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One Mizzou credited after incident-free February

By Janese Silvey

Columbia Daily Tribune Thursday, March 1, 2012

A yearlong initiative on the University of Missouri campus to promote inclusiveness passed its first test: MU survived Black History Month without incident after two back-to-back Februaries with public displays of racism on campus.

"I really am happy," said Xavier Billingsley, president of the Missouri Student Association. "I think a lot of people were holding their breath this year."

It's tough to completely credit One Mizzou, but those involved in the initiative say the incident-free February was a good sign. Last year, a freshman painted a racist slur on campus property during Black History Month, and the year before, two students lined cotton balls in front of the Gaines/Oldham Black Culture Center.

The events prompted student leaders to launch "One Mizzou" a year ago this month.

Billingsley said the group tried to be proactive this year, using banners and ads to spread the notion that everyone on campus is part of the same Mizzou family. Billingsley also used his monthly letter to students to "make it known that we will not tolerate it this year," he said. "So I think people got the concept that ignorance and joking aren't cool."

Campus media outlets early last month reported that racist fliers were found in a dorm, but MU Police Capt. Brian Weimer said those accounts were inaccurate. Fliers that were "in poor taste" were found, but they weren't racial, he said.

Nathan Stephens, director of the Gaines/Oldham Black Culture Center, said he is starting to feel a more inclusive atmosphere at MU.

"I'm pleased with the direction the campus appears to be taking," he said. "I think the students are saying, 'This is who we are' and creating a culture of acceptance and inclusiveness. I believe One Mizzou has helped."

While much of this year has been spent trying to figure out what One Mizzou can do, Billingsley said, it has cropped up in a number of forms.

The MU Athletic Department teamed up with University Bookstore to sell One Mizzou T-shirts as a fundraiser to help tornado victims in Joplin last spring.

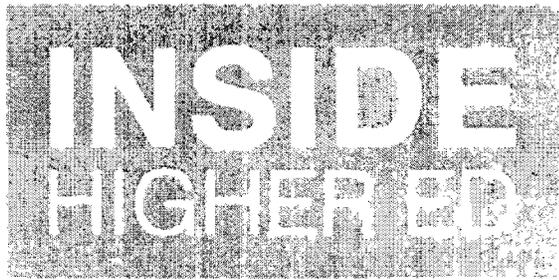
"Quite frankly, I give a lot of credit to the administration and the athletic department for being very visible and vocal in saying 'We're One Mizzou,' " Stephens said.

The effort affects professors, too, said Leona Rubin, an associate professor of veterinary biomedical sciences and former Faculty Council chairwoman. Specifically, she said, doing away with a separate evening campus and strengthening online programs is better unifying MU.

"I do think the One Mizzou, just the promotion of it, sort of gives everybody, even faculty, a feeling of inclusion," she said. "The whole idea of blending how we teach courses, integrating online and evening courses, stops the many distinctions we have, not just between races but between different groups of faculty."

As for an incident-free February, Rubin said she prefers to consider this year the norm.

"I would like to think our students are always open and accepting and diverse," she said, "and those incidents were just unusual incidents."



insidehighered.com

Post-Tenure Blues

MU MENTION PAGE 3

By

Kaustuv Basu

The phrase “post-tenure review” can mean different things to different people.

Talk of “post-tenure review” is in circulation at the University of Texas System after the Board of Regents approved tougher rules earlier this month – requiring tenured faculty members in the system to be evaluated annually and receive rankings from “exceeds expectation” to “unsatisfactory.” Two unsatisfactory reviews can lead to a comprehensive review and a possible dismissal.

To some, “post-tenure review” raises the issue of whether a professor’s tenure will continue. To others, it is a process of evaluating performance to provide valuable feedback.

The latter is how Francisco G. Cigarroa, chancellor of the UT system, put it during a visit to the offices of *Inside Higher Ed* last week. Cigarroa stressed the importance of “performance differentiation” and how those professors getting unsatisfactory reviews will be helped with a remediation plan. He said one weakness of the previous post-tenure review system was that the best rating a professor could attain was “satisfactory.” And irrespective of what happened in between, a tenured professor would get a comprehensive review only once in six years.

