NOTE FROM THE CHAIR...

This year, the Senate Executive Committee has been concerned about the overall "climate" existing on our campus. In particular, our concerns seem to have centered on the perceptions we, as faculty, have about our professional environment, the manner in which we are involved in decisions directly impacting our professional lives and our relationships with colleagues at all levels.

To better understand how you as faculty feel, you will soon be receiving a short one-page survey that I urge you to promptly fill out, fold and return. It will take only 3 - 5 minutes. We want and need to know how you feel so that we can be assured that we are, in fact, representing your concerns to upper administration and are dialoging about the issues you feel are most relevant to your professional life.

This faculty survey, from an Ad Hoc Senate Committee, is being sent to all full-time faculty at Western. It is separate from any recent surveys undertaken by some of the Western XXI committees that were sent to random faculty.

Thank you for your help and support!

Bart White
Chair, Faculty Senate XIII
The meeting was called to order by Chair White at 3:30 pm.

Executive Committee Report

Chair White will organize a legislative forum on campus with our local representatives to provide an update on Frankfort and to interchange ideas. The Senate Constitution will go to the Board of Regents in January with the following exception made by the President: the Faculty Senate will have one not two representatives on the University Budget Committee and since the Senate has one representative on the Insurance Committee already, the wording requesting the representative will be dropped. Six faculty members have been nominated for selection on the Task Force For Sexual Assault from which four will be selected by the President. Following the passage of a Senate resolution last month to survey the university climate, the Executive Committee has appointed a committee to begin work. A survey will be developed and mailed to all faculty. A Presidential newsletter is published and sent to faculty. This was a request made to the President by the Executive Committee this past fall and it has been honored.

The Executive Committee has received a copy of a petition being circulated by physical plant employees regarding health insurance. Representatives from this group have requested and been granted time to present the petition to the Senate at this meeting. Joy Gramling presented their position about unhappiness with the university's contribution toward health insurance and supported the Senate's resolution on health insurance. Joined forces would have a greater impact upon the administration's awareness of our mutual concern. Faculty are welcomed to sign the petition along with physical plant employees. A request was made to read the petition. The chair read the following petition:

"Because of rising health insurance costs, take-home pay for the university employees has decreased for the past three years. Since the pay scale at Western is comparatively low and since annual raises do not even keep pace with inflation, we find it increasingly difficult to maintain a decent standard of living for ourselves and our families. We the undersigned, therefore, strongly urge WKU to either shoulder its fair share of the increase in the cost of medical insurance or to compensate its employees in the form of an increase in wages."
Faculty Status and Welfare Committee: Senator Rasdall reported that the holiday pay item on the new check stub relates to the fringe benefit payment for Martin Luther King Day. This item will not appear on future stubs. The social security deduction for 1990 has increased from 7.5% to 7.65% and income tax rates for 1990 have caused paychecks to be less in January. She also reported that the Consumer Price Index from November 1988 to November 1989 was 4.7%.

Professional Responsibilities and Concerns Committee: Senator Wesolowski reported that the item under new business will be presented for discussion and that it is co-sponsored by this committee and the Executive Committee.

COSFL Report: Senator Pulliam reported that an area of concern for COSFL was relationships with university area legislators. It is important to keep your local legislators informed like a Senate forum which is planned by Western. Our Senate Chair might send the COSFL legislative agenda to our local legislators expressing our Senate support of that platform. Senators were reminded of the need for financial contributions of $10 to COSFL for this legislative session. As passed in a previous Senate meeting, departmental senators were to make copies available to their faculty. A resolution is being prepared by COSFL to the Council on Higher Education urging COSFL participation in the yearly planning and orientation session of CHE.

Faculty Regent's Report: Regent Evans reported that the Board will get the budget in May. The Board will receive the new guidelines for selection and evaluation of department heads at the January 25 meeting. Regent Evans will discuss concerns about the document with the President. Gene expressed his concern that the search committee be an agent of the department, not separate from the department. He will also present faculty concerns to the President regarding the document. Senator Weigel hoped that the Academic Committee of the Board would be made aware of the fact that the Department Head/Chair Task Force Report along with the Senate Report are not reflected in the document and Regent Evans agreed to do that. Senator Krenzin suggested Faculty Senate representation at the Academic Committee and Board meeting. It was agreed to do so. Regent Evans said the document does seem to have more faculty influence in the process than previously exhibited. Chair White stated that the President has been made aware of the Senate's feeling regarding this topic through numerous discussions.

