

MINUTES OF THE UNIVERSITY SENATE, APRIL 11, 1994

The University Senate met in regular session at 3:00 p.m., Monday, April 11, 1994 in Room 115 of the Nursing Health Sciences Building.

Professor Daniel L. Fulks, Chairperson of the Senate Council, presided.

Members absent were: Debra Aaron*, Reginald J. Alston, James L. Applegate*, Stephanie Atcher, John R. Ballantine*, Mark C. Berger, Antimony Bishop, Rick Boland, Douglas A. Boyd, Joseph T. Burch, D. Allan Butterfield, Bradley C. Canon*, Ben W. Carr, Edward A. Carter, Shea Chaney*, G.L. Monty Chappell*, Louis C. Chow, Donald B. Clapp, Jane Clark, Jordan L. Cohen, Darby Cole, Georgia C. Collins*, Delwood Collins, Michael P. Connors, Melissa Cox, Nancy Custer*, Clarence Robert Dowdy, Richard Edwards, Joseph L. Fink, Juanita W. Fleming*, Donald T. Frazier, Michael B. Freeman*, Richard W. Furst, Joseph H. Gardner, Lorraine Garkovich, William Gibson, Lori Gonzalez*, William S. Griffith*, Lynne A. Hall*, J. John Harris III, Zafar S. Hasan*, Christine Havice, Robert E. Hemenway, James Hertog*, Edward J. Kasarskis, James Knoblett, Kenneth K. Kubota, Thomas W. Lester, C. Oran Little, Martin J. McMahan, Sandra Miller, David Mohney*, James S. Mosbey, Anthony L. Newberry, Judith Page*, Barbara Phillips, Rhoda-Gale Pollack*, Thomas C. Robinson, Ellen B. Rosenman, Daniel Rowland, Edgar L. Sagan*, David Shipley, Thomas J. Stipanowich, William J. Stober*, David H. Stockham, Michael Stover, Amy Sullivan, Phillip A. Tibbs*, Miroslaw Truszczynski, Salvatore J. Turco, Mary Walker, Greg T. Watkins, Chris Webb, Lora Weck, Brent White, Eugene R. Williams Emery A. Wilson, H. David Wilson.

Chairman Fulks thanked everyone for coming to the meeting.

Chairman Fulks stated that he would be turning the meeting over to President Charles Wethington, but first he wanted to say that the President had been terrific to work with this year, he had been very cooperative, his door had always been open, and they had communicated very well. He then turned the meeting over to President Wethington who made the following remarks:

First, I would like to return the compliment, Dan Fulks has been, as the Senate Leader, easy to work with during the year, they had discussed issues, concerns, and matters that impact the University. He has been always willing and able and presents well the opinions of the faculty in the discussions with the Administration and others. He thanked Professor Fulks for the leadership he had provided. (Professor Fulks was given a round of applause.)

I also want to thank Peter Bosomworth for the leadership he has provided and continues to provide. As you all know Peter is anticipating making a change in assignment July 1, 1994. Let me express my appreciation and thanks to you for providing strong and effective leadership for the Medical Center and the entire University which you represent very well. (Dr. Bosomworth was given a round of applause.)

I came today to talk about the budget and since we don't have one, the remarks will be very short.

* Absence Explained

Seriously, I will give you a bit of the situation and the background and then avoid talking very much about what I think the future might hold. It is that the process is not yet finished and it probably is a time

when we need to be following it closely, but not trying to predict what the outcome will be. It is a situation that, based on what the Governor has stated publicly, I do anticipate that he will follow through on his commitment and veto the budget bill this week. I think the calendar requires that the veto be done no later than Wednesday. It is my anticipation that the Governor will follow up on his public commitment and veto the budget bill. That, of course, is likely to be followed by a special session of some kind to address the budget and to insure that we have a budget for the Commonwealth beginning July 1, 1994.

As a result of this period of indecision, we are not able to move ahead with budget decisions inside the University of Kentucky; Budget decisions which affect the operating budget. Working with the Chancellors and vice-presidents and my staff we have been moving along in anticipation that the state appropriation would increase by two percent in 1994-95 and three percent in 1995-96 and that the appropriation in 1995-96 would require us to meet certain performance standards as recommended by the Governor's Higher Education Commission and adopted by the General Assembly. We are in a situation now where we must put everything on hold. Final decisions about our operating budget must be put on hold until we know what is going to happen with the General Assembly and the Governor this week and possibly what is going to happen in the special session to follow.

It is my guess that Friday we will see the Health Care Bill addressed again. On the radio this afternoon I did hear that the Governor had decided that he was going to be supportive of House Bill 250, the Health Care Reform Bill and urge its passage on Friday of this week. It is likely that we will see the House suspend its rules and address House Bill 250, with then the good possibility that the so called Health Care Reform Bill will pass. At least there will be an effort made to pass it in the House on Friday of this week.

