

THE UNIVERSITY OF MICHIGAN

SENATE ASSEMBLY

Minutes of Regular Meeting, November 17, 1980

ATTENDANCE

Present: Ackley, Barnard, Barritt, Baumgarten, Berg, Bishop, D.B.Brown, D.R.Brown, K.Brown, M.Brown, Browne, Burdi, Cares, Carpenter, Cassidy, Cohen, Crane, Eckert, Abdel-Massih, Friedman, Frost, Gordon, Green, Ehrlich, Hinerman, Holland, Hollinger, Hultquist, Cooper, Kelsey, Kirkpatrick, Koran, Liepman, Loup, Rinne, Lynch-Sauer, McClendon, Meyer, Millard, Mosher, Naylor, O'Meara, Parkinson, Pollock, Romani, Root, Rowe, Rush, Senior, Sisman, Vinter, Weiner, White, Wyers, Wynne.

Absent: Bacon, Beck, DeKornfeld, Dixon, Duderstadt, Esteban, Flener, Gray, Groves, Haddock, Hilbert, Hildebrandt, Maassab, Nagy, Nisbett, Powers, Tek, Verhey.

Guest: Virginia B. Nordby.

MINUTES

The minutes of the Senate Assembly meeting of October 20, 1980 were approved as written.

ANNOUNCE-  
MENTS

1. Chairman Naylor repeated his announcement of the October Assembly meeting that Professor Kenneth Mortimer, Director of the Center for the Study of Higher Education at the Pennsylvania State University, will speak on the subject, "Governance and Management Strategies for Institutional Vitality in the 1980's" at the Rackham Building on Tuesday, November 18, 1980.
2. Professor Naylor told the Assembly that the number of responses to the survey on attitudes toward the research environment at the University conducted by the Research Policies Committee, has been encouraging. He asked those who have not participated in the survey to do so, and to urge their colleagues to do likewise.

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VIRGINIA  
B. NORDBY,  
DIRECTOR  
OF  
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ACTION

Chairman Naylor introduced Virginia B. Nordby, Executive Assistant to the President and Director of Affirmative Action, Office of the President, who would address the Assembly on various aspects of the affirmative action program at the University.

Mrs. Nordby began by saying that she welcomed the opportunity to speak to the faculty on the subject of affirmative action, and hoped to have further opportunities to continue to communicate with the faculty about this extremely important area.

As an example of how important this subject is to universities Mrs. Nordby cited the example of how the University of California, Berkeley, was officially debarred from receiving U.S. Government grants and contract by the Secretary of Labor for failure to comply with affirmative action regulations. She noted that although a compromise has been reached in this case, the startling action by the U.S. Department of Labor dramatically documented the seriousness of this issue. She also discussed a situation at the University of Minnesota, where a class-action suit resulted in the establishment of a very stringent affirmative action program.

Mrs. Nordby indicated that representatives from the Department of Labor have been saying publicly that they intend to concentrate their enforcement effort in three areas, higher education, the banking industry, and the new growth industry in the "sun belt."

#### Department of Labor Compliance Review

Mrs. Nordby informed the Assembly that the Department of Labor has been conducting a compliance review at the University and during the week of November 10-15, 1980, has notified President Shapiro that the review has been administratively "closed without prejudice." During the course of the review, the University agreed to submit not one affirmative action report, but separate reports on affirmative action compliance programs for the U-M Flint Campus, the Dearborn Campus, the University Hospital, and the Ann Arbor Campus. She said that the University must set goals, determine availability and establish timetables by "job group," as required by federal regulations. One major task for Mrs. Nordby's office was to revise the number of 1500 non-instructional job groups to about 160.

During the U-M Compliance review, the Department of

Labor investigated, in depth, ten targeted departments, including seven academic departments. Mrs. Nordby expressed her appreciation to the chairpersons and faculty of those departments who cooperated so nicely in the sometimes frustrating review. She said that her office has just been informed by the Department of Labor that the seven academic areas reviewed showed "satisfactory progress toward affirmative action goals" in the faculty area.

Mrs. Nordby noted the importance of acquiring accurate data pertinent to our affirmative action programs, which are continually being revised and reviewed.

#### Dealings with Other Government Agencies

Mrs. Nordby said that besides the U.S. Department of Labor, there are other state and federal agencies that monitor U-M programs for affirmative action compliance. She gave an example involving minority and disadvantaged businesses and sub-contractors that require the development of a large data base.

Mrs. Nordby pointed out that there are a number of federal agencies which do not accept the authority of the Department of Labor regarding affirmative action. As an example, the Federal Communications Commission does not accept the Department of Labor's affirmative action program, which means that the University must have totally different affirmative action programs for its broadcasting facilities at the Ann Arbor and Flint campuses.

Another federal agency with a separate affirmative action enforcement mechanism is the National Institutes of Health (NIH). Mrs. Nordby asked all faculty members who receive inquiries from NIH about affirmative action data to forward them to her office so that the same data can be used to answer such questions. She said that her office is working hard to stay ahead of data requests so that a crisis does not occur whenever a compliance review comes.

Mrs. Nordby said that the University is occasionally the object of individual charges of discrimination, but assured the Assembly that there is nothing on the horizon at the U-M resembling the class-action suit against the University of Minnesota.

Mrs. Nordby noted that the University is one of ten

targeted institutions of higher education for the first round of reviews of the intercollegiate athletic program. She detailed the mechanics of the recent review, and indicated that University attorneys and she sat in on all interviews with Athletic Department personnel and student athletes who requested them to participate. Mrs. Nordby said that the Office for Civil Rights (OCR) has 90 days within which to determine what the University's position is regarding Title IX. Their "letter of findings" will be reviewed by the University, which will have 90 days to discuss and negotiate with the OCR. She pointed out that the review standard to be applied to the University has been revised, reviewed and changed since the passage of Title IX in 1972, and is now:

"...do men and women athletes have overall comparable opportunities for meaningful athletic competition?"

