

MINUTES OF MEETING OF BOARD OF REGENTS
WESTERN KENTUCKY UNIVERSITY

June 7, 1972

A special meeting of the Board of Regents of Western Kentucky University was held on Wednesday, June 7, 1972, at 2 p.m., CDT, in the Regents Conference Room, Administration Building, on the Western campus. Vice Chairman Dr. W. R. McCormack presided.

The meeting opened with a prayer of invocation by Dr. Paul B. Cook, Assistant to the President.

Dr. W. R. McCormack, Bowling Green, and Mr. Albert G. Ross, Campbellsville, having been reappointed to 4-year terms by Governor Wendell H. Ford, qualified as members of the Board of Regents by taking the Constitutional Oath, which was administered by Miss Georgia Bates, Notary Public for the State of Kentucky and Secretary for the Board.

The following members were present:

Dr. W. R. McCormack
Dr. Coy E. Ball
Dr. Lowell H. Harrison
Mr. W. S. Moss, Jr.
Mr. Albert G. Ross
Mr. Joe L. Travis

Absent were Chairman Dr. Lyman V. Ginger and Mr. Hugh Poland.

Also present, in addition to Dr. Cook and Miss Bates, were Dr. Dero G. Downing, President; Dr. Raymond L. Cravens, Vice President for Academic Affairs and Dean of the Faculties; Dr. John D. Minton, Vice President for Administrative Affairs; Mr. Harry K. Largen, Vice President for Business Affairs and Treasurer; Dr. Kelly Thompson, President Emeritus of Western and President of the College Heights Foundation; and Mr. William E. Bivin, University Attorney and Director of Legal Area Studies. Miss Linda E. Jones, immediate past student regent, was also present at the invitation of Chairman Ginger, with the invitation having been extended at the request of President Downing to both Miss Jones and to Mr. Ed Jordan, President of the Associated Students, to attend in an unofficial capacity.

The minutes of the regular meeting held on April 19, 1972, were presented by the Vice Chairman. Mr. Travis moved, with a second by Mr. Ross, that the minutes be adopted without a reading inasmuch as copies had

been mailed to the members and were found to be in order. The motion carried unanimously.

The reorganization of the Board followed, necessitated by the re-appointment of Dr. McCormack and Mr. Ross. Mr. Travis moved the reelection of Dr. McCormack, Miss Bates, and Mr. Largen as Vice Chairman, Secretary, and Treasurer, respectively. The motion was seconded by Mr. Ross and carried unanimously.

In the reorganization of the Executive Committee, Mr. Ross nominated Dr. McCormack, Chairman; Mr. Travis and Mr. Poland for reelection. The motion was seconded by Dr. Ball; and there being no further nominations, the motion carried unanimously.

The 1972-73 Operating Budget in the amount of \$25,658,383, copies of which had been mailed to the members on June 2, was presented for the consideration of the Board. In the President's comprehensive statement and summary of the document, he stated that "through a process of review and evaluation, this budget is recommended as one which will best provide the educational programs to which the University is committed while meeting the continued rise in fixed costs and providing salary increments approximating the increase in cost of living." He also stated that of the total budget, \$21,217,483 represented the general fund operating budget, with the balance budgeted for retirement of bonded indebtedness and for capital improvements. Exhibits were distributed by Vice President Largen which reflected the (1) source of funds for all functions in the budget, (2) recommended expenditures for all functions, (3) sources of operating funds for the general fund, and (4) uses of operating funds by function for the general fund. In the discussion which followed, Mr. Largen and his staff were commended by the Vice Chairman for the excellence which characterized the document.

Upon the recommendation of the President, Mr. Moss moved the adoption of the 1972-73 Operating Budget. The motion was seconded by Mr. Ross; and there being no further discussion, the vote was as follows:

Aye: McCormack, Ball, Moss, Ross, Travis

Nay: None

The next item on the agenda was a series of reports and recommendations to the President from the Vice President for Academic Affairs and Dean of the Faculties, all of which were the culmination of careful deliberation by the appropriate academic officers, University committees, and University councils. The report, having been distributed to the Board, follows in condensed form:

1. Report on Student Academic Complaint Procedures

Upon the recommendation of the Academic Council, the University is in the process of establishing Academic Complaint Committees, composed of administrators, faculty members, and students at both the University and College levels. The purpose of these committees is to provide officially for students an avenue of complaint for grievances of an academic nature. The intent of the committees is to guide students through the normal channels and to guarantee that all doors necessary for communication and the reaching of mutually acceptable solutions will be open. The complaint procedures are in no sense to be construed as a convenient means for publicizing problems; rather, they are to be interpreted as guidelines for alleviating problems in an orderly fashion.

