

SENATE COMMITTEE ON SOCIAL CONCERNS

MINUTES OF MEETING

April 20, 2015

[In these minutes: Ban the Box discussion]

[These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions or actions reported in these minutes represent the views of, nor are they binding on, the Senate, the Administration or the Board of Regents.]

PRESENT: David Golden (chair), Laura Duckett, David Fuhs, Zan Gao, BreAnn Graber, Deborah Hendricks, Naomi Scheman, Catherine Solheim, Eric Svingen

GUESTS: Robert Stewart, Rachelle Hernandez

REGRETS: Jayne Blodgett, Sandeep Kataria, Michael O'Day, Rachel Schurman, Kjerstie Wiltzen

ABSENT: Katie Benson, Felicia Christy, Brenda Kayzar, Stuart Mason, Natalie Pope, Abeer Syedah, Anne Sumangil, Curtis Williamson

1. Ban the Box Discussion

Mr. Golden called the meeting to order and asked for introductions. Robert Stewart, graduate student representative, Student Senate Consultative Committee, attended the meeting to present a resolution that was passed by the Student Senate at the April 2, 2015 Student Senate meeting. The resolution can be found here in its entirety: <http://www1.umn.edu/usenate/resolutions/bantheboxres.html>

Below is an excerpt from the resolution:

Resolution to “Ban the Box” on Undergraduate Application Forms

The Student Senate recommends to the President and the Provost of the University that the criminal history disclosure question be removed from the application process.

If the President and the Provost of the University determine that criminal history information is absolutely necessary for the purpose of addressing campus safety concerns, the Student Senate recommends that a new process is created that follows the model provided by the 2009/2013 “Ban the Box” employment legislation where applicants are only required to submit criminal history information after being conditionally admitted to the University.

The Student Senate further recommends that criminal history information questions be narrowly worded and tailored to specifically address the convictions or conviction types that are relevant to campus safety, and that, following the research, the University creates a specific policy and set of procedures that outlines how the Admissions Department should treat applications that answer “Yes” to ensure that these applicants are treated fairly and consistently.

Mr. Stewart then provided some background information about the issue and the resolution:

- The University of Minnesota Twin Cities undergraduate application currently includes a criminal history self-disclosure question (hereinafter referred to as the “Question”) that reads:

“Have you ever been convicted of a criminal offense (felony, misdemeanor, or juvenile offense) other than a minor traffic violation, or is any such charge now pending against you?”
- In order to be considered for admission to the University, all University of Minnesota undergraduate applicants are required to answer the Question. The Question relies on self-reports from applicants; proactive criminal background checks are generally not conducted on all undergraduate applicants because of the prohibitive costs of doing so.
- The Minnesota State Colleges and Universities system (“MNSCU”), the other public post-secondary system in Minnesota, which serves more than 435,000 students annually at 31 institutions statewide, does not require undergraduate applicants to disclose criminal history information, and the MNSCU system has not publicly stated any intention to do so.
- There are several issues with the Question and this practice. First, the text of the Question itself is problematic. It is overly broad and lacks specificity. The breadth of the Question requires applicants to potentially submit information about convictions that are not relevant to their pursuit of higher education and have no bearing on public safety. The Question is also legally ambiguous and confusing. The vast majority of juveniles in Minnesota are not “convicted” but are instead “adjudicated,” which are legally distinct dispositions and carry different meanings. However, that distinction may not be appreciated by either the applicant or the admissions officials.

Mr. Stewart added that an additional study was released after the resolution was written, and it has shown that this question deters students from completing the application.

The discussion was then opened for comments and questions:

- What types of offenses or convictions might preclude someone from attending the University?
 - Rachelle Hernandez, associate vice provost, Office of Admissions, explained that there is a documented protocol and process for the review of responses to these questions. There is also an appeals process. The question is on the current application, but the response is not reviewed until the student is deemed academically admissible to the University. If the student is deemed admissible, they then

determine if the answer to the question would require further review. They look at the severity and timeframe of the crime. For example, the campus admissions committee would review a crime involving harassment or bodily injury to an individual. They do not keep track of how many students have answered yes or no and if they have been admitted or denied. She added that they have this information, but they do not track it to report it because when a student is admitted, this information has already been carefully reviewed. The information impacts few students and tracking could make them identifiable—the University does not want the students hindered or stigmatized in any way—if they are admitted they are admitted without notation on their student record. The process is not currently explained on the website, but when the revised application question is finalized, they will include an FAQ to explain how this question is addressed. The information is self-reported by the students, as background checks are not conducted. All information on applications is self-reported, except for transcripts and test scores.