The new professor ratings are: exceeds expectations, meets expectations, does not meet expectations and unsatisfactory. The post-tenure evaluations can be used for salary raises and promotions, and those failing remediation may lose their jobs. The department chair, dean or a peer-review committee will do the initial evaluations with the department chair or dean doing a final review of the evaluation. In case of a comprehensive review, a peer review committee including representatives of the school or department will also be appointed. Individual campuses will set their own policies using the new post-tenure review rules as a template.

Officials were not able to provide data on how many tenured UT professors have been dismissed in the past.

"The new document links annual reviews, post-tenure reviews and possible reviews for termination," said Alan Friedman, a professor of English who is the chairman of the UT-Austin faculty council and member of the systemwide faculty advisory council. "The annual review that was used primarily for salary increases will take on much greater significance."

University of Texas professors have been under fire from some quarters in the state, with Rick O'Donnell, a former special adviser to the UT system, calling them slackers. But Cigarroa stressed that the new rules came about after discussion with the university's Faculty Advisory Council. "This is not punitive but constructive," Cigarroa said.

Last year, a draft version of a new post-tenure review process, was approved by the UT System Faculty Advisory Council. But this version was not too much different from the system already in place, according to Friedman, and wasn't to the liking of the chancellor and other administrators.

Another version of the revised post-tenure review rules developed by a task force of faculty council members and administrators was eventually adopted. This version was tweaked before it passed, because it had been criticized by some faculty council members. According to Murray Leaf, a professor of anthropology and political economy at UT-Dallas who is on the executive committee of the FAC, subtle changes were made to the final version. For example, the language was changed to reflect that two unsatisfactory annual reviews "may" lead to a comprehensive review instead of "shall." Also, a few sentences were added to a section on annual reviews to clarify that they are different from the comprehensive review.

"The way I interpreted it from the information given to us was that the chancellor was in a tough place in regard to the regents and we were being asked to support this plan," Friedman said. "Some faculty members will be spending a lot more time evaluating productivity than being productive. The chairs of different departments have a major new workload," he said. Friedman worried that the new review plan would have a negative impact on the reputation of the university. "Many people will see this as an assault on tenure. It will become harder to recruit and retain outstanding faculty," he said.

The step by UT -- one of the largest public universities in the nation, with 5,268 tenured faculty members -- not only gives rise to the question of whether more universities will follow suit but also the inevitable question about the viability of tenure.

Daniel Hamermesh, a professor of economics at the University of Texas at Austin, said the revamping of the rules seemed highly visible because it was happening at the state's top university, and wondered whether the rule changes were more about setting an example for the rest of the state. "I think the changes are pretty minor and there is only a slight change in the rules. I do not think this will make much of a difference," Hamermesh said. "The new rules are not such a bad thing and the professors will adjust accordingly."

The American Association of University Professors has long criticized the practice of post-tenure reviews and its leaders said such a system rarely provided any benefits. "It can deprive a tenured faculty member of the presumption of competence and it can have a chilling effect on academic freedom," said Greg Scholtz, AAUP's director of academic freedom, tenure and governance.

AAUP's existing policy on such reviews says that "no procedure for evaluation of faculty should be used to weaken or undermine the principles of academic freedom and tenure. The association cautions particularly against allowing any general system of evaluation to be used as grounds for dismissal or other disciplinary sanctions."

While the organization approves of reviews for merit raises, it does not call them post-tenure reviews. "We are also not opposed to voluntary reviews that are intended to assist a professor in improving his or her performance. But such a review is not what is usually called 'post-tenure review,'" Scholtz said.

Scholtz drew a distinction between formalized post-tenure processes and a "dismissal for cause", which can be a way for a tenured professor to be fired but also added that "some post-tenure reviews procedures can, and all-too-often do, lead to a faculty member being dismissed for cause."