2. Report on the College-Level Examination Program (CLEP)

A committee appointed as an ad hoc committee of the Academic Council met weekly during the 1971-72 academic year to examine, discuss, and evaluate various concepts and approaches to proficiency testing. The committee's recommendations, approved by the Academic Council, provide for the adoption by Western of the College-Level Examination Program (CLEP) as a means whereby students may establish credit toward graduation. Western will also accept and grant credit for courses completed by high school students under the College Entrance Examination Board's Advanced Placement Program.

The objective of this proficiency testing program is to help students gain recognition for what they know and can do irrespective of how, where, and when they obtained their knowledge. Proficiency testing at Western is designed for both exceptional students who enter college after having been out of high school for a period of time and for exceptional students who enter college immediately after high school.

Another feature of Western's proficiency testing plan provides for special faculty developed tests to be given by university departments on courses of study included in the general education degree requirement category. Also, departments may substitute local tests for the CLEP examinations.

3. Direct Transfer Admissions Program with Midway College

Similar to the program in existence with Lindsey Wilson College, this transfer program with Midway is proposed to become effective September 1, 1972. The following agreement between Western and Midway College gives details:

DIRECT TRANSFER PROGRAM

Western Kentucky University - Midway College

- I. Students enrolled in good standing at Midway College may be admitted to Western Kentucky University through a direct transfer.
- II. A student entering the University under the Direct Transfer Program must be a graduate of Midway College, be recommended by an appropriate official of that institution and must in all other respects be eligible for unconditional admission to Western.
- III. The following privileges shall be extended to students admitted under this program:
 - A. Simplified admission procedure shall be available.
 - B. Students shall be eligible for the same academic privileges and honors as regular four-year Western students.
 - C. Eligibility for housing and financial aid shall be the same as for regularly enrolled students.
 - D. Students shall be extended Western Kentucky University Library privileges.
- IV. Admission to the Direct Transfer Program may be made after successful completion of one semester of residency at Midway College and must be made before mid-term of the last semester in residence prior to graduation from Midway College.
- V. The Direct Transfer Program will become effective September 1, 1972.

4. Recommendations from the Academic Council

a. Master's Degree in Library Science

The Department of Library Science has offered a major in Library Science under the Master of Arts in Education Degree for two years. The Master of Science Degree in Library Science would build upon this foundation and would provide an additional option for those students desiring to do graduate work in this field. Resources and personnel for this program are available.

b. Master's Degree Program in Folk Studies

For many years Western has had a distinctive academic program at the undergraduate level in the area of Folklore. This program has grown to the point that Western has become the Folklore Center for Kentucky and has a national prominence in this subject field. The graduate program in Folk Studies is based upon very strong resources and in addition to the regular Master of Arts Degree will also provide opportunities for students to minor in Folk Studies under the Master of Arts in Education Degree.

c. Programs for the Certification of Vocational Administrators and Health Occupations Teachers

Western's Center for Career and Vocational Teacher Education has proposed programs requested by the State Department of Education to help train vocational administrators and health occupations

teachers. The Bureau of Vocational Education, State Department of Education, will provide full financial support for the initiation of the professional education program for the certification of health occupations teachers.

d. Associate of Arts Program in Medical Secretarial Administration

The wide range of health services being offered now and projected for the future will greatly increase the demand for qualified medical secretaries. This new program will offer an opportunity for secretarial science students to specialize in the area of medical secretarial administration at the associate degree level. Courses and faculty members required for this program are available.

Following discussion and upon the President's recommendation, Mr. Travis moved approval of the proposals outlined above. The motion was seconded by Mr. Ross and carried unanimously.

Personnel changes subsequent to April 17, 1972, were presented by the Vice Chairman. After discussion and upon Dr. Downing's recommendation, Mr. Ross moved for approval of the personnel changes which follows. The motion was seconded by Dr. Ball and carried unanimously:

NEW FACULTY

<u>Name</u>	<u>Salary</u>	<u>Effective Date and Remarks</u>
<u>College of Applied Arts and Health</u>		
Nursing:		
Mrs. Karen Wendt	\$ 7,704	8/16/72
<u>Bowling Green College of Business and Public Affairs</u>		
Accounting:		
Edward S. Schwan	13,770	8/16/72
Business Administration:		
Ira W. Pyron, Jr.	13,500	8/16/72; \$14,000 with doctorate
Economics:		
Dr. Carolyn A. Fost	13,500	8/16/72
<u>College of Education</u>		
Center for Career and Vocational Teacher Education:		
Dr. John H. Hillison	15,000	6/1/72; 12-months basis
Psychology:		
Raymond Max Mendel	11,900	8/16/72; \$12,500 with doctorate
<u>Potter College of Arts and Humanities:</u>		
English:		
Dr. Hoyt E. Bowen	16,000	8/16/72
Mrs. Camilla C. Coleman	9,800	8/16/72

NEW FACULTY
(continued)

