

**FAYETTEVILLE TECHNICAL COMMUNITY COLLEGE  
MINUTES OF BOARD OF TRUSTEES**

**October 19, 2009**

Held in the Board Room of the Tony Rand Student Center at 12:45 p.m.

**Members Attending**

Mr. Charles J. Harrell, Mr. J. Gary Ciccone, Mrs. Esther R. Thompson, Ms. Lula G. Crenshaw, Mr. Ronald C. Crosby, Jr., Dr. Dallas M. Freeman, Mr. Charles E. Koonce, Mrs. Sheryl J. Lewis, Mr. David McCune, Mrs. Susie S. Pugh, and SGA President James Tolson

**FTCC Personnel Present**

President J. Larry Keen, Vice President for Academic and Student Services Barbara Tansey, Vice President for Business and Finance Betty Smith, Vice President for Legal Services and Risk Management David Sullivan, Vice President for Administrative Services Joe Levister, Vice President for Learning Technologies Bob Ervin, Vice President for Human Resources Audrey Berry, Vice President for Institutional Advancement Brent Michaels, and Administrative Assistant to the President Betty Shackelford.

**Members Absent**

Dr. Mike W. Choe and Mr. William S. Wellons, Jr.

**Call to Order**

The meeting was called to order by Board Chair Charles J. Harrell.

**Recognition of Guests**

Mr. Harrell recognized all guests and welcomed them to the meeting.

**Ethics Awareness and Conflict of Interest Statement**

Mr. Harrell read the Ethics Awareness and Conflict of Interest Reminder. No conflicts of interest were identified.

**September 21, 2009 Meeting**

On a motion by Mr. Koonce and seconded by Dr. Freeman, the minutes of the September 21, 2009 meeting were unanimously approved.

**COMMITTEE REPORTS**

**Curriculum Committee**

The Curriculum Committee met at 11:00 a.m. prior to this meeting. Mrs. Susie S. Pugh, Chairwoman, presented the report to the Board.

**Acceptance of Accountability Plan for the Continuing Education Division for May 16, 2009 – August 14, 2009.** The College is required by the NC Administrative Code to have an internal audit plan for the Continuing Education Division. The plan includes class visitations by Continuing Education staff each term. According to FTCC's guidelines, 50% of off-campus and 25% of on-campus classes are visited for verification. Short courses (12 hours or less) are visited on a random basis. The Associate Vice President is required to conduct at least 10% of unannounced visits. All of the 474 classes visited were in compliance.

On the recommendation of the Curriculum Committee, Dr. Freeman moved to accept the Continuing Education Accountability Plan for the period May 16, 2009 – August 14, 2009. The motion was unanimously approved by the Board.

**Acceptance of Curriculum Program Termination of the Phlebotomy Certificate (C45600).** To address low enrollment and to reduce curriculum budget costs, the Phlebotomy program will be offered through Continuing Education beginning November 2009. Two classes will be offered simultaneously (day/evening) with 15 students per class and multiple start dates throughout the year.

On the recommendation of the Curriculum Committee, Mrs. Pugh moved to approve the curriculum program termination for the Phlebotomy Certificate (C45600). The motion was unanimously approved by the Board.

**Approval of Revision to Administrative Procedures Manual I-23.4.2 Intellectual Property Rights Policy.** Mr. Sullivan reviewed the revision to the Intellectual Property Rights Policy at the Curriculum Committee prior to this meeting. Intellectual property created without funds, resources, or college facilities belongs to the faculty or staff member. Intellectual property created with support of the College is the College's property. Support includes college facilities, college funds, college resources, grant funds provided by the College, release time, and salary.

On the recommendation of the Curriculum Committee, Mrs. Pugh moved to approve the revision to the Administrative Procedures Manual I-23.4.2. Intellectual Property Rights Policy. The motion was unanimously approved by the Board. A copy of the policy becomes a permanent part of the minutes of this meeting. (See Attachment A.)

**Approval of Revision to Student Handbook and the Academic Procedures Manual III-6 Student Rights, Responsibilities and Judicial Procedures.** This item was not presented to the Board.

#### **Building and Grounds Committee.**

The Building and Grounds Committee met at 11:45 a.m. prior to this meeting. In the absence of Mr. William Wellons, Chairman, Mr. Charles Koonce presented the report to the Board.

**Update on Right-of-Way Joint Use Agreement Between FTCC and B & B Bowling Lanes.** The right-of-way joint use agreement was provided to property owners (Howard Baum) on October 12, 2009. The owners were scheduled to meet with their attorney on October 16, 2009. FTCC continues to work in good faith toward mutual agreement.

**Update on Former Service Merchandise Building Renovation.** The Higher Education Bond Oversight Committee met on October 5. The Committee was concerned about bond money that would not be spent by 2010. Dr. Keen briefed the Oversight Committee on FTCC's Service Merchandise Building renovation. He reviewed the renovation schedule and reported that the renovation is scheduled to be completed in August 2011. Dr. Keen informed the Committee that all efforts would be made to compress this schedule and minimize delays to meet projected building completion.

