



## **Executive Committee Meeting**

**May 7, 2019**  
**Derryberry Hall, Room 210**

### **MINUTES**

#### **AGENDA ITEM I—CALL TO ORDER AND ROLL CALL**

The Tennessee Tech Board of Trustees' Executive Committee met on May 7, 2019, in Derryberry Hall, Room 210. Chair Jones called the meeting to order at 9:30 a.m.

Chair Jones asked Kae Carpenter, Secretary, to call the roll. The following members were present:

- Trudy Harper
- Johnny Stites
- Tom Jones

A quorum was physically in attendance.

Board members Rhedona Rose and Barry Wilmore were in attendance by phone. Tennessee Tech faculty, staff, and members of the public were also in attendance.

#### **AGENDA ITEM II—APPROVAL OF MINUTES**

Ms. Harper moved to approve the minutes. Mr. Stites seconded the motion.

After an opportunity for further discussion and there being none, the motion carried unanimously.

### **AGENDA ITEM III.A—POLICY 110 (ACCESS TO PUBLIC RECORDS) AND RULE**

Chair Jones stated that the policy and rule related to access to public records, and consistent with the law, required proof of Tennessee citizenship to access public records. He stated that prior to the rule becoming effective, interested parties requested a hearing on certain provisions of the rule, including the requirement of proof of Tennessee citizenship. Tennessee Tech conducted a hearing in February and was presenting the comments and recommendations for the Executive Committee's consideration.

Ms. Carpenter presented a flow chart showing the difference between a proposed rule process and a rulemaking hearing process.

Chair Jones stated that the Board received written and oral comments and a student petition, and the rule would go back to the Board for consideration in light of the comments received.

Ms. Harper asked if the rulemaking hearing process was standard procedure.

Ms. Carpenter answered that the rulemaking hearing process was mandated by and described in statute.

Chair Jones recognized Vanessa Curry, Instructor in Journalism and advisor for The Oracle, to speak. Ms. Curry stated that she appreciated that the Board recognized that Tennessee Tech's policy was flexible, but she did not believe the wording of the policy was clear enough to recognize that a student ID in combination with another document, such as a dorm address or utility bill, would meet the citizenship requirement. Referencing the requirement for government-issued identification, Ms. Curry stated that the real question was why Tennessee Tech chose to place such an obstacle in the way of citizens seeking information. She stated that Tennessee Tech had yet to give a reason for this requirement and this lack of reasoning brought to question how the current policy is perceived by the public. She stated that the perception was that Tennessee Tech wanted to limit access to public records. She stated that requiring identification, proof of residency, and other such policies only discouraged people from seeking access to information. She urged the Board to allow access to public records without requiring any identification.

Chair Jones asked if Tennessee law required public records be open only for citizens of Tennessee.

Ms. Carpenter answered that the statute stated that public records shall be open for personal inspection by any citizen of the state of Tennessee. She stated that a public records custodian may require proof of citizenship.

Mr. Stites asked Ms. Curry if it was her contention that the government of Tennessee was duty-bound to make all of Tennessee records available to anybody from anywhere.

Ms. Curry answered "Yes."

Mr. Stites stated that he believed this went above and beyond what the statute required.

Ms. Curry stated that it did not go above and beyond what the statute required because the statute said "may".

Ms. Carpenter shared that the Committee book included information related to requirements and that both the Attorney General's Office and the Office of Open Records Counsel had opined that persons who are not citizens of Tennessee could be denied access to public records, but the Tennessee Public Records Act does not prohibit the release of public records to non-citizens.

Ms. Curry stated that her key question was why would Tennessee Tech want to prohibit anyone from having access to public records.

Mr. Stites stated one reason might be because it could be very expensive for Tennessee Tech and institutions of Tennessee to search for and respond to all the public records requests.

Ms. Curry stated she believed the law provides in certain cases for the requestor to pay for that time and the copies.

Mr. Stites stated that when the people of Tennessee are investing in an entity like Tennessee Tech for safekeeping, Tennessee Tech must adopt whatever rules it felt necessary for the safekeeping of that information. He stated that Tennessee Tech should not worry about providing information to a person in another state.

Ms. Harper stated that she did not disagree with the idea that public information should be available to the public. She stated that there should be a privilege of being a resident of Tennessee and citizens should be given a right to see information kept by their public entities.

