

MINUTES
OF THE BOARD OF REGENTS
WESTERN KENTUCKY UNIVERSITY

January 25, 2008

AGENDA ITEM 1 - Call to Order

Required statutory notice having been given, the first quarterly meeting of the Board of Regents of WKU was held in the Music Room of the Berry Hill Mansion in Frankfort, Kentucky. The meeting was called to order by Chair Lois Gray at approximately 10 a.m. EST.

Prior to the call to order for the first quarterly meeting, members of the Board of Regents were welcomed to Frankfort and recognized on the floors of the House of Representatives and the Senate of the Commonwealth of Kentucky. Resolutions passed by each body are attached to these minutes as **EXHIBITS I and II**.

AGENDA ITEM 2 - Invocation

The invocation was provided by Ms. Jeanne Johnson, Student Regent

AGENDA ITEM 3 - Roll Call

The following members were present:

Ms. Yvette Haskins
Ms. Jeanne Johnson
Mr. Jim Johnson
Ms. Lois Gray
Mr. Jim Meyer
Dr. Patricia Minter
Ms. Forrest Roberts
Ms. LaDonna Rogers
Ms. Tamela Smith
Mr. Larry Zielke

Regent Hughes was absent.

Others in attendance included: President Gary Ransdell; Ms. Liz Esters, Secretary to the Board of Regents and Staff Assistant to the President; Mr. Tom Hiles, Vice President for Institutional Advancement; Dr. Richard Kirchmeyer, Assistant Vice President for Information Technology; Mr. John Osborne, Assistant Vice President for Campus Services; Ms. Ann Mead, Chief Financial Officer; Dr. Wood Selig, Athletics Director; Dr. Gene Tice, Vice President for Student Affairs; Dr. Richard Miller, Associate Vice President for Academic Affairs and Chief Diversity Officer; Ms. Robbin Taylor, Assistant to the President for Governmental Relations;

and Ms. Deborah Wilkins, Chief of Staff and General Counsel.

In keeping with the policy of the Board, the agenda for the meeting and information and materials pertinent to items thereon had been mailed in advance of the meeting by the President to members of the Board.

AGENDA ITEM 4 - Disposition of the minutes of the November 2, 2007 and December 15, 2007 meetings of the Board of Regents

Drafts of the minutes for November 2 and December 15, 2007, were mailed to the Board in advance of the meeting; motion to approve the minutes as submitted was made by Mr. Zielke, seconded by Ms. Haskins, and carried unanimously.

AGENDA ITEM 5 - Finance and Budget

5.1 Approval of Revisions to the 2007-08 Operating Budget

FACTS: The proposed revisions to the Western Kentucky University 2007-08 Operating Budget in the amount of \$3,905,000 are listed below. The revisions include:

- \$2,600,000 for Pell Grants due to a combination of an increase in eligible students and also an increase in award amounts;
- \$500,000 for KEES Program due to an increase in eligible students;
- \$150,000 in Facilities and Administrative Cost Recovery from grants and contracts split between Incentive Fund, colleges, and Office of Sponsored Programs;
- \$195,000 carry forward funds from prior year Facilities and Administrative Cost Recovery for grants and contracts to be used by colleges;
- \$300,000 in WKU Foundation endowment income and gifts to reimburse WKU for salary expenses; and
- \$160,000 for miscellaneous reimbursements to the University to be returned to the affected departments.

2007-08 Operating Budget Revisions

Source	Proposed Revision
Educational and General	
Federal, Pell Grant	\$2,600,000
State, KEES Program	500,000
Facilities & Administrative (F&A) Cost Recovery	150,000
Carry forward, F&A Cost Recovery	195,000
WKU Foundation, Endowment Income/Gifts	300,000
Other Sources	<u>160,000</u>
TOTAL	\$3,905,000
Use	
Federal, Pell Grant	\$2,600,000
State, KEES Program	500,000
Incentive Research Fund	60,000
Colleges, (F&A Distribution)	255,000
Office of Sponsored Programs	30,000

Departments	300,000
Academic Affairs, IT, and Campus Services Departments	<u>160,000</u>
TOTAL	\$3,905,000

Motion to approve the 2007-08 Operating Budget revisions was made by Mr. Zielke, seconded by Ms. Rogers, and carried unanimously.

5.2 Budget Reduction Plan

Pages 4-32 of the agenda packet contain time lines and assorted information of the budget reduction plan and were reviewed by Chief Financial Officer Ann Mead and President Ransdell.

President Ransdell noted that “pages 4-32 in the packet describe the Governor’s Budget Reduction Order; the overall budget profile for the State; and the variables that lead to the 3 percent reduction order. The Governor is authorized to mandate a reduction order such as this if it occurs in the current fiscal year in order to achieve the statutory requirement of the State balanced budget. The total reduction number for Western is \$2,553,500. Work is under way to determine how that number will be achieved in a combination of nonrecurring funds this year and a recurring base reduction going forward in the next fiscal year. That reduction will occur over the next several budget draws that occur on a quarterly basis; that will happen naturally as the State sends us less money with which to operate based on our total State appropriation. All of the vice presidents and executive officers have turned in, this week, their reduction plans. In summary, we will take about half of that reduction from central university-wide programs and variables and about half of the cut will be spread across the divisions of the University for reductions at the discretion of the executive officer over that division. That’s the information we are just now receiving; I will be discussing this in detail with our Administrative Council next week. I will get back to you with a specific budget reduction plan that will go into all the necessary detail as to how the reductions will occur. I will also be communicating with the campus in that regard as well. So, therefore, the Board must approve, obviously, a budget increase or budget reduction in terms of the overall financial profile of the Institution, so we will not require Board action until our April meeting when you officially take action on that budget matter.”

“From a time line, this has been a curious circumstance. We learned on December 21 that the 3 percent was going to be called for; we were asked to have in, by December 27, our plan for

that 3 percent reduction; we had a conference call over the holidays with the Administrative Council; we determined our course of action; and we complied and had our report, through CPE, to the Governor's Office and the State Budget Director on schedule on December 27."

"The Presidents met with the Governor on January 4, and then we learned on January 5 that it may be as much as 12 percent additional reduction going forward in the coming year which took us all by even greater surprise than the 3 percent took us in December."

President Ransdell distributed the report that the university presidents assembled and sent to the Governor regarding a specter as dramatic as 12 percent. The presidents made a conscious decision to not submit a specific institutional response to something that dramatic; rather, to make one response on behalf of the higher education community. Dr. Ransdell stated, "We think for obvious reasons if I, or any of the presidents, were to step out on a limb and begin to get specific about how we might address a cut this dramatic that quickly you would see the tensions that would result on our campus or any other campus and the emotions that would begin to flow. We're going to do our very best to work with the General Assembly to find revenue sources that allow further cuts to be avoided—that remains to be seen. The Governor has to submit a budget to the General Assembly by next week; his budget address is Tuesday night. I will be here as the other presidents will be for that address, and we will know the playing field more at that time when the Governor submits a balanced budget to the General Assembly. The Governor lacks three things—money, time, and authority; he's had very little time to put a budget together; he obviously has a revenue shortfall, a structural imbalance with which he must deal; and he lacks the authority to create new revenues before he makes that budget address independently. So, he can only do what he can do to submit a balanced budget; and as you heard from our conversations yesterday, that structural imbalance may be as much as \$600,000 based on a report from the consensus forecast group just a week ago. We, perhaps more than in the past, will be working rather closely with public education given the fact that public education is 60 percent of the State budget and higher education is 12.5 percent of the State budget, then Medicaid and Corrections fill in; that takes up most of the State budget. But we'll be working very hard to help the General Assembly come to the wisdom of the need for new revenue streams. It will be frustrating if new revenue streams are identified, and they simply offset a budget reduction rather than allow a value-added, progressive phenomenon to occur as a result of new funding. But in the course of economic times, in due course, funding growth will be achieved if new revenue streams come on

line. We will know in the days ahead what the absolutes are. It will likely be April, maybe March before we know for sure. In the meantime, we'll take the 3 percent and move forward."

Also, Mr. Bradford Cowgill, Interim President of the Council on Postsecondary Education, discussed the State's budget shortfall, the Governor's budget reduction order, and other items presented in his outline which is attached to these minutes as **EXHIBIT III**.

AGENDA ITEM 6 - Academic Affairs

The Board heard various informational reports from members of the staff of Academic Affairs.

- 6.1 Winter Term** - Dr. Don Swoboda reported that 2,239 students enrolled in the 2007/08 Winter Term as of January 18, 2008. WKU students studied abroad in Mexico, the Bahamas, Costa Rica, Malaysia, Belize, India, Germany, Great Britain, and Italy. There were 106 students who participated in study abroad for credit and 26 students from the Gatton Academy of Math & Science participated in a non-credit study abroad program.

Various other details and statistics were provided in an informational report which was provided to the Board, and a copy is filed in the Board's officials files.

- 6.2 Enrollment Report** - Dr. Kahler reported that overall enrollment for Spring 2008 is 17,387 which reflects an increase of 166 students with the breakdown in categories as follows:

- Undergraduate 14,825 (114 Academy)
- Graduate 2,562

6.3 Project Graduate - WKU Finish Update

WKU Finish is a program in conjunction with the Council on Postsecondary Education's Project Graduate initiative. The number of eligible students identified from the CPE and WKU departments total 2,476. Of this number, 121 students have contacted WKU expressing interest; 9 have been readmitted to WKU, with 1 scheduled to graduate in May 2008.

AGENDA ITEM 7 - Student Affairs

The Board heard informational reports on the Benchmark Assessment Results of Greek Life on Campus; received an *Emergency Procedures Handbook*, a *Health Benefits Plan - 2008 Booklet*, and an Annual Report from the Division of Student Affairs.

AGENDA ITEM - Personnel

8.1 - Approval of Personnel Recommendations

RECOMMENDATION: President Gary A. Ransdell recommends approval of the personnel actions that have transpired since the November 2, 2007, Board meeting. This recommendation includes approval of 11 sabbatical leave requests. The recommendations are contained in the next six pages.