<u>Name</u>	<u>Salary</u>	<u>Effective Date and Remarks</u>
<u>Potter College of Arts and Humanities (continued)</u>		
Speech and Theatre: William Lewis Davis	\$ 8,500	8/16/72
Philosophy and Religion: Dr. Margaret Howe	11,040	8/16/72
<u>Ogden College of Science and Technology</u>		
Mathematics Mrs. Linda R. Pulsinelli	7,900	8/16/72; 1972-73 school year only
NEW STAFF		
<u>Secretarial and Clerical Staff</u>		
Head Start Program: Mrs. Catherine A. Wiseman	2,160	5/8/72; administrative secretary; part-time, temporary position
Center for Career and Vocational Teacher Education: Marilyn P. Horn	3,600	4/10/72-6/30/73; typist
Mrs. Peggy S. Puckett	325 per month	May and June, '72; junior bookkeeper
Ogden College of Science and Technology: Mrs. Kellie A. Mahaney	4,080	6/1/72; administrative secretary
Biology: Mrs. Rosemary T. Crennel	3,740	5/22/72; clerk-stenographer; 11-months basis
Library Services: Kenneth Ray Turner	3,888	6/1/72; clerical assistant
Academic Affairs: Mrs. Hazel M. Finley	5,400	6/19/72; senior secretary
Correspondence Studies: Phyllis J. Johnson	3,900	5/15/72; general clerk
Scholastic Development: Bonnie E. Porter	4,080	5/15/72; administrative secretary
Housing: Mrs. Juanita W. Cox	3,888	6/1/72; general clerk
Student Affairs: Mrs. Marilyn Parker Bryant	3,888	5/8/72; administrative secretary
Physical Plant Office: Barbara K. Lee	4,080	5/15/72; general clerk

NEW STAFF
(continued)

<u>Name</u>	<u>Salary</u>	<u>Effective Date and Remarks</u>
College Heights Bookstore:		
Mrs. Nora E. Speakman	3,828	7/1/72; general clerk

FACULTY RETURNING FROM LEAVES OF ABSENCE

Department of Home Economics and Family Living:		
Delbert Hayden	12,260	8/16/72; Instructor; \$12,660 with doctorate and rank of Assistant Professor
Mrs. Martha Jenkins	10,980	8/16/72; Assistant Professor
Mrs. Joyce Rasdall	10,560	8/16/72; Instructor
Department of Nursing:		
Mrs. Susan Jones	9,600	8/16/72; Instructor

FACULTY REAPPOINTMENTS

Department of Government:		
Dr. Jasper Shannon	18,334	8/16/72; Distinguished Visiting Professor of Government for 1972-73 school year
Center for Career and Vocational Teacher Education:		
Mark Newton	9,600	7/1/72-6/30/73; research associate
Dr. Wayne Ashley	14,900	7/1/72-6/30/73; Director of Occu- pational Guidance Activities Project
Psychology:		
Mrs. Betty McGregor	4,160	8/16/72; 1st Sem., 1972-73 school year
Mrs. Betty Jo Pritchard	4,420	8/16/72; 1st Sem., 1972-73 school year

FACULTY AND STAFF REASSIGNMENTS

Psychology:		
Joseph Cangemi	6,480	8/16/72; from full time to half time
Secondary Education:		
Billy H. Chandler	4,875	8/16/72; from full time to half time and from Teachers Corps to Secondary Education
Mathematics:		
John H. Brevit	See remarks	From full time to half time for first semester of 1972-73 school year; regular salary paid on one-half time basis for September through December
Potter College of Arts and Humanities:		
Mrs. Nelda Bowles Steen	5,028	5/1/72; from departmental secretary in English to administrative secre- tary in Office of the Dean of Potter College of Arts and Humanities

FACULTY AND STAFF REASSIGNMENTS
(continued)

<u>Name</u>	<u>Salary</u>	<u>Effective Date and Remarks</u>
English: Mrs. LaDonna McGehee	3,330	8/16/72; from part time to full time on a 9-months basis
Undergraduate Advisement: John W. Sagabiel	No change	7/31/72; from position of Dean of Men to Office of Undergraduate Advisement
Academic Affairs: Mrs. Virginia Rickman	7,200	7/1/72; promoted to staff assistant
Office of Business Affairs: Mrs. Dorothy M. Smith	5,060	5/1/72; temporary; from University Counseling Services Center to Business Affairs; assignment converted from 11 months to 12 months
Physical Plant Office: Mrs. Sue Borders	4,752	5/1/72; promoted to senior secretary
Mrs. Pamela Wells	4,620	5/1/72; promoted to general clerk II
Counseling Services Center: Mrs. Joan Krenzin	9,888	8/16/72; from Teacher Corps to Counseling Services Center; will continue to teach six hours each semester in Sociology and Anthropology