Chair Jones stated that, in general, he was sympathetic to the idea that public records should be accessible to the public. He stated public records are maintained by the State of Tennessee, and taxpayers in Tennessee, whether it be a business or a student, should have access to them. He stated that it was not clear how to qualify as a citizen or a resident. He stated Tennessee Tech was trying to create a minimum threshold on what qualified as a “citizen” and treat everyone that requests public records the same.

Karen Lykins, Chief Communication Officer, stated that Tennessee Tech grants and practices the broadest rights possible to allow citizens access to public records.

Chair Jones asked what action Tennessee Tech took when receiving a request for records that contained information protected by FERPA, HIPPA, or any other laws that require privacy.

Ms. Lykins stated that Tennessee Tech was required to review the records for exempt information such as FERPA-protected records and not release the records if required by law.

Ms. Lykins stated comments were received from the Tennessee Coalition for Open Government and from student journalists during the rulemaking hearing. Ms. Lykins read the following comments and staff recommendations to the Committee:

**Comment 1:** The rule should state that a resident can affirm Tennessee Tech residency through additional specified ways, such as a checkbox, residential business address, or student id.

**Response:** The rule provides that a requestor can meet the citizenship requirement either by a valid Tennessee driver’s license or an alternative acceptable form of identification. Tennessee Tech believes the rule is flexible enough to allow requestors to provide proof of residency through any number of avenues and that specifying the mechanisms would unnecessarily limit a requestor’s or Tennessee Tech’s options. Tennessee Tech does not believe, however, that a “checkbox” is a sufficient mechanism to prove Tennessee citizenship.

**Comment 2:** The rule should state that if Tennessee Tech has contracted with another entity and that entity possesses record subject to the Public Records Act, Tennessee Tech will facilitate or acquire those records on behalf of the requestor.

**Response:** Tennessee Code Annotated Section 10-7-503 (a)(2)(B) requires a “custodian” of a public record to “promptly make available for inspection any public

record not specifically exempt from disclosure.” Tennessee Code Annotated Section 10-7-503(a)(1)(C) defines a “records custodian” as any “office, official, or employee of any governmental entity lawfully responsible for the direct custody and care of a public record.” While Tennessee Tech will make contract documents in its custody available to a requestor, Tennessee Tech declines to assume the burden of acquiring records that are not in its direct custody or care.

**Comment 3:** While Tennessee Tech’s rule does not prohibit photography of records, the commenter indicated that if Tennessee Tech does ban photography, that ban must be promulgated as part of the rule.

**Response:** Tennessee Tech does not prohibit the use of cellphones to photograph records. Tennessee Tech has added a provision to the rule that allows a requestor to use a personal cellphone to photograph up to 25 pages.

**Comment 4:** Tennessee Tech should accept a student ID as proof of citizenship.

**Response:** Tennessee Tech declines to revise the rule for two reasons: First, a student ID, by itself, is insufficient to prove citizenship or residency (*see, e.g.*, requirements for voter registration or for a driver’s license); second, Tennessee Tech does not wish to treat one class of requestors more favorably than another by accepting less proof of citizenship. Tennessee Tech’s rule, however, is flexible enough to allow the use of a student ID in combination with another document such as dorm address, utility bill, rental agreement, etc., to meet the citizenship requirement.

The Committee considered the comments and recommendations and discussed at length the comments related to proof of citizenship.

Chair Jones iterated that if an out-of-state student attending Tennessee Tech provided his/her student ID with a utility bill, dorm address, etc., then s/he would be given access to the records. He stated that this may not be as broad as desired, but it was a reasonable accommodation to make sure the requestor was someone paying taxes in Tennessee in some form.

Ms. Curry asked why Tennessee Tech required proof of citizenship in the first place.

Dr. Geist pointed out that in the Committee materials there was a reference to an Attorney General’s opinion that stated as follows: “Persons who are not citizens of Tennessee can be

denied access to public records, but the Tennessee Public Records Act does not prohibit the release of public records to non-citizens.”

Chair Jones suggested that Tennessee Tech should be clearer in that a student ID and some other form of residency proof would be acceptable for the purpose of accessing public records. He stated Tennessee Tech should not have to bear the financial burden of providing records to requestors who are not living in Tennessee.

Ms. Harper stated she did not believe a specific statement needed to be included in the rule, but it needed to be clear that a student ID and another form of residency proof was acceptable.

Dewayne Wright, Senior Director, Communications and Marketing, stated that a webpage was available that provided information about making a public records request, the various ways to request information, and the general process. He stated that webpage could be used to list acceptable forms of identification.