PERSONNEL CHANGES – FACULTY

Organization	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Curriculum & Instruction	Marla Capper	Assistant Professor	08/15/2008			54,612.00	Initial Appointment
Health Sciences	Kim Vickous	Instructor	11/12/2007			38,004.00	Initial Appointment
Library Special Collections	Suellyn Lathrop	Assistant Professor	11/19/2007			47,004.00	Initial Appointment
Geography & Geology	Daniel Reader	Instructor	01/01/2008	06/30/2008		16,500.00	Reappointment
Physics & Astronomy	Serguei Martchenko	Visiting Research Professor	01/01/2008	12/31/2008		43,272.00	Reappointment
Geography & Geology	James Bingham	Assistant Professor	07/01/2007		20,520.00	20,520.00	Status Change
Social Work	Vivian Hurt	Instructor	01/01/2008		49,596.00	49,596.00	Status Change
Music	Eva Floyd	Assistant Professor	01/01/2008		44,856.00	46,056.00	Degree/Rank Sal Inc (Currently Unpaid Leave)
Philosophy & Religion	Alan Anderson	Optional Retiree	01/01/2008		77,436.00	29,040.00	Optional Retirement Appt
Curriculum & Instruction	James Becker	Optional Retiree	01/01/2008		31,260.00	15,636.00	Optional Retirement Chg
Liberal Arts & Science	Quentin Hollis	Assistant Professor	01/01/2008		42,564.00	42,888.00	Salary Increase
Accounting	Yining Chen	Stipend	07/01/2007	06/30/2008		16,644.00	Stipend
Communication Disorders	Barbara Brindle	Stipend, Interim Head	11/01/2007	06/30/2008		500.00/mo.	Stipend
Management	Leo Simpson	Stipend	12/31/2007			18,000.00	Stipend, End
Political Sc/Office Internationalization	Roger Murphy	Stipend	12/01/2007	06/30/2008		500.00/mo.	Stipend
History	Robert Antony	Professor	07/01/2007	06/30/2008			Unpaid Leave of Absence
History	Malia Formes	Associate Professor	01/17/2008				Unpaid Leave of Absence
Physics & Astronomy	Dudley Bryant	Optional Retiree	07/01/2007	06/30/2008			Unpaid Leave of Absence

PERSONNEL CHANGES – FACULTY
(continued)

Organization	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Art	Yvonne Petkus	Associate Professor	Spring 2009				Sabbatical
Biology	Claire Rinehart	Associate Professor	Fall 2008				Sabbatical
Economics	Brian Goff	Professor	Fall 2008				Sabbatical
Engineering	H. Joel Lenoir	Professor	Fall 2008				Sabbatical
English	Theodore Hovet	Associate Professor	Fall 2008				Sabbatical
English	Nikolai Endres	Associate Professor	Academic Year (2008-2009)				Sabbatical
Geography & Geology	Catherine Algeo	Associate Professor	Academic Year (2008-2009)				Sabbatical
Geography & Geology	Kenneth Kuehn	Professor	Spring 2009				Sabbatical
Management	M. Afzalur Rahim	Professor	Fall 2008				Sabbatical
Social Work	Saundra Starks	Associate Professor	Spring 2009				Sabbatical
Theatre & Dance	Thomas Tutino	Professor	Fall 2008				Sabbatical

PERSONNEL CHANGES – GRANTS

Organization	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Biology	Donna Kridelbaugh	Research Assistant	10/19/2007	05/31/2008		32,460.00	Initial Appointment
Biology	Bethel Sharma	Postdoctoral Research/Teaching	11/05/2007	11/04/2008		36,000.00	Initial Appointment
Chemistry	Mohammad Qneibi	BW PT Temp Tech 00	11/19/2007	06/30/2008		13.50	Initial Appointment
College of Education & Behavioral Sc	Linda Richardson	Office Assistant	10/15/2007	06/30/2008		24,000.00	Initial Appointment
Educational Enhancement Programs	Kathy Frain	Counselor	10/22/2007	08/31/2008		28,500.00	Initial Appointment
Educational Enhancement Programs	Bertha Hunter	Office Associate	12/03/2007	09/30/2008		21,648.00	Initial Appointment
Psychology	Benjamin Kickert	MN Temp PNF 00	11/05/2007	06/30/2008		32,004.00	Initial Appointment
Talent Search	Dariene Taylor	Assistant Director	10/29/2007	08/31/2008		37,848.00	Initial Appointment
Consumer & Family Sciences	Vicki Beach	MN Temp PNF 00	09/17/2007	08/31/2008	22.00	45,000.00	Status Change
Psychology	Lauren Cunningham	MN Temp PNF 00	11/01/2007	09/30/2008	32,004.00	37,500.00	Reappointment
Child Care	Carolyn Garrett	Teacher	11/01/2007	10/31/2008	24,480.00	24,480.00	Reappt/No Sal. Inc.
Public Radio Services	Gerald Barnaby	Program Manager	01/01/2008	06/30/2008	62,400.00	62,400.00	Reappt/No Sal. Inc.
Public Radio Services	Julia Johnson	Office Assistant	01/01/2008	06/30/2008	24,240.00	24,240.00	Reappt/No Sal. Inc.
Training/Technical Assistance Svcs	Amy Hood Hooten	Training Specialist	11/01/2007	06/30/2008	49,632.00	49,632.00	Reappt/No Sal. Inc.
Veterans Upward Bound	Randal Wilson	Director	10/01/2007	06/30/2008	46,848.00	46,848.00	Reappt/No Sal. Inc.
Biology	Ouida Meier	Project Specialist	10/01/2007	06/15/2008	46,032.00	47,868.00	Grant FY Salary Increase
Child Care	Melanie Cook	Teacher	11/01/2007	10/31/2008	23,040.00	23,736.00	Grant FY Salary Increase
Psychology	Leah Ashwill	Coordinator	11/01/2007	06/30/2008	36,840.00	38,316.00	Grant FY Salary Increase
Research/Econ. Dev./Small Business	Richard Horn	Director	10/01/2007	09/30/2008	58,524.00	60,276.00	Grant FY Salary Increase
WATERS Lab	Christal Wade	Laboratory Analyst	10/01/2007	09/30/2008	29,088.00	30,252.00	Grant FY Salary Increase
Educational Enhancement Programs	Mindy Johnson	Academic Coordinator	11/26/2007	08/31/2008	32,136.00	32,712.00	Promotion
Kentucky Climate Center - POD	Arturo Quintanar-Isaias	Post-Doctoral Research Assc.	01/01/2008	06/30/2008	38,508.00	40,044.00	Salary Increase
Psychology	Aurelia Spaulding	Information Coordinator	11/01/2007	06/30/2008	28,008.00	30,000.00	Salary Increase
Training/Technical Assistance Svcs	Harry Bickel	Lead Staff Consultant	12/31/2007				Retirement

PERSONNEL CHANGES – STAFF

Organization	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Academy of Math and Science in KY	Katherine Hale	FT Temp Tech 00	10/22/2007	05/15/2008		22,500.00	Initial Appointment
Administrative Systems & Applications	Diana Bennett	Web Developer	01/02/2008			42,000.00	Initial Appointment
Admissions Office	Scott Gordon	Director	11/05/2007			81,000.00	Initial Appointment
Admissions Office	Geneva Taylor	Office Associate	11/12/2007			21,648.00	Initial Appointment
Advancement Services	Jamie Hulett	Office Assistant	10/22/2007			23,520.00	Initial Appointment
Allied Health - Dental Hygiene	Amanda Skinner	Office Associate	11/08/2007			23,016.00	Initial Appointment
Bookstore	Scott Broadbent	Supervisor, Inventory Control	10/15/2007			13.33	Initial Appointment
Bookstore	Amber Lawrence	Bookstore Associate	10/15/2007			11.28	Initial Appointment
Bookstore	Samantha Lawrence	Bookstore Associate	12/03/2007			11.29	Initial Appointment
Bursar	Julie Shields	Perkins Loan Specialist	10/29/2007			29,064.00	Initial Appointment
Computer Science	Audrey Middleton	Office Associate	11/13/2007			25,392.00	Initial Appointment
Facilities Management	Patrick Haynes	Carpenter	10/08/2007			11.50	Initial Appointment
Facilities Management	Derek Carroll	Sr Groundskeeper	10/15/2007			11.00	Initial Appointment
Facilities Management	Ricky Legrand	Groundskeeper	10/15/2007			8.70	Initial Appointment
Health Services	Mitzi Allen	Medical Assistant	01/02/2008			25,344.00	Initial Appointment
Kelly Autism Program	Lou Sanford	BW PT Clerical 00	12/05/2007			8.50	Initial Appointment
Library Public Services	Maria Lewis	BW PT Clerical 00	11/01/2007			10.00	Initial Appointment
Library Special Collections	Donna Lile	BW PT Clerical 00	11/26/2007			10.00	Initial Appointment
Plant Operations	Travis Coleman	Boiler Operator	11/05/2007			12.80	Initial Appointment
Student Technology	Nathan Digges-Elliott	BW PT Tech 00	11/01/2007			13.00	Initial Appointment
University Centers	Sandra Hughey	BW PT Temp Clerical 00	11/08/2007	11/07/2008		9.00	Initial Appointment
WKU - Elizabethtown/Fort Knox	Emily Campanell	BW PT Tech 00	01/01/2008			9.00	Initial Appointment
WKU - Elizabethtown/Fort Knox	Jason Goodman	BW PT Tech 00	01/01/2008			9.00	Initial Appointment
WKU - Elizabethtown/Fort Knox	Sondra Johnson	BW PT Tech 00	01/01/2008			9.00	Initial Appointment
WKU - Elizabethtown/Fort Knox	Kasey McCrary	BW PT Tech 00	01/01/2008			9.00	Initial Appointment
Biology	John Sorrell	Lab Tech & Coordinator	11/15/2007			39,000.00	Rehire
Center for Gifted Studies	Lindsey Ardrey	SM Temp Clerical 00	10/15/2007	10/14/2008		24,000.00	Rehire
Combustion Lab Center Prof Services	Yu-Ting Yeh	Coordinator, Lab Safety	12/01/2007			35,004.00	Rehire
Dean Ogden College	John Inman	Coordinator, Science Outreach	10/18/2007			32,016.00	Rehire
Facilities Management	Katherine Bond	Building Services Attendant	11/05/2007			7.80	Rehire
President's Office	Laura Owens	Asst to President/Regional Dev	12/11/2007	TBD		100,008.00	Rehire
Student Financial Assistance	Shana Bradley	Financial Aid Assistant	12/03/2007			23,112.00	Rehire
Student Financial Assistance	Elaine Williams	Financial Aid Assistant	12/10/2007			23,760.00	Rehire of Retiree
Bookstore	Laura Ramsey	Bookstore Associate	10/30/2007		8.85	11.80	Status Change
Building Services	Dorinda Basham	Building Services Attendant	11/26/2007		7.18	8.00	Status Change
Building Services	Virginia Burch	Building Services Attendant	10/01/2007		7.18	7.50	Status Change
Building Services	Sandra Cook	Building Services Attendant	10/01/2007		7.18	7.50	Status Change
Building Services	Teoshia Hill	Building Services Attendant	11/26/2007		7.18	7.50	Status Change
Building Services	Charles Lee	Building Services Attendant	10/01/2007		7.18	7.50	Status Change
Building Services	Lisa Meeks	Building Services Attendant	10/01/2007		7.18	7.50	Status Change

