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Minutes of the Regular Meeting of the Academic Council

Thursday, March 21, 2013

Susan Lozier (Chair of the Academic Council/Nicholas School for the Environment):

Good afternoon, everyone. Welcome to the March Academic Council meeting. Though the vernal equinox arrived yesterday morning at 7:02, I think you probably, like me, are wondering when spring will actually arrive. Let's hope soon.

Death of James Bonk, Professor of Chemistry

My first announcement this afternoon concerns the loss of a Duke community member. James Bonk, Professor of Chemistry, died on March 15 at the age of 82. Dr. Bonk was a member of this faculty for 53 years, and according to Duke news reports, taught more than 30,000 undergraduates over the span of those many years. Quoting one of our colleagues, Professor Steve Baldwin from Chemistry, a friend and colleague of Dr. Bonk's: "He was the most student-centric faculty member I ever ran across – he was always concerned about his students, coming in on a Sunday to meet with students if they were having any kind of trouble." Duke recognized Professor Bonk's teaching with many honors during his career, including most recently the University Medal for Distinguished Meritorious Service in 2011. Legions of students remember their Bonkistry courses, Chem 11 and 12; tales from those courses and of the instructor reached mythic propor-

tions through the years. Teaching 30,000 students is impressive. Teaching 30,000 students who remember you long after the final exam is a legacy. Condolences to all friends and colleagues of Professor Bonk on this loss.

Announcements

My second announcement this afternoon concerns a change to today's agenda: Because of our late start this afternoon, I have decided to delay our discussion of the faculty diversity report until the April Council meeting. I have no interest in rushing the President in his remarks, in curtailing our discussion on the proposal on criminal background checks or in shortchanging the conversation on faculty diversity. Thus, I have asked Provost Lange if he would present the faculty diversity report in April, and he has kindly agreed to do so. I have every intention of ending the meeting today at 5:15, and I hope everyone can join us at the reception which we always have in honor of the President's address to the faculty.

And with that, I would like to welcome our President, Richard Brodhead, to the podium to deliver the annual address to the Duke faculty (applause).

President Richard Brodhead's Annual Address

(Text provided as prepared for delivery)

You can scarcely open a newspaper or financial journal these days without finding headlines like "[Higher Education: Not What It Used To Be](#)" or "[Is College Worth It? 57% of Americans Say Nope](#)." Higher education has always come in for its share of criticism, but the current discourse represents something new. It suggests that we have entered a credit crisis for colleges and universities, a crisis not just in funding but in fundamental credence: a breakdown of the public's confidence that higher education has self-evident value. I want to speak to this crisis, its causes, and its meaning for Duke.

As I read it, the current litany of negativism has four interwoven strands. The first is a cost complaint: college and university prices are already exorbitant and rising unsustainably. The second is a learning complaint. Richard Arum and Josipa Roksa's 2011 book *Academically Adrift* documented what the authors call "a pattern of limited learning" on American campuses, and journalists have rushed to repeat the news that students make little or no cognitive progress during their college years.

The third might be called a complaint of dashed hopes. In the speeches given at political conventions last summer, the most powerful moment came when Paul Ryan [spoke](#) of college grads moving back home to their childhood bedrooms, "staring up at fading Obama posters and wondering when they could move out and get going with life." The *New York Times* chose as last May's commencement [feature](#) a young woman who had finished a four-year private university in Ohio \$120,000 in debt, requiring more than \$800 in monthly payments which she was working two restaurant jobs to repay. In

these iconic images, people believed in college as the road to a productive, secure future, but it took their money and did not deliver.

This implicit scam allegation gives rise to the fourth strain, a complaint of evidence withheld: colleges and universities do not adequately assess whether they are fulfilling their promise to educate, so there is no way for the public to know if they deliver value for price. In Virginia, the call to document education results has produced a law requiring all public and private colleges and universities to [post](#) the incomes of students one year after graduation broken down by college major, so the public can know what course led to what result. Such thinking is one of the few current areas of bipartisan agreement. In the January 2013 State of the Union [Address](#), President Obama promised to "release a new 'College Scorecard' that parents and students can use to compare schools based on a simple criteria: where you can get the most bang for your educational buck."

At a place like Duke, it is far too easy to dismiss this chorus of complaint as the newest form of anti-intellectualism. But this consensus is a powerful new feature of the terrain we must navigate, and it has its share of truth. The cost of higher education has risen well above inflation or family earnings increases for many years, outstripping even the rising cost of health care. Since the recession, student loans have risen dramatically even as credit card and mortgage debt has declined. Meanwhile, large numbers of students fail to complete a college degree after enrolling, incurring the cost without winning the reward. Given all this, it does not seem unreasonable to ask: in such a costly, risky transaction, shouldn't the consumer be able to know what value they will get for their money?

So far, this logic appears unassailable, but these oft-repeated claims can convey profound misunderstandings. Costs have indeed risen, but not only through the academy's do-

ings. The share of state support for public higher education has been declining for many years (remember, 73% of college students attend public institutions); since 2008 alone, state support for higher education has fallen [25%](#) in real terms. Partly due to revenue shortfalls since the recession, partly to growing distrust of big government, the cost of college has been shifted steadily from the state to students and families, and the sense has gained ground that education is a benefit for the individual, a private good, not—as was long believed—a long-term social gain worthy of public investment.