If in fact the budget is vetoed, and the House sustains the Governor's veto, the Governor, I'm convinced, will call a special session in the near future to address the matter of a budget for the Commonwealth. If that happens we have then an opportunity to address capital projects again. The Governor is interested in addressing capital projects again, as is the House, as are, I'm convinced, certain members in both the House and the Senate. We have an opportunity then, if the budget is vetoed, and the veto is sustained, to address our primary capital needs and capital priorities for the next two years. As you know, the library project on which we worked so long and hard for, the Mechanical Engineering project, certain Community College projects, certain Agriculture projects, all of these are removed from the present version of the budget which has passed both the House and the Senate. Virtually every capital project, renovation or otherwise, has been stripped from the budget at this point. I know that there is considerable interest by the Governor, by the House, and by the Senate in addressing certain capital construction priority needs for the state in the next two years. My hope is that if the Governor does veto the budget

that the veto will be sustained, that there will be a special session, that certain capital construction projects will be addressed and that our principal and our primary capital construction priorities will be addressed in the special session. In other words, the opportunity is still there, I believe, for us to take another shot at what we think are our primary needs for the University of Kentucky in the next two years.

I would anticipate that the other parts of the budget will likely remain unchanged. I do not see any effort to try to make major changes in the operating budget recommendations of the Governor as approved by the General Assembly. That is about the only report I can give you today. After the long process from January up until now we still are in a situation whereby the budget for the Commonwealth, the state appropriation for the University of Kentucky, has not been determined finally for the next two years. Until we have that final action by the General Assembly and the Governor we can not move ahead as we would like to be able to move ahead. It may mean that whatever we are able to do in the way of salary increases will not be determined by the end of the semester. All of that depends on how quickly the special session is scheduled and how expeditiously the House and Senate are able to move through a special session. I don't want to alarm you unnecessarily, but I want to alert you to the possibility that, depending upon the special session and the timing of the special session, we may not be able to make budget decisions and might not be able to know what we are able to do in the way of salaries by the end of the this Spring Semester. Obviously my desire would be to try to get to that done prior to having people leave at the end of the Spring Semester for the summer.

Whatever happens in this budget process in the next few weeks, I want all of you to know that, in my opinion neither the library or any capital project that the University of Kentucky has put forth is looked at negatively by those leaders in both the executive and legislative branches with whom I have worked. There is strong support for this Commonwealth Library, there is strong support for our Engineering initiative, our Agriculture initiatives, our Community College initiatives. But of course we are caught up in the issue of capital construction generally. Just how much and where it will be built and whether the projects will be those determined by the House, determined by the Senate, or determined by the Executive Branch. I want you to know what we will build this Commonwealth Library and in my opinion the next time that capital construction is approved in the Commonwealth, whether it be this week, next week, or at some later date, then I believe our chances our excellent in getting approval for that project and other projects which we have, since these are well documented, the need is determined, and there is strong support both in the executive and legislative branches for that which we are about.

Clearly this year has been in many respects a challenging one for all of us. Challenging in a number of ways. First, the Governor's higher education commission which was established in 1993, which lead to performance based funding, which lead

to some program elimination, which lead to a refinement of the missions of the Institution, was something we had to do. It was something we had to do to avoid further budget cuts. I would do it all over again as I have expressed to you before. It did not of course lead to a process which would have been the one that you would have most preferred, or at least some of you would most have preferred, in that it made it extremely difficult to get the kind of advice, input, discussion into matters such as I would have liked to have seen and I know many of you would have liked to have seen. Clearly as a part of that process our Dental School was under attack.

During this year the operating budget of the University of Kentucky supported by state funds went up one percent. We have had a difficult budget year. As all of you well know, we are dealing with what has been some rather severe damage to this campus as a result of inclement weather we had during the winter. So whether it be damage to our trees, damaged to our shrubs, damage to our infra structure; our roads, our parking lots, our sidewalks we have had damage done during this year which has been rather difficult for us to correct all at once. With this year we have successfully managed these issues, in my opinion. Thanks in large part to you, I think we have successfully managed this year. Because the faculty and staff of this University, your hard work, your dedication, your willingness to go the extra mile have caused us to be able to, generate the kind of support that I need and that we need to take on some of these major issues and concerns.

We have, I believe, resolved the Dental School issue at least for the next two years. We have come up with an arrangement there that I believe can work. We have dodged further budget cuts. A one percent budget increase is certainly better than a decrease, and a two and three percent increase for the next two years, if we are successful in that, is a start back in the right direction. By no means what this institution needs in order to carry out its mission, but it is a start back in the right direction.

In this year there are I think are some indications of the fact that you and we together have successfully managed to handle some challenges that have been put before us and we have seen some successes. We continue to be listed, Jim Applegate reminded me this morning, as a Carnegie One Research Institution, in the latest rankings that came out. All the signs point to the fact that we will have a better academic quality freshman class in the Fall of 1994 than we have ever had before. As you know 1993 was the best that we had. There continues to be a very strong student demand placed on this institution and a demand by a better and better academic quality student every year. Our Graduate and Professional Schools, several of them, have been singled out for successful ratings or rankings by one organization or another during this past year.

In short, the qualitative aspects of this institution that I most want to see and I know you most want to see continue to progress. We are seeing progress in regard to many of those

indicators of quality. If we can see those kinds of measures improve during very tough budget times, when times get to be better financially we should really see some progress. I am really very pleased with what you and what we have been able to accomplish during a time when we could have very well have folded up our tents and said we cannot do anything else until times get better. We haven't done that and you haven't done that. You have been willing to take on whatever serious academic and other issues that have faced us and I think we have demonstrated to ourselves and to our publics that we can take on these major issues that impact higher education in this state and in this nation and that we can handle them successfully, reasonably, with accountability, with responsibility. Without that kind of attitude on the part of the faculty of this institution we would not be making the progress that we are making. We would be using all of our time to be divisive and to argue over issues and concerns and we would not have been making the sort of progress that I think we have been making in 1993 and 1994.

