

**Regular Meeting of the University Senate**  
Manchester Center, Hazard Board Room  
October 12, 2006

**Attendance**

*Law:* Lazerow, Chair; McGowan

*Arts & Sciences:* Branch; Guerrieri; Jubran; Lewis; Moran; Nadkarni; Otto; Pachence; Pierson;  
D. Sullivan; Tsomo

*Business:* Gin; Schubert; Sumner

*Education:* Low

*Nursing:* Clark

*Ex-Officio:* Allen; Cordeiro; Hardin; J. Sullivan

*Student Representatives:* Jones; Miranda; Vincent

*Guest:* Dobkin; Douglas; Herrinton; Pogue

Lazerow opened the meeting at 12:15 p.m.

**1. Announcements**

**A. Comparative faculty compensation.** President Lyons will forward the Senate's resolution on comparative faculty compensation to the Trustees for Board subcommittee review.

**B. Honorary Degree form.** President Lyons has indicated that the Honorary Degrees policy will be reviewed as part of the program of policy review, and she has suggested that the Senate's proposed Honorary Degree form be considered in that context. She also noted that the proposed form calls for reports covering some but not all of the criteria for honorary degrees.

**C. Reports of Trustees committee meetings.** The reports of the Board's Athletics Committee and Academic Planning Committee by Senate representatives Moran and Imstone, respectively, were distributed with the meeting agenda. Senate representative Gin distributed his report of the Finance Committee.

**2. Approval of the minutes of Sept. 28, 2006**

Motion by Lewis, seconded by Branch to: APPROVE THE MINUTES OF SEPTEMBER 28, 2006, AS DISTRIBUTED BY HARD COPY.

Vote: Passed by voice vote.

**3. Committee reports**

**A. Executive Committee: Committee appointments.** The Executive Committee moved the approval of appointments to Senate committees, Board of Trustees committees, and University task forces (attached to agenda), with the inclusion of Lewis to the Jurisdiction Committee and DeRoche to the Honorary Degrees Committee. Lazerow noted that the Budget Committee needs an additional member.

Motion by Clark/D. Sullivan to: APPROVE THE COMMITTEE MEMBERS AND APPOINTMENTS.

Vote: Passed by voice vote.

**B. Executive Committee: Policy Manual, Vol. I** (distributed with agenda for the Sept. 9, 2006, meeting; supplement attached to Oct. 12 agenda). Lazerow, noting that the material in sections 1.2 – 1.3 and 1.5 – 1.6 are reproduced in the current online *Manual* as sections 1.1.1 – 1.1.2 and 1.1.6 – 1.1.7, stated that the last sentence of the penultimate paragraph of section 1.1 is incorrect. The final two sentences as proposed (and approved by the Cabinet) read:

Unless compelling reasons require otherwise, all proposed changes to the

*Policy Manual*, including the adoption of new policies and the amendment, rewording or deletion of current policies, must be submitted to the Senate prior to their adoption or implementation. Senate concurrence is required before the President can make changes to policies that fall within the Senate's constitution jurisdiction.

Senate concurrence is not in fact required according to the Senate Constitution. The procedure set forth in Article VIII(3) of the constitution is more complicated than that. The Executive Committee recommends that this inaccuracy be addressed by substituting the following for the last sentence of the penultimate paragraph of Policy 1.1: "Such changes shall be made only pursuant to the procedure set forth in Article VIII(3) of the Senate Constitution."

Motion by Clark/Low to: AMEND VOLUME 1 BY SUBSTITUTING THE FOLLOWING FOR THE LAST SENTENCE OF THE PENULTIMATE PARAGRAPH OF POLICY 1.1: "SUCH CHANGES SHALL BE MADE ONLY PURSUANT TO THE PROCEDURE SET FORTH IN ARTICLE VIII(3) OF THE SENATE CONSTITUTION."

Herrinton stated that the amendment creates two problems. First, the Senate loses the reference to concurrence, a function the President has approved. Second, the Senate currently deals with proposed policy changes by first determining if it has jurisdiction. If it is determined that the Senate does not have jurisdiction, then the item does not come before the Senate. The amendment calls for every proposed policy to come before the Senate regardless of jurisdiction.