PERSONNEL CHANGES – STAFF
(continued)

Organization	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Distance Learning	Leyla Zhuhadar	Instructional Designer	11/01/2007		23.57	38,952.00	Status Change
Equal Opportunity/504/ADA Comp	Cynthia Smith	Office Assistant	12/10/2007		10.00	19,392.00	Status Change
Event Planning	Dewaker Dhandapani	Special Services Coordinator	11/01/2007		12.30	12.30	Status Change
Physical Education & Recreation	Vicki Wilson	Office Associate	11/05/2007		10.00	22,008.00	Status Change
Physics & Astronomy	Jonathan Paschal	BW PT Temp Tech 00	11/01/2007	06/30/2008	48,456.00	24.00	Status Change
Undistributed Housing	Beverly Taylor	Building Services Attendant	10/01/2007		7.00	7.80	Status Change
Undistributed Housing	Suzanne Wilkerson	Building Services Attendant	10/01/2007		7.00	7.80	Status Change
WKU - Elizabethtown/Fort Knox	Ashley Austin	BW PT Tech 00	01/01/2008		9.00	9.00	Status Change
WKU - Elizabethtown/Fort Knox	John Williamson	BW PT Tech 00	01/01/2008		9.00	9.00	Status Change
Dean Graduate Study	Barbara Chaffin	BW PT Temp Clerical 00	11/22/2007	05/21/2008		10.40	Reappointment
Inst Combustion Sci & Env Tech- POD	Martin Cohron	Coordinator, Research Support	01/01/2008	06/30/2008		61,200.00	Reappointment
Inst Combustion Sci & Env Tech- POD	Kevin Duckett	Technical Support Specialist	01/01/2008	06/30/2008		18.14	Reappointment
Inst Combustion Sci & Env Tech- POD	Wendall Myers	Research Operations Specialist	01/01/2008	06/30/2008		54,960.00	Reappointment
Inst Combustion Sci & Env Tech- POD	Pauline Norris	Laboratory Coordinator	01/01/2008	06/30/2008		37,200.00	Reappointment
Network and Computing Support	Jenni Lehman	BW PT Temp Clerical 00	12/01/2007	05/30/2008		9.50	Reappointment
Academy of Math and Science in KY	Sara Hawke	Asst. Res. Life Coordinator	11/01/2007		22,512.00	30,000.00	Promotion
Building Services	Raymond Price	Team Leader, Bldg Services	10/01/2007		8.04	9.65	Promotion
Controller	Deirdre Lawless	Accounts Specialist	11/12/2007		27,648.00	32,604.00	Promotion
Event Planning	James McCoy	Supervisor, Special Events	12/12/2007		15.13	20.00	Promotion
Track & Field	Erik Jenkins	Head Coach	01/01/2008		34,296.00	60,000.00	Promotion
Academic Technology	Ricardo Ortolani	Senior Info Tech Consultant	01/01/2008		41,460.00	43,536.00	Reclassification
Campus Services	Leonard Dill	Group Leader, Groundskeeping	01/01/2008		11.70	13.20	Reclassification
Campus Services	Cristin Lanham	Group Leader, Gardener	01/01/2008		10.99	12.49	Reclassification
Combustion Lab Center Prof Services	Lois Hall	Employee Relations Coordinator	01/01/2008		41,208.00	45,000.00	Reclassification
Facilities Management	Larry Goodman	Sr Skilled Trades Tech	01/01/2008		14.38	15.10	Reclassification
Facilities Management	Howard Kirby	Sr Skilled Trades Tech	01/01/2008		15.89	16.68	Reclassification
Facilities Management	Dexter Lamastus	Sr Skilled Trades Tech	01/01/2008		14.41	15.13	Reclassification
Facilities Management	Chester McNulty	Sr Skilled Trades Tech	01/01/2008		13.37	14.04	Reclassification
Facilities Management	Mark Roysce	Sr Skilled Trades Tech	01/01/2008		13.05	13.70	Reclassification
Facilities Management	Wesley Simone	Stockroom Clerk	01/01/2008		11.87	14.24	Reclassification
Facilities Management	John Styles	Sr Skilled Trades Tech	01/01/2008		12.91	13.56	Reclassification
Facilities Management	Mark Wardlow	Sr Skilled Trades Tech	01/01/2008		14.78	15.52	Reclassification
Network and Computing Support	Timothy Vincent	IT Security Analyst	01/01/2008		54,336.00	60,000.00	Reclassification
Plant Operations	Daniel Johnson	Sr Skilled Trades Tech	01/01/2008		13.76	14.45	Reclassification

PERSONNEL CHANGES – STAFF
(continued)

Organization	Employee	Title	Effective Date	End Date	Salary	Proposed Salary	Type Action
Facilities Management	Arthur Howard	Supervisor, Zone Maintenance	01/01/2008		24.44	25.67	Salary Increase
Facilities Management	Fred Meador	Locksmith Assistant	01/01/2008		11.92	12.52	Salary Increase
Facilities Management	Bobby Parnell	Supervisor, Zone Maintenance	01/01/2008		20.74	21.77	Salary Increase
Information Technology	Shelia Houchins	Administrative Assistant	01/01/2008		38,088.00	40,488.00	Salary Increase
Network and Computing Support	Christopher Roberts	IT Project Manager	01/01/2008		45,312.00	50,040.00	Salary Increase
Plant Operations	Loren Lasley	Boiler Operator	01/01/2008		12.45	13.00	Salary Increase
Student Financial Assistance	Cathy Stovall	Financial Aid Assistant	01/01/2008		24,096.00	25,296.00	Salary Increase
Telecommunications	Tammi Beach	Telecommunications Analyst	01/01/2008		30,360.00	31,848.00	Salary Increase
Telecommunications	Carmen Varney	Telephone Support Associate	01/01/2008		25,848.00	27,840.00	Salary Increase
Student Financial Assistance	Nancy Alfonso	Stipend	10/01/2007	12/31/2007		240.00/mo.	Stipend
Women's Basketball	Amy Wright	Stipend, HAF	11/01/2007	06/30/2008		350.00/mo.	Stipend
Library Special Collections	Lynn Niedermeier	Archival Assistant		11/30/2007			Temporary Rate Inc End
Facilities Management	Larry Currington	Sr Skilled Trades Tech				300.00/Lump Sum	Degree/Certification
Facilities Management	Richard B. Hendricks	Sr Skilled Trades Tech				300.00/Lump Sum	Degree/Certification
Facilities Management	Casey Martin	Building Services Attendant				200.00/Lump Sum	Degree/Certification/GED
Controller	Judy Mullendore	Manager, Payroll	01/01/2008				Title Change
Bursar	Jennifer Toomey	Receivables Specialist	11/26/2007		23,004.00	23,004.00	Transfer
Gordon Ford College of Business	Lynn Minton	Mgr, Mktg and Public Relations	11/01/2007	06/30/2008	50,184.00	49,632.00	Transfer
Budget	C. Denise Huffman	Manager		12/31/2007			Retirement
Educational Television Services	Thomas Foster	Graphic Artist		12/31/2007			Retirement
Facilities Management/Event Planning	E. Thomas Long	Supervisor, Special Events		11/30/2007			Retirement
Library Public Services	Sheila Hause	Sr Circulation Assistant		12/31/2007			Retirement
Track & Field	Curtiss Long	Head Coach		12/31/2007			Retirement

Motion for approval of the personnel actions as recommended was made by Mr. Zielke, seconded by Ms. Haskins, and carried unanimously.

8.2 Appointment of a committee to coordinate and facilitate the President's evaluation by the Board

Chair Gray stated "I'm not going to appoint a committee because with the form that we are using, it's a matter of collating your responses and scoring it which is very direct. It's not a matter of any decisions to be made other than making a recording and expressing the evaluation results, so I've asked the Vice Chair to do that."

"I am going to appoint a Committee, which is the one that has acted before, that consists of Forrest Roberts, Chair, and LaDonna Rogers and Jim Meyer to take materials that we have received from the Association of Governing Boards and review and examine to determine if additional changes should be made to the current instrument for evaluation; if we should continue in the pattern that we currently follow in the annual evaluation. There will be several things that they will look at and come back to us with any recommended changes in the process-- probably not until the June time frame."

The Board adjourned for lunch at 11:45 a.m. following comments by Mr. Brad Cowgill, Interim President of the Council on Postsecondary Education.

Returning from lunch at approximately 12:45 p.m., Chair Gray moved the Board go into closed session for the following:

1. *A discussion of proposed or pending litigation involving the University pursuant to KRS 61.810(1)(c); and*
2. *Discussions related to individual/specific personnel as provided under KRS 61.810(1)(f).*

The motion was seconded by Ms. Haskins, and carried.