In short, I want to thank you, the faculty of the University of Kentucky for what you have done and what you continue to do. I want you to know that I understand very well the difficulties that you have faced during 1993-94 and assure you that if you are somewhat of an optimist as I am that you will believe and do believe that there will be better times down the road and that your efforts don't go unrecognized either inside or outside this institution. What we would, of course, like to see is to have those efforts recognized by some better level of funding for the state part of our budget from the state. Those areas in which we have some control whether it be the hospital or athletics or federal contracts and grants; to whatever extent we are dealing with parts of the University over which we have some control of the finances, then we are showing good progress, we are making headway, we are bringing in more dollars to try to keep this institution afloat. You are doing that very very successfully.

As a last point let me say that I hope you will remember my feelings about this institution and I hope that they are shared by you. That this should be the principal statewide institution in the Commonwealth. That it is the principal institution for research purposes and it should be and will continue to be and we will develop it as that. That as a priority we have set for ourselves to bring up of the level of excellence of the teaching function in this institution to the point that we feel as comfortable with it as we do with the research success we have had. As a part of that we are focusing on undergraduate, especially freshman and sophomore level instruction and are bringing it to a level of excellence that will make all of us feel very comfortable. That we are continuing our efforts in every way we can to insure that we have computing and information technology that keeps us on the cutting edge and in the forefront of education and research. Computing technology that serves our faculty, our staff, and our students and keeps this institution out in the forefront. That we continue to make strong efforts toward making this a culturally diverse institution. To focus on issues that impact minorities and

women. To continue to make progress every year in creating the kind of climate in the institution that all of us would like to see. Lastly that we do use our resources University-wide, the one University concept that I have talked to you about many times, that we focus on the development of this University and the achievement of our goals by using our resources collectively across the institution, whether they be in the Lexington campus, the Medical Center, or the Community College system. Our strength, I believe is in our faculty, our staff, our students, and the fact that we have some clear vision of where we are going, that we want to see an Institution that is nationally recognized for the quality of its teaching, research, service, and its graduates, and that we don't depart from that. The mission of the institution, the mission of the University of Kentucky is well set, it's well established, it's well documented, and it is defended when necessary. You play such a major role in that; I don't want to miss any opportunity to tell you how much I appreciate that, and how much I sincerely thank you for the responsible way, the very responsible way, that we inside this University collectively address what I think are the major issues that impact higher education in this state and across the nation.

Dan, let me again thank you for your leadership this year. I thank you for the kind of support you have been able to secure from faculty, staff, and administration in carrying out your responsibilities.

The President then opened the floor for questions.

Professor Lance Delong (Physics and Astronomy) asked about the trends for supporting maintenance and operations for new buildings. For example, the situation with robotics, if we get in tight budgetary times, these very large capital projects will the legislature in fact go along with the funding necessary?

President Wethington answered that he hoped was that would take place. In the first biennium, we received funding for roughly one half of what we determined to be the maintenance and operations need for new facilities which have been coming on line during the last year. That is not sufficient, it has never been sufficient, it won't be sufficient. Remember in what context that was done; it was a context in which the state's budget was being cut all across the range. I know that during 1994-1995 we will have a look at formula which generates funds for higher education. By statute we must review that periodically. The current budget does carry some language that indicates that will be done again in 1994-95. As part of the Governor's Higher Education Commission, the Finance Committee part of that, we discussed long and hard as we were talking about performance funding measures, talked about the fact that certain costs have got to be built in to any kind of a funding mechanism for higher education. I am convinced that the performance funding measures approach is going to be revised again and we will have better opportunity for input than we did the first time. During 1994-95, as the formula gets changed, (the other Institutions feel as we do in this regard) certain fixed costs have got to be built into

any kind of a formula funding mechanism. I can't assure you of anything except that issue has been raised and there are other Institutions that feel as we do. Assuming that we do have some better growth in revenue in the next two years that we had in the last two or three, I feel we will begin to see a better approach to funding the maintenance and operation of new facilities. Clearly this current one is inadequate.

President Wethington thanked everyone for coming to the Senate meeting on this rainy Monday afternoon and turned the meeting back over to Chairman Fulks. The President was given a round of applause.

Chairman Fulks thanked President Wethington.

Chairman Fulks said that there were about three weeks left until the end of the semester. He agrees with the President that it has been a very challenging year. There have been lots of opportunities, there has been a lot done during the year. The faculty, the senate, the students, and the Senate Council have done much this year and there is much still to do. The Ad Hoc Committees will be working all through the summer and next fall as well.