Further, skeptical accounts of the value of education often fail to mention well-established facts that would correct the picture. College completion does strongly correlate with higher income in later life. [Analysis](#) of the 2010 census estimates the earnings of a bachelor's degree holder over his or her worklife at \$2.4 million compared to just \$1.4 million for a high school graduate—a million dollar difference. And if not every graduate finds the job of his or her dreams, college completion is highly correlated with employment prospects. In 2012, the [unemployment rate](#) for workers over twenty-five was 8.3% for those with a high school diploma and 7.7% for those with some college but no degree, but only 4.5% for college graduates. Research by the [Mobility Project](#) of the Pew Charitable Trusts found that in the wake of the 2008 economic downturn, the employment rate among 21 to 24 year olds dropped 8 percentage points for high school graduates and 7 points for those with associate's degrees but only 4 points for those with bachelor's degrees.

Is college worth the money? You reach the negative answer a lot quicker when this part of the story goes unreported.

It is also crucial to remember that American higher education has many quite distinct sectors, and that a generalization that works for the whole can be quite misleading when

applied to a part. The percent of borrowers who do not graduate is significantly higher in for-profit institutions and is lowest in four-year, not-for-profit schools, public and private. And there are significant differences even within this zone. I found it instructive to go to the White House website the morning after the State of the Union Address. Duke's [scorecard](#) had indeed been posted. What it showed was that Duke's net price was high (no surprise there); but that the net price had decreased from 2007 to 2009; that 94.4% of students graduated within six years; and that net indebtedness and amount of monthly debt payment were quite low, with virtually no graduates defaulting on loans.

You know what explains this scorecard. Within the set of private four-year colleges and universities, Duke belongs to the subset that is highly selective, charges high tuition for an extraordinarily rich experience, but then mitigates the cost through extensive financial aid. Even adjusted for inflation, cost of attendance has risen steadily here (less steeply in recent years), as we have continued to invest in deepening educational opportunities. But under Duke's policies of need-blind admissions, the share of costs that a student's family cannot afford is covered by institutional aid, which has risen at a far higher rate than tuition. In constant dollars, when corrected by aid, the cost of attending Duke has actually fallen for families with financial need both in absolute terms and as a percent of family income, and cumulative debt has remained flat as well.

You begin to see the problem. The measures of value that do usefully show whether some kinds of schools give the hoped-for bang for the educational buck—graduation rates, debt rates, incomes after graduation—are unrevealing when applied to a school like Duke. At the same time, these measures do almost nothing to assess the true value of a Duke education, which must be reckoned in very different terms.

The heart of Duke's value proposition is that we offer a liberal arts education. This is not just a matter of requiring students to visit random unrelated subject fields and check the curricular boxes. Beyond its formal requirements, this education aims to engage multiple forms of intelligence to create deep and enduring habits of mind, an active, integrative, versatile spirit naturally disposed, when it comes upon a new fact or situation, to go to work trying to understand it, updating preexisting understandings in this new light.

The value of this habit of mind is not to be measured by income alone, least of all income one year after graduation. It is, in the fullest sense, equipment for living. Its value is that it supplies enrichment to personal lives, equips students to be thoughtful and constructive social contributors, and enables them to participate fully and creatively in the dynamic, ever-changing world that awaits them when they graduate.

This kind of education is difficult to measure, and it's not just financial metrics that get it wrong. Tools for assessing learning outcomes are often ill designed to capture the distinctive benefits of such an education. Learning outcomes are commonly measured by isolating goals and testing each separately, but the essence of liberal arts education is that it integrates forms of knowledge, builds them together in a complex, evolving mind. So too learning outcomes are often assessed at the point of exit, but the powers the liberal arts develop continue to deepen in use, revealing their full value over the course of a long, productive life.

Plus learning outcomes typically measure academic inputs and outputs as if those captured the whole of education, while at a school like Duke, all manner of engagements work together as agents of discovery. Paul Farmer, one of the world's most admired medical humanitarians and a powerful innovator in health care for the developing world,

went to Duke planning to major in the sciences, an excellent start for a future doctor. But as Tracy Kidder chronicles in *Mountains Beyond Mountains*, Farmer was also his fraternity's social chair, had his mind opened to the social determinants of medicine in an anthropology class, and got to know Haitian farm workers on a Duke volunteer service project in rural North Carolina. Few of these would show up on a documented chart of assessed learning, but all of them—interacting with one another in unpredictable, unprogrammed ways—helped create the Paul Farmer the world knows.

This poor fit between the metrics advocated in contemporary debates and our actual goals explains why schools in our sector have been skeptical towards the assessment movement. The best statement I know of the case was delivered by Christopher Eisgruber, Provost of Princeton, at the Association of American Universities last April. Citing learning studies that show that the single factor most highly correlated with substantial mental gains is the student's active engagement in his or her education, Eisgruber argues that it is far more valuable for colleges to invest in building a culture of engagement than a culture tightly focused on assessment.

I have considerable sympathy with this view, but we are naïve if we think we can duck the current push for accountability without doing more to confront it. The slogan "We have a value you are apparently unable to understand" is not a winner in the contest for public opinion, and though there are many who want and "get" what we have on offer, higher education needs far broader public support than that. In face of the current academic credit crisis, we need to do all we can to validate and publicize the learning that takes place here—and stay mindful of the value that can be measured and the equally real value that cannot.

We have access to measures that are significant in this context from our periodic sur-

veys of graduates and parents of students. In the 2012 study, 94% of Duke parents reported themselves very or generally satisfied with their child's undergraduate education, with those "very satisfied" rising from 50% to 60% between 2007 and 2012. Asked to rate the most important element in undergraduate education, 88% of Duke parents listed "promote broad-based education that promotes personal growth"—suggesting a high convergence between this university's idea of its value and what is valued by those who pay the bills.