- Why was the question included on the application?
 - Ms. Hernandez shared that it was her understanding that the question was added to the 2008 application in response to a student situation because a student had to leave campus because of a crime committed prior to their enrollment. The crime presented a concern to safety of the campus community. The University was not aware at the time of the student's admission of the charge or proceedings. She further explained that they work individually with students to complete applications and counsel them through the process. The question has not changed since its addition to the application. They are now reviewing the wording and considering narrowing it to behaviors that are of particular concern to the University. They will also make the review process more transparent to applicants.
- Can it be asked after conditional admittance? There are those applicants that will not submit an application because they do not know or believe that the institution will consider their application.
 - Ms. Hernandez said that because of the time it takes to complete the review process, the student would likely not be able to enroll in classes if admitted.
 - Mr. Stewart agreed that the TC campus provides a fair and supportive process for applicants. Many applicants assume that their crime will be used against them, and being forced to provide this answer on the initial, institutional application is the deterrent.
 - Ms. Hernandez added that they are trying to balance several goals while identifying a clear process. They are focused on what can be done to eliminate barriers to student application.
 - Mr. Stewart said many institutions do not maintain data on the responses. Ms. Hernandez explained that their goal is to admit

students completely, so they do not want to maintain tracking or reporting that would show them as part of a process that could create bias later.

- Could the data be recorded and analyzed later, while remaining separate from the student?
 - Ms. Hernandez explained that it is possible to review those decisions to determine if the process was consistent. The numbers are so small that the students could potentially be identified in other ways. The institution is committed to having a process that is consistent across all campuses, so once a decision has been made it will be implemented across the system.
 - Mr. Stewart explained that a study was completed on pre-college misconduct. They compared whether or not the students should have responded “yes” and didn’t, with criminal background checks. It was found that half or less answered honestly. He noted that the sample size was small, but similar results have been found in other studies. Ms. Hernandez added that criminal offences vary by state, so this can also impact student responses.
- Professor Duckett commented that the School of Nursing completes background checks for all students and faculty.
 - Mr. Stewart explained that the Higher Education Notification Act requires that institutions notify students that they will not be eligible for certain programs if they have a criminal history. This was a result of for-profit schools admitting students to programs where this would be an issue.
- Is there any outreach to correctional facilities?
 - Mr. Stewart explained that Project Newgate, launched in 1969, involved a partnership between the U of M and the Minnesota Department of Corrections. This program was discontinued, but more information can be found here:
<http://www.stcloudstate.edu/continuingstudies/distance/documents/projectnewgatefirst5years.pdf>
 - A member said that if there is consideration for this issue, it should be asked up front. Information should be provided about why this question is asked and details of the review process.
- If the question does not reduce the risk to the University community, is it worth asking?
 - Ms. Hernandez shared that the University asks this question to ensure that it is fostering a safe and respectful campus environment. Our student conduct code is clear on behavior expectations and students on campus or newly enrolled students are held to the same expectations. She explained further that the review only occurs if the student is academically admissible, and there have been cases where students are denied as a result of this, but this is a rare occurrence.
- Members commented that the inclusion of “felony” is too broad.

- Ms. Hernandez said that all CIC institutions include a similar question, she has spoken with peer institutions and they are not considering tailoring the question. The University are planning to have the revised question on the upcoming fall application. She emphasized that the “Ban the Box” legislation does not preclude asking the question completely. Unfortunately, the timing of admittance does not logistically allow for the request for answers to the question to occur later. She emphasized that the University believes that the process is in line with the spirit of the Ban the Box legislation, as the response is only considered after a student’s application has been reviewed and it is determined that the student is academically admissible. It does not come into the process prior to that determination.

Members then discussed next steps for this effort. There was debate as to what exactly should be agreed upon, several members expressed their support for the spirit of the resolution, but a formal vote was not taken.

- Mr. Golden commented that one of the best ways to reduce societal disparities is through education, and for this reason he would support banning the question entirely. Since the question requires self-disclosure, violent criminals can still be admitted if they do not answer the question honestly.

In closing, Mr. Stewart said that SSCC would appreciate guidance on this resolution in the fall.

Hearing no further business, Mr. Golden adjourned the meeting.

Jeannine Rich
University Senate