The Board, accompanied by Ms. Esters and President Ransdell went into closed session at approximately 12:45 p.m. President Ransdell asked that Ms. Wilkins, Mr. Selig, and Mr. Osborne remain for the closed session.

Returning from closed session at approximately 1:45 p.m., Chair Gray stated, "During the closed session the Board discussed only matters within the scope of the motion, took no formal action and made no decisions."

AGENDA ITEM 9 - Executive Committee

9.1 Institutional Advancement Report

Tom Hiles reviewed and updated pages 40-43 in the agenda packet which reports the numbers in various categories in the New Century of Spirit giving:

- Endowments Benefitting WKU at the end of December 2007 - \$103.8 million;
- 2005-2012 Campaign Total, December 2007 - \$109.6 million;
- Annual Private Gift Support - December 2007 - \$11 million;
- President's Circle Members - December 2007 - 2,317

9.2 Media Report

Bob Edwards, Assistant Vice President for University Relations, reported two major press conferences/announcements were held during the quarter:

1. The creation of the Center for Regional Development in Radcliff, Kentucky and the naming of former Secretary of the Education Cabinet Laura Emberton Owens as the Assistant to the President for Regional Development on November 12; and
2. The awarding of a \$2.4 million grant from The National Math and Science Initiative for WKU's SKYTeach to improve teacher education in math and science on November 16;

Other Media highlights included:

- Coverage of WKUs's expanded efforts in Owensboro (news and editorial);
- Endowment passing of \$100 million;
- Dr. Ransdell's contract extension;
- Political Science Assistant Professor Dr. Scott Lasley's election expertise during gubernatorial campaign;
- Project Graduate: WKU Finish announcement;
- Death of U.S. Army Soldier in residence hall.

9.3 Football Transition - Year I Status Report

Dr. Wood Selig, Athletics Director, reported on the first year of the football transition to

I-A. A copy of his presentation is attached to the minutes as **EXHIBIT IV.**

AGENDA ITEM 10 - President's Report

10.1 Emergency Communications

Dr. Gene Tice, Vice President for Student Affairs, and Dr. Richard Kirchmeyer, Associate Vice President for Information Technology, reviewed the Emergency Communications Status Report found on pages 49-50 of the agenda packet.

10.2 Construction Report

Mr. John Osborne, Associate Vice President for Campus Services, reviewed the Capital Construction Project Status Report found on pages 52-53 of the agenda packet.

10.3 Approval of and authorization to purchase property located at 1636 Forrest Drive, Bowling Green, Warren County, Kentucky

RECOMMENDATION: The President requests authorization and approval to purchase property located at 1636 Forrest Drive, Bowling Green, Warren County, Kentucky, for the sum of \$18,000, in accordance with the terms and conditions of a Real Estate Purchase Contract.

FACTS: This property consists of a vacant lot. Acquisition will improve access to and utilization of other property already owned by the University in the area. The fair market value of the property has been appraised at an amount greater than the purchase price.

The University Reserve Fund will be used for the cost of acquisition.

Motion to approve and authorize the purchase of property located at 1636 Forrest Drive, Bowling Green, Warren County, Kentucky, for the sum of \$18,000, in accordance with the terms and conditions of the Real Estate Purchase Contract was made by Mr. Zielke and seconded by

Ms. Haskins. Motion carried with Dr. Minter and Ms. Smith voting nay.

10.4 Legislative Priorities for 2008 Kentucky General Assembly

Board members were provided cards that outline WKU's priorities with the 2008 General Assembly as follows:

**Base Operating and Strategic Initiative
Budget Increase as Recommended by CPE**

2008-09	\$6,503,300 (7.6%)
2009-10	\$6,614,700 (7.2%)

Capital Projects

Renovate Science Campus, Phase III*	\$24,000,000
Construct Central Regional Center, Elizabethtown	\$28,000,000
Phase II Owensboro Advanced Technology Center*	\$14,055,000
Materials Characterization Center/ICSET*	\$ 4,575,000
Gordon Ford College of Business*	\$ 5,800,000
Capital Renewal/Maintenance/Infrastructure Pool WKU share	\$ 5,593,000

Agency Bond Projects

Van Meter Hall Renovation*	\$16,000,000
Ivan Wilson Fine Arts Center Renovation*	\$ 8,000,000
Preston Health and Activities Center*	\$10,000,000
North Campus Parking Improvements*	\$ 4,000,000
Renovate Downing University Center Phase III	\$48,000,000

Legislative Initiatives

- Restore State and Agency Bonded Projects Vetoed in 2006
- Authorize Gatton Academy of Mathematics and Science
In Kentucky as high school diploma-granting institution
- Support KTRS legislation to allow fixed contribution for
Optional Retirement Participants

** indicates that project was vetoed in 2006*

AGENDA ITEM 11 - Other Business

11.1 Date for second quarterly meeting of the Board

April 25 is the date scheduled for the second quarterly meeting of the Board; however, President Ransdell needs to participate in the inauguration of President Doug Whitlock at Eastern Kentucky University on that date and proposed a change of date for the Board to meet on Thursday, April 24, instead. **With no objections from the Board, the date for the second quarterly meeting is changed to April 24.**

With no further business on the agenda, motion to adjourn was made by Ms. Haskins, seconded by Ms. Rogers, and carried. Meeting adjourned at approximately 2:55 p.m.


Elizabeth W. Esters, Secretary

Secretary's Note: The *College Heights Herald* filed a complaint with the Board of Regents stating the Board violated the State's Open Meetings Law by discussing cutting the men's soccer program in a closed session; the Board responded to their concerns. The Herald then asked for an opinion from the Attorney General; response from the Attorney General is found on pages 16-26 of these minutes.



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

JACK CONWAY
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 596-5300
FAX: (502) 564-2894

08-OMD-040

February 26, 2008

In re: *The College Heights Herald* / Western Kentucky University

Summary: Applying the rule of strict construction codified at KRS 61.800, this office finds that the WKU Board of Regents violated the Open Meetings Act in discussing matters beyond the narrow scope of KRS 61.810(1)(f) during the closed session held on January 25, 2008; the fact no action was taken does not alter this conclusion.

Open Meetings Decision

At issue in this appeal is whether the Western Kentucky University Board of Regents violated the Kentucky Open Meetings Act in conducting a closed session under authority of KRS 61.810(1)(f) during the meeting held on January 25, 2008, for the announced purpose of discussing personnel matters. During the closed session, the Director of Athletics "brief[ed]" the Board on the decision to dismiss the men's soccer coach due to his position being eliminated as a result of the soccer program being eliminated. Neither the decision of the Director to "brief" the Board prior to notifying the coach due to his longevity in the position and in deference to his privacy interests, nor the lack of action by the Board in the closed session following the impermissible discussion justifies reliance on KRS 61.810(1)(f). Insofar as the Board admittedly went into the closed session for a "briefing" on the "decision" by the Director of Athletics to eliminate the position of soccer coach and the resulting dismissal of that individual employee, the Board necessarily discussed matters beyond the narrow scope of KRS

AN EQUAL OPPORTUNITY EMPLOYER M/F/D



61.810(1)(f), pursuant to which only discussions "which might lead" to appointment, discipline, or dismissal are permitted.

By letter directed to Lois Gray, Board Chair, on February 5, 2008, News Editor Corey Paul submitted a complaint on behalf of *The College Heights Herald* asserting the "Board of Regents violated Kentucky's Open Meetings Law at its meeting on January 25, 2008, as a result of its decision to meet in closed session to receive information concerning a matter which should have been dealt with at an open meeting of the Board."¹ More specifically, *The Herald* alleged the following:

1. KRS 61.815(1)(d) states that no matters may be discussed at a closed session other than those publicly announced prior to the closed session. There was no announcement made or vote taken regarding any discussion or exchange of information to be made at the closed meeting relating to the elimination of the men's soccer program.
2. There is no provision of the Open Meetings Law which allows the Board to meet in closed session to be informed of or to discuss the elimination of the men's soccer program.
3. If, in fact, the elimination of the men's soccer coach was as a result of the decision to eliminate that program, then the discussion of the elimination of that position was not authorized by the "personnel exemption" [of] the Open Meetings Law, KRS 61.810(1)(f). That exemption is for the protection of individuals who [sic] reputations might be affected by such discussions, and it is our understanding that this was not the case with regard to Mr. Holmes.

As a means of remedying the alleged violation, *The Herald* proposed the Board should make "a public acknowledgement of its violation of the law, a promise that such actions will not happen in the future," and hold "a timely meeting of the Board of Regents to publicly discuss the elimination of the men's soccer program."

¹ Mr. Paul understood that litigation had also been discussed per KRS 61.810(1)(c); however, *The Herald* found that "to be appropriate" and consequently did not challenge the propriety of the closed session on that basis.

In a timely written response, Ms. Gray responded to Mr. Paul's complaint on behalf of the Board, acknowledging that the Open Meetings Act does not permit a closed session for the purpose of discussing "the elimination of a 'position' in general"; however, the Board "did not go into closed session on January 25, 2008, for the purpose of such discussions." Noting that KRS 61.810(1)(f) authorizes the Board to go into closed session "for a discussion 'which might lead' to the dismissal of an individual employee," Ms. Gray argues:

On January 25, 2008, the "individual" employee - who was a subject of the closed session - had not yet been informed of the decision on the part of the University to eliminate his current position, resulting in his dismissal from that position. Given the employee's longevity in the position at the University, the President determined that the Director of Athletics should brief the Board on the decision to eliminate the incumbent employee's position. It is appropriate and permissible that a discussion of the individual employee would take place in closed session in respect to the employee, who had not yet been made aware of the Director's decision, and in deference to his privacy rights. It is logical that the Director would include, as a part of this briefing, the reason which led to his decision: that the program overseen by the employee was also being eliminated.