Every five years, Duke does a survey of alumni who are five years post-graduation, ten years out, and twenty years out. These are of interest because they show people assessing the value of their education when they have been out long enough to fully experience that value. Our most recent numbers come from the 2009 survey conducted on the classes of 2004, 1999, and 1989. Asked "overall, how satisfied are you with your undergraduate education," roughly 92% reported being very or generally satisfied. When asked "how you would change the emphasis Duke puts on liberal arts education," alumni overwhelmingly said that they would maintain or increase this emphasis. Asked what the university should place more priority on, the alumni highlighted faculty-student contact outside class, leadership, workplace skills, undergraduate teaching, public service, and global awareness. Blending long-term and short-term elements like workplace skills will always be a challenge at schools like Duke. But what is otherwise striking about this list is that what graduates want more of are the very things we want them to want. They want more engagement with their formal education, more contact with their teachers, and more preparation to be broadly effective in the world—in effect, yet more benefits of liberal arts education. Duke has taken extraordinary pains to fulfill these aspirations in recent years. The num-

ber of undergraduates participating in faculty-mentored research has risen from 15% in 2002 to 50% in recent classes. The number of students doing a senior honors thesis has more than doubled in that time. Since the classes who were polled graduated, the call for more emphasis on leadership, public service and global awareness has been met by the creation of programs like Duke Engage, Global Health, the Winter Forum, and the Engineering Grand Challenges. All of our recent innovations give students deepened relations with teachers beyond their formal roles in the classroom, so the faculty-student contact number is certain to climb.

We need to continue to monitor Duke undergraduate education to make sure that the dreams we have for our students come true in their experience. I have argued against short-term, mechanistic measures, but it will be worth our while to keep striving to learn what can be measured, and how those results can help us continue to improve. I'm grateful to Vice Provost Keith Whitfield and the many who are working with him to devise assessment tools better fitted to this school's goals. This is an important priority.

That said, I trust my message is clear. There is no point pretending to assess the value of an education without first trying to understand what the value of education actually consists of. This will and should be different at different kinds of schools: education is not one thing. But just for that reason, we need to avoid measuring it in one way. Let me close with two final words on liberal arts values, one addressed to this university, the other to the larger world.

The figures I've shared give reason to be proud of the work we've done at Duke. But self-satisfaction is the chief danger besetting our education sector. Though we are comfortable within our walls, with twice as many applications as we had ten years back and with heartening alumni support for the Duke

Forward campaign, nationally, liberal arts education is beset with adversaries: a public scornful of its short-term returns, and online rivals that threaten to disrupt familiar models, to name but two.

Before such challenges, we need to take absolute care that we deliver the thing we claim to supply. The faculty has a crucial role in this proposition. Since the faculty presides over the curriculum, the faculty must take responsibility for assessing our offerings in the light of high liberal arts ideals. Courses narrowly tied to academic specializations can be extraordinarily valuable to students at a great research university, letting them experience first-hand the living work of discovery. But we need to ensure that the curriculum also offers the broad-gauged, integrative courses on which liberal education can be grounded.

Further, every study shows that if limited learning takes place at many American colleges and universities, far more takes place at highly selective institutions, where it is keyed to certain reliable constants: high faculty expectations, demanding requirements for reading and writing, and high degrees of personal interaction between faculty and students. It is only the faculty that can deliver this good, through your rigor and your generosity with your attention.

As online instruction supplies a more and more valuable supplement to traditional educational delivery, the part it cannot replace will become more precious: learning face to face, the community of whole, living people interacting with each other in a thousand daily forms. My hope is that Duke will be a pioneer in creating the best blend of online and face-to-face education. For us to accomplish this, it must be the work of every faculty member to be imaginative with their teaching formats *and* available for the encounters that transform lives.

If the faculty has a crucial role in delivering liberal arts value, so too does advising.

The glory of a curriculum like ours is that it provides ample room for exploration and discovery; at a school like Duke, the extra-curriculum is also profoundly educational and comparably rich. The downside of such a school is that students face almost infinite choices without always having an adequate sense of how choices could most valuably be pieced together. Meanwhile, many advising duties fall to faculty who, with the best will in the world, can't possibly know everything about the smorgasbord of curricular, co-curricular and extra-curricular opportunities that besiege the students they advise. Building on the existing system and benefitting from new experiments like the global advisor program, Duke needs to create a new version of advising that will be comprehensively mindful of available opportunities and help students take optimal advantage as they build an education. I am grateful that Arts and Sciences Dean Laurie Patton, Dean and Vice Provost for Undergraduate Education Steve Nowicki, and Dean of Academic Affairs Lee Baker are deep in discussion of this matter.

Finally, a word outside our walls. I am highly mindful that the conditions that allow our version of education to thrive are not broadly shared: a sizeable endowment, a generous donor base, a well-equipped campus, excruciatingly high admissions selectivity. Many want and need higher education beyond the number who can be accommodated at a place like Duke. Many are legitimately interested in training that will pay off in the shorter term. Many institutions serve students with nothing like the resource base we take for granted.

Duke's facts are not everyone's facts, and Duke's solutions cannot be everyone's solutions. But I still maintain that liberal arts education is a broader public need than the American public shows any sign of recognizing. At heart, liberal arts education is not about a particular set of courses. It is about

building broadly capable people who can live up to their personal potential and fill all the roles a complex, changing world will require. Such training should not be the exclusive birthright of the wealthy or those with high SATs. This is a fundamental social need, and for the future health of our society, such benefits need to be spread far more widely than they are today.

