



BACKGROUND CHECK IMPLEMENTATION ON HOLD AT ROWAN UNIVERSITY — WILL THIS DEBATE COME TO YOUR CAMPUS?

The national debate over security has hit home on one of our campuses. The November 9, 2004 issue of The Chronicle of Higher Education reported on Rowan University's plan to implement background and fingerprint checks for all new hires. In an article titled, "Flip-Flop Over Faculty Fingerprints, Rowan U.," the Chronicle highlighted the "strong reaction from faculty members" who have weighed in on the University's plans.

Rowan introduced its controversial policy this fall and since then as The Chronicle notes, "A small storm quickly brewed on campus." At a meeting of the University assembled on Monday November 19, Rowan University President Farish stated that the criminal background checks for faculty would not be implemented until there was further discussion among the university community and a revision of the policy. AFT Local 2373 (F.O.R.C.E.) proposes modifications as follows: no group should be singled out for special treatment, there should be different levels of criminal background checks depending upon the job responsibilities; use of information should be in compliance with the law and sensitive to issues of justice and fairness; only selected individuals responsible for campus security should have access to information obtained in a check and that a revised policy should be vetted by all campus governing groups for comment before final adoption.

Local 2373 found the following sources helpful in determining how to proceed with criminal background checks:

It believes these documents would be helpful to those who want to formulate a policy on criminal background checks:

www.njsp.org/about/serv_chrc.html for state guidelines.

N.J.S.A. 53:1-12 through 20.7 Chapter 59 for New Jersey law governing background checks. The law itself addresses many union concerns about collection and utilization of information.

<http://www.aaup.org/statements/REPORTS/backgroundchecks.htm> for AAUP position on background checks.

Not surprising, the debate ranges from those who believe employment checks that include fingerprinting are part and parcel of a post 9/11 world, to those who believe it's an outright assault on civil liberties to those who hold views somewhere in the middle: fingerprinting for hiring purposes is okay but the policy must have strict guidelines about, among other things, who has access to the information.

While the Council would not have chosen to highlight the debate as a 'flip-flop', it does recognize the debate's importance. With that thought in mind, the opinions on pages 2 and 3 represent two sides of the debate at Rowan. Two of the three authors were cited in the Chronicle piece. The authors, Drs. Joanne Scott and Gerald Hough (Biology) and Dr. David Applebaum (History) have graciously provided their opinions in the spirit of sharing information about an issue that may come to your campus.

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**PRESIDENT'S
MESSAGE**

by Nicholas C. Yovello

I am very disappointed with the results of the federal elections. John Kerry's defeat was compounded by the loss of Democratic seats in the Congress. Inevitably this will mean that right wing forces will have a freer hand writing legislation that will diminish our rights as unionists, public employees and educators.

Congress may try to enact legislation that interferes with the rights of unions to engage in political action and moves are already under way to privatize part of social security. (I have

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BACKGROUND CHECKS WITH FINGERPRINTING NOT OUTRAGEOUS



A policy requiring fingerprinting as part of criminal background checks for all new Rowan employees is not outrageous.

Rowan University plans to implement background checks including fingerprinting for all new employees. The check will be evaluated after a potential employee has been offered a job but before the start date of employment. We are surprised at the reaction of our colleagues who are opposed to the proposed policy, since many states require fingerprinting for public school teachers, attorneys, and police officers.

This debate can be broken down into three key issues: 1) Do we want/need background checks on new employees? 2) Do we want/need background checks on some but not all new employees? 3) If we want/need background checks on anyone, can we minimize the possibility of error due to mistaken identity?

The answer to the first question is obvious. Many of our colleagues immediately think of the problem of theft of expensive technology. In our labs, we have expensive scales, desirable items of equipment for the drug trade. Crimes, however, also include acts of violence, such as sexual assault. There are individuals who work late in labo-

ratories and lounges; as a university we have a moral obligation to assure their safety.