But those cases, because they are so rare, can test the system. The Faculty Council at the University of Missouri's Columbia campus has been debating the strength of evidence required against a tenured professor to recommend dismissal. The issue revolves around allegations against Greg Engel, an associate professor of engineering at the Columbia campus, who has been accused by three Chinese students of racism and sexism after he gave them failing grades for alleged plagiarism.

A student grievance committee has cleared Engel and a Faculty Responsibility Committee also cleared him because of a "lack of clear and convincing evidence."

"The question that has come up is whether the Committee on Faculty Responsibility should rule by a 'preponderance of evidence' or 'clear and convincing evidence,'" said Clyde Bentley, an associate professor of journalism and member of the Faculty Council. The provost has suggested that the lower standard -- "preponderance of evidence" -- be used and the case be sent back to the responsibility committee, which could recommend dismissal. A tenured professor can be fired through a decision of the Board of Curators. On Thursday, UM's Faculty Council recommended that the chancellor uphold the original decision by the faculty responsibility committee.

But is UT's new review process a harbinger of the future of tenure? The AAUP does not collect data on post-tenure reviews, but Scholtz said his rough estimate was that one-third of universities have such systems in place, based on his reviews of some faculty handbooks every year.

David Adamany, the former president of Temple University and Wayne State University, said he did not foresee widespread adoption of policies that would put the institution of tenure at risk. He said it was hard to foresee faculty committees making decisions that would get their colleagues dismissed.

“Most major universities have an annual form of review. My own view is that a more formal review at periodic intervals of 7 to 10 years is helpful to give faculty members feedback on what their strengths and weaknesses are,” he said. “Faculty members can get a sense of their career trajectory from these kinds of reviews.”

The reason that the demands for post-tenure reviews are more visible now might be connected to the removal of an exemption in 1994 from the 1986 Age Discrimination Act, Adamany said. The exemption allowed colleges, until 1994, to enforce mandatory retirement at 70. “There is a category of much older faculty like me who do not retire and might not be rigorously reviewed,” he said. Such a situation not only makes it expensive for a university but also prevents younger faculty members from finding jobs. “But I do not see any real drive in this country to end tenure,” Adamany added.

Hamermesh, the UT-Austin professor, felt the tenure system might become bifurcated such that the top public universities are not affected, but lesser universities undergo some kind of modification when it comes to tenure.

At UT, some faculty leaders think that the evaluation process would turn the tenure system on its head. “There is no question that the post-tenure review system undermines tenure. Professors will be looking over their shoulders. Their will be no more independent thinking,” said James Aldridge, vice president of the University of Texas Pan American chapter of the Texas Faculty Association. “We fear that the intent of the new policy is to arbitrarily increase the number of professors whose performance is deemed unsatisfactory.”

Missouri House leader wants to ease cuts to higher education with money from the blind

NO MU Mention

By Jordan Shapiro

March 1, 2012 | 7:19 p.m. CST

JEFFERSON CITY — The top budget leader in the Missouri House of Representatives announced his plan to restore the proposed cut to public universities by eliminating a state program for the blind.

House Budget Chairman Rep. Ryan Silvey, R-Kansas City, plans on ending a \$28 million program for the blind in order to reverse the 15 percent cut to public universities called for by Democratic Gov. Jay Nixon.

"The governor's assault on higher education ends today," Silvey said.

Nixon released a written statement after Silvey's plan was announced and called the cuts to the program for the blind "just plain wrong."

"We should not, and cannot, remove the funding for this program that allows thousands of Missourians to remain in their own homes," Nixon said in his statement.

Silvey's plan would add a total of \$106 million more than Nixon's proposal, giving colleges the same amount of money they are getting this year.

Rep. Chris Kelly, D-Columbia, said he applauded Silvey's work to restore the cuts to colleges, but did not agree with taking money from the blind.

"I would rather go into the administration of state government for the cuts than the blind," Kelly said.

To restore Nixon's higher education cuts, Silvey took \$28 million from the Supplemental Aid to the Blind program, which provides care for 2,800 people who make too much money to qualify for Medicaid. The program averages \$10,000 per person in the program. Blindness is the only condition in Missouri to have this special fund, according to Silvey.

