

MINUTES
 FGCU Faculty Senate
 Friday, November 2, 2012
 9:30-11:30 am
 SU 213 (Student Union Chambers)

In Attendance: Benford, Hayford (for Bottiger), Brooks, Carlin, Carothers, Condori, Epple, Erdman, Everham, Fauerbach, Felton, Gilbert, Gunnels, Harrison, Hoyt, Simpson (for Isaacs), Kakareka, Kim, Morris, Nguyen, Smith (for Pavelka), Randall, Renard, Stetcher, Rosenthal, Simpson, Smith, Torres, Urakawa, van Duijin, Venglar, Zhao

Absent without alternate/Proxy:

Guests: Mark Busbee, Paul Snyder, Luis Vargas, Beth Elliot, Patrick Niner

Media:

Agenda Item	Responsible	Discussion	Action/Vote	Follow-up
1) Gathering: 9:00	Douglas Harrison			
2) Approval of Minutes of October 19 , 2012	Madelyn Isaacs		Approved as filed.	Approved.
3) Old Business Action item: a) Action Item: Proposed language for online textbook adoption verification form, second reading (see attachment)	Harrison	Harrison recapped last meeting's conversation and changes on item. Harrison explained document and further procedural instructions. Harrison reported document will forward form to Paul Snyder and will continue to update Senate on progress.	Action motioned carried.	
4) New Business a) Action Item: Response to Proposed Policy on Mandatory Employee Fingerprinting and Criminal History Background Checks (see attachment)	Harrison	<ul style="list-style-type: none"> • Harrison reviewed handout given to senate members during meeting, including proposed draft policy. • Harrison reviewed background and history from email earlier in the week to Senate and all faculty. • Harrison provided answers to frequently asked questions as followed: <ol style="list-style-type: none"> 1. What is the cost of fingerprinting and conducting criminal history background checks on all employees? The simple answer is, \$55 per employee, \$40 of which leaves campus for the Florida Department of Law Enforcement to run the check based on the fingerprints provided. The administration estimates that the total 	<p>Unanimous consent to extend time 45 minutes on debate, and not count President's prefatory remarks against debate time;</p> <p>Motion to extend time (15 mins.): Kakareka/Erdman</p>	

cost of this initiative would add up to about \$55,000 to fingerprint and background-check all employees who are not already subject to such processes as part of their jobs.

A related information point: There are two levels of background checks identified by the relevant Florida Statute: so-called Level 1 checks generally refer to a state-only name-based check AND an employment-history check. Level 1 checks do not involve fingerprinting. Level 2 checks generally refer to a state and national fingerprint-based check of offenses. For some time, and prior to the most recent statute passed in 2012 updating the employee background check law, Level 2 checks have been required for those employees already holding positions of responsibility or trust as previously defined by law, and these level 2 checks have been ongoing here and at all other state institutions.

The administration estimates it would cost approximately \$24 per employee to conduct Level 1 background checks on those employees not already required by law to undergo Level 2 scrutiny. That would be a total of \$24,000 for Level 1 checks for all employees, compared to \$55,000 for Level 2 checks for all employees.

2. **How will the costs be structured and absorbed?** The costs will be funded through Administrative Services' Education and General budget, or E&G. E&G is the category of funds describing money allocated from the state to universities.
3. **Will BOT members other than the Senate President be fingerprinted?** I don't know. I have asked this question, and it is my understanding that the cabinet is expected to take the question up at its meeting this coming Tuesday. I have recommended that if this policy goes into effect, all BOT members be at the front of the line.

4. **With respect to process, if an employee refuses to be fingerprinted, what will happen?** The policy draft (and the law) is clear that employees who refuse to be fingerprinted will be terminated. The policy does not state the timeline or what, if any, process steps will precede official termination of employment on the basis of refusal to submit to fingerprinting.

5. **Will those current employees who have already undergone Level 2 fingerprint checks as part of their existing role be required to undergo a second check?** No.