The Commission on Humanities and the Social Sciences that the American Academy of Arts and Sciences asked me to co-chair has become, de facto, a commission for advancing the liberal arts. The commission is well stocked with scholars and university presidents, but many of the most eloquent voices come from non-academics and those outside elite institutions. James McNerney, the CEO of Boeing, has told us that high-tech manufacturing requires engineers but that beyond a certain level, a person will not advance unless he or she has a broader array of skills, especially skills at verbal communication and interacting with culturally diverse others—liberal arts training par excellence. General and Ambassador Karl Eikenberry, who headed military and then diplomatic efforts in Afghanistan, has testified that in the globalized modern world, weapons can only do so much to protect national security. Equally essential are the understanding of foreign languages, foreign histories and cultures, and beliefs and ethical systems different from our own: classic products of liberal arts education.

Norm Augustine, longtime head of Lockheed Martin and the principal force behind the National Academies' report *Rising Above the Gathering Storm*, has been one of the country's most effective advocates for strengthening STEM education. But he has never argued that STEM by itself made an adequate preparation. Gathering evidence, weighing interpretations, and making arguments are core skills for creative workers and good citizens, and these are all developed through broad training across the arts and

sciences. Augustine has said that the greatest single deficiency in American education is in the teaching of history.

Eduardo Padrón, President of Miami Dade College, reminded us that one-third of the undergraduates in the United States are in community colleges, where their aims are not exclusively technical. Miami Dade serves 175,000 students, 90% minority, more than 60% low income, many of them immigrants or first generation—as Padrón said, “we take the people who can't pay or be admitted elsewhere.” But even when these students seek training for a particular job, it's the broader training they receive that helps them to the next job. Padrón is himself an example of the civic benefit we all derive from a broadening education that is not an elite one. This immigrant youth got his first taste of economics as a community college student, starting him on the road to a PhD in Economics and life as a major leader in public higher education.

I conclude with this. The value of higher education has been put in question in recent years as it rarely has been before. This is not a bad thing. Many legitimate questions are being asked, the status quo is very far from ideal—and since higher education today is assuredly creating the future we will live with tomorrow, this is a matter of the most critical importance. Our problem is not that we are having the value discussion, but that a narrow, impoverished concept of value has been driving the value discussion.

To build the system that will give us greatest benefit as a society, we need to start from a rich concept of what education is good for, one that ranges from the most practical to the most aspirational human registers and from the shortest-term to the longest-term goals. Working from such a concept, we could then discuss how the best version of education could be delivered within the facts and resources of different situations, providing the most value for the money at hand.

You and I have work to do making Duke live up to our ambitions. But we also have work to do voicing a fuller vision of education to a culture where such voices are currently little heard. Nowadays, part of the work of educators is working to remind ourselves and others what, in the deep sense, education could really be. We have work to do. (Applause)

Lozier: I would like to thank the President for the informative, thoughtful, and inspirational address. The President has also agreed to take some questions from the Council members.

Brodhead: This is not the first time this subject has been brought to your attention. This is probably the single most discussed story in American media. I just thought that I owed it to myself and to others to try to put some thoughts together about it.

Questions

John Payne (Fuqua School of Business/ECAC): Very impressed. You talked a lot about what we're doing here at Duke and what we could do to do what we're doing better. But you started off, and I think you ended, with the point that we are a part of a larger society.

Brodhead: We're a small part of a larger society.

Payne: The question I have is really what Duke can do as an institution to play a leadership role in trying to answer the questions that I think are legitimately being asked about the value of an undergraduate education. In other words, coming up with, if you don't like the measure they are using like income after you graduate, better measurements that we can use that are more appropriate and more consistent with the vision we have--in some sense, going beyond just

being happy that we're doing really well and trying to be a leader for the rest.

Brodhead: Your question, if indeed it was a question, is one that is completely in the spirit of my own remarks. I actually think it's dangerous for us to think that these views are only the views of ill-informed people. This is the world that education is moving forward in, and we have to take it seriously whether we like it or not. For reasons of both public interest and our own self-interest, we need to find a way to have more of an impact on this discussion than we are doing now. It's frustrating because you know that if you write a piece saying what I just said, you are not going to get it on the op-ed page of the very journal that will then publish the next day "Is American education worth it? 57% say nope." There is a media preference among such stories, but I really do think it's one of the reasons this commission has become very meaningful to me, because its work is trying to figure out how do you unleash all kinds of people who have one or another form of experience and authority and visibility in this culture to get them to speak in terms of a broader array of education. Our country tells itself that it is finally taking education seriously, but my point is that our very way of taking it seriously could actually represent a serious narrowing of what education is and we'll have to live with the results. You want the four hour version of this talk? (laughter). Please say yes. I'll tell you one thing; I think I personally have come, over the last several years, to believe that everybody in universities needs to spend a lot more time working with earlier levels of instruction. I have actually heard of receptions here for all the science people who have high school and even middle school students in their labs in the summer. Some of you, I know in the Humanities and Social Sciences, have worked through the National Humanities Center with high school groups on how you develop cur-

riculum. The American system of education is very fragmented. K-8 is one world. High School is another world. College is another world. Graduate School is another world. But in truth, we're only going to get, as the rising students to college, people who have had successful experiences early on. There are many people who'd like to teach a richer version of history who just don't know how to do it. So, if we could cooperate backwards and form broader collaborations in support of a broad vision of education, I think this would be a very positive move. I'll tell you another thing, which is I think that the media leads one to think that most people have very thoughtless and foolish views about the subject. But, I haven't found that true when you go talk to actual audiences. And, I'm not talking about Duke audiences, everywhere I go people understand that children need to learn more things than the things that are going to pay off tomorrow. They know that. People want this. They want a better system of education, but I fear a moment where discussion will lead people to think that a very narrow version is the same as the better version. There's work.

Jocelyn Olcott (History): I was interested when you mentioned talking about online education. As you know Arts & Sciences is moving very, very quickly to doing for-credit online courses starting in the fall. Everything else about your talk really was about the engaged, in-person, very personalized and I'm wondering what Duke's vision for online education is?