Chair Jones requested that prior to the June 20, 2019, Board meeting, Ms. Lykins, Ms. Curry, and Mr. Wright make changes to the webpage to make the language clearer about the combination of a student ID and another form of identification as acceptable proof of citizenship for accessing public records. Chair Jones asked that these changes be presented to the Board in June.

Ms. Harper stated that providing a list of the acceptable alternative forms of identification was consistent with the Office of Open Records Counsel’s “Best Practices” guidelines.

Ms. Harper moved to place Policy 110 (Access to Public Records) and Rule on the Board’s regular agenda, having considered all comments including the staff’s recommendations. Mr. Stites seconded the motion.

After an opportunity for further discussion and there being none, the motion carried unanimously.

#### **AGENDA ITEM IV—TNTECH.EDU EMAIL ADDRESSES**

Yvette Clark, Executive Director, Information Technology Services, presented a plan for granting email account access to retired faculty. The plan included the following:

1. Emeriti faculty must sign an agreement and follow TTU Policy 801 (Information Technology Acceptable Use Policy), which states that they do not have any rights to

privacy and that Tennessee Tech is not responsible for any loss of data stored on those university resources;

2. Emeriti faculty with a TTU email address must complete relevant security training, and failure to complete this would result in loss of the digital access accounts;
3. Emeriti faculty with email access must have the respective department chair serve as a sponsor, the account would expire annually, and an account would require authorization from the appropriate administrators to continue with the account;
4. If an account was inactive for 90 days, the account would be deactivated; and
5. There might be a fee to cover costs associated with additional information security tools.

Chair Jones asked how much this change would reduce the number of email accounts.

Ms. Clark answered that there were 321 retiree accounts and 183 emeriti, and if just the emeriti accounts were kept, the email accounts would be reduced by at least 300.

Chair Jones asked if the majority of the email accounts were student accounts.

Ms. Clark answered that the majority of email accounts belonged to students and there was not a mechanism to turn those emails off.

Troy Smith, Senate Faculty President, stated that some non-emeriti faculty may still meet the qualifications to keep their accounts. He stated that he would like to see language that does not prevent the chair from having the option to allow those persons to keep their accounts. He clarified that these persons would include individuals who are not faculty or emeriti but are still active through research.

Chair Jones asked if changing the “emeritus faculty” to “retired faculty” would be broad enough.

Ms. Clark answered that it would. She stated that an emeriti faculty policy existed but the policy needed to be updated. She stated she would like to follow the approval process set out in TTU Policy 219 (Emeriti Faculty), Section 3.A.3, which requires the signatures of the department chair, the dean, and the provost.

President Oldham stated that anyone engaged with Tennessee Tech in a meaningful way could obtain email access.

Mr. Stites stated he wanted the minutes to reflect that Ms. Clark had the right and responsibility to remove email access if the account holders did not complete the required training or if the security protocol was violated.

Ms. Harper moved to approve the guidelines related to the removal of email addresses of former employees and/or students with the following amendment: changing the words “emeritus faculty” to “designated individuals” and to require three signatures instead of two signatures, namely the department chair, the dean of the college, and the provost, as part of the approval process. Mr. Stites seconded the motion.

After an opportunity for further discussion and there being none, the motion carried unanimously.

#### **AGENDA ITEM V—UPDATE BY PRESIDENT**

President Oldham stated that the “I Heart Tech” student campaign was successfully completed and raised over \$330,000 in three primary areas: emergency assistance for students, veterans and their families, and the food pantry. He stated that faculty and staff participation increased from 14 percent to 29 percent. He stated the comprehensive campaign, Tech Tomorrow, had unofficially reached its \$60 million goal. Dr. Kevin Braswell, Vice President of Advancement, stated that an official announcement of the success would be made at the end of the fiscal year with a celebration in the fall to include faculty, staff, and students.

President Oldham stated the two recent commencement ceremonies were successful. He stated there were about 2500 graduates and Tennessee Tech set a record by graduating 26 PhDs. He stated there were two dean searches on-going and one dean search recently concluded. He stated the new dean for the College of Agriculture and Human Ecology would be Dr. Darron Smith. He stated Dr. Bruce had been aggressively working on the searches to identify new deans for Nursing and Engineering. He stated the first cluster hire of five Computer Science professors had been completed.

Ms. Harper asked if any of the funding for the cluster hire came from the state allocation for the College of Engineering. Dr. Claire Stinson, Vice President for Planning and Finance, answered that it did.