SALARY CHANGES FOR FACULTY AND STAFF
REASSIGNMENTS APPROVED AT MEETING OF
BOARD OF REGENTS ON APRIL 19, 1972

Dr. Robert L. Rees	17,456	8/16/72; Director of Library Educational Services
Charles M. Anderson	13,773	8/16/72; Director of Media Services; \$14,373 with doctorate
Riley Handy	10,580	8/16/72; Kentucky Librarian
Dr. J. Crawford Crowe	20,800	8/16/72; Coordinator of Resource Development for the Kentucky Library and Professor of Kentucky History
Dr. H. Kirk Dansereau	22,300	7/1/72; Head, Department of Sociology and Anthropology

1972 SUMMER SCHOOL FACULTY

<u>Name</u>	<u>Salary</u>	<u>Effective Date and Remarks</u>
Nursing:		
Brenda Barton	1,114	1972 summer session
Laboratory School:		
Mrs. Alene Burks	1,250	1972 summer session
Mrs. Carolyn Houk	1,250	1972 summer session
Mary Alice Oliver	1,250	1972 summer session
School Administration:		
Ernest Broady	630	1972 summer session; teaching one course
Counselor Education:		
Watson Rodney Fowler	500	1972 summer session; Counseling Practicum; teaching one course
Frank O. Moxley	1,300	1972 summer session
Dr. Ernest Thro	700	1972 summer session; one course

LEAVE OF ABSENCE

Physical Education and Recreation:		
Mildred A. Lowrey		Special leave of absence for the 1972-73 school year; does not carry automatic eligibility or preferential status for reemployment

PREFERENTIAL STATUS

Mathematics:		
Robert A. Herman		8/15/72; returning to graduate school
Physical Plant Office:		
Mrs. Margie Tabor		4/28/72

RETIREMENTS

English:		
Mary McCombs		6/30/72

FACULTY AND STAFF RESIGNATIONS

Home Economics and Family Living:		
Ann L. Curtis		8/15/72
Jo Ann Schickel		8/15/72
Economics:		
Thomas K. Fitzgerald		8/15/72
Business Education and Office Administration:		
Dr. Wayne M. Eirich		8/15/72
Sociology and Anthropology:		
Dr. John P. Reed		8/15/72
Dr. William E. Snizek		8/15/72

FACULTY AND STAFF RESIGNATIONS
(continued)

<u>Name</u>	<u>Effective Date and Remarks</u>
Physical Education and Recreation: Leigh Kieffer	8/15/72
Psychology: Mrs. Robin S. Reed	8/15/72
English: Jonnell Rowland	8/15/72
Philosophy and Religion: Dr. Roy W. Butler, Jr. Dr. Jerald H. Richards	8/15/72 5/31/72
Mass Communications and ETV: Marvin Lee Bowman	8/15/72
Directors and Assistant Directors of Dormitories: Steven Golen Charles D. Stunson Donald Travis Owens Vera Mullins	 5/15/72; Assistant Director, Pearce-Ford Tower 5/15/72; Assistant Director, Douglas Keen Hall 5/15/72; Director, Douglas Keen Hall 5/15/72; Director, South Hall
Purchasing: Charles Whitley	8/15/72
Secretarial and Clerical Staff: Mrs. Sherri York McDaniel Mrs. Rebecca S. Long Mrs. Dona Morrison Mills Lyndia J. Thomas Jimmy Copass Mrs. Julia B. Griffey Patsy Jo Fant Mrs. June Lee Webb	5/10/72; Scholastic Development 5/12/72; Student Affairs 6/30/72; Housing 5/26/72; Bookstore 5/31/72; Library Services 5/31/72; Library Services 5/31/72; Biology; terminated 6/2/72; Teacher Corps; terminated, Teacher Corps not funded

PROMOTION IN RANK

Physics and Astronomy: Paul B. Campbell	Promoted to Instructor upon receipt of the master's degree
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CHANGE OF SABBATICAL LEAVE

English: Dr. Willson E. Wood	From the summer of 1972 to the second bi-term of the 1973 spring semester
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The specifications and general conditions for the proposed plan of long-term disability income insurance were presented for the consideration of the Board. This additional benefit for all full-time employees of the University, which was the subject of a discussion at the meeting on April 17, was recommended by President Downing for implementation on July 1, 1972. The proposal follows:

SPECIFICATIONS FOR PROPOSED
Long-Term Disability Insurance
WESTERN KENTUCKY UNIVERSITY

Subject to the conditions contained herein, Western Kentucky University, hereinafter referred to as the Employer, solicits proposals for Long Term Disability Insurance. The Employer will bear the cost of premiums for the insurance of each regular employee. (For definition of regular employee see Section II, General Conditions).