The Chair thanked Cindy Todd, who is the glue that holds the Senate Council together and keeps things going, Glifford Blyton, who has added another year onto his 20 years or so as Parliamentarian, Randy Dahl, secretary of the Senate, and Susan Caldwell who has been struggling with the minutes all year, in a year in which we decided to move from hard copy to putting the minutes on View. We have just about gotten that done. The Sergeants at Arms; Jacquie Hager and Michelle Sohner. All the former chairs of the Senate Council have been there when he has called and have been very helpful when needed, that has been a much appreciated crutch. The Chairs of the various Senate committees, have been working as well as the committee members have been working all year, and their work and service to the University is appreciated. The three Ad Hoc Committees, still working and being productive. Finally a special thanks to a couple of groups; the students as always have been refreshing, invigorating, and energizing and tend to remind us why we are here. To all members of the Senate, you have been a great group to work with. It has been a challenging and productive year. Since the last meeting, Professor Gretchen LaGodna has been elected Chair-elect of the Senate Council for the 1994-95 academic year, which means she will take over as Chair of the Senate Council for the 1995-96 academic year. The Senate will be in very capable hands with Gretchen. Professor Ray Cox has been Chair-elect this year, he has been a lot of help this year, on May 15, 1994 he will be taking over as chair of the Senate Council. Professor Fulks then read a quote from Ernest Boyer, from the Carnegie Foundation who said "A college or University must be above all a purposeful community, a place where teaching and learning matter most and if academic concerns are not vitally sustained, if faculty and students do not come together around a common intellectual quest, than all the talk about strengthening community in higher education is simply a diversion". I think we have shown good community spirit here during the year and I hope we will continue do so.

The Chair made the following announcements:

Commencement Day is May 8, 1994, he encouraged everyone to attend. Those who have been there know how exciting it is and will be there again, those who haven't attended need to try it.

There is a new Ad Hoc Committee which will study the University retirement system and retirement incentives. There is a new federal law which says they can stay as long as they want as long as they are tenured. They need to look at what the University is doing to encourage faculty to take advantage of

retirement. They have identified the people they would like to serve on the committee. Professor Chet Holmquist has agreed to chair the committee. He is from the emeritus faculty group. He encourages anyone with input, questions, or things the committee needs to address please contact Professor Holmquist or call the Senate Council office.

As you recall last month the Senate approved the nominations for the honorary degrees and as they did so, they asked for confidentiality in good faith. As many have pointed out to the Senate Council office, two days later there was an article in the Kernel discussing the nominees. That did not escape the Council's attention nor did it escape President Wethington's attention. They did correspond with the Kernel staff. Dan Reedy, John Piccoro, President Wethington and I did. Although the Kernel staff did not choose to respond, Mike Agin, the advisor for student media, responded to them. This was an embarrassing situation. We have decided in the future to call an executive session as they approve honorary degree nominees.

There was some confusion with voting last month. The Senate was hit by surprise with a roll call vote. Most of the confusion centered around who is entitled to vote and who is not. There are several ex officio members of the Senate, some vote and some do not, that changes from one year to the next. If anyone has questions about voting eligibility they should check out Senate Rules 1.2.2.4.

The Chair stated the first item on the agenda was to approve the minutes from the February 14, 1994 meeting. There were no corrections to the minutes and they were approved as circulated.

Chairman Fulks then recognized Professor Ray Cox, Chair-elect of the Senate Council for the first action item. Professor Cox stated there were two changes to the proposal. The first change is the effective date will be August 1994. The second change is under 5.4.2 Commencement Honors, Item 1, there is no such thing now as highest distinction so the strikeover should not even exist. All of item one is essentially new language and a new designation of commencement honors. Professor Cox on behalf of the Senate Council moved approval of the proposed change to the University Senate Rules, Section V, attending the University.

Chairman Fulks pointed out a clarification from the Senate Rules. Students with a minimum of two but less than three years of work at this University, that is students transferring in, should receive the appropriate commencement honors if they obtain a GPA of .2 percentage points higher than these listed. That would not change.

There was no discussion. In a voice vote, the proposal as amended unanimously passed and reads as follows:

Proposed changes to University Senate Rules, Section V, attending the University.

Background and Rationale:

Current Senate Rules concerning graduation with honors make reference to "Distinction, High Distinction, and Highest Distinction." The Senate Council believes that our graduates would be better served if the more commonly used "cum laude" designations were adopted. These designations are more universally utilized by the academic community and, consequently, better recognized and more meaningful.

Proposal: (Delete strikeouts; add underlining)

5.4.2 COMMENCEMENT HONORS

1. Students shall be graduated "Summa Cum Laude" who attain a grade point average of 3.8 or higher for at least three years of work at the University of Kentucky (excepting correspondence study).
2. Students shall be graduated "With High Distinction" "Magna Cum Laude" who attain a grade point average of 3.6 to 3.8 for at least three years of work at the University of Kentucky (excepting correspondence study).
3. Students shall be graduated "With Distinction" "Cum Laude" who attain a grade point average of 3.4 to 3.6 for at least three years of work at the University of Kentucky (excepting correspondence study).

Effective Date: If approved by the Senate, these changes will be effective for August 1994 graduates.

The Senate Council recommends approval.

Chairman Fulks recognized Professor Ray Cox for the next agenda item. Professor Cox recommended approval, on behalf of the Senate Council, of the proposed changes to the repeat options in the University Senate Rules, Section V, Attending the University. The item was circulated under the date of March 13, 1994.

Professor Hans Gesund wondered how this would affect calculation of probation, suspension, and advancement to upper division. All of which depend upon grade point averages. At this time, the student has to make the selection of the repeat option before final exams, under this the student will know exactly what grade he has received. Since the student does not have to exercise the option until graduation, how will this work, when the other calculations have to be made in between. He can see some real problems.

Chairman Fulks said in his opinion it was the student's call to exercise the option whenever he or she wanted to. If the students do not exercise the option until very late, then probation, suspension, and admission to upper division would have to move along with the GPA as is. The student has the control over that. Those would be the consequences of not exercising the repeat option until late. Professor Gesund asked what would happen if the student took the course three times? There is another rule that says only the second time counts. This is meant to make advising easier and clearer.