As further observed by Mr. Gray, the Board is aware "that it cannot take action on matters discussed in closed session" during the closed session. "It did not in this case." To the contrary, the Board "was not asked, nor did it take action, to approve or endorse the elimination of the position which would result in the individual employee's dismissal from that position." Likewise, the Board did not take any kind of action relative to the men's soccer program.

According to Ms. Gray, the statement attributed to Dr. Selig, "that the Board 'signed off on' a decision to eliminate the men's soccer program, if accurate, is an unfortunate misstatement of what occurred in closed session."²

² On appeal, *The Herald* asserts the Board "was briefed by WKU's Director of Athletics, Dr. Wood Selig, on the proposed decision to eliminate the position of WKU men's soccer coach as a result of the elimination altogether of the men's soccer program at WKU. After the meeting, Dr. Selig stated that the Board 'signed off on' the decision."

To clarify, the Board did not take action concerning the men's soccer program "either in closed session, or in any part of the open portion of the Board meeting." For this reason, the Board was unwilling to acknowledge that a violation of the Act was committed; however, Ms. Gray agreed to acknowledge receipt of the complaint during the next regular Board meeting on April 24, 2008, and "confirm the information in this response as part of the Board minutes of that meeting."

Contending that the Board "did not rely upon a proper ground for holding closed session discussions regarding the elimination of the position of men's soccer coach as a result of the elimination of the soccer program," Jeremy S. Rogers, counsel for *The Herald*, subsequently initiated this appeal on behalf of his client. As correctly observed by Mr. Rogers, the Board is a public agency within the meaning of KRS 61.805(2) and the closed session was a meeting under KRS 61.805(1). Accordingly, the discussion at issue "must be open to the public unless a specific exception contained in KRS 61.810(1) applies." In addition, "KRS 61.800 mandates that all such exceptions must be 'strictly construed.'"

In *The Herald's* view, the Board's position relative to KRS 61.810(1)(f) "makes no sense in light of the Board's claim that the discussion was nothing more than a briefing to the Board of a decision that had already been made." On the other hand, if Dr. Selig was correct, "the Board violated KRS 61.815(1)(c), which prohibits final action being taken in closed session." Regardless, the Board violated KRS 61.815(1)(d) in failing to publicly announce with specificity the subject of the discussion to be held in closed session. According to Mr. Rogers, the Board has, in short, failed to satisfy its burden of proof relative to KRS 61.810(1)(f). At most, the Board claims the discussion "might somehow indirectly relate to the elimination of the employee's position. What the Board does not establish (and must establish under a strict construction of the exception) is that the closed session was in fact a discussion or hearing that might have led to the dismissal of an individual employee." In fact, the Board asserts the opposite in responding that it went into closed session "to be briefed on a decision that had already been made by Dr. Selig. Moreover, the decision was a general personnel matter - the elimination of a position because of the elimination of a program - not an individual employee issue." Citing *Floyd County Board of Education v. Ratliff, Ky., 955 S.W.2d 921, 924 (1997)*, Mr. Rogers correctly notes that KRS 61.810(1)(f), the "personnel exemption," does not

authorize a closed session "for such general reorganization or job elimination discussions." Accordingly, *The Herald* requests a decision from this office "that the Board violated the Open Meetings Act with regard to discussions of the elimination of the soccer program and the coach position."³

Upon receiving notification of Mr. Rogers' appeal from this office, Scott D. Laufenberg, counsel for WKU, responded on behalf of his client. In Mr. Laufenberg's view, the Board "held a properly-noticed closed session to discuss two matters: the status of pending litigation involving WKU, and an individual personnel matter related to the potential dismissal of an employee."⁴ Said employee was the WKU men's soccer coach, "who has been an employee of WKU for more than twenty years." According to Mr. Laufenberg, *The Herald* is essentially arguing that "if a specific incumbent employee's dismissal is the result of a program elimination, that 'specific' personnel matter becomes a 'general' personnel matter."

Quoting the language of KRS 61.810(1)(f), Mr. Laufenberg contends that "by the exception's clear and unambiguous terms, it is proper for a state university to hold a closed session to discuss the potential dismissal of an individual employee to protect that individual's privacy interests." Because it "is the privacy of the individual employee, member or student," and the discussion related to same "that underlies the basis for the exception," Mr. Laufenberg asserts the fact that the dismissal "could be or is the result of the elimination of the program to which the employee is assigned is irrelevant." As further argued by the Board:

³ In addition, *The Herald* requests "an order that the Board must produce all minutes, recordings and transcripts of the closed meeting." However, this office cannot issue a decision under the Open Records Act unless and until *The Herald* submits a written request for such records in accordance with KRS 61.872(2) and the Board has an opportunity to respond per KRS 61.880(1). In other words, any issue arising under the Open Records Act is not ripe for review under KRS 61.880(2)(a) as *The Herald* has not, as of yet, submitted the documentation required to file an Open Records appeal and such issues are not justiciable in the context of an Open Meetings appeal.

⁴ To reiterate, *The Herald* has acknowledged that pending litigation was appropriately discussed in closed session and raises no issues in this regard as correctly noted by Mr. Laufenberg. Accordingly, our analysis focuses exclusively on whether the Board properly relied upon KRS 61.810(1)(f) as the basis for conducting the closed session.

In its request for a decision, [*The Herald*] argues that the subject of the closed session related to general personnel matters – the elimination of the men’s soccer program in contrast to a specific individual – and relies upon *Floyd County Board of Education v. Ratliff*, Ky., 955 S.W.2d 921 (1997). However, *The Herald* does not dispute that the sole and only employee whose employment and dismissal was discussed was the WKU men’s soccer coach, which is expressly permitted by KRS 61.810(1)(f). It is furthermore reasonable that the discussions related to the elimination of a currently-filled position and the dismissal of the specific employee who had been incumbent therein for more than twenty years would include some mention of the cause for elimination: the elimination of the men’s soccer program after the current academic year. However, the mere inclusion of this information in the discussion does not negate the applicability of the exemption to the reason for the closed session: the dismissal of an individual employee.^{5]}

In closing, Mr. Laufenberg asserts that *The Herald’s* “attempt to recast the purpose of the closed session does not negate what in fact occurred in the closed session and the propriety of the closed session – a discussion related to the dismissal of one individual WKU employee, which is permitted by KRS 61.810(1)(f).” Accordingly, the Board asks the Attorney General to issue a

⁵ In addition, the Board contends that *The Herald’s* reliance on *Floyd County Board of Education v. Ratliff* is misplaced; however, *The Herald* relies upon this opinion secondarily for the limited proposition that KRS 61.810(1)(f) “does not allow a general discussion concerning a school reorganization plan.” *Id.* at 924. Although the Board correctly observes that the Court specifically prohibited such a discussion “when it involves multiple employees,” further consideration of this issue is unwarranted insofar as the facts which culminated in *Ratliff* differ significantly from those presented; the analysis focused primarily on the applicability of the “litigation exception” codified at KRS 61.810(1)(c) and is of limited use in this context beyond the governing principles outlined by the Court and set forth later in this decision. Noting that a “careful review” of the record confirmed that “the Board went into executive session to consider the reorganization plan and not pending litigation,” the Court found that the discussion “expanded the intended scope of the litigation exception and improperly concealed matters otherwise appropriate to the view of the public.” *Id.* at 924. Given the time constraints imposed on this office by KRS 61.846(2) and the secondary nature of the arguments relative to *Ratliff*, it suffices to say that nothing in that opinion alters our analysis on the unique facts presented.

decision upholding the closed session held on January 25, 2008, as lawful and finding this appeal is without merit.

Because the Board's liberal interpretation of KRS 61.810(1)(f) is not supported by the express language of the exception, but is contrary to KRS 61.800, the Attorney General must respectfully decline to make such a finding. Insofar as the closed session apparently consisted of a "briefing" on a decision already made, as opposed to a discussion which might have led to the coach's dismissal, the Board "expanded the scope of the [personnel] exception and improperly concealed matters otherwise appropriate to the view of the public." *Ratliff* at 924.

Fundamental to our analysis of the sole question presented is the legislative statement of policy codified at KRS 61.800:

The General Assembly finds and declares that the basic policy of KRS 61.805 to KRS 61.850 is that the formation of public policy is public business and shall not be conducted in secret and the exceptions provided for by KRS 61.810 or otherwise provided by law shall be strictly construed.

Recognizing that extraordinary circumstances occur which might justify a public agency conducting public business during a closed session, the General Assembly has created a number of exceptions to this general rule. Resolution of this appeal turns on the specific language of KRS 61.810(1)(f), which removes from application of the Open Meetings Act discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member or student.

When interpreting the provisions of the Open Meetings Act, Kentucky's highest courts have recognized that "the failure to comply with the strict letter of the law in conducting meetings of a public agency violates the public good." *Floyd County Board of Education v. Ratliff*, Ky., 955 S.W.2d 921, 923 (1997), citing *E.W. Scripps Co. v. City of Maysville*, Ky. App., 790 S.W.2d 450 (1990). Consequently, "the courts of the Commonwealth must narrowly construe and apply the exceptions so as to avoid improper or unauthorized closed, executive or secret meetings." *Id.* Adopting language from the Court of Appeals, the

Supreme Court concluded that "the exceptions to the open meetings laws are not to be used to shield the agency from unwanted or unpleasant public input, interference or scrutiny." *Id.* at 924.

By its express terms, KRS 61.810(1)(f) authorizes public agencies to hold a closed session for the following reasons:

Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret[.]

In applying this provision, commonly referred to as the "personnel exception" of the Open Meetings Act, this office has observed:

A public agency's authority to go into a closed session relative to personnel matters is severely restricted. General personnel matters cannot be discussed in a closed session. The only personnel matters which can be discussed in a closed session by a public agency are those *which might lead to the appointment, discipline, or dismissal of personnel of that particular agency.* See 93-OMD-49[p. 3; OAG 90-125, p. 2]. (Emphasis added.)