Section I Description of Coverage Desired

- A. Benefits. When an employee becomes totally disable and is under a physician's care as the result of an injury of illness he is eligible to receive 60% of his salary to a maximum benefit of \$2,000 monthly to age 65.
- B. Waiting Period. Waiting period from date of disability to payment eligibility is 90 days.
- C. Definition of Disability. Total disability means the complete inability of the employee to perform any and every duty of his regular occupation. Once benefits have been paid for twenty-four months, total disability shall mean the complete inability of the employee to perform any and every duty of any gainful occupation for which he is reasonably fitted by training, education or experience. The employee must be under the regular care of a physician but house confinement is never required.
- D. Waiver of Premium. After benefits become payable, any further premiums which are due during the continuation of the individual's total disability will be waived.
- E. Recurrent Disability. Once the employee has resumed all of the duties of his occupation for a continuous period of six months, a recurrence of his previous disability will be treated as a new disability. After satisfying the waiting period, he will again be eligible for full benefits.
- F. Benefit Reductions. If the insured employee is entitled to other income during a period of disability from:
 - 1. Workmen's Compensation or other similar legislation and other compulsory benefit acts or laws;
 - 2. Teacher's Retirement System or Kentucky Employees Retirement System. (NOTE: Ten years of service in Kentucky Teacher's Retirement System or eight years

of service in Kentucky Employees Retirement System qualifies one for eligibility benefits for permanent disability.)

3. Benefits (Primary and Family) under the Federal Social Security Act;

Monthly benefits will be reduced by the amounts received from these sources. There will be no coordination of benefits other than those listed above.

- G. Survivor Benefits. If an employee dies while receiving benefits and after having been continuously disabled for six months or longer, his eligible survivors will receive an additional three months of benefits.
- H. Pre-existing Conditions. Fully covered.
- I. Mental and Nervous Disorders. Fully covered.
- J. Rehabilitation Provision. The plan should contain provisions for a rehabilitation program to include a flexible administrative procedure designed to recognize the special characteristics of each disabled employee's situation. Rehabilitative training and employment provisions should be specified.
- K. Exclusions. Disabilities arising from acts of war, intentionally self-inflicted injuries, insurrection, rebellion, or participation in a riot, pregnancy, childbirth, abortion, miscarriage, alcoholism, or excessive use of drugs are excluded from coverage.

Section II

General Conditions

- A. Eligibility. Eligible employees are all persons under 65 years of age employed on a full-time regular basis at initial enrollment.
- B. Definition and specific exclusion of temporary employees. Temporary employees are those employees that are employed from time to time on an hourly basis for temporary services only, as distinguished from probationary employees who are intended to be regular employees after a satisfactory probationary period. Temporary employees are expressly excluded from the proposed plan although on occasion the length of their employment may exceed a ninety day period.
- C. The effective date of the proposed plan will be July 1, 1972, and renewal dates will be the first day of July of each year of its continuance.
- D. Proposals will be evaluated and award made on the basis of rate and coverage. Rate is to be quoted in terms of percentage of covered salaries per month; for example, .0015.
- E. Masculine and feminine terms as used herein are interchangeable.
- F. No company shall submit a proposal through more than one agent; however, an agent may submit proposals from more than one company. Proposals submitted in violation of this condition may be summarily rejected without examination.
- G. A copy of the policy to be issued, or a facsimile thereof, must accompany each bid proposal.

- H. Approximately 1,300 employees will be covered by this plan.
- I. Rates provided shall be firm for one year and contain a renewal option by agreement of both parties.
- J. Companies submitting proposals shall provide to the Employer, if requested, factors used in determining rates.
- K. Companies or agents submitting a proposal shall state whether or not a local agent will be available to service the insurance.
- L. Eligible Employee Statistics, such as age, salary, class of worker, sex, and years of service in existing retirement systems, will be provided to interested bidders upon request to:

The Director of Purchases
Commonwealth of Kentucky
Frankfort, Kentucky

OR

Director of Personnel Services
Western Kentucky University
College Heights
Bowling Green, Kentucky 42101

In the discussion which ensued, it was stated by Vice President Largen that the annual cost of the benefits program was estimated to be between \$40,000 and \$45,000, which has been budgeted for the 1972-73 school year.

Mr. Moss moved that the President be authorized to consummate the long-term disability income insurance contract for all full-time members of the Western faculty and staff. The motion was seconded by Mr. Ross; and the call of the roll reflected the following vote:

Aye: McCormack, Ball, Moss, Travis, Ross

Nay: None

President Downing reviewed program developments in the Jones-Jagers Laboratory School. As a part of the plan adopted by the Board of Regents in 1967 for the reorganization of the Teacher Education Program, he stated that the Laboratory School would initiate the kingergarten program effective with the opening of the 1972 fall term. His review was followed by a recommendation for a revision in the registration fee schedule, whereby each student enrolled in the Laboratory School, including the kingergarten program, would pay a flat \$20 per semester for the regular school year and \$20 for the summer session. The present fee, he stated, was \$20 per term for non-faculty students and \$10 per term for children of faculty-staff members.