NEW BUSINESS

The Resolution on Health Insurance was read by the secretary and moved for adoption. A second to the motion was received. This resolution was co-sponsored by the Professional Responsibilities and Concerns Committee along with the Executive Committee. A discussion followed. Senator Steve White and others expressed support for the physical plant employees petition. Senator Wesolowski commented that the Senate resolution makes apparent a
proprietary interest in the university’s legal commitment to its employees and also points out the background to this resolution. Also discussed was the possibility of the issue of breach of contract upon the university. A shortened version of the resolution was discussed. Senator Kuhlenschmidt proposed an amendment to the motion by shortening the resolution and moving much of the statement to the background section. Seconded by Senator Wesolowski. The amendment to the motion passed. After further discussion and failed amendments, the amended motion passed as follows:

RESOLUTION

"It is the sense of the Faculty Senate that the University’s shift in philosophy is rejected as unacceptable to the faculty."

The background statements to the resolution on health insurance will be forwarded as agreed to before passage.

The meeting adjourned at 5:00 p.m.

NOTE: The full text of this passed Resolution, including background, appears on the following page.
A SENSE-OF-THE-SENATE RESOLUTION CONCERNING HEALTH INSURANCE

BACKGROUND

Concerning the matter of rising health insurance costs and the announced forthcoming changes in the University's system of funding faculty and staff health insurance, the Faculty Senate recognizes:

--that because health care costs and related insurance costs are increasing dramatically nationwide, the problems of providing these benefits affect most if not all large organizations in the country, including Western Kentucky University;

--that this phenomenon is acknowledged as a demanding challenge to the leadership provided by Western's President, one which he has grappled with in the past and will continue to confront in the future as a dedicated administrator;

--that the President's reported efforts to work in concert with other organizations in this area to devise new insurance groups or other systems is a commendable initiative aimed at helping the University carry its responsibilities to faculty and staff in a cost-effective way, and is therefore applauded and encouraged; and

--that the Faculty stands ready to assist in any appropriate way these and other suitable efforts aimed at solving a management challenge of significant proportions; but

--that the University is also further abandoning its long-standing policy of providing traditional group health insurance as a fully-paid fringe benefit to faculty and staff;

--that this fringe benefit is appropriate as partial compensation to faculty and staff for the performance of their duties, especially in an era during which salary adjustments have failed to keep pace with inflation;

--that Western's faculty have in good faith loyally served the University during their prime professional years in the belief that the University would in good faith maintain the fringe benefits policies that have rewarded its members over the years, policies, which have been in continuous effect from the times of initial employment until recently;

--that the University's intention now to substitute a system under which faculty and staff will progressively lose an important health insurance fringe benefit by being required increasingly to bear financial responsibility for it, constitutes a fundamental shift in University philosophy;

--that this shift in philosophy denotes a lessening of the esteem in which the University holds its faculty, it undermines faculty morale by devaluing their services to the University, and it is in these and other ways an ominous portent of the future.

RESOLUTION

Therefore, it is the sense of the Faculty Senate:

--that the University's shift in philosophy is rejected as unacceptable to the faculty.
Ron Cantera
Associate Professor
Department of Journalism

It's a big world out there -- but you'd never know it by listening to the campus debate about health insurance.

In my judgment, the University's rhetoric is pockmarked by parochialism.

Administrators tell us that "Western pays more per month per employee (for health insurance) than any other state university except for one."

But they don't explain -- is it possible they don't know? -- that Western also deducts more for health insurance than any other state university you'd want to work for?

In Utah, my wife paid only $25 a month for HMO family coverage -- including a dental plan -- at the local community college where she worked.

In Arizona, faculty at a state university that offered me a job last year paid only $1 a month for Blue Cross/Blue Shield family coverage. That's not a typographical error. Faculty got paid twice a month and the university deducted 50 cents from each check for health insurance. Those who wanted HMO family coverage paid $69 a month.

Hundreds of colleges from California to Cambridge offer comparable rates for health insurance benefits that are far superior to those at Western. If you don't believe it, call the personnel office at an institution where you'd like to teach. Ask what kind of coverage they provide and how much it costs.
Meanwhile, Western's explanation for decreasing benefits revolves around comparisons with Kentucky colleges and complaints about local "demographics," instead of focusing on how Western compares with other institutions across the nation. The arguments are plainly provincial.

Yes, health insurance costs have escalated everywhere. But other institutions are paying their fair share of the increase and faculty can still buy health insurance at reasonable rates.