Regardless of whether the Board fully complied with KRS 61.815(1)(a),⁶ the mandatory notice requirement, which is unclear from the record,⁷ the fact

⁶ To clarify, a public agency is not required to identify by name the employee or employees who will be discussed, nor is the agency restricted to discussing one employee at a time. 00-OMD-113, p. 4. Inasmuch as joint action by a group of employees may result in joint disciplinary action or dismissal by an employer, the Attorney General has expressly so held. 99-OMD-49, p. 4. To hold otherwise would place unjustifiable impediments on the ability of a public agency to effectively and efficiently discuss joint misconduct of public employees which might warrant disciplinary action or dismissal (permissible as compared to general discussion of a reorganization plan involving multiple employees). *Id.*

⁷ Neither party has provided this office with a copy of the minutes from the meeting at which the closed session was held so as to verify the exact purpose stated nor are the minutes necessarily available per KRS 61.835 as of yet; however, the "announced purpose" was to "discuss litigation and personnel matters" according to the Board, which is not specific enough under the cited line

that the Board "was not asked, nor did it take action, to approve or endorse the elimination of the position" which resulted in the coach's dismissal from that position and likewise took no action regarding the men's soccer program "either in closed session, or in any part of the open portion of the Board meeting," does not render the discussion at issue permissible. To clarify, the Open Meetings Act prohibits both discussions, except for those which might lead to appointment, discipline, or dismissal, of an individual employee, *and* final action. 00-OMD-113, p. 4. In other words, the lack of action by the Board concerning the general personnel matters apparently discussed in closed session, albeit incidentally to the decision about which the Board was briefed, does *not* mitigate the violation committed when the Director *briefed* the Board on the *decision* to dismiss the coach as a necessary consequence of eliminating his position.

Equally unpersuasive is the Board's argument relative to the duration of the employee's career at WKU and the resulting deference for his privacy on these facts. Neither his "longevity" nor the failure to notify him prior to January 25, 2008, are relevant in determining whether the discussion was authorized under KRS 61.810(1)(f); likewise, none of the other exceptions codified at KRS 61.810(1) allow discussions premised upon these factors. While it may otherwise be "appropriate" to notify the individual employee, and courteous, just as it was "logical" for the Director to include, "as part of this briefing," the underlying reason for his dismissal, none of the above justify the Board's reliance on this narrowly tailored exception. On appeal, the Board characterizes the dismissal in question as "potential," which is inconsistent, whether intentionally or not, with references in the Board's initial response to "the decision" to eliminate the coach's position, resulting in his dismissal, as well as the President's determination that the Director should "brief" the Board on the matter, all of which imply the decision was already final, a distinction which is legally significant and, in fact, determinative. It stands to reason that no causal

of decisions contrary to its assertion that the closed session was "properly-noticed." Pursuant to KRS 61.846(2), the limited role of the Attorney General is to determine whether the public agency committed a violation of the Open Meetings Act based upon the written evidence of record (complaint, agency response, letter of appeal and supplemental agency response along with attachments, if any) - nothing more, nothing less. Accordingly, this office is unable to conclusively resolve factual disputes (relative to Dr. Selig's alleged statement, for example) in the context of an Open Meetings appeal. In any event, our holding is premised on the legal effect of those actions which are undisputed.

relationship existed between the discussion at issue and the coach's dismissal as required for the Board to successfully invoke KRS 61.810(1)(f).

As long recognized by the Attorney General, and noted by the Board on appeal, the underlying rationale or premise of KRS 61.810(1)(f) is to protect the privacy of the individual when the discussion "might lead to" his appointment, discipline, or dismissal whereas the privacy interests of the individual are not implicated when, as in this case, dismissal is a foregone conclusion. Closed session discussions are permitted under KRS 61.810(1)(f) "only if there is a potential for reputation damage and no such potential exists under the facts of this appeal" given that a decision had already been made by the agency regarding the dismissal of the individual employee. 03-OMD-148, p. 7, citing OAG 83-415. To the contrary, the record is devoid of evidence to suggest any reason for dismissal of the coach aside from the elimination of his position, which inevitably resulted from the elimination of the soccer program, both of which are "general personnel matters" the Board admittedly discussed if only in relation to his dismissal and neither of which relate to him otherwise. Because the Board apparently failed to comply with requirements for going into closed session codified at KRS 61.815(1)(a), and has not established that discussion was restricted to matters *which might lead to* the appointment, discipline or dismissal of an individual employee, this office must conclude that the Board "expanded the scope of the [personnel] exception and improperly concealed matters otherwise appropriate to the view of the public." *Ratliff* at 924.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.846(4)(a). The Attorney General should be notified of any action in circuit court, but should not be named as a party in that action or in any subsequent proceedings.

Jack Conway
Attorney General

Michelle D. Harrison

Michelle D. Harrison
Assistant Attorney General

#60

08-OMD-040

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Distributed to:

Jeremy S. Rogers
Lois Gray
Deborah T. Wilkins
Scott D. Laufenberg

THE HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

The House of Representatives of the Commonwealth of Kentucky
hereby recognizes and honors

Western Kentucky University Day at the Capitol

and extends a warm welcome to President Gary A. Ransdell and the esteemed representatives of the honorable citizens who make up the WKU Board of Regents, Lois Gray, Jim Meyer, Yvette Haskins, Judi Hughes, Jim Johnson, Forrest Roberts, Ladonna Rogers, Larry Zielke, Patricia Minter, Tamela Smith and Jeanne Johnson.

Having always labored with great hope and enthusiasm to meet the ever-changing educational needs of the citizens of this Commonwealth and beyond, and despite the ever-stringent competition for much-needed financial support, these laudable leaders and the supporters of Western Kentucky University, continue their visionary and determined efforts to successfully and finely navigate this institution of higher education through the current challenges inherent in modern culture while building on the time-tested values of its heritage. Inasmuch as Western Kentucky University serves as a laudable steward of the diverse community it serves, the members of this august body are delighted to join with Speaker Jody Richards in applauding these distinguished guests as they gather today in the Chamber of the House of Representatives during the 2008 Regular Session of the Kentucky General Assembly and in extending best wishes for the utmost success as they continue to move this treasured university forward to meet its vision.

Done in Frankfort, Kentucky, this
twenty-fifth day of January, in the year
two thousand and eight.



Speaker, House of Representatives

THE SENATE
OF THE
COMMONWEALTH OF KENTUCKY

To All To Whom These Presents Shall Come, Greetings:

Know ye that the

Western Kentucky University Board of Regents

● recognized and honored upon attending this day's activities of the 2008 Kentucky General Assembly and for traveling to Frankfort to participate in Western Kentucky University Day at the Capitol. Collectively committed to fostering higher education, growth to national prominence and economic development across the Commonwealth, the Western Kentucky University Board of Regents has played an instrumental role in shepherding this institution in its vision to become "A Leading American University with International Reach." Through the university's undergraduate, associate, and graduate degree programs, its inspiring faculty, a campus of historical distinction and character, and its encouragement of applied research and public service, WKU continues to afford its students with lifelong learning experiences and to contribute to the quality of life within this region while meeting the ever-changing needs of a global society. Inasmuch as the members of this distinguished and visionary group of citizens have labored with great integrity on behalf of this respected institution, the Commonwealth of Kentucky, and the diverse community it serves, the Western Kentucky University Board of Regents is afforded sincere gratitude for contributing so greatly to the superior standard of excellence associated with higher education within this state; and,

on the motion of

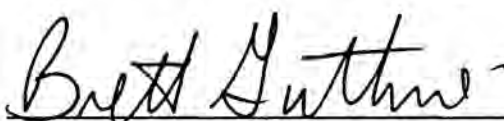
Senator Brett Guthrie

is hereby deemed by this honorable body worthy of its recognition.

Done in Frankfort, Kentucky, this twenty-fifth day
of January, in the year two thousand and eight.



President of the Senate



Member of the Senate

Presentation to
**Board of Regents of
Western Kentucky University**

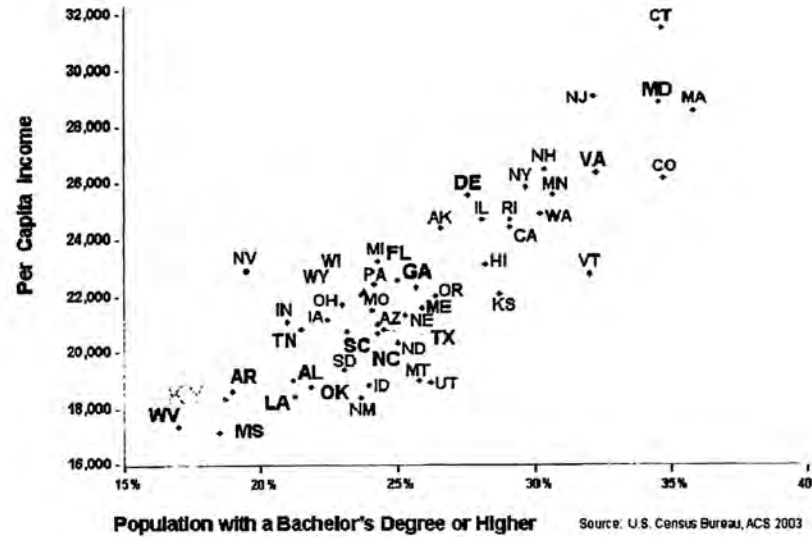
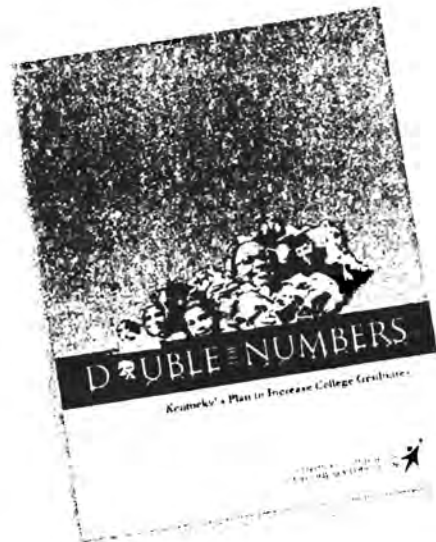


**Kentucky Council on
Postsecondary Education**

Bradford L. Cowgill
Interim President
January 25, 2008

Increasing college graduates is essential to income growth

Doubling the Numbers of college graduates in Kentucky by 2020 is a worthy and realistic goal as it is the essential strategy for increasing Kentucky's per capita income.