Professor Dan Reedy (Graduate School) said that since this written primarily for undergraduate students that it did not impact the one repeat only for graduate students. Since pass fail is not an acceptable grade at the graduate level that it does not involve that. In terms of practice he is not opposed to the idea of approval after the fact. He often writes letters asking that the rules be suspended, because it is a problem in advising. Dr. Reedy wanted to be certain that this does not supersede the rules of the graduate faculty on one repeat option. Chairman Fulks answered that it did not.

Professor Louis Swift (Dean - Undergraduate Studies) asked if this meant there could be two separate records out for a particular student who has been certified as meeting certain requirements. How will that be managed? If a student does not graduate, do they simply go by his or her graduation year? If

the student drops out of the University and wants to get something changed on their record are they able to do that? He is more concerned about two sets of records. Chairman Fulks asked why there would be two sets of records? Professor Swift answered that Dr. Dahl had told him there were times when he had to certify that the student meets certain requirements, under certain circumstances the student does, with the repeat option he may not.

Dr. Randall Dahl (University Registrar) stated that in thinking through the proposed change, this could have the effect of altering history for a given student. There is the possibility of multiple, conflicting, valid official transcripts being in circulation simultaneously. The repeat option could be exercised at some time relatively far distant from the time that it actually occurred. There could be two transcripts equally valid at the time of issue, at different places that are in fact in conflict. The other thing has to do with certification. The Registrar's Office, the Financial Aid Office, and other offices on campus, regularly do certifications of student eligibility for various benefits or other purposes. The Registrar's Office does about 10,000 a year. For GPA-based certifications which include such things as both need based and non-need based financial aid and eligibility for VA benefits, a late application for the repeat option to a prior term could result in the erroneous denial of eligibility for benefits to a student. The second type of certifications done are based credit hours, whether it is enrollment status or accumulated credits, in that case with the repeat option applied retroactively, someone could erroneously be certified as eligible when in fact they were not. He is more concerned about denying eligibility to someone inadvertently and about what kind of liability that opens up. There are three areas that come to mind, financial aid being the biggest, veteran's benefits is another, and athletic eligibility, all three of which could have adverse effects on not only the student but also the institution.

Chairman Fulks stated the proposal originated in the Ombud's Office with Horst Schach. There are two former ombuds on the Senate Council and as they were discussing the proposal, there was a lot of support for it from them.

Professor Horst Schach (Ombud) feels they are beginning to create a scenario that does not exist. Most students are inclined to exercise the repeat option as quickly as possible. They all want to better their standing, be it grade points or credit hours. The reason the proposal was submitted in the first place was due to the unfairness that presently is experienced by a student who attempts to go through the repeat option through the retroactive process. The very scenarios that were already mentioned may in fact exist today because some deans give retroactive repeat options and some do not. Some have a series of punishments they make the students go through. That is the reason this was put before the Senate in the first place, the problem going into the situation consists of students who did not get the word as freshmen or part-time students who do not get the Kernel. Dr. Dahl stated there are 1300 repeat options processed a semester. Professor Schach said there are not any figures to say how many people fall through the cracks because not all of them come to the Ombud Office, some simply go to the associate dean and either get satisfaction or rejected and sent to oblivion. There is now a situation where some deans are still giving repeat options, so the scenario posed may already exist. When a transcript or certification is issued it has a date on it. Therefore, it is effective as of that date. Certain things can happen thereafter and a new certification is awarded and it is effective as of that date. He doesn't see how there can be contradictory documents when there is a date on both of them.

Professor Mike Cibull (Medicine) feels the issues raised by Dr. Dahl are legal questions and wonders if it would not be advisable to seek the opinion of lawyers before codifying. He would like to see something done, but if they are going to create a document or rule that cannot be in place legally, then it is a

waste of time. They may need some advice in terms of how to create a document and still conform to the needs of outside organizations such as the Veterans Administration and the NCAA.

Chairman Fulks stated there were two choices, one is vote on the proposal in principle, contingent upon implementation possibilities or the other is to put the proposal off until fall and get legal counsel first.

Professor Bill Lubawy (Pharmacy) stated that the Admissions and Academic Standards Committee talked about this for two fairly extensive meetings. The proposal was turned down unanimously by this group. The reasoning was that most people on the committee felt that when the repeat option had originated, they seemed to recall that the repeat option had initially to be exercised the first day of class and somewhat later on it was changed to the middle of the semester and finally changed to the end of the semester. The committee felt that sometimes students have to own up to some type of academic integrity and responsibility. This proposal allowing the change to occur after the fact essentially amounted to comparative shopping. You wait around and see what goes on, repeat a few classes and pick out the best classes near the end. No one is against academic shopping, you take the class, you try your best, you satisfy your options, and you live with it. You didn't come back after the fact and try to do things. Another issue that came up is the fact that this is really an advising problem. Some students do not get the word they are supposed to exercise the repeat option. It seems strange to fix an advising problem by changing a senate rule. Maybe there is no other way around it. A third issue is the fact there are somewhere around 1200 to 1300 of these filed every semester, each require a student advisor interaction. Obviously, 1300 people get it right. Most of the people in the committee felt that if this change took place, if all students have the option of exercising these things at the end then more and more students are likely to do that. In fact why would they exercise it at any other time unless the student needed certification. As long as they didn't need them everyone would keep them until the very end. If you can do that there is no reason to have advisor student interaction all along during your academic career that they would hope to see. Somewhere along the line the students have to accept some responsibility for being at the University and for functioning. The Committee did not like the fact that these were unfairly distributed. The Committee feels there are other ways to fix this other than changing the rule.