### **Finance Committee**

The Finance Committee met at 11:55 a.m. prior to this meeting. In the absence of Dr. Mike Choe, Chairman, Mr. Gary Ciccone presented the report to the Board.

**Acceptance of Unaudited Financial Statements (subject to audit) for Fiscal Year Ended June 30, 2009.** The unaudited annual financial statements are required by the General Statutes and subject to review by state auditors.

On the recommendation of the Finance Committee, Mr. Ciccone moved to accept the unaudited financial statements for fiscal year ended June 30, 2009. The motion was unanimously approved by the Board.

**Approval of State Budget Revisions.** State Budget Revision S10-6 is the mandatory 5% budget reversion from administrative and curriculum salaries. State Budget Revision S10-7 allocates the Professional Development Activities Grant funding for 2009-2010. State Budget Revision S10-8 allocates the Virtual Learning Community Center Grant for 2009-2010. State Budget Revision S10-9 allocates the Teaching Excellence Centers Grant for 2009-2010. State Budget Revision S10-10 allocates the CASAS Training Grant funding for 2009-2010.

On the recommendation of the Finance Committee, Mr. Ciccone moved to approve State Budget Revisions S10-6, S10-7, S10-8, S10-9, and S10-10. The motion was unanimously approved by the Board.

**Write off of Uncollectible Accounts.** All required procedures have been followed in an attempt to collect these funds. The accounts have been through two tax seasons.

Mr. Ciccone moved to approve the write off of the following uncollectible accounts: FTCC Unrestricted Loans in the amount of \$6,025.69, Returned Checks in the amount of \$1,000.03, and Financial Aid Debt in the amount of \$100,956.69 for a total write off of \$108,016.41. The motion was unanimously approved by the Board.

## **Special Trustees' Business**

**Report on 40<sup>th</sup> Annual Association of Community College Trustees Leadership Congress – October 7 – 10, 2009, San Francisco, California.** Ms. Lula Crenshaw, Mrs. Susie Pugh, Dr. Dallas Freeman, Mr. David McCune, and Dr. Larry Keen attended the 40<sup>th</sup> Annual ACCT Leadership Congress. Each trustee reported on the sessions they attended. Trustees reported that it was a very good and informative conference. Mr. Harrell expressed appreciation to Trustees for representing the College.

**Report on NC Community College State Board Meeting – October 14 – 16, 2009 at Fayetteville Technical Community College.** Dr. Keen reported that it was a very good meeting. State Board members and NCCCS staff expressed appreciation for the hospitality they received at FTCC. The College had the opportunity to use its telepresence equipment for the State Board. Presenter Diane Troyer with the Gates Foundation was scheduled for a presentation on Post-Secondary Education Goals on Thursday, October 15. She was unable to attend the meeting in person but gave her presentation via telepresence from Seattle, Washington.

## **President's Report**

**Next Board Meeting – Monday, November 16, 2009.**

**Culinary Luncheon – Friday, October 23, 2009 (11:30 a.m. – 12:30 p.m.)**

**See Written Report.** Dr. Keen referred to the President's Report dated October 19, 2009. A copy of the report was included in each of the Trustees' notebook.

**Adjournment.** The meeting was adjourned at 1:30 p.m.

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Mr. Charles J. Harrell, Board Chair

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Mrs. Esther R. Thompson, Secretary

## ADMINISTRATIVE PROCEDURES HANDBOOK

Replace the entire policy with the following:

### I-23.4.2 Intellectual Property Rights

Fayetteville Technical Community College values an active intellectual environment where creative ideas develop into creative products that enhance the educational offerings of the College. The College recognizes that such creative products are protected by intellectual property rights. Because College employees and students may create original works of a printed or other nature or produce inventions or discoveries the College has established the following policy to clarify intellectual property rights for all parties involved.

#### 1. DEFINITIONS:

- a. **Intellectual Property:** Any creative work which qualifies for protection under the copyright or patent laws of the United States of America. Title 17 of the United States Code defines federal copyright protections, describes protections granted original works of authorship, and outlines the process for protecting such works. Title 35 of the United States Code defines patent protection, describes inventions and discoveries protected by law, establishes conditions for patentability, and spells out the process for the granting of patents.
- b. **Independent Works:** Intellectual property created by an employee or student of the College when the employee or student created the intellectual property outside of the course or scope of his/her employment and without the support of the College. An independent work must meet the following criteria:
  - The work is the result of individual initiative. It is not the product of a specific contract or assignment made as a result of employment with the College;
  - The work is not a product of the employee's job duties;
  - The work is produced by an employee at times the employee is not expected to be fulfilling the employee job responsibilities; and,
  - The work is produced by an employee or by any person (including students of the College) without funds, resources, or facilities owned or controlled by the College.
- c. **College-Supported Works:** Intellectual Property created or produced by an employee or student of the College within the scope of his/her employment or intellectual property created or produced with the support of the College. For the purpose of this policy, support of the College is defined to mean any support given by or taken from the College of a material or financial nature. Support includes, among other things,

instruction, the use of college facilities, college funds, colleges resources, grant funds provided by the College, release time, salary supplements, and leave with pay. College support is intended to be interpreted broadly. Any intellectual property which is created pursuant to a contract with the College is deemed a "Work for Hire" and shall be a College-Supported work.