Brodhead: The day it is shown to me that everything in education can actually be delivered as well or better free online is the day I will be content to close my university.

Olcott: I'm not talking about the MOOCs.

Brodhead: I understand. But it seems to me that the truth is we are living through a revolution in communication--a revolution also in the possibility of its disruption and we can't be unimaginative about participating in this. At the same time, I think that many of the examples that I can think of at this University show that the value has been to free up teachers to have more interesting and serious personal encounters in their teaching and study together than were the case when the same lecture had to be repeated year after year after year. Certainly, I know that Peter (Lange), Lee (Baker), Steve (Nowicki) and Laurie (Patton) share the idea that it's not that you are trying to do things online as if it could be an adequate replacement, but you could have it be a valuable supplement to the kind of education I am talking about. We have students now in the Duke Immerse Program who all go away from Duke for four weeks during the term but they can still be at Duke in some sense even when they are gone. There are all kinds of things that will be possible if we explore this in a thoughtful way. What I do not like are the many people who suggest that all along education was a highly inefficient, valueless thing and now we've got the really cool way to get the good results.

Michael Gustafson (Pratt School of Engineering): Just a quick question on this. I think that sometimes when the argument is made about the value of an education from educators, it comes off as seeming very defensive about our University. So, I just wonder who you see as being our strongest and best allies outside of academia to make the case better?

Brodhead: I'll tell you, and I tried to get a little of the flavor of this here. Having university presidents make this case is effective especially to other university presidents, except it isn't effective because each of them believes they could have made the same points even

better (laughter). We live in a country where education promotes the--what have I heard it called--the "secession of the successful." The trouble is we know how to be persuasive with the people who more or less already agree with us. We need to find people who don't live in the same world with us and who are used to talking to people across these kinds of lines. Discovering that the head of Boeing can make the case for written and oral communication as well or better than the President of Harvard is a valuable piece of ammo. I've never heard a more persuasive speaker in praise of this subject than Eikenberry. There's a lot of people who need to be brought together in some relatively concerted and sustained forum to talk this up. Each will be different in a different audience. One of the members of my commission was the Governor of Tennessee for two terms, Phil Bredesen, who was thought to be one of the great education governors by both parties and he says that you've got to make the version of this argument that passes the Walmart test. When he ran for office, having complicated analyses of policy issues was not going to get you elected, so you had to have the version where you can say "is that good enough for your kid?" or something that is the short version, not that the short version is the only version but for the right occasion you do need it. I think we have spent too much time scorning those we look down on and not finding ways to find out what they hear when we speak and how we could adjust our message so it actually is effective with audiences.

Brenda Nevidjon (School of Nursing): To that point, it would seem that many that speak out against a liberal arts education are also people who have had that upper education pathway, especially if you look at what is happening in this state right now. We have a governor who has gone through a liberal arts

education yet has come out very forcefully about his view on higher education.

Brodhead: You'll notice that I did not mention that (laughter). It occurred to me that you might think of it, right? Because my ears certainly perked up when I heard our then Governor-Elect speak about how the kind of education that is worthwhile for the state to invest in, is the kind that leads more or less right away to jobs. He even went further, and I'm betting he regrets it, and spoke of subjects that if you wanted to study that, that's all well and good but you should have to pay your own money for that, and you can do it at a private university. I actually have not found him a thoughtless person about this, and just today I saw an interesting thing. I saw a table of state divestiture from public higher education. I told you that it has declined 25% in real terms since the year 2008. That's a big decline. The interesting thing is it is not the same in different states. What were the states that had the highest decline? Do you remember, Carolyn?

Carolyn Gerber (Special Assistant to the President): Arizona.

Brodhead: In Arizona, the decline has been something like 50% in real terms of divestiture, and this is of course for two-year as well as four-year public education in a state that has very little private educational system. On that table, it is very striking that North Carolina is one of the states where there has been the least claw back of public support. Although of course if I were at Chapel Hill or UNC-Greensboro right now I'd be much more mindful of the part that went away than of how the state has protected it. Any other questions?

Listen, this isn't the first or last time we will think about these issues but I personally think it is important to have some facts in front of us, some of the dimensions of these

things, and just also to remember that we are not talking about recommending that the whole world have a kind of education that presumes the existence of all kinds of opportunities you could have at Duke but you're never realistically going to have at lots of other places. That's not really the kind of education I was talking about. I gave a poetry reading at Durham Tech once upon a time. There were 200 people at this thing. That made me happy, because they were people who were there to learn how to get and hold certain jobs, but they wanted more out of education than that, and that extra increment is the thing that enables people eventually to go on past the first job to the other ones. I thank you for your attention but I also thank you in advance for taking me seriously that this work is partly the president's work but it really is the faculty's work of living up to these aspirations in our teaching in this University, and then in voicing these aspirations to our larger culture. (applause)

Update from Executive Vice President, Tallman Trask, on Proposal to Changes to 403b Plans

Lozier: Thank you again President Brodhead, and we will, as faculty, all get to work as soon as this Council meeting is over. I had a number of other items here for your information as announcements. I'm going to send those all in an email to you--little homework assignment--and what I am going to do is quickly skip to our proposal for background checks. But I do have one quick item that I hope Executive Vice President Tallman Trask will speak to. If you recall at the February meeting, I mentioned that there was some talk that the administration was looking at potential cuts to the employer contribution to our 403b plans. I told you that no proposal was currently on the table, and that you should stay tuned for any updates. I've asked Dr.

Trask to give a very brief update and then we will have our discussion of the background checks.