Following discussion, Dr. Ball moved the adoption of the revised registration fee schedule for students enrolled in the Jones-Jaggers Laboratory School, effective with the opening of the 1972 fall term. The motion was seconded by Mr. Moss and carried unanimously.

A resolution was presented by the Vice Chairman relative to the purchase by the University of a parcel of real estate. After discussion and upon the recommendation of Dr. Downing, Mr. Travis moved adoption of the following resolution:

RESOLUTION

WHEREAS, a certain house and lot owned by Mrs. Gordon Wilson, Sr., located at 1434 Chestnut Street and adjacent to the Western Kentucky University campus is available for sale; and

WHEREAS, it has been determined that additional land purchases are desirable for the orderly expansion and development of Western Kentucky University as outlined in the master plan for development of the campus;

NOW, THEREFORE, it is hereby determined by the Board of Regents of Western Kentucky University, pursuant to its duties and functions set out in K.R.S. 164, that the subject land should be acquired, and President Dero G. Downing and his delegated representatives are authorized to submit to the Commissioner of Finance a request to purchase said land for the use and benefit of Western Kentucky University provided it can be purchased at a price agreeable to the University and within the scope of such appraisals as are required by the Commissioner of Finance.

This the 7th day of June, 1972.

The motion was seconded by Mr. Ross; and upon call of the roll, the vote was as follows:

Yea: McCormack, Ball, Moss, Ross, Travis

Nay: None

Under other business, President Downing stated that with the Board's concurrence, the University would proceed to make as a part of the record certain materials which have been placed in their hands with regard to action taken as a result of the resolution adopted by the Board on April 17, 1972, when the Board directed the University to proceed with the preparation and presentation of legal defense for all defendants in Civil Action No. 1559.

The main item referred to follows:

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN

ASSOCIATED STUDENTS OF WESTERN KENTUCKY)
UNIVERSITY, LINDA JONES, REGINALD GLASS,)
ALBERT STITH AND PATRICK LONG)
Plaintiffs)

v.)

NO. 1559)

DERO G. DOWNING, PRESIDENT OF WESTERN)
KENTUCKY UNIVERSITY, CHARLES KEOWN, AND)
THE BOARD OF REGENTS OF WESTERN KENTUCKY)
UNIVERSITY, A BODY CORPORATE)
Defendants)

MEMORANDUM AND ORDER

This is an action by Associated Students of Western Kentucky University, Linda Jones, Reginald Glass, Albert Stith and Patrick Long against Dero G. Downing, President of Western Kentucky University, Charles Keown, and the Board of Regents of Western Kentucky University, a body corporate, defendants. The plaintiff, Associated Students, is the duly constituted and officially recognized student government association of Western Kentucky University. Linda Jones was President of Associated Students and by virtue of her office was an ex officio member of the Board of Regents. Reginald Glass was vice president, Albert Stith and Patrick Long were members of Associated Students Congress. All were full-time students at Western Kentucky University.

The defendant Board of Regents of Western Kentucky University is the duly constituted governing body of a state-supported institution of higher learning located in Bowling Green, Kentucky, with co-educational enrollment of about 10,000 students ranging in age from 16 years upward. The defendant Board of Regents is organized under the provisions of KRS 164.350 and exercises plenary governing power over the University. The defendant Dero G. Downing is President of the University and the defendant Charles Keown is the Dean of Student Affairs and as such serves as adviser to the Associated Students. The plaintiffs in this action seek declaratory judgment and injunctive relief to protect certain alleged rights claimed to have been violated in derogation of constitutional guaranties.

The relevant facts are these:

Plaintiffs and defendants since about 1966 have jointly planned and operated a series of cultural, social and educational programs for the benefit and enjoyment of the students. While there is some disagreement as to facts, it is clear that the University was an indispensable party and directly involved in the decision-making process, both as to selection and content of the programs under consideration in the series.

The plaintiffs had no separate funds budgeted to it for its sole and exclusive use and benefit but depended upon the University to allocate funds to it from

its overall budget where this could be accomplished for college approved activities and within the school's "established maximum level of expenditure" which, in 1971, was set at \$52,000.00.

All agreements in connection with the series required the approving signature of the University as a necessary contracting party.

This pattern of procedure was understood by each of the parties hereto. In the past the University exercised these prerogatives without provoking any controversy until the present hostilities were ignited.

Plaintiffs scheduled "The Films of John Lennon and Yoko Ono" for showing on campus February 2, 1971. On February 1, Dean Keown, after his suspicions were aroused from reading a distributor leaflet description as to one segment of the film referred to or titled "The Fly", viewed the film and subsequently refused to permit it to be shown on campus and stated the film was "gross" and it "would not be in the best interest of the University".

Keown decided after seeing the questioned portion that the film was "gross", "offensive", "lewd", "unrefined", "crude", "no educational value", "coarse" (adjectives he used at various times to describe the film) and that:

"It would be inappropriate for the University to continue as a contracting co-sponsor."