Pachence said that the Senate and the President approved a policy that all policy changes come before the Senate's Executive Committee to determine jurisdiction and whether it will come before the Senate for consideration. Herrinton said that procedure is prohibited by the amendment, which calls for all proposed changes to come to the Senate floor, and therefore the Executive Committee will no longer have authority to determine that the Senate doesn't have jurisdiction over a given proposal. Pachence said he didn't know if the original wording – that "Senate concurrence is required before the President can make changes..." – is correct. Herrinton said that although concurrence isn't required by the Constitution, it is the current agreement between the Senate and the President. The question is to stay with the current agreement or refer to the Senate Constitution.

Douglas stated that, amended or not, the paragraph states that all policy changes must be submitted to the Senate. The issue for the Senate is to determine which policies need to comply with the procedures outlined in the Senate Constitution. As she reads the Senate Constitution, these would only be those policies that are within the Senate jurisdiction.

Pachence recommended taking the sentence out because it isn't entirely accurate. Everything is in place to safeguard the role of the Senate. Douglas responded that there is an enhanced procedure to follow for policies within the Senate's jurisdiction. The question is whether the enhanced procedure should be applied to policies outside the Senate's jurisdiction.

Lazerow said the Executive Committee didn't intend to change the existing procedure and it was their perception that the policy as proposed did change the existing procedure. Their intention was to go back to the existing procedure and note that the existing procedure is contained in Article VIII(3), Sec. 3 of the constitution.

Motion to amend by Clark/Pachence to: CHANGE THE AMENDMENT TO READ: "SUCH CHANGES SHALL BE MADE ONLY PURSUANT TO THE PROCEDURES SET FORTH IN THE SENATE CONSTITUTION."

Clark said taking out the reference to section VIII(3) leaves questions of Senate jurisdiction over proposed policy changes to the Executive Committee.

Herrinton said the amendment doesn't help because Article VIII(3) is the only place in the constitution that pertains to Senate procedures on proposed policy changes.

Vote: 5 – Approve; 5 – Oppose; 13 – Abstain. The amendment failed.

Motion to amend by D. Sullivan/Hardin to: CHANGE THE AMENDMENT TO READ “SUCH CHANGES TO POLICIES WITHIN SENATE JURISDICTION SHALL BE MADE ONLY PURSUANT TO THE PROCEDURES SET FORTH IN ARTICLE VIII(3) OF THE SENATE CONSTITUTION.”

D. Sullivan said that because the Senate may not have grounds to demand that its concurrence be obtained for proposed policies it deems to be within its jurisdiction, section 1.1 should at least be consistent with the Senate Constitution.

Vote: 17 – Approve; 3 – Oppose; 2 – Abstain. The motion passed.

Vote on motion as amended: 13 – Approve; 7 – Oppose; 1 – Abstain. The amended motion passed.

Vote on Volume 1 of the *Policy Manual* as amended: 22 – Approve; 0 – Oppose; 0 – Abstain. The motion passed.

**C. Executive Committee: Policy Manual, Vol. 2.** The parts of this volume before the Senate for its consideration relate to the policies on FERPA and Reasonable Accommodations for Disabled Persons (attached).

Lewis said that there is some dissent within the Senate and within the College about the appropriateness of USD adopting FERPA.

Vote: 19 – Approve; 1 – Oppose; 1 – Abstain. The motion passed.

#### **4. Report health insurance options for 2007**

Lazerow introduced Gregory Pogue, Associate Vice President for Human Resources. Pogue discussed the open enrollment period and USD's benefits renewal negotiations with medical providers. Pogue said that HR and USD's consultant, Derek Culligan, Gallagher Benefit Services, have been exploring health insurance options in large part because the renewal bid for 2007 from Blue Cross was 37% above 2006 premiums. The 2006 USD claims cited by Blue Cross that led to its increased rates included 33 individuals with \$10,000 or more each in claims totaling \$1.2 million. Of USD's 1,500 benefits-eligible employees, 531 opted for Blue Cross coverage. Given what in the health insurance industry is a small pool of participants, such a “spike” in claims precipitated a large renewal cost increase.