6. **The law does not require that all employees receive a Level 2 fingerprint check. Why is FGCU requiring it anyway?** The relevant Florida Statute is 110.1127, passed in 2012. A copy of the statute is included in the handout. That statute defines who needs to be subjected to a Level 2 background check, according to the nature of the work. According to the law, section 2, subsection c(1): “All positions in programs providing care to children, the developmentally disabled, or vulnerable adults for 15 hours or more per week; all permanent and temporary employee positions of the central abuse hotline; and all persons working under contract who have access to abuse records are deemed to be persons and positions of special trust or responsibility.” The law also defines the nature of offenses that should be considered disqualifying. Please refer to section 2, subsection 2c(2).

The regulation the BOT passed, which is also included in the handout, gives authority to the administration to “designate the positions which require security and background checks based on the special trust, responsibility or location of the positions, and designate such within each applicable position

description.”

In plainer language, the BOT regulation designates all employees as in positions that require Level 2 background checks with fingerprinting. This requirement was presented to the BOT as necessary, in the Administration’s view, to ensure the safety and security of the at-risk populations identified by the controlling legislation. Again, please refer to the statute for the law’s definition of at-risk populations in section 2, subsection c(1). The thinking here, as I understand it, is that even though an employee may not as part of their job officially come into contact with the at-risk populations identified by the legislation, there is ample opportunity for unofficial access to those populations all the same.

- Harrison explained senate’s role in discussion was deliberate and formulate feedback from faculty on policy proposal. Senate is not and cannot bargain with admin and so admin reps are asked to recuse themselves from discussion. Provost indicated that if he were here he would have abided by this condition.
- Senate members had open discussion concerning policy language, implementation and difference between Level 1 background check and Level 2.
- Venglar reported College of Health Professions and Social Work feel comfortable with Level 2 background checks. Venglar reported her students must adhere to checks for job requirements and questioned why it was not already a requirement for faculty as well. Venglar stated CHPSW would like to see the document’s language “tightened up” (i.e. state statute consistency throughout document).
- Senators discussed concern regarding costs of Level 1 & 2 checks.
- Everham stated he estimates Level 2 costs for fingerprinting will exceed \$55,000; Carothers later supported comment.
- Gunnels reported College of Arts & Sciences has concern for this policy. CAS faculty had an opportunity to voice opinion in a survey; 104 faculty participated in survey; 88% of