Tallman Trask (Executive Vice President):

This will be immensely brief because there is no proposal. We have been having conversations about the University Retirement Plan, off and on, since 2009--APC, Faculty Compensation Committee, ECAC have all been involved. Most of the discussions have been around whether we should tweak the bend point at which the contributions change or whether we should change the contributions themselves. There's never been any agreement as to what, if anything, we have to do about that. Through a number of conversations, especially some with ECAC, I've come to the view that we're really asking the wrong question because every version of the model that simply tweaks something turns out to disadvantage some group or another in some unintended way. So, I instead asked the HR people to think about a different model. The model we have right now, we've had essentially unchanged for thirty years. The world is a very different place in terms of retirement and retirement expectations. They are going to come forward with some ideas, and we might change some of these things. I'm hoping we'll have something to discuss in the spring. I haven't seen anything yet that I am openly willing to discuss but when we get it, if we do, it will come back through UPC, the Faculty Compensation Committee and ECAC before it goes anywhere else.

Approval of Meeting Minutes

Lozier: Thank you. Sandra has just reminded me that I have forgotten the most essential piece of business, and that is the approval of the February meeting minutes.

(Approved by voice vote with no dissent).

Criminal Background Checks for New Faculty Hires

And now, we have arrived at our final agenda item for the day, which is the proposal to conduct criminal background checks on new faculty hires. The email to the Council membership earlier this week included a document from the Vice President for Administration, Kyle Cavanaugh, that described the scope of the background search, and outlined the process for new faculty hires.

In brief, Duke has conducted pre-employment background checks for new hires since the 1980s. These checks are limited to criminal convictions--not arrests, and not allegations--during the prior seven years. Conviction information is not used as a reason to deny employment, unless it is related to the position at issue. To date, new faculty hires have been exempt from this policy, except those whose responsibilities include clinical work. The senior administration approached ECAC earlier this semester with a proposal to no longer provide this exemption. As I mentioned last month, the decision is not ours to make. The Provost will make the decision as to whether new faculty hires will continue to be exempt from these background checks after gathering faculty input and after receiving advice from the University Counsel, Pam Bernard, and the Vice President for Administration, Kyle Cavanaugh.

Today, the proposal is before the Council for the purpose of obtaining that faculty input, and Kyle is here to answer any questions you might have about the proposed scope and process. Before I ask Kyle to come to the podium to take questions, I want to note that ECAC has been in discussion with the administration over the course of several months about this matter, and that ECAC has no objection to the inclusion of faculty in the University's current policy of conducting

criminal background checks on new hires. ECAC's discussions about this proposed policy change have focused almost entirely on the process. ECAC worked with Kyle Cavanaugh and the Provost to produce the process outlined in the document you received. I also want to offer some quick personal thoughts on this issue:

A long time ago, a friend told me that I was unbossable. I was not exactly sure whether the description was meant as a compliment until years later, after learning that I was pursuing an academic career, this friend remarked, "How fitting." I suspect my unbossability is a shared trait among many of us in this room. Yet, regardless of how unbossable we may be, we are thankfully employable, and we are indeed currently employed. As employees, our employer bears responsibility for our actions, inactions, deeds, misdeeds, and also bears responsibility for our protection in the workplace. The administration has decided that to reduce its liability and increase employee protection it wants prior information in order to assess the risk of employment in the faculty. Though each of us might have a different assessment as to what the cost benefit ratio is for these background checks, I doubt any of us can articulate a reason why, on principle, faculty should be exempt. I know I can't. As faculty we enjoy privileges not shared by other Duke employees, but the privilege of being above suspicion is not one that I find defensible or desirable. I don't mean to minimize the impact of this proposed change; it does represent a cultural shift in our hiring process for new faculty. As such, we need to think carefully about that process and make sure the faculty understands the implications of this change. Today is a first step in understanding the implications and understanding more about that process. With that, I will invite Kyle Cavanaugh to the podium to answer your questions about this proposal.

Kyle Cavanaugh (Vice President of Administration): Thanks, Susan. Just a couple of transition statements. First, I would like to express my appreciation to Susan and members of ECAC. We've had several discussions on this topic. The document that you had in advance reflects that process. Let me amplify a couple of things that Susan said. She mentioned about who we currently include in this process, and let me highlight a couple of variants. It's all staff -- both regular and temporary. Anyone who comes on the campus from a temporary agency, we're hiring that agency to go through that. All our coaches, as well. Our faculty that have clinical appointments through accreditation process and then faculty that are involved in certain research aspects, for example, dealing with select agents. We have a fairly robust process here. The process is guided by two regulations that are important to be aware of. One, is the Fair Credit Reporting Act, and that lays out a number of parameters there--specifically the duration that we go back and look, which is seven years. The second is that we are only looking at convictions, and then it is also guided by regulations by the EEOC which is basically providing guidance to say that there are three variables that one should take into consideration. One is how recent is the conviction? The second is the severity of the conviction and third and probably most importantly is the job-relatedness of that. A couple of quick examples of how we actually utilize this in practice: we do not ban anyone from employment at Duke based on our findings in terms of a criminal background check. But, we take a look at those variables and we take a look at the relationship, most importantly, to the position. So for example, we will have folks who we will find have had a number of DUI convictions. That, in and of itself, in terms of the majority of our employment does not ban a person from that job but in all likelihood we would probably not em-

ploy that person to drive one of our buses (laughter). So we have a number of those types of examples. By way of process, through the governance of ECAC, we've worked out a process where it's important to understand that all the information that we're talking about here is publically available. Having said that, we do feel that there is a need to protect the confidentiality of any individual going through this. The process would work for this new group where if we did find a positive finding, I would personally communicate that to the Provost, then there would be a decision between the Provost and the General Counsel and myself in terms of collaboration. If a decision were to retract the job offer, the Provost would share that with the Dean along with the rationale. Then the Dean in turn would share that with the search committee in terms of the outcome but not the specificity of the finding. So that's the general recommendation, and with that I'd be happy to entertain any questions.