"It's about a fundamental question of fairness in the disability community," Silvey said.

Rep. Jeanne Kirkton, D-St. Louis County, said she was "cautious" about taking money from this program.

"These people have been cut so deeply in the past years. We have an obligation to take care of our most vulnerable," Kirkton said.

A top Democrat on the House Budget Committee said the cuts to the blind needed more discussion but the lack of state funds available makes these decisions difficult.

"Clearly there is no money," said Rep. Sara Lampe, D-Springfield.

Silvey also cut a \$5 million increase to local school district funding that Nixon had proposed. Silvey said the increase would only have been worth \$5 per pupil.

"I ended the governor's election year political stunt," Silvey said.

The new budget plan takes into account a \$10 million boost in lottery sales beyond what Nixon projected. It also includes \$40 million from a national mortgage settlement, which Nixon had requested be used to soften the blow from his initial higher education cuts.

It also makes changes to the governor's proposal for a pay raise for state employees. Nixon originally had called for the raise to take effect in January instead of July, when the state's fiscal year begins. Silvey's plan pushes the start date for the raise to July, but only for employees earning less than \$70,000 a year.

The House Budget Committee will begin mark-up on the state's \$23 billion budget next week.



Bill calls for audit of death penalty costs

By Rudi Keller

Columbia Daily Tribune Thursday, March 1, 2012

JEFFERSON CITY — A common argument used against the death penalty when moral appeals fail is that it is too expensive, with costs well above what would be needed to lock up murderers for life.

A bill heard yesterday in the Senate Governmental Accountability Committee would test that argument by requiring the state auditor to gather and report the data. "We have never done this in Missouri," said the sponsor of the bill, Sen. Joe Keaveny, D-St. Louis.

Kansas compared the costs of taking seven cases through to execution, adding up all the expenses, and came up with \$10.6 million, Keaveny said. That includes the costs of trial, appeals and incarceration while awaiting execution, he said. The cost of keeping seven prisoners behind bars until they die a natural death, he said, came to \$6.3 million.

Several states have done similar studies, all showing that executing people is far more expensive than putting them in prison, said Paul Litton, an associate professor at the University of Missouri School of Law.

Not only does the death penalty come with expensive appeals, Litton said, but the initial trial work to impose death is more expensive.

A death penalty case comes in two phases: a guilt phase and a penalty phase. During the penalty phase, the defense is allowed to present any evidence it considers relevant to prove there are mitigating circumstances, he said.

"The sentencing trial turns into a trial on defendants' entire life," he said.

Dan Gralick of the Missouri Public Defenders Office said it costs his agency far more to defend a death penalty case than any other case. Two attorneys spend about 1,500 hours each on every death penalty case, he said.

The average criminal case costs the public defender system \$304. A death penalty case can cost \$125,000, he said.

The bill was supported by John William of the Missouri Association of Criminal Defense Lawyers. An audit, he said, will establish the facts.

After that, he said, lawmakers can decide whether "we care so much about hitting back that we are willing to give a blank check to the executive branch and judicial branch to pursue this policy."

The committee chairman, Sen. Jim Lembke, R-St. Louis, seemed to like the idea of the bill, but the panel took no vote.

"What intrigues me about this legislation is that I believe it is an important role to be good stewards of public money," he said. "If we are spending more to put people to death than to keep them in prison without parole, we are not being good stewards."

No one testified against the bill.

ST. LOUIS POST-DISPATCH

Study finds Missouri death penalty too broad

Associated Press | Posted: Thursday, March 1, 2012 12:05 pm | 1 Comment

Missouri has too many reasons for which prosecutors can pursue the death penalty against murder suspects and needs to do a better job of preserving forensic evidence such as DNA samples, according to a report released Thursday.

The report is the result of a two-year study sponsored by the American Bar Association that was conducted by a panel of law professors, private-sector attorneys and federal judges who had been nominated to the bench by Republican and Democratic presidents.

