

Faculty Senate Business Meeting  
November 12, 2018

**Members Present:**

Douglas Airhart, Tammy Boles, Troy Brachey, Chris Brown, Debra Bryant, Andrew Callender, Corinne Darvennes, Ahmed ElSawy, Stuart Gaetjens, Melissa Geist, Mark Groundland, David Hajdik, Jeremy Hansen, Paula Hinton, Christy Killman, Seth King, David Larimore, Lori Maxwell, Lachelle Norris, Linda Null, Brian O'Connor, Joseph Ojo, Richard Rand, Jeff Roberts, Leeann Shipley, Cara Sisk, Troy Smith, Sandi Smith-Andrews, Holly Stretz, Zac Wilcox, Kim Winkle, Jeanette Wolak

**Members Absent:**

Ismet Anitsal, Deborah Ballou, Michael Best, Jeremy Blair, Steven Frye, Ann Hellman, Shelia Hurley, Barbara Jared, Regina Lee, Christine Miller, Holly Mills, Ben Mohr, Sally Pardue, Mohan Rao, Barry Stein

**Guests:**

Trudy Harper, Jon Jonakin

**Call to Order**

Senate President Smith called the meeting at 3:35 p.m.

**Approval of Agenda**

Senator Smith-Andrews made a motion to approve the agenda for today's meeting and Senator Hinton seconded it. The agenda was APPROVED.

**Approval of Minutes from the Senate Business Meeting on October 8, 2018**

Senator Smith-Andrews made a motion to approve the minutes from the Senate business meeting on October 8, 2018 and Senator Hinton seconded it.

Correction: The following sentence was removed: "Kae Carpenter directed Senator Sisk to discuss this policy with the Faculty Senate."

The October 8<sup>th</sup> Minutes were APPROVED with this correction.

**Approval of the Notes from the Senate Meeting with the President on October 29, 2018**

Senator Smith-Andrews made a motion to approve the notes from the Senate meeting with the President on October 29, 2018 and Senator Hinton seconded it. The October 29<sup>th</sup> minutes were APPROVED.

**OLD BUSINESS**

A. Faculty Trustee Nomination Committee

Senate President Smith announced that a committee has been formed (Senator Maxwell—Chair, Senators O'Connor and Darvennes) to elect the next faculty representative on the TTU Board of Trustees. He will send an e-mail to all faculty informing them of this opening and the application procedure for this position.

#### B. Gender Equity Update

Senate President Smith has not yet heard from the Provost regarding the Senate Resolution to use the old equity model adjusted for potential gender bias, but he is hopeful to meet with her and Senior Associate Provost Mark Stephens in the near future on this subject.

#### C. Results of Call for Suggested Sustained Campaigns for the Faculty Senate

Senate President Smith noted that few Senators responded to his e-mails requesting their feedback on important issues to work on in the Faculty Senate moving into the spring semester and beyond. From the feedback received, the priority issues for the Faculty Senate are 1.) Intellectual property and 2.) Tenure. Senate President Smith also wanted the Faculty Senate to work on a student-centered concern; namely, ways to help international students acclimate to Tennessee Tech University.

#### D. Intellectual Property

Senate President Smith will contact those faculty members already working on this issue, especially those on the Administrative Council, to form a committee on this issue. The Intellectual Property policy is not on the agendas of the Administrative Council or the Academic Council this week. Senator Null asked for clarification on the issues involved in the Intellectual Property policy. Senators indicated that some of the issues included

1. New faculty members are required to sign their intellectual property rights away during their orientation workshops.
2. The last version of the policy delineates works-for-hire and not in the new faculty contract, which potentially might pose several issues.
3. Overall, a carefully scrutiny of the Intellectual Property policy and of the new faculty contract is needed.

#### E. Investigation Results

Board of Trustees member Ms. Trudy Harper shared the results of the research misconduct investigation. An extensive discussion ensued wherein Faculty Senators asked questions and made comments on this investigation. A summary of the Faculty Senate's questions and concerns follow, along with Ms. Harper's responses and thoughtful feedback.

