Call to Order: 12:06 p.m.

Communication Officer's Report
Approved Minutes of 12/11/2014: https://ritdml.rit.edu/handle/1850/17425
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Executive Committee Report
- H. Shahmohamad: On behalf of the Academic Senate the guests from Malmö, Sweden: Berndt Clavier and Stig Westerdahl, Associate Professors from Malmö University were given a warm welcome.
- Malmö University Partnership: Opportunities for Research, Scholarship, Creativity and Graduate Study in Sweden - Thursday, February 12, 4:00-5:30 p.m., Student Innovation Hall
- The Eisenhart Nominations Committee will need two more tenured faculty to serve from AY2015-17. Please contact Vivian Gifford (asenate@rit.edu) if you wish to serve. Additionally, the Academic Affairs Committee will need one tenured faculty member.
- A list of at large openings on Standing Committees for next year will be sent to senators by mid February.
- Provost Haefner reminded all of needing a tenured faculty replacement for the Eugene H. Fram Chair in Applied Critical Thinking and a search process is now underway. An announcement was sent to the RIT community asking for help in identifying candidates for this position.
  - R. Raffaele: When I was a student, I thought that Critical Thinking was logic and the analysis of arguments. I am not certain that we regard it as this, or whether we see this as something more. Can you clarify or elaborate on this?
  - C. Sheffield: Yes, historically Critical Thinking has been regarded by many as a rigorous analysis of arguments, a concern for logic and reason. However, there is, within the Critical Thinking community, a split between those who favor formal, deductive logic and those who are more interested in informal logic. Certainly, the rigorous analysis of arguments in terms of premises and conclusions play a major role. Recently some scholars have sought a more expansive notion, which includes dispositions (affect), coping with uncertainty and indeterminacy, as well as to suggest links with creative and innovative thinking.
  - Provost: Eugene Fram was known for challenging the student to use critical thinking. It has a foundation in logic but goes beyond that.

Faculty Background Checks Update

Provost Jeremy Haefner and Judy Bender, HR’s Assistant VP updated the senate on the Faculty Background Checks when hiring faculty. Bobby Colon, General Council, was in attendance as well as back-up for any questions that arose.
Starting March 1, 2015 background checks will be done for all newly hired faculty (part-time, full-time, tenured, tenure-track, non-tenured and adjunct).
This will not affect the existing faculty.
This decision is driven by our desire to continue to provide a safe learning environment for our faculty, staff and students.
The Board of Trustees supports this for all employees and they are concerned about ensuring the safety of students, faculty and staff.

- V. Serravallo: Would this apply to all administration and the Board of Trustees?
- J. Haefner: We already do background checks on all administration positions; but this does not extend to the Board of Trustees at this time.

Q&A ensued.

- C. Hull: What about the urgency of needing to fill a position at the very last minute? He described a tense situation of needing an adjunct immediately. Could a contract be offered, pending the clearance of a background check?
  - J. Bender: Our process takes up to 72 hours at this time. We could turn a request around faster in an emergency. We should not have anyone begin to work before the background check is completed (similarly new employees must complete an I9 immigration form prior to their first day). HR will work on a process for this type of emergency situation. We will communicate this process on our website.
  - Provost: This might be a small hurdle and you’ve identified a worst case scenario here.

- T. Policano: Is there a threshold for this and what exactly are you looking for?
  - B. Colon: Judy Bender makes the ultimate decision of whether a criminal conviction is appropriate grounds for failure to hire. This is done primarily for consistency and because the New York statute is very clear as to the specific reasons that can be used for an adverse employment action; for example, the nature of the crime, the age of the applicant at the time the crime was committed, and whether or not the individual shows remorse must all be considered.

- H. Ghazle: This system could be problematic for the clinical programs as we have a lecturer come in once or twice. What do we do in this situation?
  - J. Bender: In that example, those individuals are not RIT employees; therefore this process does not apply to them.