Nan Jokerst (Pratt School of Engineering/ECAC): One other thing we did discuss in ECAC was that the person, if there was an issue, would have an opportunity to talk with either you and/or the Provost, right? As part of the process?

Cavanaugh: Absolutely. There are a couple things that are important to understand. I've been doing this for a very long time. I've pushed this data around quite a bit, and so it happens in very small occasions, but there are occasions where you've got the wrong "Kyle Cavanaugh." And one of the things we actually have a responsibility to do, as part of this process, is if there is a finding, we share that result immediately back with the applicant as well. Because sometimes indeed, it is the wrong person. Sometimes, there are legitimate, mitigating factors here that have to be taken into consideration.

Speaker: My generation, in college and graduate school, likely are to have done streaking or experimenting with substances that are illegal in some states and legal in others. I would like some assurance that those items on someone's record would not keep back my colleagues of my generation.

Cavanaugh: First, I'm embarrassed to admit that I myself have participated in some of those events (laughter) and that has not prohibited my employment. There is, in all seriousness, an important piece to recognize here of actually what is being reviewed. It is not an arrest statement; it is solely conviction information. Second, the duration of time that we're taking a look here is a seven year span. So the duration of time there doesn't reach back into the sixties per say (laughter). Not that that would relate to yourself (laughter).

Speaker: Some habits are hard to break! (laughter)

Cavanaugh: Duly noted! (laughter)

Jim Cox (Law School): What does this do to the sequencing or the finding of departments making offers and etcetera?

Cavanaugh: So, typically the language is that it's a contingent offer based on the successful completion and findings in the background check. Typically the applicant would fill out a release and we can turn that around in typically a 24 - 48 hour period of time.

Jesse Skene (Neurobiology): Can you comment a little bit more on the feedback? So if you found something, felt that it justified retracting an offer, and you get some sort of response. And, you used the example of mistaken identification. But what kind of substantive opportunity do you need to comment in the application from the potential employee and at what stage of that, related to job rele-

vance, might you bring in the department or Dean?

Cavanaugh: There are a variety of questions in there. Let me try to disassemble them and make sure I hit each one of them that you've asked. So first, in terms of practical terms, how does that happen? There are very few, if any, that we would find that say that based on this conviction, we would uniformly rule this person out. But any finding, there would be a discussion with the Provost. There's also the discussion with the applicant at that point in time--the decision residing with the Provost ultimately, in terms of what to do with that. But there are, on occasions, mitigating factors that occur. Probably the most prominent one that I see in pushing this data around are the ages, in terms of the individuals that are involved, and the conviction that's involved. So there have been some times, especially in the academy, where there's been some type of accusation that has resulted in a conviction--that's a sex related crime and you take a look at the ages of the individuals that have been involved and you have a very close span in there and so it's worth a discussion. Those are the kinds of spaces where those discussions reside. Not all this is as black and white as we might like it to be, and that's why this process allows for that discussion to happen.

Gustafson: The chair mentioned not really being able to come up with a good excuse for not having this and I agree but at some point somebody had to have because the exemption exists. Do we have a sense of why historically this exemption has been in place?

Brodhead: No one decided that faculty would be exempt. It's just as it was brought in phase by phase in employment history, it never got to this question before. When it came to ECAC, I think what many people scratch their heads about is not the positive

belief that we should be doing this kind of checking on people, as how hard it is to identify why one group should be exempt when so many other groups haven't been.

Cavanaugh: As Dick said, I would count this as an evolution. I do recall a period of time where staff had "gone through the process," but temporary staff did not. But wait, does that make sense? And then coaches were actually not part of this process. So this is kind of an evolutionary process here, and I think in doing this it really provides a comprehensive approach to our entire community.

Josh Socolar (chair-elect/Physics): I'm concerned, or I'd like to hear you talk a little bit about the general policy that we have regarding admission or hiring of people who have been convicted of a crime and have served their time and are now looking to move on with their life and reintegrate. I'm concerned about two things. One is that on my reading of our own HR website, the way things are worded it appears to read that the default is that ex-offenders are ineligible unless they can sort of prove that whatever they did is not relevant to the job they are seeking. I would like to hear the discussion of that policy in general. The other thing I'm concerned about is that in this document we received, it says that the Provost will pass the decision on to the appropriate Dean, and will share the basis of that decision with the Dean but it explicitly says here that the Dean will not pass on any additional information other than the decision to the faculty that were involved in the hiring process and the chair of the department involved. I have some experience with the non-admission of a graduate student which is extremely frustrating. It's very hard to be in the position of wanting to hire somebody and being told that you cannot on the basis of some risk analysis that was done by somebody who you're not sure understands what the job really is. So I'm

wondering if there's some way for the faculty to have more input in terms of defining how the risk analysis should be done?

Lozier: I think Peter would like to answer this question because this actually is the process, and I'd be happy to answer it as well, that the Provost and the faculty were working out—how to make that information trail.

Peter Lange (Provost): On the first issue, basically there's a tradeoff. Which is how likely do you want to put the person who was going to be hired--his history or her history--into the public domain? Up to the Provost and the Dean and the Vice-President and the University Counsel, that's five people. Once you go to the Chair and the Chair circulates it to the department, as far as I'm concerned it becomes public information. I know that we can ask for confidentiality to be sustained, but there will be lots of pressures about that issue, and having been a faculty member in a department myself, I would prefer to protect that person at the expense of the frustration of the members of the department. It's, I admit, a tradeoff and you have to make that decision but my feeling was that that was the appropriate way to do it because having already denied the person the job--you know they are in a profession. Once it goes to the faculty members in a department, they are all part of the same profession as that respective faculty member, and that just creates a set of opportunities for putting that person's life history into a larger public domain that I thought it was best to avoid. That's a prudential judgment, I recognize it, but that's the grounds for it.