1. Ms. Harper began explaining her role in the research misconduct investigation. Some research was contracted, the research was performed, and a letter about the research was sent to three individuals: the sponsor of the research, the EPA, and Congresswoman Diane Black. These letters were sent by Tom Brewer and President Oldham. A complaint was filed under Policy 780, misconduct in research. President Oldham recused himself from the process because of a potential conflict of interest. The Board of Trustees charged Ms. Harper with substituting for President Oldham, to inquire and to investigate this complaint on research misconduct. From this point forward, President Oldham has not been involved in the process. Upon the conclusion of the investigation, Ms. Harper sent letters explaining the committee's findings to the research sponsor, the EPA, and Congresswoman Black. Afterwards, she called President Oldham and read him the letter. Ms. Harper encouraged Faculty Senators for their feedback with the aim of preventing a similar situation in the future. She will

meet with Dr. Eaton to discuss the administrative aspects of Policy 780. Ms. Harper noted that there are areas that she cannot discuss in an open forum due to confidentiality issues. She indicated that her letter was printed on Board of Trustees letterhead in error. It should have been printed on Tennessee Tech University letterhead. She opened up the floor for questions and comments.

2. Broader concerns with the research misconduct fall beyond the mechanics of Policy 780. Many people on campus and in the community are concerned about how the whole situation developed in the first place. They would like President Oldham to address this overarching matter.

Ms. Harper met with President Oldham with the goal of creating a document entitled, "Opportunities for Improvement," which would not reference the people involved, but rather a roadmap for improvement so something similar does not happen again.

3. The new 780 policy must include a statement indicating that if the Office of Research and Economic Development replaces a PI on a research endeavor, then they must appoint a qualified PI. This wording reflects a standard in federal grant proposals.

Ms. Harper recognizes the wording must be more stringent when replacing a PI in Policy 780. There needs to be a process for changing a PI.

4. Ms. Harper has not found any evidence that money went to the Respondent from the Sponsor, either directly or indirectly.

A Faculty Senator replied that the Respondent was seen at the airport getting on a Fitzgerald airplane. Ms. Harper was unaware of this.

5. Ms. Harper noted that Tennessee Tech University needs a clear institutional conflict of interest policy.
6. Ms. Harper stressed that research data should only be given to the sponsor.
7. When will the pre-litigation holds on e-mail accounts be released?

Ms. Harper does not know, but will find out and inform Senate President Smith. Ms. Harper does not think we are out of this yet.

Why not, if all sanctions have already been levied against individuals involved in the research misconduct allegation?

Ms. Harper clarified that this is a pre-litigation hold stemming from Fitzgerald. She will ask the university counsel the status of this possible litigation and Senate President Smith will communicate her feedback to the Faculty Senate. Ms. Harper noted that the pre-litigation holds on e-mails also affects administrators, anyone who had access to related information, and herself.

8. A question was asked if there were reports generated from the internal committee and the external committee as per policy 780.

Ms. Harper was unsure what is meant by external committee. There was no external committee. She read from President Oldham's correspondence that a peer review into the allegation of research misconduct would occur. Because of the confidentiality of the data, we could not bring in an external peer review. As part of internal processes, the TTU committee members contacted some external experts. They did not see any data, but rather they were interviewed on measuring emissions of EPA standards. It was established through these interviews that the methodologies that would have been needed to comply with EPA standards had not been used in the TTU research in question. Instead, the TTU research team used the procedures specified by the sponsor and agreed to by the researchers. Ms. Harper concluded that further external reviewers were not necessary. Most of the TTU committee members agreed, although one noted that if the Respondent had stated that he did not believe these individuals were capable of making these comparisons and reviewing this information, then there might be an issue. Since the Respondent did not make this statement, the TTU committee agreed with Ms. Harper. The data was not suspect. The issue was how the data was characterized in the letter to Congresswoman Black.

May the Faculty Senate access the internal report?

Ms. Harper replied no, it is confidential.

