

<http://uncfacultyassembly.northcarolina.edu/html/minutes/mar2007.html>

Report by Bobby Kanoy, Senior Associate Vice President for Academic and Student Affairs

Dr. Kanoy reported on retention and graduation issues. A retention advisory board chaired by Senior Vice President Harold Martin will review the plans and the progress in improving these rates on an ongoing basis. Data such as freshman progress reports will be scrutinized to identify problematic trends (large % of students failing certain types of courses while succeeding in others or a drop in the total hours for which freshmen are registering).

The board will also review drop policies, minimum admission standards, and other system-wide factors that can be modified to improve these rates.

Kanoy pointed out that an additional 80,000 students are expected to apply to the system over the next 10 years, including a substantial increase in Hispanic and other minorities, and General Administration plans to look at all possible strategies that could contribute to improved student success.

Report by Leslie Winner, Vice President and General Council

Leslie Winner, VP and General Council, reported on the issue of criminal background checks for UNC employees. She indicated that she had come primarily to answer questions but would first provide some background information. She said that General Administration had no position on the scope of checks that campuses should undertake, nor was there any informal campaign, and that they were satisfied with the differences that currently existed among campuses. She said all campuses were doing some form of background checking. Some limited them to campus police and child care workers, but the majority required them of all new SPA employees, and by July 1 half of the campuses would require the checks for all new employees. She cited two reasons for this increase: 1) The checks are much easier to carry out than in the past, so some campuses are conducting them to avoid small property crimes, and 2) There had been an increased focus on campus safety spurred by the tragic death of a student at UNCW two years ago. She admitted that it was a bit like looking for a needle in a haystack, and that often offenders had no history of violence.

She also expressed the opinion that if these background checks were conducted, they should be universal, or the reasons for choosing specific groups should be "rational". In particular, she saw little justification for checking SPA employees but not EPA employees, though she emphasized that was only her opinion. She also indicated that another serious issue was what to do when you get information that surfaced about a potential employee. She admitted that there was no current rule about what information might render someone "forever unemployable", but that GA had entered into a system-wide contract to get a good price for these checks and had provided a model policy that didn't indicate who should be checked, but did ensure that campuses complied with federal policy and informed the applicant of what was found. She indicated that the checks were not 100% accurate, and that while mistakes were typically false negatives, some false positives were encountered, so it was critical that the applicant have an opportunity to respond to the information. Then she opened the floor for questions.

A delegate asked if a university be more liable if it choose not to do background checks because of issues of personal privacy and "the worst happens". Winner answered that there was no way to tell, but that the legal issue had more to do with the type of business, and that this was changing all the time. She indicated that there was precedent that we would not be liable in the case of students, and that nobody does criminal background checks on all of their students. She said the university would need to make the legal argument and find out.

Another delegate wondered who would decide the fate of the employee/applicant if a background check produced a "hit". Winner answered that all public schools did these types of checks (including fingerprinting all applicants) and used lists of factors to decide, but that doesn't make it easy.

A delegate asked whether universities could take advantage of the combined purchasing power to do background checks on certain groups of students. Winner replied that the idea of combining purchasing power had started with the need to carry out checks on nursing students and had grown from there. Now there is a policy of "red-flags" that trigger checks of students.

A delegate expressed skepticism that GA had no position of background checks to which Winner reiterated that GA takes no position. The delegate followed up by asking if we had any information about how many crimes had been committed by faculty members. Winner replied that she was confident that the number would be very small, but cited the example of a candidate who had been offered a position before the background check returned the fact that he had been indicted for sexual misconduct. The individual withdrew despite the fact that he had signed a contract.

VP Winner was asked if hiring officers were responsible for making decisions about background check hits. She said that the call was made differently on different campuses, and there was a large degree of decentralization. She acknowledged that there might be a need for more consistency.

A delegate wondered how decision makers would be trained and held accountable. Another expressed gratitude for the information but admitted uncertainty about where he stood. He asserted that we are not a business, and wondered where the impetus for this initiative was coming from, how we can be involved with the input process, and how the data would be used. Winner replied that she saw a trend in industry, with background checks starting with child care workers, then expanding to nursing, then eventually becoming industry-wide. She said she didn't have data to determine if it is a trend among universities, but believed it probably was. She said it converged with campus safety issues arising from the murder in Wilmington and ballooned to backgrounds of employees. She noted that the campus safety task force had not raised the question of doing background checks on staff. She urged delegates to get involved with HR directors and programs.