Professor Enid Waldhart (Communications) feels it is in the student's best interest to activate a repeat option as soon as possible. The type of scenario that is being suggested here might happen. In terms of numbers, it is always going to be in the student's benefit to get rid of a grade that wasn't helpful. No one is being hurt by allowing some people flexibility, the ones who didn't get the advice for whatever reason. It allows them to go back and make some corrections that may make a significant difference for those people. It seems to be worthwhile to do that. There will probably continue to be the same number of repeat options exercised every semester, it doesn't seem there will be lots more or less. For the few people who may be saved from this it seems they are not hurting anyone by adopting this proposal.

Professor Bill Lubawy said that one question that did come up that they were unable to address very well was is the primary problem that students claim they did not realize they had to file a repeat option? Are they coming in after they realized it? Professor Horst Schach stated that is the case for the students they see in the Ombud office. However, there are probably 200 or 300 hundred that due to their respective associate dean that they do not see. There is a tendency to look at the sort of marginal student, most of the students will exercise the repeat option as quickly as possible because it is to their advantage. However, if a student has not had a great need to exercise the

repeat option and nears their junior or senior year and becomes more interested in the aspect of higher education, perhaps going to graduate school, and at some last semester they decided to go through a repeat option to try to better their status, it seems we have been successful. They are now thinking about their curriculum and they are taking a more active initiative. We are giving the students these three trump cards and all they are saying is to let them play when they are needed. He doesn't feel that students will stash them away and use them at the last minute. Most students who are marginal, who may need to get off probation, will exercise them as soon as possible.

Question was called. The motion to end debate passed.

The Chair stated they would vote on the proposal as written and make it contingent upon getting it cleared with legal counsel to make sure there are no problems.

The proposal passed in a voice vote and reads as follows:

Proposed changes to University Senate Rules, Section V, Attending the University.

Proposal: (Add sections in bold and underlined; delete strike-overs.)

- 5.3.1.1 A student may have the option to repeat once as many as three different courses which have been completed with only the grade, credit hours and quality points for the second completion used in computing the student's academic standing and credit for graduation. A student may also use the repeat option when retaking a course on a Pass-Fail basis (provided the course meets the requirements for being taken Pass-Fail), even though the course was originally taken for a letter grade. If a failing grade (F) is earned on the second attempt, the original grade will continue to be used in calculating the gradepoint average and the second attempt shall constitute exhaustion of one of the student's three repeat options under this provision.

A student exercising the repeat option must notify in writing the dean of the college in which the student is enrolled no later than the last day of scheduled classes in the semester in which the repeat is exercised. Students may exercise the repeat option in summer session any time prior to the scheduled time for the final examination. A student may exercise the repeat option at any time prior to graduation.

If a student officially withdraws . . .

Background and Rationale:

This revision is proposed by Prof. Horst Schach, Academic Ombud. Each year the Ombud's office is involved with numerous cases concerning students who have not followed the appropriate procedures in exercising their rights to the repeat option. Many more are turned away at the college level and do not seek assistance from the Ombud. Most of these cases involve freshmen and sophomores who simply do not understand that they must file within a specific time frame.

The repeat option provisions were initiated to provide students a 'second change' in three courses. Over the years, the mechanics have been changed several times. At present, it is likely that a large percentage of faculty are not aware of the proper procedures. Allowing students to exercise their three options at any time during their academic careers is the best manner in which to meet the spirit of the provision without excluding some students on a "technicality".

In part, the unfairness to students arises because each college views hardship cases differently. Some college representatives are less tolerant than others in waiving the deadline and allowing a retroactive repeat option. In addition, the repeat option deadlines are often overlooked by academic advisors in conference with the students.

The University Senate Council recommends approval of this proposal.

Effective Date:

If approved, the revision would be codified by the Senate Rules Committee to be effective with the Summer 1994 term.

Chairman Fulks then introduced Professor Cox for the last action item.

Professor Cox thanked Professor Fulks for his support and encouragement. He looks forward to working with the Senate next year.

Professor Cox on behalf of the Senate Council moved approval of the proposed policy for extending the probationary period for faculty. The items was circulated under the date of March 31, 1994.

The Chair stated that the Academic Counsel of the Medical Center came forward with a proposal very similar to this one approximately two years ago. The Senate Council passed it on to the President and he rejected it. After the Family Medical Leave Act (FMLA) was passed the President came back and agreed to reconsider this issue. A work group was formed to submit a proposal and at the time they submitted it to the President he said he was interested in implementing FMLA and not interested in formulating a new policy outside the FMLA. As a result of that attachment to the FMLA, if faculty file a claim under FMLA they can also at that point request an extension of the probationary period. The extension is six months. Currently there is an option to request an additional extension of another six months. The President has verbally agreed to change that portion of the AR to read one year, rather than requesting six months twice. There are some problems with the AR concerning FMLA. The Work Group, with approval of the Senate Council and the Ad Hoc Committee chair by Sheldon Steiner is looking into various tenure promotion issues would rather not have to file a claim under the act in order to request the extension of the probationary period. There are two other differences in this proposal and what is in the AR. The first is the proposal includes partners; the AR with the Act does not include partners. There is a definition of partners in the proposal. There is also a question of what happens under the act if there is need to file a claim during the summer months, when technically they are not under contract. T. Lynn Williamson, Juanita Fleming, and Nancy Ray have assured them they can write an interpretation of the AR to cover summers. That is why this proposal is being brought forth, because of the differences between what they have and what they want.