A Faculty Senator indicated her belief that the Faculty Senate is entitled to review it based on Policy 780 and a FOIA (Freedom of Information Act) request.

All necessary information was contained in the letter she sent out a few days ago. Ms. Harper cannot reveal the identities of the external experts nor the TTU committee members without violating confidentiality agreements. She cannot release the actual report: "Tennessee Tech (Ms. Harper in this case) will maintain the confidentiality of materials consistent with federal and state law requirements and consistent with authorized personnel who need to review the file." She emphasized that she is trying to be as open as possible. She wants to protect those who did nothing wrong, but were involved in this issue.

9. The Faculty Senate's concern and that of the larger community extends beyond questions of methodology. National news sources suggested that there was a quid pro quo between Fitzgerald and Tennessee Tech University. There is a perception that Tennessee Tech essentially helped Fitzgerald to try to modify EPA policy.

Ms. Harper stressed that there was no finding of collusion between Fitzgerald and Tennessee Tech University. The people who made bad decisions with this issue are no longer associated with the university. The report indicates that Fitzgerald received the research for which they contracted.

10. A Faculty Senator commented on the seriousness of research misconduct. It is objectionable how someone in the TTU administration risked our outstanding reputation by misrepresenting research data. The Board of Trustees needs to know these strong feelings felt by faculty.

Ms. Harper understands the seriousness of this issue. She also recommends that Faculty Senators and faculty in general help to educate the Board on the importance of tenure on campus.

11. Why, then, does the letter not say research misconduct?

Ms. Harper intended to maintain the reputation of the university as best as possible. The best path forward was to admit that a mistake was made and that it has been taken care of. Confidentiality in the personnel matter, according to Policy 780, prohibited Ms. Harper from making any judgments in her letter.

It was suggested that an apology be issued to help mend the reputation of Tennessee Tech University. Furthermore, Tennessee Tech needs to admit that research misconduct took place and outline the steps to see that this will not take place again.

Ms. Harper owned the statements made in the letter as her own, as the leader of the internal investigation into the research misconduct. She noted that she did apologize in the letter, “we take our responsibility in this area very seriously and *we seriously regret the inconvenience*” (emphasis mine).

Faculty Senators did not feel that the language in the letter reflected an apology.

Ms. Harper noted that the intended recipients of the letter (sponsor, EPA, Diane Black) did not need to hear an apology. The research misconduct policy, she reminded, is a personnel matter and she treated it as such.

A Faculty Senator noted that the wording of research misconduct stems from the federal government. The federal government’s punishment for federal misconduct—a finding on an individual, not an institution—is that the individual cannot receive federal funds or grants for the next five years. The Senator noted that this would halt the research productivity of any faculty member whose work depends upon grant money.

It was pointed out that the Respondent was receiving state funds through a grant while the internal investigation was going on.

Ms. Harper replied that she was unaware of the Respondent’s receiving of any state funds. Her understanding was that he only received his salary and nothing more.

Ms. Harper asked whether it would be advisable to use the wording of the federal guidelines and adopt them for TTU's revised Policy 780. Some of the federal wording would be beneficial, while other wording potentially might not. For example, the Respondent in the TTU research misconduct process explained that he did not intentionally commit research misconduct. According to federal policy, the Respondent needs to intentionally engage in research misconduct to be found guilty. TTU policy does not require finding of intentionality. The internal investigation in this matter did not make a finding one way or another.

The Department of Mechanical Engineering had hired an expert on diesel emissions. He should have been involved in the research.

Ms. Harper responded that she appreciates the comment, but it would not have had any bearing on the committee's findings.

A Faculty Senator pointed out that President Oldham asked that the Faculty Senate refer to the matter as a research misconduct investigation, not as the Fitzgerald situation.

Ms. Harper repeated that she did not overtly say in her letter that TTU was conducting an investigation into research misconduct.

12. Engineering faculty teach ethics to their students. Furthermore, state and federal grant proposals have a credentials page. Unfortunately, someone without the proper credentials became the PI on the research grant. We must maintain industry standards when conducting research. This research misconduct has adversely affected the research endeavors of engineering professors at TTU.