The single factor with the greatest power to explain differences in per capita income between states is the percentage of college graduates.

Milken Institute, 2002

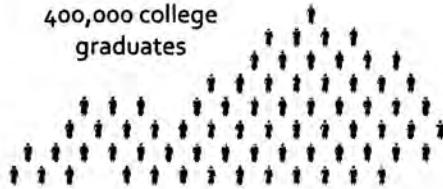


In Kentucky, higher education is a 'goal driven' business

Six goals of House Bill 1

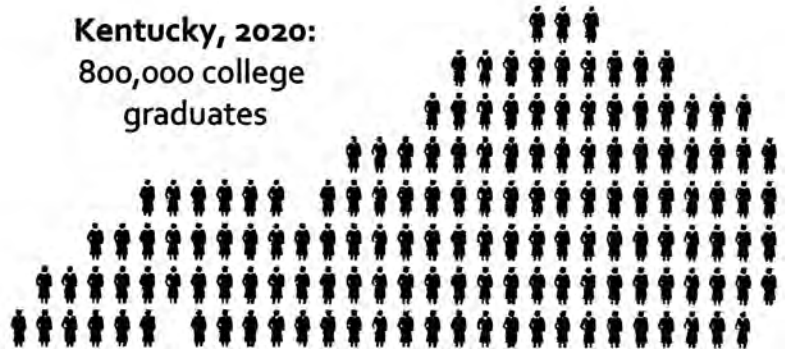
- ✓ Seamless, adequately funded system to enhance economic prosperity
- ✓ UK: top 20 public research university
- ✓ U of L: premier metropolitan research university
- ✓ Regional universities: access to quality degrees and nationally recognized programs of distinction
- ✓ Community/technical colleges: access, transfer and workforce development
- ✓ Educational services in quality and quantity comparable to the national average

Kentucky, 2000:
400,000 college
graduates



The most dramatic
economic transformation
in Kentucky's history

Kentucky, 2020:
800,000 college
graduates



Fiscal impact of budget reduction order

January 4, 2008

Where the cuts were made



Cuts to General Fund appropriations (millions, total = 65.3 m)

Category	Cuts to General Fund appropriations (millions)	Cuts as % of Original General Fund Appropriation (percent)
Postsecondary Education	\$34.5	2.5%
Executive Branch Cabinets	\$17.0	0.5%
Department of Education	\$11.6	0.3%
General Government	\$2.2	0.3%
Judicial Branch	\$0.0	0.0%
Legislative Branch	\$0.0	0.0%
Budget Reserve Trust Fund	\$0.0	0.0%
Capital Projects	\$0.0	0.0%

Cuts as % of Original General Fund Appropriation (percent)

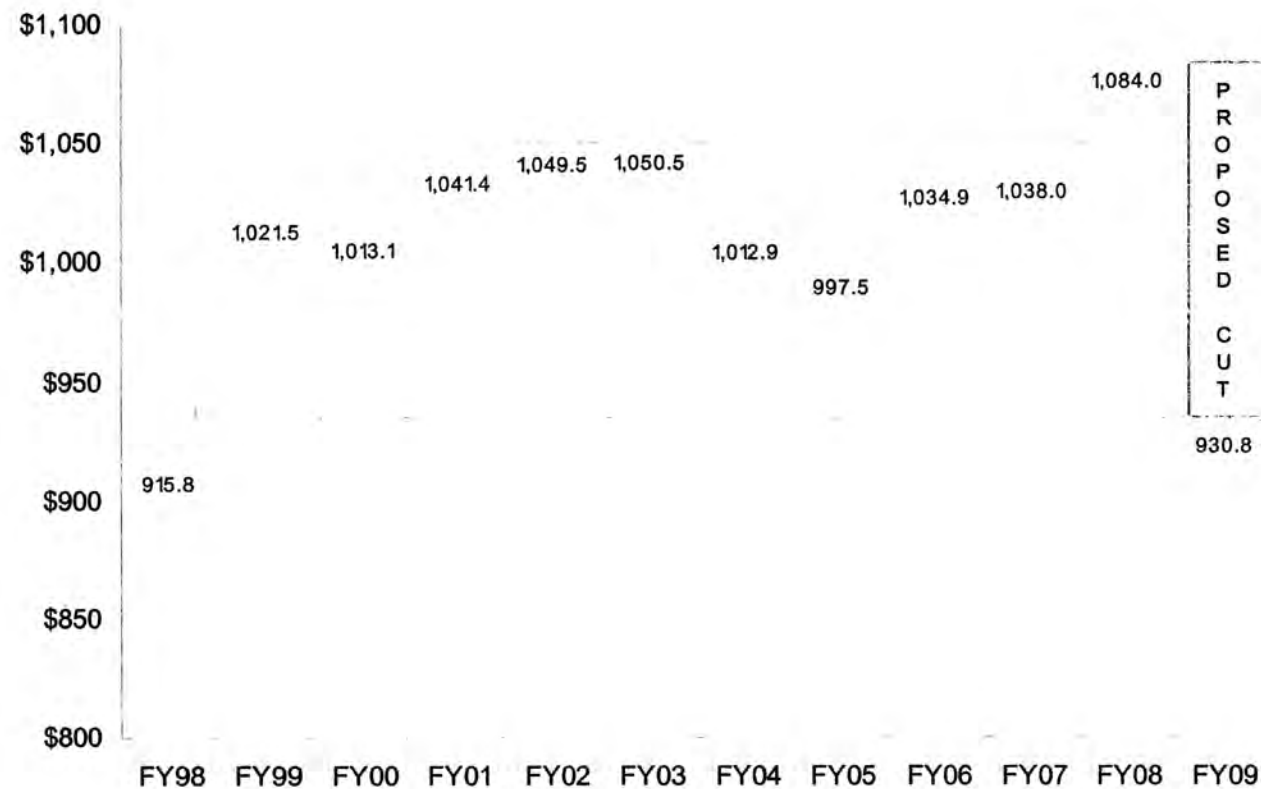
\$0 \$5 \$10 \$15 \$20 \$25 \$30 \$35 \$40 0.0% 0.5% 1.0% 1.5% 2.0% 2.5% 3.0%

The 2.5% aggregate cut to postsecondary education shown here represents the budget cuts as a percentage of the entire postsecondary education budget, including student scholarships. No cuts were made to student scholarships appropriated to KHEEA, appropriated to be \$175.0 million in FY08. Cuts to postsecondary institutions (universities and community colleges) and the Council on Postsecondary Education represented 3% of their FY08 General Fund appropriations.

Source: Budget Reduction Order, January 4, 2008

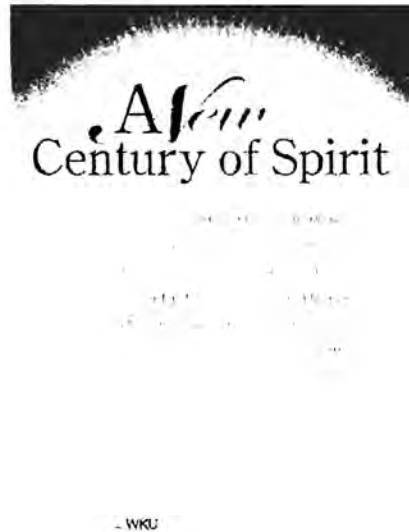
General Fund appropriations to postsecondary institutions with proposed 15% FY09 cut

In millions, inflation adjusted to 2008 dollars



Source: Council on Postsecondary Education

Matters of special interest to Western Kentucky University

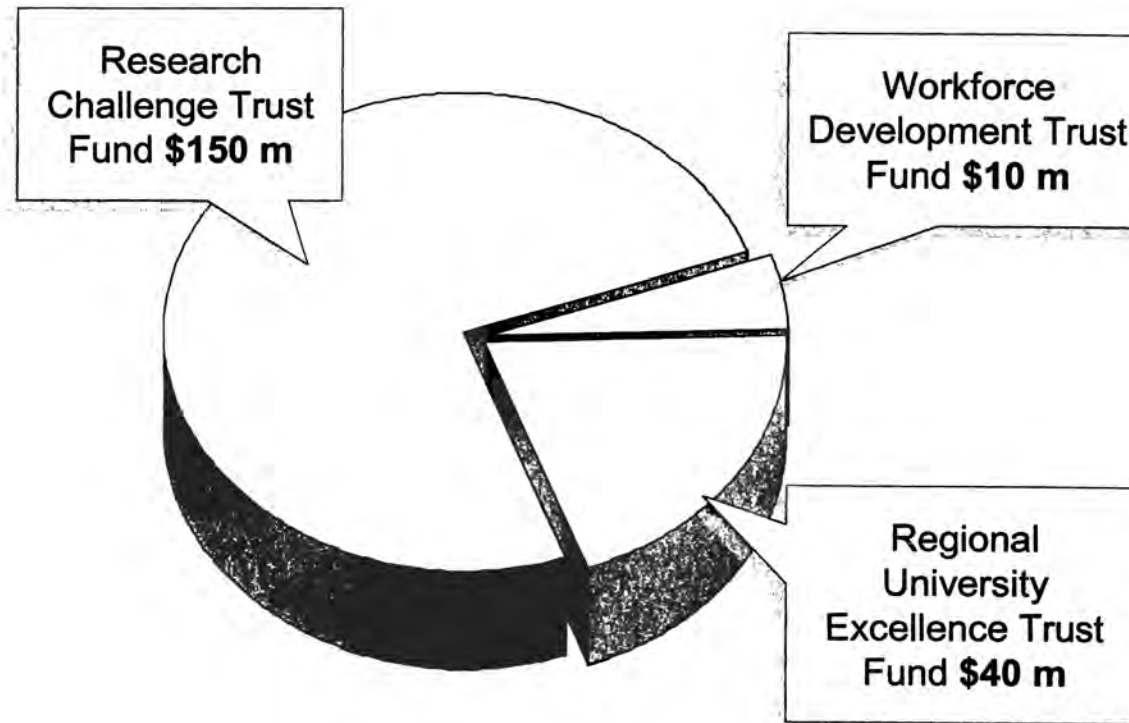


On behalf of Western Kentucky university, the Council requested:

- ✓ \$93.4 million for 2008-09, an increase of 8.1 percent (\$7 million) over the prior year.
- ✓ \$98.4 million for WKU in 2009-010 an increase of 5.4 percent (\$5 million) over the prior year.
- ✓ \$503,800 in 2008-09 and an additional \$1.9 million estimated allocation from the Double the Numbers degree fund.
- ✓ \$9.8 million in matching funds from the Bucks for Brains program.
- ✓ \$24 million for the Phase Three renovation of the Science Campus.
- ✓ \$28 million for a new Central Region Postsecondary Education Center (a joint project with KCTCS).
- ✓ \$4.6 million for Phase Two construction of a Materials Characterization Center.
- ✓ \$14.1 million for the OTPEC (joint program with KCTCS).
- ✓ \$5.6 million for the capital renewal, maintenance and infrastructure pool
- ✓ \$3.8 million for the information technology initiative pool.