- H. Shahmohamad: Is RIT paying for the background checks?
  - Provost: Can we put that aside for now, and Judy Bender and I will work on this.

- H. Shahmohamad: What agency do you connect with – FBI, etc.? And what is the extent you go to in determining this? How about non-USA citizens and foreign nationals? And what if they are new to the USA and lack an extensive paper trail?
  - J. Bender: The criminal background check process goes back 7 years and the search is done nationally. We use a third party for this work. We do not do credit checks. The sex offender registry is free and online, and the HR office checks this. In terms of foreign nationals, we would follow the same process, however we are limited by the amount of data that is available, especially if the individual has not been in the U.S. for an extended period of time. The search works off a social security number and sometimes a foreign national does not have that number until they are just about to start work here.

- H. Shahmohamad: Do you have the ultimate authority? What if there is not a black and white issue? How will challenging issues be addressed?
  - J. Bender: Today’s process indicates that the AVP of HR has the final decision. The decision must be based on the factors that the law requires us to examine. (HR will change our current process to include the Provost and other Vice Presidents of the university.)
  - Provost: I hope that anomalies will be considered. The main point is that we need to be consistent.
- M. Kotlarchyk: Do we conduct verifications of University degrees? And if not, who is responsible for this?
  o J. Bender: HR does not do this. I believe that the search committees perform this function routinely when they check references, but we can verify this with the college liaisons.

- Ram: Will there be a standard language that we should use?
  o J. Bender: Yes, we will have this. The standard language will be included in the offer letter template that is provided by HR.

- J. Capps: What will be shared with the hiring department in regards to the background checks and being disqualified to being hired?
  o J. Bender: We will indicate whether a candidate has been cleared or not. We do not share details of the background checks with the hiring manager.

- C. Sheffield: Will this apply to our faculty at our campuses abroad (e.g. Dubai, Croatia, Kosovo, etc.)?
  o J. Bender: We do not have this process in place currently for those campuses. We can certainly look into how this process would/could work abroad.

- C. Sheffield: Does the AAUP have a position on this and the ACLU? I’m concerned about whether the next step might be mandatory drug tests or polygraph tests. I am also reminded of Paul de Man, a brilliant scholar who had a very dark European past and who lied about this when he arrived in the US. He had a remarkable career and it’s very uncertain that any background checks would have revealed his many transgressions. Nor whether they impacted his ability to do his academic job. Another example is Martin Heidegger, whose ties to national socialism led him to be banned from his teaching posts following WWII.
  o J. Bender: We do not do drugs tests nor polygraph tests. We only look at criminal convictions and only those acts that would be directly related to the position that we are hiring.
  o B. Colon: I don’t know where the AAUP or ACLU stand on background checks. For RIT, we only do criminal convictions under NY State and all is kept in confidence, as being convicted of a crime is a protected category, much in the same way as race, gender, and disability are protected categories.
  o T. Policano: For the record, some of the comments regarding background checks of employees was read from the AAUP site (https://ritdml.rit.edu/handle/1850/17429):

  ... all background checks entail some compromise of the privacy of candidates, the report urges that the practice be limited to candidacies for positions with significant security considerations. "The privacy of a candidate [for employment] should be compromised only as necessary in order to secure information that may ensure that applicants are qualified to meet the particular obligations of specific positions," the report advises.

  The report singles out a "general policy of searching the criminal records, if any, of all applicants for faculty positions" as egregiously disproportionate to reasonable institutional needs. "While it is possible that a search of criminal records might disclose information that could reasonably be thought to have a negative bearing on a particular candidate's suitability for a faculty position, such a discovery must surely be rare. Undertaking such searches is highly invasive of an applicant's privacy and potentially very damaging," the committee's report comments.

  Criminal records are "notoriously imprecise" as to criminal guilt. They contain information that ranges from arrest through dismissal or sentencing, and they do not contain important contextual information, the report further observes.
J. Goldowitz: A TA was fired because of sexual harassment and many students were affected. Can we do background checks for Graduate students/TA’s?