Human Resources sought bids in May from health insurers and began investigating the feasibility of joining a larger consortium pool, discovering that the only pool option is RETA, a consortium chiefly composed of dioceses in California. HR received bids from Healthnet and Blue Shield that would increase premiums by about 20%; joining RETA would raise premiums by 7%. Because RETA renews on July 1, health plans would run for 18 months, from Jan. 1, 2007, to July 1, 2008. The difference between the 7% RETA increase and the 37% increase from Blue Cross over 18 months works out to about \$2 million in savings.

USD is increasing its employee contribution from \$280 to \$330 per month no matter which option is chosen.

Derek Culligan from Gallagher Benefit Services briefed Senators on RETA and the prospect of USD joining this consortium as soon as January, 2007. RETA, an acronym likely to have originally referred to teachers and religious education, has 29,000 members across 35 organizations, mostly dioceses and religious orders. In operation for more than 30 years, RETA has about \$42 million in reserves. The large number of members accounts for RETA's 7% increase in premiums this year – a figure substantially below industry percentage increases, which have averaged in the low- to mid-teens. The 7% rate increase also trends those from the past three years, as is illustrated in the following chart:

RETA rate increases for:	2004	2005	2006
Blue Cross	2.6%	9%	9.2%
Pacific Care	2.5%	12%	-2.5%
Kaiser	-2%	1%	1%

Comparatively, USD's Blue Cross increases for 2004, 2005, and 2006 were 8.6%, 10%, and 9.6%. If USD joined RETA, all 1,500 benefits-eligible USD employees would move to RETA plans, which are similar to what is offered now. RETA offers Blue Cross PPO and Pacific Care HMO, and its Kaiser plan is almost identical to that offered by USD now. Example comparison rates are as follows:

- Current Blue Cross PPO plan, 2006, single employee: \$58.14 month
- RETA Blue Cross program, 2007, single employee: \$36.44
- RETA Pacific Care HMO, 2007, single employee: \$25.24
- If USD stays with Blue Cross, 2007, single employee: \$139.00

One significant difference between current coverage and RETA is that RETA doesn't pay for contraceptives or family-planning procedures. The total paid for oral contraceptives in 2005 for USD employees with Blue Cross was \$11,300.

Senators raised the following issues and concerns:

- What reproductive assistance procedures will and will not be covered by RETA?
- Could the \$42 million that RETA has in reserves that are considered assets be targeted in a diocesan law suite?
- Could conditions of the plan change based on what the Church terms is acceptable? At what point could RETA tell USD there are other benefits USD employees may or may not be eligible for?
- The RETA plan could have disastrous results in terms of recruitment of good faculty and staff at all levels.
- With regard to Title VII liability for sex discrimination, USD is, compared to diocesan employers, aligned differently with regard to Catholic doctrine, the ability to claim Catholic religious exemptions, and claims to BFOQs under Catholic religious exemptions. USD's religious exemption is far weaker because USD has many non-Catholics.
- What potential liability for sex discrimination might USD face given that, under current doctrine, it counts as sex discrimination if provisions of benefits discriminate against potentially pregnant people?
- Senators suggested that HR and the University obtain specialized legal advice in determining whether to join RETA.

- Joining RETA could send a message to employees and potential employees that is received negatively.
- Going with a large consortium has advantages, but it doesn't preclude the University from providing some assistance for reproductive services. The University could provide assistance of \$11,000 for contraception and for in-patient procedures, such as tubal ligation and vasectomies.

Motion by D. Sullivan/Low: "First, the Senate expresses its concern with the RETA plan, given the particular issues with the plan expressed by Senators, and, second, the Senate requests that Human Resources look into developing a sub-plan as a way to compensate people for expenses that were previously covered but would no longer be covered under RETA."

It was noted that the Finance Committee of the Board of Trustees reported that the University has almost an \$18 million surplus.

Vote: 19 – Approve; 0 – Oppose; 1 – Abstain. The motion passed.

The meeting adjourned at 1:47 p.m.

Submitted by,

David Sullivan  
Secretary

Peggy Agerton  
Recording Secretary