For the second issue, some colleagues suggest requiring background checks only for employees who have extensive room accessibility, e.g., security and housekeeping personnel. We maintain that such a policy would be elitist; faculty and professional staff are not “above” the need for background checks. The policy would also be naïve; employees (including faculty) with limited room access can still find opportunities for theft or personal assaults.

The answer to the third question involves the problems of mistaken identity and blacklisting. Fingerprints establish one’s identity. Like retinal scans, they verify who you are. They don’t reveal your political views, ethnicity, or orientation on various social scales. Fingerprinting would verify that a criminal background check containing a violent assault is that of the job applicant, and not the record of another like-named individual. If you’re not who you say you are, or you don’t want your fingerprints verified for any reason, we personally don’t want you working with us, or with our students, late at night. Refusing fingerprint verification for purposes of employment is tantamount to saying “I’m not willing to show you a picture ID”.

Much of the current debate surrounding background checks and fingerprinting is based on fears that acts of civil disobedience or unconventional personal views will be used against a subset of prospective employees. While we doubt that most forms of nonviolent activism would surface in a criminal background check, it is possible that arrests (and more importantly, convictions) due to such activity might make

it into a person’s file. We think that if a person is a peaceful activist, that shouldn’t raise a red flag at Human Resources. In contrast, if the job applicant has blown things up or assaulted people as part of his/her activism, we sure hope it is into the file. The person reviewing the check should be competent to make that distinction.

A policy requiring fingerprinting as part of criminal background checks for all new Rowan employees is not outrageous. As long as the policy gives the applicant the legal right to question possible hiring prejudice due to the contents of his/her record, this should avoid any oppressive intrusions into personal privacy or undue prejudice against certain individuals. Perhaps we are naïve to believe that criminal checks will not result in rampant McCarthyism and blacklisting. On the other hand, perhaps it’s naïve of our dissenters to believe that the decision-makers are incapable of oppression without fingerprinting. An oppressive government does not need to have your fingerprints to store information about what you’ve done in your life. However, we feel that, at least at Rowan, we have “a sense of decency” (Joseph N. Welch, 1954).

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Say YES to the Bill of Rights

Say NO to Universal Fingerprinting

At its convention in March 2004, the Organization of American Historians formed a committee on Academic Freedom. In November the committee published its first report, which listed five major areas of concern found in reports brought to the committee's attention to date. "The first involves government surveillance of faculty members, students, visiting scholars, and libraries. The USA Patriot Act has aroused ardent opposition from librarians, faculty senates, and city councils around the country. Its business records section empowers federal agents to gather information from libraries and bookstores about books used by individuals, while it also prohibits any person served with a warrant for such information from revealing that fact. The American Library Association has been outspoken in its opposition to this law. It publishes a very useful Intellectual Freedom Manual and an informative web page. The American Association of University Professors recommends that all faculties maintain regular communication with their institutions' administrations in order to learn what information the latter are handing over to government agencies and how they are enforcing their own policies regarding academic freedom." (David Montgomery, former OAH president, Farina Professor of History Emeritus at Yale University. www.oah.org/pubs/nl/2004nov/montgomery.html?emtm1104f)

Rowan University announced the plan to conduct criminal background checks with fingerprinting on *all* future employees in September 2004. The plan transforms surveillance. The process involves sending and receiving information to and from government agencies. Opposition to the Rowan plan is based upon a) defense of the Bill of Rights, b) prevention of the abuse of power, and c) reinforcement of support for social justice.

The new policy and procedures undermine the Fourth Amendment. We



We have ample evidence that criminal background checks add to a culture of fear and suspicion that habituates citizens to sacrifice freedom for pseudo-security.

will lose the presumption of innocence and limits to investigations based upon probable cause. The policy establishes probable suspicion. Moreover, the burden of proof is shifted from the State to the individual. The policy normalizes self-incrimination and renders the Fifth Amendment meaningless. We must recognize the dangers of a regime of inquisition and confession to the life of the mind.