A recent Gallup national survey revealed that 37 percent of employees in the United States pay nothing for health insurance. Another 21 percent pay $50 or less per month.

In case you haven't calculated quickly, that puts Western's faculty in the vast minority.

-30-
LAMAR DUMPS FOOTBALL  (From AP reports)

The Lamar University (Beaumont, Texas) Board of Regents voted to discontinue the school's football program, citing projected losses of $503,414 over the next three seasons.

Lamar President Bill Franklin told the Board he could not recommend keeping the program after reviewing the program's rising deficit. The Board vote was 5 - 4 to discontinue football, which has competed as an NCAA Division I-AA independent the past three seasons.

In all fairness, we should also point out that other institutions of higher learning (mainly smaller colleges who compete at the non-scholarship NAIA level) have instituted football programs as a means of attracting male students. In particular is the Senate chair's past employer of the early 70's, MacMurray College of Illinois. White reports that football on campus did increase student enrollment from under 1,000 to over 1,000 full-time students, mainly males who were attracted to the expanded athletic program.
District Court and 11th Circuit find policy unacceptable; case appealed to U.S. Supreme Court...

PROFESSORS SUE AUBURN U. OVER "DEMAND-IN-THE-FIELD" SALARY POLICY

On May 11, 1988, the 11th Circuit Court of Appeals in Atlanta, Georgia, handed down a one sentence affirmation of the willful age discrimination verdict made against Auburn University in July 1987 by the Federal District Court in Opelika, Alabama. This decision by the 11th Circuit is one of the first involving age discrimination with regard to compensation, and it may establish a legal precedent for future age discrimination litigation.

The lawsuit had its start when the first age discrimination charge was filed with the EEOC in October 1985 by Dr. Milton J. Alexander. During the next ten months, he was joined by four other plaintiffs, including Drs. C.R. Snow, W.A. Shaw, D.M. Hall, and W.M. Pedersoli. After personal appeals to successively higher administration levels and the refusal by the central administration of Auburn University to consider their complaints, a class action suit was filed in Federal District Court in early October 1986. Auburn University, the president, a vice president, and five other administrators were named as defendants.

The initial trial was held during the week of July 25, 1987. The plaintiffs were represented by a firm out of Montgomery, while defendants were represented by firms out of Opelika and Atlanta, Georgia.

The plaintiffs alleged that the payment of essentially the same or smaller salaries to senior professors as opposed to new, junior professors teaching in the same department constituted prima facie evidence of age discrimination with regard to compensation. All of the plaintiffs were receiving salaries approximately equal to or below the new hire rates for their respective departments.

Auburn University used a two prong defense. They argued that the payment of competitive salaries to attract competent new faculty members was essential to provide adequate instruction to students. They also argued that the relatively low salaries of the plaintiffs were due to years of "poor performance."

The plaintiffs readily agreed that competitive salaries were required to attract competent new faculty members. The plaintiffs attacked the poor performance charge by showing evidence of excellent performance. Among the plaintiffs' accomplishments were an Outstanding Graduate Teacher Award, books, and refereed journal articles, large research grant awards and substantial extension service. The plaintiffs also showed that Auburn University did not have a legitimate, legally defensible faculty evaluation system which would support the poor performance charge. After four hours of deliberation, the jury returned a verdict of willful age
discrimination against all of the defendants and an award of $163,000 for the plaintiffs. The total costs to Auburn University through the District Court trial have been estimated at $500,000.

After exhausting the post trial motions, Auburn University appealed the verdict to the 11th Circuit Court of Appeals. The American Council of Education also filed a legal brief as an amicus curiae in support of Auburn University, contending that an adverse ruling would be undue interference in the higher education system. Oral arguments were presented on April 25, 1988, and the 11th Circuit decision unanimously affirming the lower court verdict was handed down on May 11, 1988. A subsequent appeal for a review by the full 11th Circuit was denied on June 13, 1988. No legal opinions were rendered by the 11th Circuit which usually signifies that the decision was deemed to be a straightforward application of the law in the case.

The primary point of importance in this case would seem to be that the courts believe that a differential should exist between the salaries of older, experienced faculty and young, inexperienced faculty performing essentially the same work in the same organizational unit. The practice of paying higher wages and salaries to experienced employees than to new employees is a widespread compensation policy in business, industry, and government. Moreover, this practice is rarely breached when the experienced employees have been promoted to higher levels or grades in recognition of their meritorious service. Thus, the absence of a significant salary differential between new hires and older employees establishes a strong prima facie case of age discrimination.

