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Faculty Observer

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Approved by the Senate:

Not Approved by the Senate:

Approved by the President:

Not Approved by the President:

Faculty Observer

Submitted by Michelle Haberland

4/26/2010

Motion:

We move that the University establish a policy regarding the ability of faculty to request and bring another faculty member of their choosing as an observer to be present during any meetings of a disciplinary nature. Whenever a faculty member is requested to attend a meeting of a disciplinary nature, the faculty should be informed of the purpose of the meeting so that she/he can arrange for a faculty observer.

Rationale:

Given the gravity of such meetings, faculty can find themselves in a difficult position to receive important information about the fate of their careers. The Faculty Handbook commits the University to shared governance and collegiality. (See Section 201: Academic Freedom) The practice of a silent observer is in keeping with these commitments. Above all, such a policy would go a long way to protect administration from accusations of unfair practices and ensure due process for faculty.

The Faculty Handbook includes no stated policy on the right of faculty to have a faculty observer of their choosing present during disciplinary meetings. However, it is important to note that The Faculty Handbook also does not preclude the presence of a silent observer.

Finally, such a policy would bring Georgia Southern University in accordance with the standards established by The American Association of University Professors. (See Recommended Institutional Regulations on Academic Freedom and Tenure at

<http://www.aaup.org/AAUP/pubsres/policydocs/contents/RIR.htm>.)

The following members of the faculty support this motion.

Kathleen Comerford, Professor, CLASS

Marc Cyr, Associate Professor, CLASS

Michelle Haberland, Associate Professor, CLASS

Sonya Huber, Assistant Professor, CLASS

Thomas Klein, Associate Professor, CLASS

Clara Krug, Professor, CLASS

Marti D. Lee, Temporary Instructor, CLASS

Trent Maurer, Associate Professor, CHHS

Michael Moore, Professor, COE and Moderator, Faculty Senate

Frederic Mynard, Associate Professor, COST

Patrick Novotny, Professor, CLASS

Sandra Peacock, Professor, CLASS

Cliffton Price, Temporary Instructor, CLASS and President, Georgia Southern chapter of the American Association of University Professors

George Shriver, Emeritus, CLASS

John Steinberg, Associate Professor, CLASS

Laura Valeri, Assistant Professor, CLASS

Mark Welford, Associate Professor, COST

Robert Yarbrough, Assistant Professor, COST

Response:

6/9/2010: Tabled the motion. Referred back to the Senate Executive Committee. 9/20/2010: Motion was withdrawn by Michelle Haberland.

Motion Request: Faculty Observer

Clara Krug (CLASS): "We move that the University establish a policy regarding the ability of faculty to request and bring another faculty member of their choosing as an observer to be present during any meetings of a disciplinary nature. Whenever a faculty member is requested to attend a meeting of a disciplinary nature, the faculty should be informed of the purpose of the meeting so that she/he can arrange for a faculty observer."

President Keel responded that there are various reasons why the Senate should "think very seriously about a motion of this nature." He listed the following reasons:

1. "In some cases of research misconduct, for example, we are required by the

NIH or the NSF to confiscate data, to confiscate computers, to confiscate data notebooks, and materials. If an employee had warning that he or she was being brought forth for this type of situation, it would give them an unusual opportunity to destroy information that could and should be used. I speak from experience on this, not having been accused myself, but of having been the person responsible for doing this sort of investigation. If I were required to notify the faculty member that they are being brought forward because of scientific misconduct and give [him or her] an opportunity to have an observer present, it would negate the opportunity to collect information needed to determine if the person was in fact guilty of scientific misconduct. You could extend this to legal situations in which evidence needs to be collected. I know I'm sounding very melodramatic, but having dealt with situations such as this at previous institutions, I can assure you that that would be a most difficult position for the university to be put in of having to give someone warning that they were being reprimanded for a particular issue and given an opportunity to bring an observer in."

2. "[T]here are certain situations in which a supervisor needs to confront an employee with an issue. [T]he supervisor might very well want to give the employee a graceful way out in terms of evidence that has been collected, or information that has been gathered and presented to an employee. [T]his could run the gamut from just a letter of reprimand to resigning and moving on. Having a faculty observer present would completely negate the ability to do that sort of thing."

3. "[T]here are situations in which it would be a distinct disadvantage for a faculty member to have an observer present, especially if that faculty member [didn't] want anybody else to know why they were being reprimanded. [I]f you have an observer present, again, it would put the faculty member or the employee in a disadvantage, and certainly it would put the employer at a disadvantage in terms of being able to offer situations."

4. "I can assure you that if an employer was placed into a situation—whether it was a department chair, a vice president, a provost, or whatever—that every time he or she needed to have a meeting with an employee that had some serious repercussions associated with it that the faculty member or employee was going to bring an observer, I can assure you every single meeting that you had would involve an attorney. I don't think we want to go down that particular road."

Clara Krug (CLASS) asked if the Senate Executive Committee should look at the motion and refine it. President Keel said the idea “bears further thought,” but he reiterated that the Senate should “exercise caution going down this road at all.”

Fred Smith (LIB) asked if the Faculty Welfare Committee had been asked to look further at the issue. Michael Moore (COE) Senate Moderator, said the motion could be tabled, sent to the Executive Committee, or to Faculty Welfare and to look at how other institutions handle this issue.

Jim Stephens (JPHCOPH) asked about the legal exposure for the observer in such a meeting. President Keel said that in extreme circumstances the observer would certainly be deposed, would certainly be held as a witness, if things went to trial. He added that “it certainly puts the observer into a role that goes well beyond just a companion.”

Jim McMillan (CHHS) moved that the motion be tabled, moved back to the SEC for further discussion, and potentially moved to the Grievance Committee for resolution.

Motion tabled and sent to the SEC.

Minutes: 9/20/2010: Faculty Observer, Michelle Haberland (CLASS) moved to untable the motion. That motion was seconded and the Faculty Senate voted to untable the motion.

Michelle Haberland (CLASS) expressed concern that the intent of the Faculty Observer motion had been misunderstood. It was not intended to be adversarial. Rather, the Faculty Observer motion was “intended to increase transparency.” Although she agreed to withdraw the motion, she hoped that the motion could come forward at a later date with “language [that] addressed the concerns that Dr. Keel brought up [in the June meeting.]” She then moved to withdraw the motion.

The Faculty Senate then voted to withdraw the motion.