

THE UNIVERSITY OF MICHIGAN

SENATE ASSEMBLY

Minutes of Regular Meeting, November 19, 1979

ATTENDANCE Present: Ackley, Barnett, Berg, Bishop, D.B. Brown, D.R. Brown, Brown, Burdi, Datta, Cooper, Corpron, Dabich, Dixon, Eckert, Holbrook, Fowler, Friedman, Frost, Gay, George, Gordon, Gray, Groves, Hilbert, Hildebrandt, Holland, Hungerman, Juvinal, Kirkpatrick, Koran, Lindberg, Lynch-Sauer, McClendon, Millard, Morley, Naylor, Parkinson, Porter, Portman, W. Powers, Bacon, Rowe, Schulze, Senior, Sinsheimer, Tilly, Outcalt, J. White, N. White, Wynne.

Absent: Abdel-Massih, Baumgarten, Browne, Carpenter, DeKornfeld, Dingle, Fearn, Meisler, Gull, Hinerman, Lynch, Nagy, Nisbett, L. Powers, Romani, Rush, Searse, Trojan, Verhey, Vinter.

MINUTES The minutes of October 15, 1979 were accepted.

ANNOUNCE- Chairman Corpron reported on the progress of the  
MENTS Search Committee for a Vice President for Academic Affairs. The deadline for nominations was November 15. There are over a hundred candidates. The first round of screening is in process, and additional information on the candidates will be gathered over the next month.

ANNUAL Professor Haddad explained that the written report  
REPORT OF had been distributed to the Assembly, and that he would  
THE be glad to answer questions.

COMMITTEE

ON RE- Professor Freidman asked for comments on the recommend-  
SEARCH ation to continue pressure for the return of a share of  
POLICIES--indirect costs to research project directors. Professor  
1978-79, Haddad said that the return (about 2 percent) was made to  
PROFESSOR the units rather than to the project directors. The  
GEORGE I. various units have differing policies concerning the  
HADDAD distribution of these funds. The Committee believes a  
larger share of the indirect costs should be returned to  
project directors.

Professor Naylor asked about developments in the University's response to new regulations from the Federal

Office of Management and Budget. Professor Haddad explained that a committee is at work charting the new ways of accounting for indirect costs that these new guidelines demand. The major changes will be in the categories employed for specifying indirect costs and in the fact that the time of faculty members will have to be accounted for in much more detail. No changes in the overall amount to be charged as overhead are expected. The new procedures, however, may result in greater administrative effort at the department level. There will be relatively little change for the faculty except that they will have to confirm the appointment fractions. The only change in overhead rates will occur in specialized facilities (such as the Computing Center), a change that will take effect July 1, 1980.

Professor Corpron said that the new guidelines had been suggested as a subject for a proposed forum. Professor Haddad responded that he did not think there were many options open to the faculty.

Professor Hilbert asked about summer appointments for researchers with contracts that exceeded the standard 2/9ths. Professor Haddad explained that faculty and the Committee had urged for years that appointments up to 3/9ths be made an option for faculty. Currently, appointments exceeding 2/9ths are approved when there are extenuating circumstances (such as the need to conform to the expectations of a contract). The Committee hopes, he said, that the central administration will turn decisions about the extent of summer appointments over to the colleges, which have their own standard practices.

Professor M. Brown, asked why some colleges seem to resist summer appointments of more than 2/9ths? Professor Haddad said he was not sure. It has something to do with allowance for vacation time in units where nine-month regular appointments are the rule. He pointed out that the money to extend appointments would in no case come from the General Fund, but instead from the research contracts themselves.

Professor Donald Brown asked if The National Science Foundation did not itself prohibit the awarding of appointments of more than two months? Haddad answered affirmatively but said that current practice is to leave such recommendations to individual sponsors.

Professor Portman inquired about the program to relieve tuition charges for graduate student research assistants.

Professor Haddad gave the recent history of the program--including Vice President Shapiro's decision two years ago to grant in-state status to all GSRA's. Haddad said that the Committee looks forward to the time when GSRA tuition will be eliminated. Research in the University needs the concession of tuition to enable the recruitment of the best students. Professor Haddad then added the 25 percent of indirect costs that is supposed to be returned to the departments for administration of research is too seldom used explicitly for research administration. Like GSRA tuition, this practice is one of the major disincentives to research at the University.

Professor Friedman asked, finally, about the effort being made to recognize faculty achievements, about the function of the Eadie Committee. Professor Haddad said that the Committee is attempting to find out what achievements should be recognized and published, what the form of publication should be, and how much it would cost. These are all difficult to define.