A secondary point of importance is a restatement of the need for a legitimate, legally defensible employee evaluation system to support a "poor employee performance" defense. Unless the defendants can show a well documented trail of written poor performance evaluations based on the application of a bona fide personnel evaluation system, it will be difficult to convince a jury that age discrimination was not a major cause of the disparate treatment.

Auburn University has appealed this decision to the U.S. Supreme Court. See, Milton J. Alexander, et al v. Auburn University, et al., an unpublished decision as of press time. Records of the District Court case are available from the U.S. District Court Clerk, Montgomery, Alabama, in case No. 86-H-918-E. Appellate records are located in the office of the 11th Circuit Court of Appeals Clerk, Atlanta, Georgia, in case No. 87-7554. Editor's Note: The SLN requested information on this case from both the faculty plaintiffs and defendant Auburn University. Most of the information presented in this case review was provided by the plaintiffs.

To subscribe to The SLN, send a prepaid check for $40--for 8 quarterly issues--to The School Law Newsletter, Box 1461, Vernon, TX 76384.
This is Budget Time, which comes to us in two varieties: the preparation of Western's 'Request for the Biennial Budget' - the begin of the cycle, taking place in Fall of alternating years, preceding the biennial regular sessions of the State Legislature; and the making of the 'Annual Operating Budget' at each cycle's end, for two consecutive years: - this part of the process is here right now beginning.

In Fall of last year the state universities prepared their requests for the biennial Budget which was submitted to the Council on Higher Education. There the requests of all universities were to be reconciled in approximate accordance with the principles of "Formula Funding", and are recommen­ded to the Legislature and to the Governor as the 'State Higher Education Biennial Budget Request'.

There now in Frankfort, it is being deliberated and debated in the State Legislature, currently in regular session. During this session, the Governor and the Legislature determine the State Budget's appropriation to higher education for the next two years. While CHE has consistently requested full, or nearly full formula funding for each year of the coming biennium, the Legislature has never fully complied with those requests. Western's share of this biennia­l appropriation comes mostly as a lump sum, the rest as direct line item appropriation.

This appropriation from the state budget provides currently about 50% of Western's revenue. The other half comes from tuition and fees, sales of services, donations, grants, contracts. This is the revenue part of the University Operating Budget. The expenditure side (salaries, capital, and operating expenditures) is to be determined on the university level in correspondence with requests from the 'budget units'.

In the request phase, the university must operate within the request format that she had received from the Council. Yet here is an area where discretion is allowed. At Western this discretion is exercised by the Executive Officers, consisting of the four Vice Presidents: Administrative (P. Cook), Business (currently in care of P. Cook), Academic (Haynes), Student Affairs (Wilder), the Assistant to the President (House), and and the University Attorney. This group is President Meredith's immediate advisory body. He, in this committee, determines the limits of the 'requests' which the 'budget units', among them the Colleges and Departments, must draft.
Another phase of the budget process in which the university has—this time apparently considerable—discretion, is the drafting and determination of the "Annual Operating Budget", i.e., the allocation of the available revenue to the various needs, goals, activities of the university. The "budget units" receive request forms "along with general guidelines and timetables for their submission". The budget unit heads "submit their requests for allocation in the areas of new personnel, operating, capital, and continuing personnel". Thereafter, "decisions are made about priorities". Thus, the annual operating budget emerges, is considered and adopted by the Board of Regents. This "process...is completed in April, before the new fiscal year begins on July 1."

The "general guidelines", accompanying the request forms, as mentioned in the preceding paragraph, as well as the decisions on priorities, are made by the same Executive Officers mentioned earlier. They are aided by the "Office of Budget and Planning", a branch of "Administrative Affairs", and by the "Office of Accounts and Budgetary Control", in "Business Affairs". The latter "handles the accounting functions for all University accounts", the former "has the responsibility for developing the annual budget and making budgetary transfers as needed during the fiscal year."

So much about the arrangements and procedures of the budget making process at Western, as they are spelled out in the internal publication: "GUIDE TO MANAGING A BUDGET", Western Kentucky University, July 1, 1989. (All quotes and paraphrases above are taken from this document.) There it is fully evident that the core and center of the decision making on all relevant and consequential aspects of the budget, on priorities, directions of the University, is vested in that group of Executive Officers that surrounds the President. (Note that this committee consists of five executive officers, and only one academic administrator, the Academic Vice President Dr. Haynes.) Replying to a related question, a member of the Executive Committee stated unequivocally, that "every decision of the committee is—ultimately—the President's." His power of veto or overruling is absolute.