## 2. **Ownership of Intellectual Property**

- a. **Independent Works:** Unless ownership is specifically granted to the College, the College possesses and claims no ownership of an Independent Work. The creator of an independent work qualifying for copyright or patent protection under the appropriate U.S. Code owns all intellectual property rights to that work. This includes the right to voluntarily transfer intellectual property ownership, in whole or in part, through a formal written agreement signed by the creator of the independent work.
  - b. **College-Supported Works:** Unless otherwise provided for in a written agreement, the College owns all intellectual property rights in a College-Supported Work that qualifies for copyright or patent protection. This includes the right to voluntarily transfer intellectual property ownership, in whole or in part, through a formal written agreement.
3. **DISTRIBUTION OF REVENUES AND OTHER BENEFITS:** The College retains and controls any and all rights to license or sell any Intellectual Property owned by the College. Any licensing or sales of Intellectual Property must be by written agreement. Any revenues which are generated from Intellectual Property owned by the College shall be Institutional funds. Such revenues may be used to support any College department or division instrumental in the creation of the Intellectual Property, or budgeted in accordance with the needs of the College. Revenues may be shared with any employee responsible for creating the intellectual property in accordance with a written agreement as described below.
4. **WRITTEN AGREEMENT:** Notwithstanding the College's ownership rights in a College-Supported Work, the President may enter into a written agreement with an employee or student for an equitable arrangement for joint ownership, sharing of royalties, or reimbursement to the College for its costs and support. In all such cases, the agreement shall provide that the College will have a perpetual license to use the work without compensation to the employee for such use.

The College recognizes that the research and development of an idea frequently requires the expenditure of time and money as well as the use of lab space, equipment, or other campus facilities. In order to assist worthy projects, Fayetteville Technical Community College may enter into a written agreement with a College employee or student whose research or other work has demonstrable merit in order to assist that individual. Examples of assistance are: financial assistance for the purchase of supplies, payment of patent fees, and

other costs deemed necessary to the successful development of the individual's idea, concept, design, or invention. In all such cases, the agreement shall provide for the College a basis of ownership, or an agreement to reimburse the College for its costs and support as agreed upon by the employee or student and the College Board of Trustees. In no circumstances, however, shall the College agreement deprive, diminish, or abrogate the rights of the College as specified herein.

5. **GRANT-SUPPORTED WORKS:** Notwithstanding the provisions of this policy, in the case of a work created under a grant accepted by the College, the ownership provisions of the grant shall prevail.
6. **CONSULTING:** Subject to prior approval by the College and to the provisions of College policies, College employees may consult for outside organizations. Any consulting agreement should include a statement that the employee has obligations to the College as described in this Intellectual Property Policy, and this policy should be attached to the consulting agreement. In the event that there is any conflict between the consultant's obligations to this Intellectual Property Policy and that consultant's obligations to the entity for which he/she consults, the obligations to this Intellectual Property Policy shall control.

## 7. **Intellectual Property Committee:**

### a. **PURPOSE:**

- i. **Policy Development** — The Committee shall monitor and review technological and legislative changes affecting intellectual property policy and shall report to relevant faculty, staff, and administrative bodies, when such changes affect existing policies. The committee shall serve as a forum for the receipt and discussion of proposals to change existing institutional policies related to intellectual property
- ii. **Rights Determination** — Disputes over ownership, and the attendant rights, of intellectual property will be reviewed by the Intellectual Property Policy and Rights Committee. The committee shall make an initial determination of whether the College or any other party has rights to the work qualifying for copyright or patent protection and if so, the basis and extent of those rights. The committee shall also make an initial determination on resolving competing claims to ownership when the parties cannot reach an agreement on their own.
- iii. **Management Recommendations** — The committee will review the merits of College-owned intellectual property and make recommendations for its management, including development, patenting, and exploitation.

- b. **MEMBERSHIP:** The Intellectual Property Policy and Rights Committee will be composed of members appointed by the President and equally

apportioned between faculty, staff, and administration. The committee members shall elect a chair from among themselves each year.

- c. **RIGHT OF APPEAL:** When a person claiming to be a creator of intellectual property covered by this policy disagrees with the decision of the Intellectual Property Policy and Rights Committee on issues including but not limited to ownership rights, he/she may appeal to the College President.