Professor Hans Gesund said that he saw a legal problem on the second page of the cover letter under Issues, number 2, the last four lines "the attached

recommendation would permit the faculty member to continue to perform his or her duties during the time of the qualifying event". What they are doing is saying that the faculty member can continue to perform duties and presumably draw full pay at the same time the faculty member is not making progress towards tenure. Therefore, for some reason the faculty member is apparently not producing papers or proposals. They could then be accused of paying someone full-time who really is not working full-time, who is taking part of the work time that would normally be producing papers and proposals towards promotion and using that for care of old people who's problems qualify for that care. That could put the University in a legal situation because they would be spending taxpayer money on salaries and the taxpayer would not be getting the full-time effort of that faculty member as we are saying, we are excusing them from meeting that six-year rule. Also on the Procedures, C.1. where it reads "faculty members who experience an event listed in B.1 to 6 above must give written notice of its occurrence to their dean by the last day of the fifth year of their probationary appointment period". Which means that a colleague of his who's wife had a baby who is now coming up for tenure next year and doesn't have quite enough papers to probably make it, the baby was born four years ago during his first or second year here. Now he suddenly says that his wife having the baby kept him from providing sufficient papers for proposals and I need another year. Professor Gesund doesn't feel this is right. He would make an exception if the woman herself was a faculty member who had a baby. He believes the individual requesting leave of this nature should provide notification within a year, and that this is something that should be considered

Chairman Fulks stated this had been discussed with Legal Counsel. That particular provision is really no different from what they had. Under the act, you can file a claim and do with your time what you want. You can file a claim under FMLA and keep on working.

Professor Carolyn Bratt (Law) stated it would be illegal if it was only extended to women and not men. In terms of creating some type of situation where there are illegal expenditures of state money, most of the major research one universities that were identified with these types of policies in place, this is based on a model drawn from what they found, no one else perceives this as being a legal problem. They were trying to set up a situation where faculty members could continue to work; meet their classes, advise their students and not have to take FMLA leave and be absent from work, therefore requiring that someone be hired to come in and teach the classes and advise the students. Recognizing that this is probably going to work to the detriment of their researching but not to those other things. There was a dean on the work group who was supportive of that idea, that they want to have faculty members come to work, not forcing them to take FMLA leave to qualify for an extension. Chairman Fulks stated that Professor Bratt was a member of the work group.

Professor Lance DeLong said that most junior faculty are not overly paid and certainly have to work more than a forty hour week. If you are working substantial overtime and you are not overpaid this is a reasonably straight forward compromise.

Professor Hans Gesund stated they are still getting full pay for part work. Chairman Fulks said he didn't think so, the dean would see to it that they didn't get paid for not doing the job.

Professor Don Howard (Literature and Philosophy) said he was generally supportive of the policy and especially of the effort to have the language for the definition of partners. He wonders if it goes far enough in that direction, specifically in concern of the interpretation of the language faculty members child in B - 1, 2, 3, and 4. It does not cover a nontraditional relationship where the child is a biologically adopted child of the partner who is not the UK

employee. This might need to be rewritten to include the language "or partner's child" to make it inclusive in that sense as well. He would like to make that a motion to amend. The motion was seconded.

The amendment to add "and partner's child" wherever the proposal says "faculty member's child" passed in a unanimous voice vote.

Professor Suketu Bhavsar (Physics and Astronomy) was concerned about other people who might be excluded. He assumes that the part that says "would not be prevented from marrying that person under Kentucky law" is a legal requirement. This would exclude gay couples where a partner had died. The other exclusion is suppose there is some other relative who is a dependent living with the person, they would be excluded also.

Professor Bratt stated it was written specifically so that the only things that would disqualify would be if you can't marry in Kentucky because you are under age, you stand in too close a blood relationship to the person, or are currently married to someone else.

The motion was made to add "legal dependent" to the list of persons under B 4. The motion was seconded and passed in a voice vote.

Chairman Fulks said the Senate was being asked for full Senate endorsement of the proposal that will be sent to the President for his consideration as a new Administrative Regulation. The amended proposal passed in a unanimous voice vote and reads as follows:

The attached proposal is offered by the Senate ad hoc Committee on Promotion, Tenure, and Merit Review Issues, chaired by Professor Sheldon Steiner. The proposal has been endorsed unanimously by the Senate Council, which now requests the endorsement of the full Senate. If such Senate endorsement is received, the recommendation will be forwarded to President Wethington for his consideration and appropriate administrative action.

Background:

This proposal closely parallels two earlier recommendations submitted to the University Administration. On September 30, 1992, the Senate Council submitted to President Wethington a proposal which was initiated by the College of Medicine and supported by the Medical Center deans. This proposal called for the extension of the probationary period for a maximum of one year, at the request of the faculty member, when he or she became either a biological or adoptive parent. The proposal was supported by the University chapter of the AAUP but was rejected by President Wethington.