The decisions of the Executive Officers, handed down to the Colleges and Departments in "Request forms...along with the guidelines and timetables for their submission", contain already all details including the total sum of salaries and the ratio how the allotted increase is to be divided to base and merit pay. The "budget unit head" may try to juggle a little with the operating costs, yes, and reward or punish his colleagues for their work, according to principles which necessarily are controversial, arbitrary, and artificial.
for no reliable measurement for their work exists. And, also, the budget unit head may and must sign and submit "his request".

One Department Head referred to the contents of the Departments' 'requests' as "foregone conclusions". Another one denied having any chance to disregard the handed down guidelines and to substitute his own decisions on allotments in his Department: their only way of objection or refusal would be the resignation from the position.

These were the problems inherent in the budget process as it was practiced hitherto. However, a potentially very consequential change has been made: The University Operating Budget 1990/1991 is to be developed no longer by the Executive Council; instead the newly established University Budget Committee is charged with doing this job. Its first meeting took place Tuesday, the Sixth Day of February, 1990. Responding to the draft of the new Constitution of the Faculty Senate, President Meredith included in the University Budget Committee, which he newly created, two members of the Faculty, one nominee (of two) each from the Faculty Senate and from the Academic Council. (The Draft of the new Faculty Senate Constitution had intended two Faculty Members of the budget committee to be selected by the Senate.)

The University Budget Committee now consists on the Faculty side of Vice President Haynes, one representative of the Academic Deans (Kupchella of Ogden), one representative of the Department Heads of each College, one Faculty Representative, nominated by the Academic Council (Thomas Baldwin), and one Faculty Representative, nominated by the Faculty Senate (Robert Hanson). That makes for eight or nine members of the Academic Faculty on the University Budget Committee. There exists now, for the first time in the history of Western Kentucky University the possibility and the institutional basis for forming in the governance of our University the Academic Coalition, - and for never letting go, again.

This change could become the historic turn at Western. However, it seems to be not so intended, yet, in Wetherby Hall. A distinguished executive officer there said: "We are quite happy about this change, for it will give the Faculty an insight into the tight financial constraints, within which Western has to operate." Wrong ! The constraints are known, and it is accepted, that the University has only limited influence on the appropriations coming our way from the Commonwealth's budget. The question is simpler: How the, inevitably constrained, financial funds in this academic institution are allocated, - in something else, or in
academic values, priorities, terms (including a humane respect for, and satisfaction of, the needs of the Faculty).

In other words: The University Budget Committee cannot, and must not, become an instrument for co-opting the Faculty into any predetermined process. Rather, it must give the Faculty - which is the University - the irrevocable position to participate, with the Power of Decision, in setting the priorities and, consequently, the policies, of this institution.

CETERUM CENSEO CIRCENSIIUM PROFUSIONEM ESSE FINIENDAM.
I am writing to you to encourage you to support the Council on Higher Education and the Legislature (COSFL), which is a collective advocacy body of public higher education faculties in Kentucky.

COSFL is the only forum that represents all of Kentucky's state universities. Therefore, it receives unique recognition from our government and throughout our commonwealth. Each state university is represented by its Faculty Regent or Trustee and Faculty Senate Chair or President and three (soon to be two) other faculty members.

A primary function of COSFL is the dissemination of information, both among its member institutions and to the Kentucky legislature and administration. COSFL delegates have recently met with Council on Higher Education staff members, state legislators, and leaders of the Kentucky Advocates of Higher Education, among others. They have also shared data and ideas about insurance coverage between schools in an effort to find the best possible plan under current financial constraints. We can learn about possible improved benefits through communication with other institutions.

Although COSFL attempts to minimize its costs and does not pay its representatives or reimburse them for expenditures, it still incurs operating expenses that must be met. Postage and lobbying efforts in Frankfort rank among its greatest outlays of money.

COSFL no longer requires individual membership. We are all members through Western Kentucky University. But we do request that each faculty member make a donation of $10 so that COSFL can represent us effectively. This donation also makes a statement to our leadership that we believe in COSFL and are to be taken seriously.

If you are willing to make a donation to COSFL, please mail the following donation form to Bart White, Chair, Faculty Senate Office, Cherry Hall, WKU.

Thank you.

G.R.B

Please accept my donation to COSFL of ____________

Name ____________________________

Department _______________________