The study notes that Missouri has 17 "aggravating circumstances" that give prosecutors wide discretion by which they can argue to jurors that someone should be sentenced to death. One justification, for example, is that the murder was "wantonly vile." The result is that the circumstances "are so broadly drafted as to qualify virtually any intentional homicide as a death penalty case," the report says.

The report recommends narrowing the law so that only the most serious murder cases are eligible for the death penalty.

"If we're going to have a death penalty, we need to do it right _ it needs to be fair, it needs to be consistent," said Douglas Copeland, a St. Louis attorney who was part of the eight-person study panel.

The report also says Missouri should do a better job of preserving "biological evidence" in death penalty cases for as long as the inmate remains behind bars. In some cases, biological evidence that does not lead to a conviction has been destroyed, leaving the inmate with little opportunity to pursue new tests if technology advances. Missouri also could improve in collecting and testing forensic evidence, study members said.

"This is a huge problem around the United States. Crime labs in many places, including Missouri, have large backlogs," said panel member Rodney Uphoff, a law professor at the University of Missouri-Columbia. "Sometimes evidence doesn't get collected properly, analyzed properly. And that's an issue not only that can lead to the conviction of the wrong

person, but it limits the ability of the system to go after people who really have committed crimes."

Missouri law currently allows prisoners to seek DNA testing to try to prove their innocence, but only of materials secured at the time they were charged. The report recommends the law be changed to allow DNA testing of newly discovered evidence or of old evidence when testing procedures have improved.

The report is not entirely critical of Missouri's death penalty system. It praises Missouri for having a state-run public defender's system, crime labs that are accredited and for maintaining an independent judiciary. Judges on Missouri's appellate courts and urban trial courts are appointed by the governor after being nominated by special panels while circuit judges in other areas run under partisan labels.

Although Missouri has curtailed the number of executions carried out in recent years, it ranks fifth nationally in executions since the U.S. Supreme Court reinstated capital punishment in 1976. Missouri is the 10th state for which the American Bar Association has released an analysis of its death penalty system, and additional studies are ongoing in Texas and Virginia.

A report released in December on Kentucky recommended it indefinitely halt executions because of a high rate of convictions being reversed, a lack of standards for attorneys handling capital cases and few protections against executing the mentally disabled.

Missouri's panelists never even discussed a moratorium on executions, preferring to focus on recommendations that might gain support from public officials, Copeland said. Bills proposing death penalty moratoriums have been filed in the Legislature for years without gaining any traction.

Among other findings, the report says Missouri should increase training for law enforcement officers in handling eye-witness identification and should establish a state entity to investigate misconduct by prosecutors and defense attorneys. It recommends that Missouri ban the death penalty for people with dementia, traumatic brain injuries or mental illnesses that significantly impair their ability to act rationally or appreciate the consequences of their actions.

Death penalty report questions procedures in state

By Rudi Keller

Columbia Daily Tribune Thursday, March 1, 2012

JEFFERSON CITY — Missouri needs to do more to preserve evidence and prevent mistakes in police lineups, said the co-chairman of a panel that studied the state's death penalty laws and procedures.

Paul Litton, an associate professor of law at the University of Missouri, co-chaired the Missouri Death Penalty Assessment Team with Stephen Thaman, co-director of the Center for International and Comparative Law at Saint Louis University School of Law. The eight-member team also included U.S. District Judge Nanette Laughrey of Columbia and Rodney Uphoff of Columbia, also a professor at the MU School of Law.

Improvements in the handling of eyewitness identification, including jury instructions on the limitations of that identification, as well as issues about preserving evidence are among the reports recommendations, Litton said.

Missouri does not require, for example, that biological evidence be preserved for as long as someone who is given a death sentence is incarcerated and awaiting execution, the report said. That means there might be nothing to test if new techniques are found.

The report did not consider whether the state should keep or abolish the death penalty. The report was part of the American Bar Association's Death Penalty Assessment Project. It is funded by the European Union but is an independent report, a disclaimer said. Most European countries have abolished the death penalty.