President Oldham shared a presentation that he previously shared with various legislative committees in the spring. He stated that he appeared before the Government Operations Committee primarily for the purpose of the sunset provision for Tennessee Tech’s Board of Trustees and the Board was granted a two-year extension. President Oldham stated he also appeared before the House and Senate Education Committees to discuss Tennessee Tech’s budget requests.



Referencing the President's power point presentation, Mr. Stites asked how Tennessee Tech reached a 55.1 percent graduation rate, as indicated on one of the slides.

President Oldham stated that graduation percentages were calculated nationally by a freshman cohort. He stated the number of freshmen enrolled in a fall semester, not counting transfer students or students entering in the spring semester, and, of those students, the number of students who graduated from the same institution within six years were the bases for the calculation. He stated Tennessee Higher Education Commission's data had higher numbers because it tracked students that graduated from Tennessee Tech, but also students that enrolled in Tennessee Tech as freshmen but graduated from other universities. He stated Tennessee Tech's ranking was second only to University of Tennessee Knoxville, and a 55 percent graduation rate was a historic high for Tennessee Tech, though it should be at 60 percent or above.

He stated that Tennessee Tech had a 75 percent first-year retention rate and the goal was to retain at least 80 percent of first year students. He stated that two years earlier, Tennessee Tech's retention rate was at 79 percent, but seven years ago before he came to Tennessee Tech, the rate was below 70 percent. He stated there was a decline this past year, but efforts had been initiated to improve this figure.

He stated the average freshman ACT was 24.4 which is second only to University of Tennessee Knoxville in terms of incoming freshman. He stated Tennessee Tech was one of four public Research 2 universities in the state, with over \$16,000,000 in externally funded research.

Mr. Stites asked if the Research 2 designation would be in conflict with the concept of a regional university and addressing rural Tennessee issues.

President Oldham said that it was not, and the best way for Tennessee Tech to have a strong regional impact would be by having a level of national prominence. He stated this impact needed to start locally and the Rural Reimagined initiative would give Tennessee Tech the opportunity to make a significant difference close to home.

Chair Jones stated that one way to increase graduation rates would be to lower standards, and Tennessee Tech had not been doing that.

President Oldham stated there had been a \$4,000,000 increase in state appropriations for Tennessee Tech and \$2,600,000 came from the outcome-based funding formula. He stated the total state appropriation in the budget was just short of \$60,000,000. He stated that over the last four years, the state appropriation had increased by about 40 percent.

President Oldham stated \$3,800,000 for capital maintenance was received for the year. He stated that \$3,250,000 for planning of the new engineering building was also received.

President Oldham stated that the Chairman of the House Government Operations Committee, Martin Daniel, was concerned about the ability of any individual to make public comments at a Board meeting without making a prior request to do so. He stated the current bylaw asks for 15 days' notice for anyone to present at a board meeting. He stated Chairman Daniel encouraged allowing individuals to address the board without requiring any prior notice.

Chair Jones stated that he did not support that because the staff spends months preparing for the meetings. Also, the Board needed time to understand what would be presented, if it was applicable to the Board, if it was useful, and the Board needed time to research and to prepare for discussion and response. He stated he did not want "day-of" comments because it could dilute the focus of the Board. He stated that the advance notice requirement would give the chair some authority to choose who could speak and who could not. He stated that there were mechanisms for individuals to speak, and there was an organized process for individuals to speak to the Board. He stated that at this time, 15 days' prior notice was required; this requirement could be reduced to a lesser number of days, but there still needed to be enough time for the Board, the chair, and the staff to prepare and to determine if the comments were applicable to the Board.

Ms. Harper asked if the Board was required to vote to allow an individual to speak at a meeting without prior notice. Having received the answer that the Board was not required to vote on a request, she stated because there was a "good-cause" exemption in the bylaw, which allowed someone to speak without 15 days' notice, she did not believe there was a need to change the number of days before the deadline, as long as there was room for exceptions.

Chair Jones stated the agenda could be changed or amended at the meeting by the chair and if Board members disagreed with the chair's decision, Board members could overrule the chair. He stated that it was possible for an individual to present comments even if s/he missed the 15-day deadline for requesting to do so.