Kentucky's Bucks for Brains program matches public and private dollars

The Council has proposed a bond program of \$200 million for the Bucks for Brains program in the next budget. These funds would be available to the institutions in the proportions shown here, encouraging continued improvement in the quality of our faculties.



Thank you



**Kentucky Council on
Postsecondary Education**

Bradford L. Cowgill
Interim President
January 25, 2008

2007 I-A FOOTBALL TRANSITION

❖ SUCCESS OF SEASON

- All 3 non-SBC IA opponents participated in a bowl game
- If WKU could have been included in the NCAA's national statistical rankings, the following stats could have been recorded
 - 8th in rushing
 - 12th in pass defense
 - 13th in total defense
 - 21st in scoring defense
 - 28th in scoring offense
- If WKU could have been included in the SBC rankings, the following stats could have been recorded
 - 2nd in rushing and scoring offense
 - 3rd in pass efficiency and total offense
 - 1st in rush, total and scoring defense
 - 2nd in pass efficiency defense
 - 2nd in punt returns
- Curtis Hamilton set school career records with 149 catches and 2,324 receiving yards and equaled the season record with 66 catches in the fall
- Chris James became the school's all-time leading scorer—surpassing WKU Hall of Famer Willie Taggart – with 298 total points and also set the career field goal record with 51

❖ MEDIA COVERAGE

- Recognized weekly in notes column in *USA Today Football Weekly*
- Received more coverage in preseason magazines as either a future member of the SBC or an Independent since those publications now either offer one page for all of I-AA or have cut I-AA out of their production entirely.
- Recognized as I-A independent in all statistical listings in papers and on web
- Four road football games were televised (one ABC, one ESPN Regional, two regionally)
- All games were on Big Red Radio Network with over 1.5 million listeners – the second largest radio network in the Commonwealth

❖ ROYALTY UPDATE

	2006	2007	Increase
1Q	\$25,209	\$34,892	38%
2Q	\$15,240	\$23,408	54%
3Q	\$33,770	\$52,179	55%
4Q	\$32,538	\$56,154	73%

2007 I-A FOOTBALL TRANSITION

❖ SEASON TICKET SALES

	2006	2007
SEASON TICKETS	1,851	9,093
SINGLE GAME TICKETS	8,956	14,030
STUDENT ATTENDANCE	7,406	14,194
TOTAL ATTENDANCE	54,306 (6 GAMES)	82,440 (5 GAMES)
ATTENDANCE AVERAGE	9,051	16,488
TOTAL TICKET REVENUE	\$198,907.50	\$391,938.50

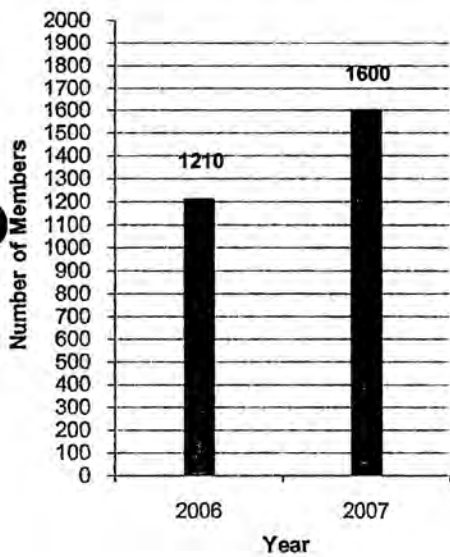
❖ TOPPER CLUB SEATS

- 750 seats committed for \$543,000
- Potential to sell 30-35 additional seats bring possible revenue to \$575,000

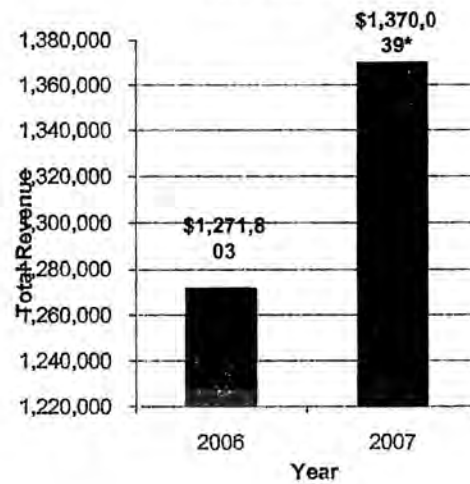
2007 I-A FOOTBALL TRANSITION

❖ HAF Memberships

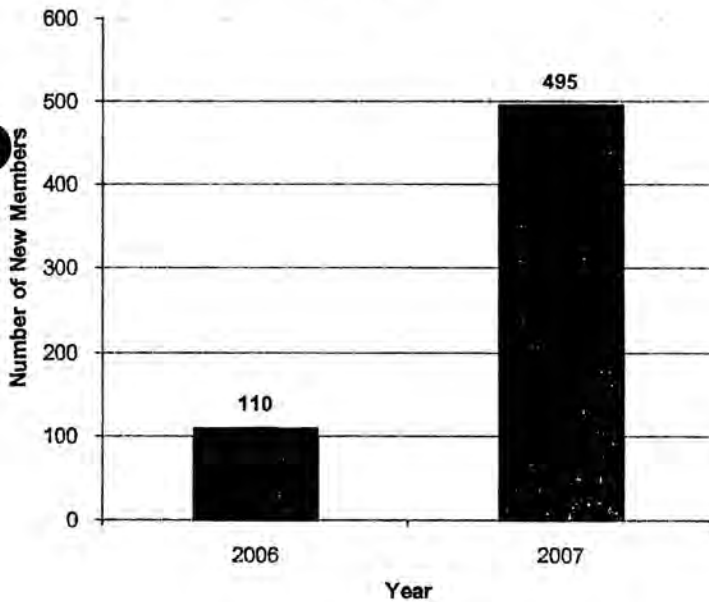
COMPARISON OF HAF MEMBERS FROM 2006 TO 2007



TOTAL HAF Revenue Comparison from 2006 to 2007



COMPARISON OF NEW HAF MEMBERS IN 2006 AND 2007



2007 I-A FOOTBALL TRANSITION

FUTURE I-A SCHEDULES

2008	17
Aug 30	@ Indiana
Sept 6	@ Eastern
Sept 13	@Alabama
Sept 20	Murray State
Sept 27	MTSU
Oct 4	@ Miami - Ohio
Oct 11	Ball State
Oct 18	Florida Atlantic
Oct 25	Open
Nov 1	North Texas
Nov 8	@ Troy
Nov 15	Open
Nov 22	@ Arkansas State
Nov 29	Open
Dec 6	@FIU

2009	SBC Championship & Bowl Eligible	10
Sept 5	@ Tennessee	
Sept 12	Indiana State	
Sept 19		
Sept 26		
Oct 3	LA Lafayette	
Oct 10		
Oct 17	@FAU	
Oct 24	FIU	
Oct 31	@North Texas	
Nov 7	Troy	
Nov 14	@UL Monroe	
Nov 21	Arkansas State	
Nov 28	@MTSU	

2010	11
Sept 4	@ Nebraska
Sept 11	
Sept 18	Indiana
Sept 25	Bowling Green
Oct 2	@LA Lafayette
Oct 9	
Oct 16	FAU
Oct 23	@FIU
Oct 30	North Texas
Nov 6	@Troy
Nov 13	UL Monroe
Nov 20	@Arkansas State
Nov 27	MTSU

2011	10
Sept 3	Miami - Ohio
Sept 10	@ Indiana
Sept 17	
Oct 1	LA Lafayette
Oct 15	@FAU
Oct 22	FIU
Oct 29	@North Texas
Nov 5	Troy
Nov 12	@UL Monroe
Nov 19	Arkansas State
Nov 26	@MTSU

2012	10
Sept 1	@ Alabama
Sept 22	@ Iowa State
	@Troy
	@Arkansas State
	@FIU
	@ L A Lafayette
	MTSU
	FAU
	UL Monroe
	North Texas

2013	11
Sept 7	@Tennessee
Sept 28	Navy
Nov 9	@ Army
	@MTSU
	@FAU
	@UL Monroe
	@North Texas
	Troy
	Arkansas State
	FIU
	LA Lafayette

2014	11
Sept 20	@ Iowa State
Sept 27	@ Navy
Nov 15	Army
	@Troy
	@Arkansas State
	@FIU
	@LA Lafayette
	MTSU
	FAU
	UL Monroe
	North Texas

2015	10
Sept 19	Iowa State
Sept 26	@ Army
	@MTSU
	@FAU
	@UL Monroe
	@North Texas
	Troy
	Arkansas State
	FIU
	LA Lafayette

2016	9
Sept 24	Army
	@Troy
	@Arkansas State
	@FIU
	@LA Lafayette
	MTSU
	FAU
	UL Monroe
	North Texas