Historically, Woodrow Wilson's criminalization of opposition to World War I, the "Red Scare", Palmer Raids, McCarthyism and jailing for civil disobedience during the 1960's give ample evidence of the "dark side" of our history. Academic freedom is fragile. Expansion of criminal conspiracy laws has contradicted our ability to maintain the intellectual integrity of the scholarly project. Efforts to unionize higher education in the 1960's demonstrate that administrators were willing to use criminal actions against organizers. The USA PATRIOT ACT, in combination with the expansion of conspiracy law means that we face a clear and present danger.

The policy will deny social justice by creating lifetime sentences. It will transform single acts into permanent criminal identities. We will contribute

to the construction of a class of people consigned to marginal as well as subordinate career opportunities. We will be reinforcing the power of private sector employers who arbitrarily use the private, profit making criminal justice industry to force submission and passivity into workplace culture. If we say no, our actions can encourage others, outside the university, to question, challenge and resist oppressive acts and repressive behaviors.

We have no evidence that fingerprinting a small minority of the campus community will make us safer. We have ample evidence that criminal background checks add to a culture of fear and suspicion that habituates citizens to sacrifice freedom for pseudo-security. There are better ways to use scarce resources to improve conditions of safety and security on our campuses. Dollars spent on background checks could be used to increase and improve the monitoring of health hazards. Funds allocated to fingerprinting could be used to safeguard materials that pose security threats.

Some who oppose the university's proposal see the potential need for fingerprinting or criminal checks for certain "sensitive" employee positions, e.g. employees who work with minors, handle cash deposits or large sums of money, or those who have unlimited access to student residences. The majority of campus hires DO NOT conform to these specialized situations. Faculty, general maintenance, office staff, and communication/service workers should not be subjected to background investigations that go beyond the scope of their occupation.

David Applebaum, Ph.D.
Professor
History

Rowan University colleagues and David Montgomery (cited) edited and helped create this text.

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PRESIDENT'S REPORT

(Continued from page 1)

yet to hear a satisfactory explanation of where the money to pay current and future retirees will come if these billions are shifted to private accounts).

The "No Child Left Behind" program is an unfunded mandate that forces states to divert funds from their meager revenue streams and incur greater deficits. The "Higher Education Reauthorization Act" will finally start moving through Congress, but the bottom line is that there will be less overall funding for public higher education, with private institutions receiving a greater share. What does this mean for us?

National AFT will have its lobbyists hard at work educating Congress and hopefully lessening the impact of decreased federal spending for higher education. Under these circumstances, I am pessimistic about winning any major improvements in Washington. We can expect calls from AFT National to support their efforts by calling, writing and/or visiting members of New Jersey's Congressional delegation — we will have to fight to keep what we have.

In New Jersey, the Council and its allies will be mapping a strategy to deal with the impact of the Federal elections. The under-funded federal mandates and the lack of federal support for public higher education are major problems. We will keep addressing the problem of the State's budget gap, which directly ties in to the lack of Federal funding.

You may shrug this off because since the final years of former Governor Kean's administration, and despite talk about major budget cuts, we have always managed to pull through. But each year the balancing act becomes harder and the stopgap measures used to balance previous budgets are coming due. Additionally, the Whitman and McGreevey administrations borrowed revenues to balance the state's budgets but the New Jersey Supreme Court ruled that the practice is un-

constitutional. How will NJ resolve its funding dilemma?

I have no crystal ball, but I know that one of the largest expenditures in the budget that is not constitutionally mandated is higher education. It is also a fact that for the past 10 years, in fat years as well as lean ones, higher education as a percentage of the NJ budget has been on a steady decline. Governor Kean's administration attempted to maintain a formula of 67% state funding and 33% institutional funding (basically coming from tuition.) Now, some of our institutions are relying on 40% state funding and 60% institutional funding. This is an outrage. We must pay more attention to what is happening here.

We need to concentrate our political and lobbying efforts to stop this downward spiral and work extremely hard, despite a likely budget shortfall, for additional funding for our institutions' operating budgets. (Let me insert my urgent request for a real demonstration of support on your part by completing a COPE check off card to help financially support this effort. Your Local union or the Council can provide the COPE card.)