○ J. Bender: That is a good question. With very few exceptions, we currently do not do background checks for student employees.

○ Provost: We ought to look into the possibility of doing background checks for all employees at RIT, including students and overseas employees.

D. Ornt: Some places do fingerprinting. Regarding background checks of students, some will need to have this done for their professions. We have hundreds of faculty on our campus who have never had a background check. This goes way beyond a fairness issue.

○ B. Colon: Ideally, criminal background checks should be conducted for every employee on a regular basis; for example, every 5 years.

○ Provost: The point is well noted and I will bring this to the President.

K. Kurz: Is there any recourse or chance for appeal and if so, what is the timeline for one to file a complaint?

○ J. Bender: The individual may dispute the information provided in the criminal background check. The time period is 60 days and this action must be taken by the candidate with the respective agency. During that time period we cannot fill the position with a permanent hire; however, we can hire a temporary during this time period (this would allow us to backfill with an adjunct).

E. Holden: People sometimes become suddenly ill and cannot teach. Adjunct hires are often done at the 12th hour. Waiting 60 days would entail cancelling a class and waiting until another adjunct comes on board.

○ Provost: You would have to put a temporary adjunct in the class.

G. Hintz: Do we include that they must have a background check as part of the initial job listing and offer letter from the start?

○ J. Bender: We do that for staff positions today and we would add this language for faculty positions.

V. Serravallo: Was any other data offered on this regarding safety concerns of colleagues and students?

○ Provost: I can point to several actual circumstances that might have turned out very differently if we had known about the individual’s past.

J. Capps: It is good that the BOT is supportive of our students and their safety. They should take the lead in this, and all of the BOT should have a background check. Another concern raised is that a considerable amount of time and money is spent on searches, and then the hiring process may be reversed and not conveyed to the committee. They would then feel all their work is for nothing. Could they even be conveyed how serious the crime was?

○ B. Colon: Due to privacy concerns we can only share whether or not a candidate has been cleared with the hiring manager or search committee chair. The search committees can review the factors that we consider to make this decision (these are available on the website).

B. Barry: Two years ago an offer was almost made to a candidate that had been convicted of sexual misconduct. The background check should be done prior to them coming to campus. They do this in the Catholic Church.

○ Provost: Plenty of searches require background checks before they come into a final pool. We need to decide if we want this as an option to move forward.

○ B. Colon: The City of Rochester has recently started an initiative entitled “ban the box”. This initiative prevents prospective employers from asking questions about criminal convictions before an offer of employment is made. RIT has decided to implement this initiative as well and will not require background checks before an offer of employment. Several laws also prevent asking this question prior to an offer of employment.

E. Holden: Yes, the BOT should take the lead on this and set the example.

B. Barry: Is it consistent to say we will look at your student records from other colleges?

Judy: We would not have access to student records from other colleges due to FERPA.
• Provost: I have a meeting with the President at 2:00 p.m. today and will bring all of this up with him for further discussion.

**New Policy E23.1 (Dismissal of a Non-Tenure-Track Faculty Member for Cause)**

Proposed Policy and PowerPoint Presentation: [https://ritdml.rit.edu/handle/1850/17424](https://ritdml.rit.edu/handle/1850/17424)

• Kristen Waterstram-Rich, FAC chair presented the new Policy E23.1 as proposed by the FAC.
  See link above to view the PPT in its entirety.
• The full new proposal was sent to senators one week prior for review and to be sent to their constituents for review and can also be viewed via the link above.
• The purpose of creating this policy was to provide peer review for a non-tenure-track faculty member when it is proposed that he or she should be terminated for “cause” as defined in the policy.
• This policy does not apply when the NTT person’s contract is not being renewed.

Discussion/Q&A ensued.