## **AGENDA ITEM VI.A—PRESIDENT’S PERFORMANCE REVIEW PROCESS AND TIMELINE – PRELIMINARY PROCEDURAL MATTER**

Chair Jones presented the following summary to the Committee: ‘The Executive Committee is responsible for organizing and conducting an annual performance review of the President, and part of the responsibility of the Committee is to approve a timeline for completion of process; a Board assessment and questionnaire; a Cabinet assessment questionnaire; and to discuss other matters requiring the procedures for the “President’s Performance Review” adopted by the Board.’

Chair Jones stated that as a preliminary procedural matter, he wished to designate an Executive Committee Representative. He stated that Trudy Harper had been asked to serve in this role again this year.

Ms. Harper stated that she would serve in this role.

## **AGENDA ITEM VI.B—PRESIDENT’S PERFORMANCE REVIEW PROCESS AND TIMELINE - TIMELINE FOR COMPLETION OF PERFORMANCE REVIEW PROCESS**

Chair Jones stated that the President’s self-assessment was due on June 21<sup>st</sup>.

Ms. Harper stated that by July 24<sup>th</sup> she would provide a confidential summary of the assessments and share that information with the Executive Committee. She stated the Executive Committee would offer comments, and she would then meet with the President. She stated the proposed timeline allowed only one week between receiving the Committee’s comments and meeting with the President. She stated she would like to move her meeting with the President from August 1<sup>st</sup> to August 8<sup>th</sup>. She stated she would also like to move the deadline for sending a draft evaluation to the President and Board to August 20<sup>th</sup>.

Ms. Harper moved to approve the timeline as amended. Mr. Stites seconded the motion. After an opportunity for further discussion and there being none, the motion carried unanimously.

## **AGENDA ITEM VI.C—PRESIDENT’S PERFORMANCE REVIEW PROCESS AND TIMELINE - BOARD ASSESSMENT QUESTIONS**

Chair Jones stated that the Board assessment questions were similar to last year’s assessment questions but tailored to reflect last year’s goals and plans. He stated that

going forward, the President's goals would be more quantifiable and streamlined. He stated this would be part of the evaluation that would be submitted by June 21<sup>st</sup>.

President Oldham stated it would be best for the Board to evaluate his performance over the past year as well as his projected goals for the coming year.

Ms. Harper stated that it should be acceptable for Board members to ask for more information in order to evaluate a goal properly.

President Oldham stated that based on the feedback from the Board members collectively and individually, he would pay more attention this year to how he framed his self-evaluation so he could include as much hard data in the report as possible and provide the Board with adequate information to review progress. He stated that all the goals this year were measurable.

Mr. Stites moved to approve the Board assessment questions as presented. Ms. Harper seconded the motion. After an opportunity for further discussion and there being none, the motion carried unanimously.

#### **AGENDA ITEM VI.D—PRESIDENT'S PERFORMANCE REVIEW PROCESS AND TIMELINE - CABINET ASSESSMENT QUESTIONS**

Chair Jones stated that the Board considered last year if there were any necessary edits to the Cabinet assessment questions and no edits were suggested.

Ms. Harper said no one seemed constrained by the questions asked.

Mr. Stites moved to accept the Cabinet assessment questions as presented. Ms. Harper seconded the motion. After an opportunity for further discussion and there being none, the motion carried unanimously.

#### **AGENDA ITEM VII—ELECTION OF THE BOARD CHAIR FOR JULY 1, 2019-JUNE 30, 2021, TERM**

Mr. Stites moved to nominate Trudy Harper as the Executive Committee's recommendation as Chairman for the Board. Chair Jones seconded the motion. After an opportunity for further discussion and there being none, the motion carried.

## **AGENDA ITEM VIII—OTHER BUSINESS**

Dr. Geist asked President Oldham where Tennessee Tech stood in terms of the budget.

President Oldham stated that there were never as many resources as desired, but the budget had significantly increased over multiple years and he would not describe the budget as being “short”. He stated some things could not be accomplished due to a lack of resources. He stated that at the June Board meeting, a small increase in tuition of 2.3 percent would be recommended. He stated that if there was a decline in enrollment, that would be an issue that would have to be addressed. He stated the Board could be most helpful in managing the financial risk and finding ways to buffer the financial risk so Tennessee Tech was not always in a reactive mode to changes in enrollment. He stated that Tennessee Tech would take action whenever there was an issue to be dealt with in order to stay out of real financial trouble. He stated this was why he characterized the budget as healthy, but that did not necessarily mean that this was where he wanted the budget to be.

## **AGENDA ITEM X—ADJOURNMENT**

There being no further business, the meeting adjourned at 12:08 p.m.

Approved,



Kae Carpenter, Secretary