking guidance about whether another group at the university also constitutes a governing body under the OPMA, or are otherwise statutorily required to comply with the OPMA.

More specifically, I am asking for guidance regarding the application of the OPMA to meetings of EWU's Academic Senate. In particular, EWU seeks direction about whether or not the Academic Senate is considered a committee of the Board of Trustees and, if so, whether it has actual or de facto decision-making authority on behalf of the Board of Trustees. Information about EWU's Academic Senate is provided below.

Academic Senate

EWU is committed to shared governance with its faculty leadership. EWU's commitment to shared governance is contained in EWU Policy 101-02 (University Governance)¹. The policy states, in part,

A collegial model of share governance formally recognizes a shared responsibility in the conduct of matters pertaining to the planning or development of university-wide policy. Legal authority rests with the board of trustees and is delegated to the administration and the faculty. . . . The faculty discharges its responsibility (a) through a system of departments, schools, colleges and divisions designed to plan, develop and implement programs and policies inherent to the unit, and to express judgment on certain personnel matters, and (b) the Academic Senate which, through a network of representative committees and councils, articulates formal faculty positions on policy matters.

The policy goes on to identify two specific governing bodies, the Faculty Organization and Associated Students of Eastern Washington University (ASEWU). It states, "[t]he Faculty Organization and the Associated Statues of Eastern Washington University are separate governance bodies within the university. These governance bodies articulate their own constitution and bylaws and are empowered to enact policy and take action



within the confines and scope of their authority.” The bodies also have the power to make recommendations on university strategies and policies, subject to approval of the president. EWU understands the ASEWU is subject to the OPMA under RCW 42.30.200.

The Faculty Organization is an entity comprised of all faculty members at EWU and its purpose is to benefit such faculty and EWU. The constitution of the Faculty Organization is contained in Appendix A to EWU Academic Policy 301-21 (Faculty Organization and the Academic Senate)². The Faculty Organization is distinct from the faculty union, United Faculty of Eastern Washington University. The legislative arm of the Faculty Organization is called the “Academic Senate.” The purposes of the Academic Senate, as set forth in EWU Academic Policy 301-21, are to formulate and recommend policies, provide advice and counsel to the president, coordinate and articulate faculty efforts, and coordinate the efforts and activities of the faculty on matters of general interest relevant to the university’s mission. The Academic Senate is comprised of ex-officio members and senators from academic units throughout the university.

In terms of decision-making authority, the Board of Trustees delegated to the Academic Senate the authority to approve academic policy changes that are ultimately adopted under the authority of the university president. EWU Policy 201-01 (Policy Management)³; Academic Policy 301-21 (Faculty Organization and Academic Senate)⁴ (stating that academic policies “are approved by the senate and adopted with the concurrence of the university president”). It is rare for the president not to adopt policy changes approved by the Academic Senate. Other university policies are approved by the Board of Trustees.

The Academic Senate and its subcommittees also play an integral role in reviewing and approving academic programs, EWU Academic Policy 303-40 (Academic Program Review)⁵, and courses, EWU Academic Policy 303-35 (Program and Course Management)⁶. More information about the Academic Senate and its subcommittees is available at: <https://inside.ewu.edu/faculty-organization/>.

If you need additional information to assist you in answering this question, please let me know.

Dr. David May
Interim President
Eastern Washington University

Reference Links

¹ <https://inside.ewu.edu/policies/knowledge-base/ewu-101-02-university-governance/>

² https://in.ewu.edu/policies/wp-content/uploads/sites/82/2020/07/AP-301-21_ApprovedFinal07-25-20.pdf

³ <https://inside.ewu.edu/policies/knowledge-base/ewu-201-01-policy-management/>

⁴ <https://inside.ewu.edu/policies/knowledge-base/ap-301-21-faculty-organization-and-the-academic-senate/>

⁵ <https://inside.ewu.edu/policies/knowledge-base/ap-303-40-academic-program-review/>

⁶ <https://inside.ewu.edu/policies/knowledge-base/ap-303-35-program-and-course-management/>