		<p>responders are against the present form of policy.</p> <ul style="list-style-type: none"> • Hoyt reported Lutgert College of Business objects to document. • Benford raised question regarding what will happen once background checks are complete. What outcomes will be applied to results? • Everham stated if the police department and Office of General Council found another individual with his exact full name and birth date, he will pay for his finger-print clarification. • Harrison discussed SUS Faculty Senate President responses to email he sent concerning background check at their institutions. <p style="text-align: center;">RESPONDING TO PROPOSED POLICY ON CRIMINAL HISTORY BACKGROUND CHECKS</p> <p>The Faculty considering:</p> <ul style="list-style-type: none"> • the relevant Florida Statute (110.1127) does not require that all employees undergo a back ground check (subsection (1)), and charges the institution with differentiating between positions that would require a Level 1 back ground screening (Statute 435.03) that does not require finger printing, from positions that warrant a “security background investigation”(Level 2, 435.04) that would include fingerprinting; (i.e. the Statute does not require that all employees have background checks, nor requires fingerprinting of all employees); • the relevant Statue (110.1127 (4)) precludes charging the employee for the background check, and the fiscal impact of the current policy does not appear to have been accounted for in this year’s budget and appears to be at least \$50,000 and could total more than \$120,000; • we have received no cost/benefit analysis of what fingerprinting gives us beyond a background check without fingerprinting (Level 1 by Florida Statute), and what would be the difference in cost to the University; • we have received no review of how this draft policy relates to similar policies across the SUS; • the application of the policy to part-time employees, student workers, volunteers, and outsourced activities (Follet, Aramark, 	<p>Motion to adopt resolution: Everham/Rose nthal</p> <p>Motion to postpone current motion: Gunnels/Benford</p> <p>Motion to postpone passed.</p> <p>Motion to support the policy on mandatory employee fingerprinting and criminal history background checks. Gunnells/Everham</p> <p>Friendly</p>	
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		<p>housekeeping and landscaping) is not completely clear in the current draft policy;</p> <ul style="list-style-type: none"> the current proposed policy does not incorporate the reality that some faculty currently are required to undergo fingerprinting for outside agencies or personal activities, and it would be unnecessarily redundant to require an additional in-house fingerprinting; the current draft policy leaves the disposition of faculty members who have been found to have misrepresented their criminal background during their hiring subjective, and is lacking in its engagement of outcome of discovery of criminal activity following hiring, both potentially increasing the likelihood of litigation if the employment of any faculty is terminated under the subjective nature of the current draft policy; and the provision for termination for non-compliance with the policy (4a) seems to affect Terms and Conditions for Employment, after hiring of current employees, <p>Resolves:</p> <ul style="list-style-type: none"> the Criminal History Background Checks Policy is not acceptable in its current form; the Board of Trustees should reconsider Regulation FGCU-PR5.006 Employee Criminal Background Checks, toward returning to the original draft language indicating fingerprinting “may” rather than “will” be required (Section 1) to avoid the unnecessary waste of resources; we need to fully review the comparable policies across the SUS systems; we need to more carefully differentiate the level of scrutiny required for positions across the institution, fulltime, part-time, student worker, or volunteer, or with associated contractors to more effectively utilize resources; we need to engage in an analysis of the cost, and outcome, of applying Level 1 Background checks (Florida Statute 435.03), as opposed to including fingerprinting; we need to incorporate the recognition of previous background checks, where appropriate, to avoid unnecessary, costly redundancy; we need to clarify, and codify, the procedure regarding engagement of discovery of criminal history that was not disclosed: and 	<p>amendment proposed by Benford approved:</p> <p>Motion failed 4-25.</p> <p>Return to motion to adopt resolution</p> <p>Friendly amendment (remove “maintenance”) approved: Everham/Rose nthal</p> <p>Motion approved – 25-3</p>	
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		<ul style="list-style-type: none"> administration needs to engage UFF in decision-making regarding the final form of the policy. Harrison indicated that formal feedback would be presented to President Bradshaw and UFF, as well as Board of Trustees. 		
4) Standing Reports a) Provost's Report	Paul Snyder, Associate Provost	<ul style="list-style-type: none"> November 5 – Provost/UFF Social; Sugden Hall, 115 November 15 – Sponsored reception for grant recipients; Sugden Hall, 115 (invitation only) November 26 – Provost “Meet & Greet” November 27 – Provost “Meet & Greet” Questions are to be directed to Tiffany Jackson, tjackson@fgcu.edu in Provost Office. 		
b) SGA Report	Luis Vargas, SGA Vice- President	<ul style="list-style-type: none"> Working on improvement on recycling options on campus; currently focused on South Village Want to bring water fountains to “The Rock” area, near the basketball courts at Alico Arena Working towards bring printing stations to campus Had first meeting on Library Hour Extension Bill Student Government holding retreat/team building this weekend SG hosting “Meeting & Greet” for faculty and deans in Sugden Hall, 114 12pm-2pm 		
c) UFF Report	Beth Elliott, UFF President	<ul style="list-style-type: none"> Continuing to bargain; 4 articles Next social – Monday, November 5, Sugden Hall, 4pm-6pm UFF appreciates background check policy input 		
d) Senate President's Report	Douglas Harrison	<ul style="list-style-type: none"> Panel on Growth & Equality will be communicating committee's work very soon Work group on Faculty Chairs & Deans survey met last week; approved re-administration of survey; working on advisor instrument Smoking on campus topic will be on future agendas Waiting on report from Faculty Affairs Team concerning Uncompensating Teaching & Instructional Support Harrison reported nominees for Appointments Team Town Hall meetings for General Education Reforms – Tuesday, Nov. 6; Wednesday, Nov. 7, Sugden, 114; 11am-12:30pm There will be summer commencement in 2013 Copyright seminar – Tuesday, November 13, 1pm-2pm, Library West, 211 	Information/ Report	

6) For the Good of the Order				
7) Announcements		<ul style="list-style-type: none"> • Smith – Homeland Security Career Day; TSA is hosting event; want to see interested students; please RSVP • Hayford - November 26, 7pm, FGCU Theater Lab: “Spark” – play that honors veterans, more specifically female veteran experiences; great opportunity to honor campus and community veterans 		
Future Meeting Dates		<p>Next Senate Meeting: November 16, 2012, 9:30 a.m.</p> <p>Senate Leadership Team: November 16, 2012, noon</p>		

Approved 11/16/2012