He therefore decided to cancel as he had a right to do.

Under the terms of the contract the University reserved the right to cancel.

The University, through its officials and governing body, supported the decision of Dean Keown and agreed that his judgment was sound, according to President Downing.

Negotiations with the Associated Students to delete "The Fly" were fruitless, notwithstanding the producer did agree. The University did not object to the Associated Students showing the film off campus in a non-university facility. When efforts to come up with some acceptable alternatives failed, the booking was cancelled by the University as recommended by Dean Keown.

The plaintiffs contend that the University's decision amounted to official censorship and violated the students' (1) right to receive information and (2) freedom of expression.

The Court has seen the questioned film in chambers and it has been described in the testimony. Briefly, it consists of a camera focused upon what appears to be an ordinary house fly as it crawls and meanders over, around, in, on and about the body of a nude female model lying in bed in a prone position on her back with her legs spread apart. The camera, on occasion, zooms in for close-up showings of the open vaginal orifice with the ever-present fly crawling in and around the exposed area.

The travels of the fly take it to the legs, arms, nipples of breast, ears, hair of the head, hair under the arms and substantially the entire body of the model, all accompanied by background music.

The Bowling Green, Kentucky, Chief of Detectives Ashby and its Chief of Police Constance each described the film as "filthy" and stated that if it had been shown at a downtown commercial theatre it would have been illegal and an arrest justified.

"The Fly" was unrated. The advertising material distributed in connection with the film contained a warning that it was recommended "for mature audiences only". Apparently, at the proposed showing at Western it would not have been so restricted.

Mr. Skates, theatre manager at Bowling Green for the Martin chain of theatres, testified that unrated movies receive an automatic rating of "X". He stated that "The Fly" would not have been shown under their present policy.

Reginald Glass, Vice President of Associated Students testified that the film was an experimental film. He explained that by that he meant it was out of the ordinary -- made by non-professionals -- designed for mature audiences with knowledge of experimental films.

It is obvious that a college or university campus would be a convenient, exploitable outlet for a questionable film which is denied the normal commercial outlets by civilian law. However, no one has attempted to explain why the University officials should provide a testing place for such a film. Plaintiffs have made no effort to show that the film was entertaining, educational

or morally uplifting, only that it was experimental. Many films no matter how offensive to good taste, could qualify if this was the sole requirement. Certainly there was no great demand from the students that it be shown since only eight tickets had been sold in advance.

With this factual background we now proceed to a discussion of the applicable law as we conceive it to be.

This Court does have power to issue an injunction where university officials violate the constitutional rights of students. Dickson v. Setterson, 280 F.Supp. 486.

It is settled that university students do not discard secured constitutional rights upon entering a state-supported school. Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

This is not to say that all surrounding facts, circumstances and conditions must be either ignored or disregarded. It is equally well settled that no one has the right to say anything he wants to, and at any time, and on any occasion. Schenck v. U.S., 249 U.S. 47.

We must recognize that First Amendment rights are not absolute. Regulation as to time, place and manner of the exercise of such rights is proper when reasonably related to a valid public interest. In the instant case the University was burdened with the administrative responsibility and clothed with the authority to regulate the conduct and behavior of its students, particularly if it tended to threaten achievement of its educational goals.

The University had the inherent power to formulate rules it deemed appropriate to the maintenance of proper decorum and to prevent that which it regarded as a reckless display of impropriety. In doing so it should fairly consider the accepted norms of social behavior in the community. See Sellers v. Regents of University of California, 432 F.2d 493 (1970, 9th Cir.).

In the academic community greater restrictions may prevail than in society at large, and the subtle fixing of these limits should in a large manner be left to the educational institution. Goldberg v. Regents of University of California, 57 Calif. Reporter 463.

In Bright v. Nunn, 448 F.2d 245 (1971, 6th Cir.)

it is held:

"There can be no question of the right of the school official to prescribe and control conduct in the schools. This was recognized in Tinker, supra (at 507, 89 S.Ct. 733) and by us in Norton v. Discipline Comm. of East Tenn. State Univ., 419 F.2d 195 (6th Cir. 1969) cert. denied, 399 U.S. 906, 90 S.Ct. 2191, 26 L.Ed.2d 562 (1970)."

School officials must be given wide latitude in maintaining discipline and good order on campus and courts should not set themselves up as supreme boards of review in such matters.

The University obviously cannot surrender its responsibility and allow the students the rights to unbridled self expression. The University in this case was confronted with a very delicate situation, it acted promptly, decisively and reasonably. This Court does not believe it would be

wise to interfere and grant the relief demanded by the plaintiffs. The school officials were clearly acting in utmost good faith and in an area where the school had a genuine and legitimate concern.

In Epperson v. Arkansas, 393 U.S. 97, 89 S.Ct. 266, our highest tribunal held that courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values.