Ms. Harper noted that every single faculty member involved in this process has conveyed the same sentiments as she is hearing now. She desperately wants to restore Tennessee Tech's reputation and this was her intent with the letter she drafted.

13. Another Faculty Senator indicated that the supervisor of the Respondent knew that the he was not qualified and still signed off on it. Furthermore, President Oldham signed a letter regarding the research and sent it to Congresswoman Black. The Respondent has been sanctioned, but should not senior administration officials also accept some responsibility, including President Oldham? Faculty morale is low, partly due to comments made by the Board of Trustees regarding issues such as raises and questions on tenure. It does not appear that university leaders defend faculty. Now, with this internal investigation on research misconduct, there is no accountability of upper-administration for errors made.

Ms. Harper has discussed the issue of accountability with President Oldham. In his defense, President Oldham thought the original PI was still involved when he signed the letter and sent it to Congresswoman Black. Ms. Harper stressed that the letter should never have gone to the government, only to the sponsor of the research.

14. A question arose to the reason why the Respondent replaced the original, qualified PI.

Ms. Harper noted that the Respondent perceived that the original PI was not being responsive. After some investigation, this was not true. The original PI did nothing wrong. It appears that the Respondent did everything unilaterally.

15. Has there been an apology to the graduate student involved in the research? Their thesis has been embroiled in a controversy and will likely have difficulties in the future because of this issue.

Ms. Harper appreciated the question and made a note to look into it.

16. How many people were on the research conduct committee?

Ms. Harper could not answer this question to ensure confidentiality. Policy 780 requires at least three. She did commend the outstanding work of this committee at all levels.

17. The administration has a habit of sidestepping faculty. The people who were responsible were appointees of President Oldham. They have caused harm to this university. The President needs to acknowledge his responsibility. This predates the Board of Trustees.

Ms. Harper replied that President Oldham understands this concern. He believes that we are on a better track now with the hiring of Provost Bruce and Vice President Johnson.

A Faculty Senator pointed out that the President appointed someone to replace Dr. Soni, albeit on an interim basis.

Summing up, to hear that all parties needing to be sanctioned were sanctioned is upsetting. President Oldham was not sanctioned. He received a bonus.

Ms. Harper responded that she stated in the Board of Trustees meeting that some things happened this year that were not good. Additionally, other things happened that were exceptional and she felt that this warranted a moderate bonus for the President for this year. In any event, President Oldham declined this bonus, and asked that it go toward scholarships.

18. Moving forward, a Faculty Senator recommended limiting the right of the Respondent to unseat committee members when a research misconduct committee is being formed and to set limits when forming the committee. Currently there is no timeline for seating and unseating committee members and this last case took too long to formalize the membership of the research misconduct committee.

Ms. Harper appreciated the idea and added it to her list. She noted that President Oldham believes that the whole process took too long. Ms. Harper shared that the university calendar is a challenge, working in the summer for example. It took a long time to find unbiased people to sit on the committee.

19. Another comment indicated that the President received a letter with an allegation, but did not accept it because it was not on the correct form. The correct form should be attached to the revised Policy 780 to make the process easier.

Ms. Harper thanked the Faculty Senator for this helpful comment. She did note that, if we were the Respondent, we would want specific information that would warrant the process to move forward. Ms. Harper also noted that the current Policy 780 worked well and that it served its purpose, albeit the process could have moved faster.

20. A Faculty Senator from the College of Engineering noted that engineering faculty members feel beaten down because they spoke up against this research misconduct. They have been ignored by administration and their Dean has paid the price. He asked that President Oldham change his mind about Engineering. His engineering colleagues feel punished. He would like to return to the days when engineering faculty were appreciated by the administration.