Upon passage of the federal Family Medical Leave Act (FMLA) in the Spring of 1993, Wethington invited the Senate Council to reconsider the issue and submit a second recommendation which could be considered in conjunction with the implementation of the Act. The Work Group organized for that purpose submitted a proposal, almost identical to the attached recommendation, in December of 1993. Although the Administrative Regulation ultimately issued makes some provision for extension of the probationary period in conjunction with official leave under the FMLA, several significant differences exist between what is included in the AR and what was recommended by the Work Group. The ad hoc committee and the Senate Council believe these differences are substantial enough to warrant this current proposal.

Issues:

The Administrative Regulation regarding implementation of the FMLA is deficient in the following areas:

1. The AR provides for an extension of 26 weeks. The faculty member could then request one additional extension of the same length. The attached recommendation calls for a one year extension, unless the faculty member specifies a shorter extension.
2. The AR requires that the faculty member actually apply for and take leave under the ACT in order to request the probationary period extension. The attached recommendation separates the two issues and does not require that leave be taken. The Senate Council believes the attached proposal is an improvement in two respects. First, the provisions of the FMLA are needlessly complicated and cumbersome to apply. Second, the attached recommendation would permit the faculty member to continue to perform his or her duties during the time of the qualifying event. Being provided leave time is of less importance than the extension of the probationary period.
3. The attached recommendation provides for the inclusion of partners, who are excluded by the AR. The Council believes exclusion of partners is discriminatory is contrary to the University's non-discrimination policies.

The Senate Council requests your endorsement of this proposal before forwarding it to President Wethington.

UK UNIVERSITY SYSTEM
POLICY FOR EXTENDING THE MAXIMUM PROBATIONARY PERIOD
FOR FACULTY

A. POLICY

Tenure-track members are entitled to a one-time extension of their probationary period of twelve months beyond the date given on their original Notice of Primacy Academic Appointment and Assignment if they satisfy the requirements set out in this policy. If requested by the faculty member and approved by the appropriate dean, the extension may be granted for less than twelve months. Faculty members whose requests for extension are approved should not be expected to present a record of accomplishments greater than that which should be expected for a probationary period of a normal length.

B. EVENTS ESTABLISHING ELIGIBILITY

Faculty members are eligible to receive a one-time extension of their probationary period if one or more the following events occurs:

1. Birth of the faculty member or partner's child or the care of the faculty member or partner's newborn child;
- 2 Placement with the faculty member or partner of a child for adoption;
3. Placement with the faculty member or partner of a child for foster care;
4. Care of the faculty member or partner's spouse, partner, child, parent, or legal dependent with a serious health

- condition lasting six or more weeks; or
5. Serious health condition lasting six or more weeks.
 6. Extenuating circumstance(s) beyond the faculty member's control that severely impede the faculty member's professional development.

C. PROCEDURES

1. Notification of the Occurrence of an Event Establishing Eligibility
 - a. Faculty members who experience an event listed in B.1 to 6. above must give written notice of its occurrence to their dean (with an informational copy to the appropriate division chairperson) by the last day of the first year of their probationary appointment period. Failure to give such notice may be excused by the appropriate chancellor/vice president upon a showing by the faculty member of a good reason for the failure to comply.
 - b. The dean must notify the faculty member in writing within 45 days of receipt of the faculty member's notification whether or not the faculty member has established her or his eligibility under this policy. If the dean determines that eligibility has not been established, the dean must include the reasons for that determination.
 - c. The faculty member has 45 days from receipt of the dean's ten notice of a negative determination to file a written appeal of that decision with the appropriate chancellor/vice president. The chancellor/vice president must notify the faculty member in writing of her/his determination and the reasons for that determination with 45 days of receipt of the faculty member's appeal.
2. Notification of Intent to Extend the Probationary Period
 - a. Once a faculty member has received notice from the appropriate dean or chancellor/vice president that eligibility has been established under this policy, the faculty member may elect to take the one-time extension of her or his probationary period.
 - b. The faculty member must file a written notice of intent to elect an extension of the probationary period with the dean (with an informational copy to the appropriate department chairperson) up to, but no later than, the last day of the fifth year of the probationary period. Failure to give such notice within the time period stipulated in this policy may be excused by the chancellor/vice president on a showing by the faculty member of an exceptional reason for the failure to comply.
3. Simultaneous Filing of Notices

The faculty member may simultaneously file the notice of

intent to extend the probationary period described in c.2.b. and the notice of the occurrence of an event establishing eligibility for extending the maximum probationary period described in c.1.a.

Partner Definition: For purposes of this policy, the partner of a faculty member is the person with whom the faculty member lives in the same household and shares the common resources of life in an intimate relationship of at least six (6) months duration as long as the faculty member would not be prevented from marrying that person under Kentucky law on account of age, consanguinity, or a prior undissolved marriage to another person.

Chairman Fulks said there had been some recent developments in both Open Meetings and Open Records. The Senate Council is going to summarize some of that and distribute. There were some copies available today.

Professor Bill Lubawy stated the Admissions and Academic Standards Committee is recommending the University change from a quality point deficit system to a straight GPA to determine academic standing (probation and suspension). There is no specific recommendation at this point but the committee wants to make the Senate members aware of that and during the summer they look at implications for their colleges. A note will be going around to the deans indicating that and the topic will be brought up in the fall when there is an idea of the implications. Chairman Fulks said there would be circulations from Professor Lubawy's committee and other information on moving in that direction.

The meeting was adjourned at 4:27 p.m.

Randall W. Dahl
Secretary, University Senate