"We really just tried to investigate the extent to which Missouri law and procedures conform to ABA guidelines," Litton said.

Other findings include:

- Missouri has several areas of strength, including the defense help provided in capital cases and fully accredited crime labs that "promote the accurate and reliable analysis of forensic evidence."
- Laws on applying the death penalty should be amended so people with mental impairments need not have been diagnosed before they turn 18 to qualify as exempt from capital punishment.

- Better instructions to juries that let them know that life without parole truly means a person will never be released.

- A longer period between the time a prosecutor is required to decide whether to seek the death penalty and the actual trial. Currently, that can be as little as 25 days.

Missouri resumed executions in 1989 after a hiatus of more than 20 years. Since then, 68 people have been executed, including two from Boone County. Ralph Davis was executed April 28, 1999, for the death of his wife, Susan Davis. Gary Roll was executed Aug. 30, 2000, for the April 1993 slayings of three people during a robbery for drugs and money.

There are two inmates from Boone County awaiting execution among the 46 people on death row. Earl Ringo Jr. was convicted in the July 4, 1998, shooting of two people at the Ruby Tuesday restaurant in Columbia. Ernest Lee Johnson is facing the death penalty for the slayings of three people on Feb. 12, 1994, at a Casey's General Store.

Although the report takes no position on the death penalty, Litton said he believes there are good reasons to abolish it. The chances of an innocent person being executed and uneven application are two of those reasons, he said.

"My own view is that, even for people who deserve it, the costs are too great. There are both financial costs, and there are moral costs."

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Transit consultant continues to collect data from students, staff

Solstice Transportation Group is working on gathering data from students about what they want to see from the transit system.

By Elise Moser

Published March 2, 2012

The conversation about student transportation changes continued Thursday night at a forum for MU students and staff members. Solstice Transportation Group President Mitch Skyer asked students what they are interested in seeing from their transit system.

"Our goal is to see what the students want," he said.

Representatives from Tiger Transit Movement, a student-run organization formed to resolve the transit issue, and the Missouri Students Association were in attendance, as well as Off-Campus Housing Coordinator Kristi Eftink.

Many students who offered feedback were concerned with how the solutions would be implemented, but Skyer said his goal was just to collect data.

"Today isn't about how you deliver that service," he said. "It's about what you want."

Students listed off what they would like to see from the service, including more direct routes to off-campus housing and longer bus hours.

MU student Carlos Martinez Villar said he has trouble navigating the current Columbia transit system.

"The major problem is the Columbia transit system is underused because of the complexity of the routes," he said. "More people would ride the bus if it were simpler."

Another major issue students brought up was the proposed fee by the city of Columbia. Skyer said this fee was not an actual proposal, but an idea that stemmed from other school's transit fees.

"This is about the university and what the university can provide," he said.

Skyer, who has worked with many other university transit systems, including the University of Alabama, the University of Kentucky and the University of Chicago, said on average, universities charge students \$30 to \$90 for transit.

He said it was important to note the fee is dependent upon what services are provided.

Another issue Skyer addressed was how to get students to support a fee increase. Skyer said transit is something that can benefit everyone.

“The way that universities approach that answer is that it’s a public service,” he said. “You all get a benefit from it.”

Eftink said she would like to see more direct routes from off-campus housing and campus, and cited the Brookside Townhomes’ transit system as an example of a successful system.

She said she believes an effective transit system is something Columbia can achieve.

“Columbia is built very well for a bus system,” she said.

Eftink said Interstate 70, Route 63 and Stadium Boulevard provide a way for buses to reach high-traffic areas.

Skyer said he plans to continue to collect data, and a campus-wide survey will go out to students and faculty in the near future.

The discussion about transit will not end after Skyer’s survey. MSA plans to host a student forum on transit March 13. Tiger Transit Movement will also be a part of the forum.

After collecting data, Skyer will work on producing a proposal for the university, which he said will include many options for MU officials to consider. This portion of his process will include Columbia transit.

“That’s sort of part two, the implementation,” he said. “It would absolutely include Columbia transit.”