A college has the inherent power to promulgate rules and regulations and courts should interfere only where there is a clear case of constitutional infringement. See Esteban v. Central Missouri State College, 415 F.2d 1077 (1969, 8th Cir.).

The Court is constrained to follow Close v. Lederle, 424 F.2d 988 (1st Cir., 1970), which was an artist's action for a declaration that a state university's removal of his painting from the university's art exhibit was in violation of his rights under the First and Fourteenth Amendments and for an order for reinstatement. The District Court directed reinstatement and upon appeal it was held that where the state university corridor in which art was exhibited was regularly used by the public, the university officials could consider such primary use by the public and even without complaints received, were warranted in finding that the plaintiff's paintings were inappropriate for exhibition therein and, accordingly, had a right to withdraw

permission for their showing. This case holds that detailed codification of all rules and regulations are not necessary on campuses. In the instant case the plaintiffs had specific and actual notice that the University officials, and not the Associated Students, had the vested right to select the contents of such programs. The University was a full contracting party with concomitant rights and powers respecting booking arrangements for the film in question.

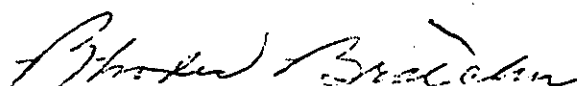
The Court feels that the University officials were acting at all times herein in absolute good faith and that their actions were not improper under the facts of this case and, in fact, consistent with the objectives of the Associated Student government of Western Kentucky University as set out in the preamble to its constitution which reads in part as follows:

"To uphold and promote ideals, principles and objectives of the University; by the authority of the University."

Pursuant to the Federal Rules of Civil Procedure 65, all applications for injunctive relief and the trial on the merits are hereby consolidated. It is further ORDERED that this Memorandum and Order shall likewise constitute the Court's Findings of Fact and Conclusions of Law.

For the reasons hereinabove stated, it is the judgment of the Court that the plaintiffs' action be and same is hereby dismissed.

June 2, 1972



RHODES BRATCHER

United States District Judge

Following the President's statement recorded above, Miss Jones informed the Board that the decision of Judge Rhodes Bratcher would be appealed. She stated that "in our capacity as a student government and because of the great amount of student sentiment in this matter, we feel that it is the only responsibility we have to carry out this matter further."

Mr. Travis then moved that the Board of Regents reaffirm the resolution adopted on April 17, 1972, and that Mr. Bivin and Mr. Francis be directed to proceed with the same vigor in the appeal as in the initial suit. The motion was seconded by Mr. Ross and carried unanimously.

President Downing reminded the Board of a resolution adopted on May 1, 1970, in which the planning, construction, and working out of all details for the financing of the Environmental Sciences and Technology Building were authorized. He reviewed developments to date on this top-priority project and stated that while circumstances have brought about a delay, he felt the University was now in position to move ahead with the project

Upon the President's recommendation, Mr. Ross moved reaffirmation of the following resolution adopted by the Board on May 1, 1970:

RESOLUTION

WHEREAS, it has been determined that additional classroom and laboratory facilities are needed to accommodate the growth of the student population and course offerings for programs in the environmental sciences and technology; and

WHEREAS, a detailed study and analysis have been made by the Dean, Ogden College of Science and Technology and members of his faculty and staff on the need for a building to provide space for the Department of Agriculture, the Department of Geography and Geology, Engineering Technology, the Department of Industrial Education, and other environmental science programs; and

WHEREAS, the Commissioner, Department of Finance, of the Commonwealth of Kentucky, has authorized the employment of an architect to prepare program plans for the facility;

BE IT THEREFORE RESOLVED by the Board of Regents of Western Kentucky University in meeting on May 1, 1970, that President Dero G. Downing be authorized to take such steps as are necessary to plan, construct, and finance an Environmental Sciences and Technology Building, with a construction scope of \$2,500,000 to \$3,000,000; and

BE IT FURTHER PROVIDED That President Downing be authorized to enter into such agreements as necessary to accept and expend participating grant or loan funds from the Federal Government or other sources and that to the extent that other funds are not available, President Downing be directed to make arrangements with the Department of Finance and the

State Property and Buildings Commission of the Commonwealth of Kentucky for the issuance and sale of sufficient Western Kentucky University Consolidated Educational Buildings Revenue Bonds to assure completion of the project.

The motion was seconded by Mr. Ross, and the roll call vote was as follows:

Aye: Ball, Gilbert, McCormack, Ross, Travis

Nay: None

Mr. Ross's motion for reaffirmation of the above resolution was seconded by Mr. Travis, and the roll call vote was recorded as follows:

Aye: McCormack, Ball, Moss, Travis, Ross

Nay: None

There being no further business and on motion made and duly seconded, the meeting was adjourned.

W.D. McCormack 17.17. Georgia Bates
Vice Chairman Secretary