In addition to dealing with the perennial funding issue, the college and university administrations are supporting two bills that threaten to complicate the situation. S-1928, (Assemblyman Wayne Bryant (D-5)), authorizes the Higher Education Facilities Authority to increase the amount of bonds it may issue to pay for new construction from \$220 to \$350 million. A-3452, (Assemblyman Bill Baroni (R-14)), authorizes a \$2 billion dollar capital bond issue for the construction and improvement of academic buildings.

The \$2 billion bond issue will only exacerbate the problem. The College and University presidents want the bond money and we are fully aware that the institutions need it. But our institutions are already carrying a record debt burden. Several institutions have had their bond ratings lowered. Institutions are also using their operating budgets to service long term debt that forces cuts in academic and academic support programs. It also creates a ma-

ior shift in the composition of the faculty from full-time to adjunct faculty. Institutions will seek to raise revenue by increasing the student population without a commensurate increase in professional staff and full-time faculty to adequately support and advise these new students, while the percentage of classes taught by adjunct faculty continues to rise. The increasing student population is swelling class sizes and placing extraordinary demands on academic support services, such as advisement, counseling, computer support services, etc.

We absolutely agree that New Jersey needs more classroom space to service its growing student population. But a rational funding mechanism must be found that does not compromise the quality of education worthy of our four-year colleges and universities. If the trend toward greater use of adjunct faculty continues, without prorating their salaries so they receive an equitable proportion of full-time salaries, some of our institutions will begin to resemble community colleges.

Before the Council can lend its support to either bill, we must know exactly how this money will be spent. Will the expenditure result in unreasonable tuition increases and will we have the necessary faculty, staff and resources to serve the expanding student population? These are questions we will be seeking to have answered.

Recently, a legislator on the Assembly Budget Committee asked me to identify additional state revenue sources (I think he did not want to use the "T" word). I said that I thought the leadership of NJ's higher education institutions needs to seriously consider a campaign to win public support for a revenue package dedicated solely to public higher education, unless they are content to continue "taxing" parents and students through tuition hikes and running up massive debts that will have to be paid off by future generations. We stand ready to engage in that campaign.

Finally, I want to wish all our members a very happy holiday season and a happy New Year. — • —

Purpose Reaffirmed at the AFT Special Leadership Conference

The most recent presidential election, undoubtedly, proved depressing for many of us committed to the AFT, CNJSCL, higher education, and trade unionism. Yet, it should have also reaffirmed our purpose, commitment, and *raison d'être*.

It was the reaffirmation of purpose that was emphasized during the AFT Higher Education Special Leadership Conference held in Washington, D.C. from November 12-14. The purpose of the annual conference is to bring new local leaders to D.C. for the purpose of meeting veteran unionists and exchanging ideas on critical issues.

The conference kicked off with a keynote from AFT Vice President and United University Professions/State University of New York President William Scheuerman.

With the George Walker Bush victory, Scheuerman noted, discussions around eliminating tenure will resurface and hostile Boards of Trustees will continue to harm us.

So, what should our response be? Scheuerman urged that we play offense, make our priorities obvious, secure government support for higher education and expand higher education organizing.

Expanding higher ed organizing requires that we must be more responsive than we already are to our rank and file. The only way to accomplish that goal is through organizing new locals and strengthening existing locals through internal mobilization i.e. encouraging more people to become



members and to take an active part in their locals.

As our employers scale back on health care benefits, abuse adjunct faculty and increase class sizes to the point where higher education's value is compromised, the CNJSCL and its locals must work to increase our membership and strengthen our leadership. Our collective strength greatly impacts our ability to fight.

Concomitantly, we must compel our nine state colleges/universities to uphold their original missions of providing all state residents with equal access to higher education.

Conference sessions were also held on collective bargaining at 2-year and 4-year institutions and in the health care sector, engaging new members, building member activism, and lobbying.

Also attending the AFT Special Leadership Conference from the Council were Maureen Gorman (The College of NJ) and Mike Frank (Richard Stockton College.)