A delegate from NCSU reported that they had been told about the requirement of background checks for all new EPA and SPA employees the day before the policy was put into affect, and expressed the concern that it was being driven by the companies doing the tests. Winner replied that she had not been pressured by any of these companies and was skeptical that they were involved.

A delegate indicated that she employed part time students, and checks had to be done repeatedly on the same students in the same year. Winner replied that Homeland Security regulations required that everyone must be checked if anyone is checked. She acknowledged, however, that a campus policy could be developed to require such checks on any individual only once a year.

Another delegate reiterated the concern that GA had indicated their expectation that campuses would carry out background checks by developing a system-wide contract. He said he was worried about the affect this policy would have on diversity, and suggested that the "safest" way to proceed would be to refuse to hire anyone who had any past history that appeared on the background check. He wondered how to take diversity into account. Winner replied that GA got involved after being asked by the campuses, and she reiterated that they took no position. She also said that the factors that would be considered would vary depending on the job the applicant was seeking. For example, if someone was being hired to drive a vehicle, motor vehicle problems should be taken into account.

Another delegate maintained that decisions must not be made on the basis of arrests that didn't result in convictions, and reiterated the concern that the policies would have an adverse affect on diversity. Winner noted that there was a lot of data on race and crime, but not among faculty. The delegate followed up by citing the example of a colleague who had spent five years in jail and was an especially effective instructor because of the experience. He worried that under the new policy, this individual might have been denied employment. Winner replied that she assumed that they were aware of his criminal record and hired him anyway, and that a background check would reveal applicants who had failed to disclose this information on their application. She said the model doesn't say not to hire, and the real risk is not knowing. These checks are designed to minimize that risk.

A delegate expressed the concern that the decision could be made by a literalist who would deny employment to anyone without recourse because of a criminal charge. Winner replied that this returns us to the issue of who is in charge of hiring, and there was a tension between localization and delocalization. She said the issue will be taken up during discussions she was having that afternoon.

Another delegate quoted from a policy that indicated the greatest risk came from white collar crime and wondered if checks would be applied to upper administration. Winner replied that she believes they are the most widely checked.

A delegate returned to the question of whether a campus would be more liable if they had a policy of not doing background checks or if they took no position on the issue. Winner replied that it made no difference, and the liability question would revolve around the question of whether it was "reasonable" for the university not to do the check. She said the answer might change, but for now she didn't feel strongly that we would be liable. Otherwise, she would be urging universities to adopt a policy.

Finally a delegate raised the question of the affect on international faculty, wondering whether it would limit the pool. Winner replied she expected that there would not be many positive checks, and that the real question would be who decides. She also said that the reliability of background checks from other countries varied widely, while those from other states generally provided good data.

Report by Andy Willis, Vice President for Government Relations

Andy Willis, Vice President for Government Relations, provided a legislative update and advocated strategies for educating legislators as the budget debate approaches. He said he could not yet make any comment on the new leadership in the house. He indicated that the House would do the budget first, and that new committee chairs in the house needed a significant amount of education. He suggested that this was particularly true of the House Education Committee, which must become informed about K-12, community college and university issues in a very short time. He said that there were 10 non-appropriations items passed by the Board of Governors, and all ten had been introduced in both houses, and the first had passed just this week. He expressed concern that over 2500 bills had been submitted, with 10% affecting UNC, both good and bad. He indicated that the number of bill submitted during the last legislative session had set a record, and submissions were up 30% in this session, and he was not seeing more efficiency from the new leadership.

Second Plenary Session

1. **Report of Self-Study Task Force:** Bonnie Yankaskas presented the Task Force's recommendations for revision of the charter, particularly those relating to determining number of Faculty Assembly delegates based upon percentage of University system faculty totals (in contrast to the past system in which numbers of delegates were determined by raw number of faculty).

2. **Task Force Reports.**

Judith Wegner presented on behalf of the legislative relations task force. A group of Faculty Assembly delegates will participate in a training program in the morning and attend the BOG's "legislative day" in Raleigh on May 9. We will also sponsor two "higher education days" on May 30 (on health-related programs) and June 6 (on environmental/natural resources programs). Judith asked delegates to identify faculty who could help and participate. She also asked delegates to bring to the next Assembly meeting materials (such as books, admissions materials, etc.) to be used as "props" or displays as part of these sessions. She will follow up by advising all delegates of these opportunities and asking for their assistance.