• R. Raffaelle: Who chooses the Dismissal Review Committee members?
  o K. Waterstram-Rich: The Academic Chair and Provost and the pool will be made up of the tenured members of the Academic Senate, each from a different college. Deans of the senate are not included. Names will be randomly drawn.
• E. Holden: Is the different college meant to be “different” from the college that the person being dismissed belongs to?
  o K. Waterstram-Rich: Each committee member has to be from a different college.
• H. Ghazle: We do have classes on Saturday, so is this an official business day?
  o K. Waterstram-Rich: A business day is when the university as a whole is open. This does not include weekends.
• H. Ghoneim: Under Section IV of the policy, line 89, could we remove “without cause”.
  o K. Waterstram-Rich: This terminology is also used in E23.0 and in the Grievance Policy as well (E24.0).
  o H. Ghoneim agreed to not remove the wording “without cause.”

• H. Ghoneim: Under Section III, line 54, he requested the following wording be added: “for which the faculty member is employed”. The sentence would now read: “Documented and repeated unsatisfactory performance, for which the faculty member is employed, such as teaching, research, service or administrative responsibilities.

  o M. Fluet objected to this suggested wording and asked how is this different from the third bullet in this section that reads: “Willful failure to perform responsibilities for which the faculty member is employed.”

  o This is now a motion and discussion ensued.

  o C. Collison suggested to keep the wording the same but to add the following bolded wording: “Documented and repeated unsatisfactory performance in responsibilities for which a faculty member is employed.”

  H. Ghoneim agreed to this wording.

  K. Waterstram-Rich: What if the responsibilities shift or change midway through their term of employment and this is not noted in the original contract? Someone may be hired for research and then they may later get other responsibilities. Are you saying, now that shouldn’t matter?

  o C. Hull: I object and would argue against any changes which deviate from what we have already approved for our tenured and tenure-track faculty being terminated for cause. He suggested to remove the words teaching, research and administrative but later agreed to keep this wording in the document as he did not not want people to regard administrative work as irrelevant. He changed his mind regarding this so as to
keep the parallel between E23.1 and E23.0.

- M. Kotlarchyk: Isn’t administrative work part of the Plan of Work? He asked that H. Ghoneim’s suggested wording be revised as follows: “Documented and repeated unsatisfactory performance in responsibilities as negotiated in the faculty member’s annual plan of work, such as teaching, research, service, or administrative responsibilities.”

  H. Ghoneim agreed to this wording suggested by M. Kotlarchyk.

- M. Fluet: Do adjuncts actually have a plan of work?
  - K. Waterstram-Rich: They are not regular employees but temporarily employed and referred to Lines 6 and 7 in Policy E23.1.

- S. Hoi: In this change, if an NTT faculty member has two years of unsatisfactory performance, is this then a cause for dismissal? Is that the intent of this new wording?
  - K. Waterstram-Rich: There is no timeline and it would be up to your college as to what the timeframe would be.

Motion to approve the wording given by M. Kotlarchyk passes with a vote of 20 in favor, 2 opposed and 5 abstentions.

- H. Ghazle: In line 96, referring to the pool of the Dismissal Review Committee, why does it refer to the college Promotion Committees and not to the Tenure Committees?
  - K. Waterstram-Rich: We want a different pool of faculty to make these decisions, not the same pool.

- T. Engström: To reduce ambiguity, in lines 61-65 he suggested the following two changes. Since there was an objection to these changes, the motion was now on the floor for discussion and vote
  - To remove from line 61 the word “willful” so the sentence would read: Willful Failure to perform responsibilities for which the faculty member is employed.
  - From Line 65, delete the word “substantially” so that this portion now reads: Violation of university policy substantially related to performance of faculty responsibilities.

  Both of these amendments did not pass.

Motion to approve the new Policy E23.1 passes as amended with a vote of 24 in favor, 0 opposed and 2 abstentions.

Adjournment:

Respectfully Submitted,

Chip Sheffield, Communications Officer
Vivian Gifford, Senior Staff Assistant