

2019-2020 Year-End Committee Report

Committee:	Faculty Rights and Responsibilities
Charge:	The Committee attends to policies regarding academic freedom, teaching, research, interpersonal conduct, terms of appointment, promotion and tenure, and related matters, particularly with regard to the Faculty Handbook.
Chair:	Jennifer Cole
# of Meetings:	We had two telecom meetings (Nov. 19; June 16) and conducted the rest of our business through group email.

Completed Business and/or Accomplishments

The Committee followed up on two issues that we attended to last year (AY 2018-19).

1. The Bias Incident Response Team (BIRT). In AY 2018-19 this Committee requested information from the BIRT Director, Dr. Lesley-Ann Brown-Henderson, about BIRT policy for handling reports naming faculty. Our concern was to confirm that reports naming faculty were handled following the procedures for faculty grievances and disciplinary actions laid out in the Faculty Handbook. We also requested information about the number of reports naming faculty that were submitted to BIRT in the previous year. We did not receive that information as of the end of last AY, so the Committee issued another email to Dr. Brown-Henderson in January 2020, who responded with the following information about the number of reports naming faculty:

- In AY 2018-19, BIRT received 43 reports and 6 of them involved faculty.
- As of February 2020, BIRT had received 23 reports, 10 of which involved a faculty member or a TA.

Dr. Brown-Henderson also stated that *"reports are immediately shared and not automatically"* (ibid) with the Office of Equity. We understand that to mean that while reports naming faculty are eventually shared with the Office of Equity, they may first be reviewed in the BIRT office, possibly with action taken. We did not receive information about BIRT policies from Dr. Brown-Henderson, but independently we learned that Celina Flowers, the Assistant Provost for Faculty, was working with BIRT to ensure that their newly drafted guidelines were aligned with other University policies. This Committee stepped back from pursuing the BIRT policy issue in March 2020, in consideration of the pandemic response effort. We will carry this issue over to the Committee's agenda for AY 2020-21.

2. E-Verify. After submitting our report on E-Verify to the Faculty Senate at the end of AY 2018-19, this Committee received an inquiry from NU faculty member Prof. Jacqueline Stevens, asking for more detailed information about the agreement the University entered into with the US Department of Homeland Security for the use of the E-Verify system to confirm employment eligibility for all employees at Northwestern University. The Committee chair reviewed the E-Verify Memorandum of Understanding with Professor Stevens, but neither the information in that document, nor the information provided by former VP and Chief HR Officer Pam Beemer, fully addressed the new request that Prof. Stevens brought to the Committee. Specifically, the Committee was asked to provide explicit documentation that in initially enrolling in E-Verify, the University officially and explicitly committed to campus-wide enrollment of all employees (rather than enrollment of only those employees whose work was funded by federal contracts).

In January 2020, the chair of this Committee met with Stephaine Graham and Thalia Myriantopolous from the Office of General Counsel to request documentation of the University's campus-wide enrollment with E-Verify. This information was provided to the Committee in March, in a series of documents and accompanying explanations which (a) indirectly confirm through email correspondence between representatives from the University's HR office and the E-Verify team (USCIS) that on enrolling in E-Verify in 2009, the University selected to enroll all its employees; (b) directly confirm that the University's current status with E-Verify (in 2019-20) specifies enrollment of all employees; and (c) directly confirm that the University's decision to select campus-wide enrollment is not changeable as long as the University has active federal contracts (all of which include a clause about employment verification).

Reviewing this information, the Committee finds support for the University's claim that it selected campus-wide enrollment in E-Verify in 2009, and that the University is obliged to continue using E-verify for all its employees now and in the foreseeable future.

In preparing to review the new information provided by the Office of General Counsel, this Committee felt it would be helpful to get advice from a legal expert on the question of whether the E-Verify policy of disallowing changes in enrollment selection after initial enrollment was legally binding, or if changes might potentially be made at a later date. Several individuals with relevant expertise in federal employment law at Northwestern's Law School were identified and contacted by email, but none were willing or available to consult with the Committee on the E-Verify matter. The Committee proceeded with its review of the new information, leaving aside the question of any potential for future changes in E-Verify enrollment.

The Committee has worked with diligence to address faculty interest in the University's current and ongoing use of E-Verify. We see no further avenues of inquiry into E-Verify that are accessible to us at this time, but recognize that a legal opinion or advice might be obtained in the future that would merit the Senate taking another look into this matter.

Unfinished/Continuing Business

The Committee will continue to inquire about explicit, written policies of the Bias Incident Response Team for handling reports naming faculty.

New Business for Next Year

The Committee was charged this AY to work with the Faculty Handbook Committee, providing feedback on the revised statement on Academic Freedom. We did not receive an update from the Faculty Handbook Committee on this issue, but we will continue to work with that committee next year.