3. **Committee Reports:**

Academic Freedom and Tenure:

Background Checks. Cat Warren reported on the committee's discussion about background checks. She cited a summary of which campuses in the University system are doing what (citing materials provided by Leslie Winner). Martha Marking asked if this information could be shared with campuses, and Cat said she would request Leslie to provide such information in electronic form for distribution to the campuses if possible, and Cat agreed to do so. Cat also distributed a proposed statement developed by the committee. Scott McRae (NCSU) said he had thought further about the matter and thinks the real problem is that such checks take place in the personnel arena (which is not open) and it may never be known what the real criteria are. Cat offered further thoughts about the subject generally. Cynthia Gillespie (WSSU) said that they do a criminal investigation check on new faculty and it moves smoothly. Celia Hooper (UNCG) said that they have to do checks on graduate students and it takes time (and in some instances they have gotten false positives). They have to do it in health care but don't like it. Acha Debala (NCCU) asked "do we have any role in it or are we following a fad?" He thinks its an invasion of privacy for academics, and he wonders if there's anything we can say about how the information would be used. Cat was asked whether she wanted the delegates to act on the draft statement she had distributed. She said she'd prefer to do more to Mark Taggart moved that the delegates express their concern about the

developments, commended the committee for its work to date, and asked that they develop a stronger statement for consideration at the next meeting. The motion passed unanimously.

4. Professional Development Committee

Scott McRae (NCSU) reported on behalf of the committee. He said that the committee would like to develop and distribute a survey asking about (a) What written policies exist on each campus relating to professional development for faculty? (b) What support structures exist (center for teaching and learning or faculty development centers)? (c) And what funding there is for such efforts on each campus. Brenda mentioned that the Executive Committee had agreed at Harold Martin's request to run any survey requests through him, and asked Scott to run any survey through Sue Carpenter and Harold Martin as well as Brenda. Scott said he anticipated moving swiftly on a preliminary survey then following with something more detailed.

5. Chair's Report:

Task Forces. There are new task forces (public service, trimester, administrative appointments and review) with charges provided.

Post-tenure review. She will meet with Jim Sander on this and said this is a short turn-around. She has received responses from a number of campuses, and needs any further information as soon as possible (by Monday March 26). The topic will go to the Board of Governors in May.

On-Line Initiative. She has received responses from four campuses. She needs to know if there is any kind of standards set by campuses relating to on-line quality.

Administrative Appointment and Review. She's established a task force on this topic, and needs responses to go to the task force so they can address this topic. She asked the delegates to advise her on what their senates may have discussed (or not) about current practices. Sue is assisting her in compiling this and other information.

UNC Tomorrow. She will be meeting with Norma Mills soon about the Scholars Council and the composition of the group. There's been some delay. Brenda said that she had circulated the request for recommendations of nominees once again. The Vice Chancellors have also been asked to submit names by the end of this week. The Scholars Council may have 25% reassigned time for fall, spring, and this coming summer. There will be a sizeable stipend. Subash said that he had heard from his provost that the provost had submitted two additional names. Brenda said that the reason for delay had been the need to refine the responsibilities and role of this group. Brenda said that if there are any other names to be recommended, she needs names and supporting information for candidates. Dennis Daley asked how the selection would be made in the end. Brenda said that Normas really wants input from the Assembly. They are also talking about graduate student support, since they need to build the budget. There may also be need for additional reports on particular topics (in addition to the work of the Scholars Council). The Commission has been named.

Subash said that since there had been many names submitted, who would decide? Brenda said that the decisions would be made within GA with input from Brenda.

May meeting. Please make a considered effort to attend the meeting or to send an alternate.

Textbook Orders. It's important that this body have input about how to meet the 100% compliance date for textbook orders, the buy-back/rental programs, and so forth. Brenda asked Ginger Burk to ask campuses to make clear who the campus contact is on this effort and to request campuses to have faculty senate representation in such efforts.

Sustainability. Gary Jones has prepared materials on this subject and brought it up at the Executive Committee meeting. The idea is to have the campuses take a stand on this matter, and Rob Nelson said that he thinks the System would be supportive of the sustainability statement that Chancellor Moeser and some presidents have signed.