Dierdre Glenn Paul, Ph.D.

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**CNJSCL Officers and Staff Wish You and Your Families
A VERY HAPPY NEW YEAR!!!**

**BUY
UNION**



NOT A MEMBER YET?

Make your voice heard in the workplace by joining the union today.

Visit your local office for a membership card or visit the council's website for membership information.

ADJUNCT FACULTY PENSIONS UNDER ATTACK

HOW TO FIGHT BACK

The Council recently learned that the Division of Pensions and Benefits is proposing to reduce the pensions of those adjunct faculty who teach consecutive fall and spring semesters, i.e. a full academic year.

Currently you receive the same treatment as full time faculty. You get one year of pension credit for every academic year worked. However if the Trenton bureaucrats have their way, you will only receive service credit for actual months worked. This means that instead of 12 months credit, you can receive as little as 8 months. Not only would June, July and August be discounted, but May and December or January would be at risk, because the proposed rules say that you would not receive any service credit at all for any month in which you did not work

at least 10 days. These changes could result in a 33% reduction in your pension!!!

The apparent basis for these proposed cuts is the Division of Pensions and Benefits view that adjunct faculty are no different than "hourly," "per diem," "on-call" or "as-needed" employees. (These are direct quotes from the proposed changes.) This flies in the face of reality. Many of you have been employed by the same institutions for years, if not decades, teaching two courses a semester, advising students and regularly interacting with full time faculty, librarians and professional staff. To lump you with "per diem" or "on-call" employees is both inaccurate and disrespectful.

The Council and your local leadership are doing everything in their power to stop these proposed changes from

being implemented, but our most powerful weapon is the voice of the rank and file. *That means you.*

If you are concerned about preserving your pensions, here is what to do. Write to:

Mindy Sopko-Smith,
Administrative Practice
Officer
Division of Pensions and
Benefits
PO Box 295
Trenton, NJ 08625-0295

Be sure to say that you are submitting "comments" in opposition to the proposed rule changes to NJAC 17:2-2.6, 4.3, 4.7 and 5.8. You must submit these comments by December 17, 2004 or they will not be considered.

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Taking Care of Professional Staff Business:

When is it okay for supervisors and employees to meet and discuss job performance?

During the course of assisting local grievance officers, Council staff reps come across interesting management-labor questions that bear exploration. For example, an HR person recently asked a Council rep, "Is it okay for supervisors to have performance related discussions with an employee outside of the evaluation period?" The answer is: yes, of course it's okay. It's even desirable because the Union has always maintained that employees have the right to know their supervisor's assessment of their performance so they have the opportunity to correct any deficiencies *before* evaluations take place.

Historically, the Union has been able to negotiate reappointment agreements for "at risk employees" that include improvement plans, because it maintained that management had an obligation to let employees know of deficiencies in time to correct them. Yet, no matter how many times the Union makes management aware of this fact, most supervisors still hesitate to talk to employees about their job performances outside of the evaluation cycle. Why? Often, supervisors believe that such performance related discussions constitute a contract violation. However, there is nothing in the contract language that prohibits supervisors and employees from meeting to discuss job performance at any

time during the contract period. So, how do employees and supervisors get together to discuss performance issues without raising the specter of a contract violation?

One obvious way to circumvent management's hesitancy to initiate a performance related discussion is for the employee to request a 'sit down' with a supervisor to see how things are going. By asking for the meeting yourself, it lets your supervisor know that the meeting will be cordial and informal. How you make the request depends on your relationship with your supervisor. If your supervisor's managerial style is formal and he or she prefers to receive requests by memo, then by all means send a brief memo stating your request. If a verbal request is more to your supervisor's preference, then by all means do it that way.