Ms. Harper hated to hear this impression of being beat down. The internal investigation has been hard on all involved, including herself. She believes that at the end of the process, the committee put forth the best possible answer and that she indicated its findings appropriately in her letter, "We made inaccurate statements..." Her letter was meant to get Tennessee Tech University to the best place to start healing. To her list of opportunities for improvement, Ms. Harper has added suggestions from this Faculty Senate meeting. Her hope is to move forward and learn from errors made.

21. The letter drafted to the parties involved in the research misconduct was appropriate. However, President Oldham (or Board of Trustees or both) should draft another letter to the university faculty and the general public stating that mistakes were made and to apologize.

Ms. Harper asked whether this was not already accomplished in the letter she drafted.

Faculty Senators replied that the language in Ms. Harper's letter was vague.

Absent a favorable affirmation about the quality and stature of the faculty at Tennessee Tech University, there is a danger that this incident could potentially taint our institution. A strong affirmation from the President and the Board is essential to move forward.

Ms. Harper appreciated this input and reiterated the positive interactions she has personally had with the faculty. Someone chimed in saying that it would be beneficial

to hear this same praise from the Board of Trustees. Ms. Harper replied that the Board meets infrequently and has a very rigid agenda. It is important to educate Board members on matters related to Academia.

Ms. Harper concluded that the research misconduct was one bad incident. Let us make things better, and move on. We can identify the problems without getting into details involving personnel.

22. There are engineering colleagues with expertise in areas related to this issue who have been told by administrators at TTU not to send proposals to the EPA. Tennessee Tech has lost its reputation in the eyes of the EPA. How can we help junior faculty in this area of research whose funding is being adversely affected even though they were not involved in the research misconduct?

Ms. Harper was not aware of this situation. She clarified that TTU had a contract to conduct research and it specified who was to do what. We do not owe the EPA any further apologies. Ms. Harper suggested that proposals be submitted to the EPA for proper research with qualified faculty behind it.

Faculty Senators suggested that a public statement be made that no mechanical engineering faculty members were involved in the research misconduct incident at Tennessee Tech University.

Ms. Harper doubts that there will be any further admission of any sort. She made a decision in consultation with Dr. Huo and Dr. Bruce to draft the letter that she sent out. President Oldham can do something internally, if he wishes.

A Faculty Senator pointed out that any public presentation should also necessarily involve students.

23. Ms. Harper asked what would be achieved by a public apology beyond semantic changes in the points already addressed in her letter. Trade Journals and local papers have already referenced her letter, now it is over.

Faculty Senators stressed the importance of communicating the research misconduct matter, findings, apologies, and a path forward to the general public. There still is a perception that Tennessee Tech is sweeping the research misconduct matter under the rug. Therefore, it matters to make a definitive statement.

Ms. Harper reminded that the findings held that a person was at fault, not the university. She is trying to protect the integrity of the process, particularly the personnel actions involved.

24. A Faculty Senator concluded that nothing will be fixed with a news release, but rather with strong positive leadership from administration and the Board of Trustees.

Ms. Harper commended this observation. She too believes that another letter will not matter. We all need to say that what happened is not who we are at Tennessee Tech University.

25. Faculty Senators profusely thanked Ms. Harper for her time and her work on this matter. She is a receptive voice on the Board and the Faculty Senate dearly appreciates her.

Ms. Harper has received many recommendations with which to work, of particular concern is to talk with the graduate student involved in the research surrounding the misconduct allegation. She will look into the litigation hold on e-mails. As for the Board of Trustees, Ms. Harper indicated that most of its members are non-academics from industry. Senate President Smith has helped orient and inform her to Tennessee Tech University. Faculty should do the same with the other Board members. Ms. Harper suggested that Faculty Senators should actually watch a Board meeting in person and not be persuaded by what they hear from these meetings. All of the Board members believe that Tennessee Tech University is special.

#### **NEW BUSINESS**

Senate President Smith will write a brief report on the items listed in the agenda under New Business (TUFS, Awards committee, Parking committee, Faculty survey) and will send it to Faculty Senators by e-mail.

The meeting adjourned at 5:51 p.m.

Respectfully submitted,

Mark Groundland,  
Secretary of the Faculty Senate