Lozier: I was going to address the second part of the question. What you're really saying is that the faculty are sort of saying to the administration, you make that decision, and we might not really understand it or it's a tradeoff. We didn't think it would be appro-

priate for the faculty to be involved with the decisions, but we said that after a while of this process going on, it seems appropriate for Kyle and the Provost to talk to the faculty in general about cases that have come up. They could be de-identified and talk through the process about how well it's working. And this faculty group might be ECAC, it might be the Faculty Hearing Committee, but some group of faculty that would be able to provide feedback. Right now, we don't have any data to know how well this would work. It's a proposal. We thought we would start here and then after a while, have the opportunity to go back.

Socolar: I would just add that there haven't been any faculty cases, but there certainly have been cases in other employment or admission into graduate school, and I would be interested in hearing a report on how the broader system is working. You know the faculty are going to be plugged into the same system, that's the whole point, and there is a history of that system.

Cavanaugh: I'd be happy to respond to one issue that you had raised in your opening set of questions. One is what do we say to an applicant that we've denied employment to. I gave the example earlier of DUI and bus driver alignment, but we actually have a conversation with that person. We talk to them about what their other opportunities are that they could potentially be competitive for here at Duke. We also provide a service where we work closely with the release offender program here in Durham, and actually have presentations to people in kind of a resume building and employment context. I think there is a commitment to actually not banning anyone, but making individual assessments but then after that assessment is made how do we help those people.

Lee Baker (Dean of Academic Affairs of Trinity College): I just have two quick questions. What are the specific risks you are trying to mitigate with this process? Have you modeled this to say that of the handful of faculty that have been convicted would we have caught it through the background checks?

Cavanaugh: Have I run criminal background checks on existing faculty? (laughter) Not yet.

Baker: For the handful of criminal activity that we have, do you think that if they have prior history we could have caught that? Will this eventually work?

Cavanaugh: It's a very, very small group that we are talking about here and the hit rate in the current population is under 2%. So, the numbers that we are talking about here are very, very small. In terms of risk mitigation, this is kind of a comprehensive approach for the whole community that we're taking a look at. As Susan said, I think I would agree, that if we have one kind of component of our group, how do we defend not doing that in today's environment?

John French (History): Given the large number of foreign-born and international faculty, how is this not going to end up producing long delays unless we exempt them from the checks?

Cavanaugh: Couple of different things. First, that world has gotten better over the last ten years so it sounds a little James Bond-ish, but they're kind of tapped into Interpol and other types of sources. We are very reliant on which jurisdiction that we're looking at, and some, as you might suspect, have very little, if any, criminal data in terms of their system. Some, if coming for example from UK or Germany, are very quick and it's almost like being in the States. It's very reliant on those locales in terms of getting that information. I

think that is going to be a work in progress, and one that we are going to have to continue to evolve.

Julie Britton (Fuqua): We've talked about who would know when and it does seem to me that we don't typically rescind offers to faculty once they have been made. Most faculty in the area or the department know what offers have been made, aren't we leaving this sort of hole then that everyone is going to assume that this person must be a criminal, and have done something that would disqualify them to be a faculty member? It seems to me that the absence of any information actually is not a good thing -- that you're still left with this sort of allegation. Can you give us some examples of the kinds of crimes you think would disqualify someone from being a faculty member?

Lange: We do rescind contingency offers now. All offers for tenure for an external faculty member are contingent. If the person doesn't succeed in the tenure process, the offer is not completed. It's not the same thing, but I just don't want people to think that we never make contingency offers. We make many, many contingency offers because the tenure process essentially delays the completion of an offer until the person has made tenure.

Britton: But assistants or younger, non-tenured offers?

Lange: I'm just saying it's not as if the University does not make contingent offers. Again, the question is: is it better? I don't know the answer. Is it better to have people know that something was found but not know what it is or a substantially wider number of people not only know something was found but also know what it is? That's a judgment call. I think the thing to stress is the number of these cases that we are going to

encounter over a five-year period is probably verging on zero. Ok? It's not going to be a large number. I don't think we should probably engage in a lengthy discussion about hypotheticals but let me just suggest that Robert's example is probably not something which is likely to exclude a faculty member from employment. I'm not saying which of Robert's examples (laughter).

Lozier: Dennis Clements wanted to provide a few remarks from his experience.

Dennis Clements (Pediatrics/Global Health/ECAC): Those of us in the Clinical Sciences all have background checks. Every offer I make to all my faculty get background checks. To my knowledge, and I asked the Dean (Andrews) about this, while there have been some conversations, no one has been excluded from employment.

David Malone (Education): Do we have any policies surrounding examination of social media? I know some employers now do examine candidates with the use of social media.

Cavanaugh: We actually stay far away from that in terms of the employment process. That got a lot of attention over the past year, but we have been very explicit in trying not to do that. Now, what an actual hiring official may do in our decentralized environment is a little open. Thank you all.

Lozier: Thank you, Kyle (applause). Based on this faculty input, ECAC will send a final recommendation to the administration.

Last words before we adjourn: Best of luck to the Duke women and Duke men's basketball teams as the NCAA tournament commences. I trust everyone is poised to enjoy the madness of March! The meeting is adjourned. We look forward to seeing you at the

April meeting and thank you again to President Brodhead for his remarks.