The University is now waiting for the results of OCR's "letter of findings."

#### Goals of Affirmative Action in a Decentralized University

Mrs. Nordby said that in all of the activities of her office, she is trying to be professional and non-judgmental in her approach. She reviewed the Regents Bylaws that outline her duties and said that she is determined to be loyal to her obligations. Mrs. Nordby pointed out that in reality, it is not she who is ultimately responsible for affirmative action. Her office provides leadership and services, but the executive officers, deans, directors, departmental chairman, hiring supervisors and ultimately the faculty are the leaders who are responsible. Her office provides these people with the necessary information so that they know what is expected of them and can evaluate their progress in terms of affirmative action.

Mrs. Nordby told the Assembly that affirmative action coordinators have recently been appointed - high-level administrators, usually an assistant or associate dean, or an assistant vice president, who is identified as the person in that unit with the responsibility for affirmative action and equal opportunity. She meets with these people on a monthly basis.

Mrs. Nordby said that most universities have centralized affirmative action programs but that she is committed to making affirmative action work within our decentralized

structure, and feels that goal setting by departments is unique to the U-M. She pointed out that Michigan is also different from most other universities in that each academic unit develops its own availability data (i.e., identifying those who are qualified and available for positions). She said that the federal investigators found our system acceptable. Mrs. Nordby said that under our decentralized system, the goal for her office is to provide the units with leadership and advise with uniform procedures so that her office can monitor what is being done in affirmative action and assure that the entire University is auditable for purposes of internal and external monitoring.

Mrs. Nordby said that she is aware of controversy concerning affirmative action, and is not reluctant to face it. She doesn't believe, however, that what we are trying to do at the U-M in the area of affirmative action is inconsistent with other goals of this institution.

She then shared with the Assembly, a letter from Vice President Frye.

Mr. Frye wrote that a dean had recently told him that he and his faculty felt that they are no longer able to identify and recruit the best candidates for faculty or non-faculty positions, but must fill positions primarily on the basis of affirmative action. They believe that "the Office of Affirmative Action is running the show."

Vice President Frye assured the dean that both he, President Shapiro and Mrs. Nordby "...will continue to insist that appointments are filled with the best qualified candidates available, without exception." He added that, "...careful and sincerely pursued affirmative action procedures are essential to assure that the largest possible pool of qualified candidates, including women and minorities, is always identified before a choice is made, and to assure that no inappropriate biases are introduced into the selection process." He said that he believed that we should never waiver in our commitment to both quality and affirmative action nor compromise on the relationship of one to another.

Mrs. Nordby then quoted from President Shapiro's State of the University Address on the subject of affirmative action, when he said that, "...affirmative action is a commitment to a process for women and minorities to be fully competitive within the University. When properly

applied, it does not mandate preferential hiring, and is not inconsistent with the University's commitment to excellence and high quality."

Mrs. Nordby reiterated that affirmative action is a process which is intended to lead to the goal of equal opportunity and non-discrimination. In support of this, she read a passage from the Federal Regulations on Affirmative Action, which included the statement that "...goals should be significant, measurable, and attainable - and should be specific for planned results. They may not be rigid and inflexible quotas which must be met. Goals must be targets reasonably attainable by means of applying every good faith effort." She feels that her job is to be sure that there is a good faith effort, but that nothing we do should be interpreted as a rigid quota.

Mrs. Nordby notified the Assembly that the University has recently changed the hiring procedures so that her office can audit and monitor every hiring decision before the end of the year. She mentioned a new booklet developed by her office, "Writing Selection Criteria," which includes information on how to screen, sort and select candidates for positions. She stressed a statement concerning final selection, that is, "you select the best qualified applicant."

Mrs. Nordby said that the only time you select anyone other than the best qualified applicant is when there are two equally qualified candidates. In that case, the person who helps meet the affirmative action goal should be hired.

Mrs. Nordby urged everyone interested in examining the figures concerning affirmative action at the U-M to obtain a copy of the Affirmative Action Compliance Program. As an example of the type of information contained in the book, she reviewed the data on the faculty as related to affirmative action goals from 1973 to 1980. She indicated that our progress must be measured by some standard, and that is where the development of availability data is so important. She explained the use of "underutilization figures," and showed that in looking at our annual faculty hiring goals, we accomplished 103% of our female faculty annual affirmative action goals, and 68% of the goals for minority faculty for the year 1978-79 (for the Ann Arbor Campus).

Mrs. Nordby concluded her comments by saying that even in these times of shrinking departments, it is still possible

to change and improve our utilization posture through turnover and some hiring.

The floor was then opened for questions from the Assembly.

Professor Berg asked how foreign nationals, U.S. citizens and permanent residents fit into the availability pool?

Mrs. Nordby said that there are no requirements based exclusively on citizenship. Pools are identified on the basis of normal recruitment areas. For example, faculty and top-level administrators are recruited nationally. She said that for non-faculty recruitment, the pool might be from the midwest or even as small as Washtenaw County. She noted that availability pools are very different in various departments.

Professor Burdi asked how the question of age is handled by the Office of Affirmative Action.

Mrs. Nordby said that we must begin to deal with the issue of age discrimination. Her office intends to issue some guidelines concerning this shortly, and that age alone, as a requirement for employment, is usually inappropriate.

Chairman Naylor thanked Mrs. Nordby for her presentation to the Senate Assembly.

OLD  
AND  
NEW  
BUSINESS

There was neither old nor new business.

ADJOURN-  
MENT

The meeting was adjourned at 4:07 p.m.

Charles C. Kelsey  
Senate Secretary