He added in closing that the Handbook for Primary Researchers will be distributed soon.

Chairman Corpron thanked Professor Haddad for his full and informative report.

RETIRE-  
MENT  
ANNUITIES  
TIAA/CREF  
RODERICK  
DAANE,  
UNIVERSITY  
ATTORNEY

Mr. Daane began by announcing that sex was the topic--sex-based actuarial tables. TIAA/CREF uses them in computing retirement benefits. Because females as a group live longer than males, individual females receive smaller monthly benefits upon retirement than males if they opt for single-life annuities.

In 1972 the Equal Employment Opportunity Commission (EEOC) revised its guidelines. Where before equality was demanded either in pay-out or in contributions, the revision said that only equality in pay-out would suffice. A case based upon this guideline has been pending since 1973, and a similar case, based on a State of Michigan Act in 1976, which follows the lead of EEOC, has been pending since 1977.

Mr. Daane then summarized some relevant federal decisions. The two most important are the Manhart case and the Peters case. In the Manhart case the Supreme Court ruled that a violation of Title VII of the Civil Rights Act had occurred in the requirement that females contribute more than males in order to receive equal retirement benefits. The Court said that individual rather than group

standards must be used, that the fact that females live longer than males as a group was irrelevant to the claims of the individual female. The Court declined, however, to impose retroactive liability. This suggests that a good-faith effort to comply with Manhart would relieve the University of retroactive responsibilities. In April, 1978, the Eastern District of Michigan ruled in favor of Peters and against Wayne State University and TIAA/CREF. Judge Robert De Mascio enjoined Wayne State from contributing to TIAA/CREF, and enjoined TIAA from using sex-based actuarial tables for computing benefits. A stay pending appeal has been granted, but the handwriting seems to be on the wall, said Mr. Daane. The result of the appeal will probably not clarify things. The Michigan Legislature passed a law in 1978 saying that disparate pay-outs were allowable provided there was no subterfuge used to evade even-handed treatment. There is a bill pending in the Legislature to overturn the 'subterfuge clause', and Attorney General Frank Kelley has offered an opinion against sex-based tables to the Insurance Commission. Nevertheless, the Commission still allows insurance companies to use sex-based tables. Still he said, the handwriting is on the wall.

Mr. Daane then outlined the preliminary responses of the University. There have been negotiations with TIAA in response to Manhart to devise a Michigan option. This would allow an equal lump sum pay-out at retirement for males and females, which would then allow either a "rolling out" of TIAA or a "rolling over" into an annuity program. "Roll-over" saves on taxes. "Roll-out" avoids sex-based actuarial tables that are in use for annuity programs. We have made this effort to conform to the good-faith standard of both Michigan Law and the Manhart decision. If seen as good faith it would relieve us of retroactive charges. But we are impeded by Judge De Mascio whose decision denies the distinction between the University and TIAA. He judged TIAA to be an extension of the employer; hence sex-based tables for annuities on a "roll-over" option would be disallowed.

It is possible that we could solicit proposals from other insurance carriers. We might take, in other words, the cash-out option from TIAA and offer annuities based on uni-sex tables. There is also the possibility of offering only term-certain rather than lifetime annuities. Finally, it might be possible to "top-up" female retirement benefits out of General Funds moneys.

Mr. Daane said that the ultimate solution would

probably have to be legislated. There are no good guideposts as yet from the courts, and we have no real answers.

Professor Gordon led off the question period by asking if the portability feature of TIAA could be arranged with another carrier. Mr. Daane answered affirmatively.

Professor Friedman asked what the tax liability would be if lump sum pay-outs were instituted. Mr. Daane said that one has a sixty day period in which to invest in an annuity program before taxes on the pay-out are collectible.

Professor Berg asked if TIAA's troubles would be long-lasting. Mr. Daane said he thought they would be, and not just in Michigan.

Professor Hildebrandt remarked that the Manhart decision stressed the individuality of contracts, and that his contract, like all of ours, is an individual one with TIAA. He asked, how will it affect my contract if TIAA goes unisex? Mr. Daane replied that he was not sure.

Professor Hungerman asked if there were flexibility of options for new retirees. Mr. Daane said that the contract in force at the time of retirement is what governs one's options.

Chairman Corpron thanked Mr. Daane for his informative talk.

There was neither old nor new business.

ADJOURNMENT      The Assembly adjourned at 4:20 p.m.

Earl J. Schulze  
Senate Secretary