Once you make your request and set a date, do some homework. Get out your job description and make an honest assessment of how you think you're doing. That way you and your supervisor can compare each other's perceptions of your performance. Start out by discussing all the duties you know you are doing well. (Hopefully, both of you will not be too far off in judging how you are doing). Then move on to areas of your job where you think you could im-

Continued on next page

Taking Care of Professional Staff Business *(from previous page)*

prove. Keep the meeting friendly and if you disagree about something, try not to become defensive. Be mindful of the fine line you must walk between identifying areas that you need to work on before your formal evaluation and providing your supervisor with non-reappointment ammunition. The idea behind an informal meeting such as this is that you and your supervisor should agree on clearly defined performance goals and setting reasonable expectations about how to go about achieving them before it's too late to do anything about them.

Finally, what do you do with the information you and your supervisor glean from your meeting? It makes sense to take notes at any meeting in the workplace and since you will have prepared for the meeting by referring to your job description, taking notes will not seem out of place. The

question then becomes: once the meeting is over, are your notes official? Technically no. We do not recommend that you ask your supervisor to initial your notes to "document" your meeting. If you have a good relationship with your supervisor you could invite him or her to work with you in creating a memo that summarizes your meeting. If this isn't something you or your supervisor would be comfortable doing, then keep your notes, date them and make a copy. Keep a copy in your desk file and take one home with you for safekeeping. Remember, your notes may not be an "official" personnel document (meaning that management did not generate it) but they could be critical when it comes to your reappointment prospects.

If discussing your performance with your supervisor is something you want to do and you would like to discuss it with the Union first, you should contact your local's professional staff representative or call the Council office at 908-964-8476.

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OVER THE FALL



AFT National Higher Ed. Director Larry Gold meeting with Council's COPE Committee. L. to R. Nick Yovnello, Council Lobbyist Peter Guzzo, Larry Gold, Steve Young & Bill Sullivan



KUAFF Local 6024 Luncheon Meeting presenting a \$500 check for the AFT Disaster Relief Fund.



Live Union Band entertains members at KUAFF luncheon.

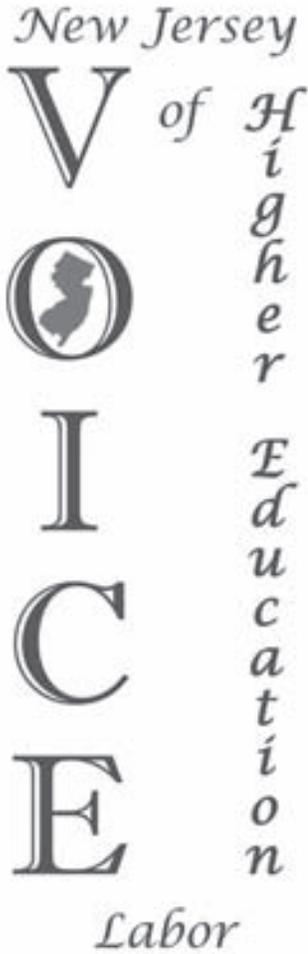


Council's COPE Committee Meeting



Professional Staff Meeting at MSU Local 1904

December 2004



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A Union Voice on Boards of Trustees

LEGISLATIVE ALERT

As you know, the Boards of Trustees at your institutions ultimately run the show. They choose the president, have the final say on personnel decisions, decide on new construction and new academic programs, make enrollment and admissions policies, authorize tuition increases and much more. Yet the boards are dominated by corporate honchos who probably send their kids to private universities and live in neighborhoods you can't afford. So why don't campus unions have a seat at their table?

A-2795 can change that. Assemblyman Patrick Diegnan (D-18) has introduced a bill that would create two union seats on the boards of trustees of all our institutions. (It would be

up to the campus unions to choose their representatives, but they would have to be employees of the institution.) The bill has bipartisan support and it was voted out of the Assembly Education Committee unanimously. The next step is for it to be scheduled for a vote in the Assembly.

Here is what you can do. Go to the Council web site www.cnjscl.org. Click on "Political Action" and then "Contact Your Elected Representative." This will take you to the "Action Alert" page and the rest is easy.

Who knows better what our institutions need than the people who work there? By urging the Assembly leadership to post and support A-2795 you can help expand democracy right here in the good old USA.

Peace is the Reason for the Season