Thursday, March 6, 2008

- Administrative Council, 9 a.m. – 1 p.m., SMSU 238
- Research Council, 10 a.m. – Noon, SMSU 326
- Provosts’ Council, 10:30 a.m. – 1 p.m., Cramer Hall, Room 307
- Board’s Oversight Committee on Sexual Assault, Noon – 2 p.m., SMSU 298
- Legislative Advisory Council, 1–3 p.m., Urban Center 511
- Presidents’ Council, 1–4 p.m., SMSU 236

Friday, March 7, 2007

- Faculty Coffee with the Board, 7–8:30 a.m., SMSU 238
- Full Board Meeting, 8:30 a.m. – 1 p.m., SMSU, 327/8/9
- Joint Boards Articulation Commission, 3–5 p.m., SMSU 238
AGENDA

1. CALL TO ORDER/ROLL CALL/WELCOME

2. REPORTS
   a. Chancellor's Report
   b. Research Council Chair
   c. Interinstitutional Faculty Senate President
   d. Oregon Student Association Chair

3. CONSENT ITEMS
   a. Authorization to Award Honorary Degrees, OSU / PSU
      The State Board of Higher Education policy permits institutions, with the concurrence of
      their faculty, to award honorary degrees. OSU submits a request to award an honorary
      doctorate to Dr. Helen E. Diggs, DVM. PSU submits a request to award an honorary
      doctorate to Richard Pimentel.

4. REPORT ITEMS
   a. Strategic Planning Update (Weeks)
   b. UO Arena Update (Frohnmayer)
      President Frohnmayer will provide an update to the Board on the status of the arena
      project.
   c. Implementation of High School Graduation Requirements (Castillo)
      In January of 2007, the State Board of Education voted to adopt new high school
      graduation requirements. These new requirements are designed to better prepare each
      student for success in college, work, and citizenship. To earn a diploma, students will
      need to successfully complete the credit requirements, demonstrate proficiency in
      essential skills, and meet the personalized learning requirements. Students will also have
      the option to earn credit for proficiency. The changes to the diploma will be phased in
      over the next seven years.
d. Risk Management Update (Dickenson) ................................................................. 3
   The Board’s F&A Committee requested an update from OUS Risk Management in light of
   the December 2007 Supreme Court decision in Clarke vs. OHSU.

5. ACTION ITEMS

   a. Approval of 2009-2011 Legislative Concepts (Kenton) .............................................. 5
      Nine legislative concepts are presented for Board approval. These concepts are intended to give
      the OUS greater flexibility in operations in order to operate in the most efficient and effective
      manner practical.

6. COMMITTEE REPORTS

   a. Standing Committee Reports
   b. Other Board Committees

7. PUBLIC INPUT

8. BOARD COMMENTS

9. DELEGATION OF AUTHORITY TO BOARD’S EXECUTIVE COMMITTEE

   “Pursuant to Article II, Section 5 of the Bylaws of the Board of Higher
   Education, the Board delegates to the Executive Committee authority to
   take final action as here designated or deemed by the committee to be
   necessary, subsequent to the adjournment of this meeting and prior to the
   Board’s next meeting. The Executive Committee shall act for the Board in
   minor matters and in any matter where a timely response is required prior
   to the next Board meeting.”

10. ADJOURNMENT

Note: All docket materials are available on the OUS website at:
http://www.ous.edu/board/meetingmaterials.htm. Please contact the Board’s office at (541) 346-5749 if
you have any questions regarding these materials. This agenda may be amended at any time prior to 24
hours before the Board meeting. Estimated starting times for the agenda items are indicated; however,
discussions may commence, or action may be taken, before or after the suggested times. Any item on the
agenda may be considered at any time out of order at the discretion of the President of the Board. During
the meeting, the Board may convene in Executive Session to receive legal advice regarding any item on
the agenda or for any reasons permitted under Oregon law.
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Authorization to Award Honorary Degrees, OSU and PSU

Summary:
The State Board of Higher Education policy permits institutions, with the concurrence of their faculty, to award honorary degrees. Each institution proposing the award of honorary degrees has received the Chancellor’s approval of criteria and procedures for selection that ensure the award honors distinguished achievement and outstanding contributions to the institution, state, or society.

Oregon State University
Oregon State University requests that an honorary doctorate be conferred on Dr. Helen Diggs at OSU's June 2007 Commencement.

Helen E. Diggs, D.V.M., is Director of the Office of Laboratory Animal Care and the Consulting Veterinarian for the University of California (UC) System, based in Berkeley.

Dr. Diggs received her veterinary degrees from Oregon State University and Washington State University and is licensed to practice veterinary medicine in the states of Washington, Oregon, and California. She is a board-certified specialist in the American College of Laboratory Animal Medicine (ACLAM).

Dr. Diggs grew up in Spokane, Washington, and earned a B.A. in Elementary and Secondary Education from the University of Portland in 1977. She completed her M.Ed. at the University of Portland before working for two years in Alaska, serving as a teacher in Point Hope and Barrow – both communities of fewer than 2,000 people, most of them Inupiat Eskimos.

She returned to Oregon in 1981, enrolling in the Oregon State University College of Veterinary Medicine, from which she graduated in 1985. She moved shortly thereafter to Portland, where she served for seven years as Head Veterinary Medical Officer at the Veterans Administration Medical Center, while also working as an assistant professor of animal care at Oregon Health Sciences University. Dr. Diggs followed that with a year of service as associate director for Veterinary Care at the University of Texas Southwestern Medical Center in Dallas before being named director in 1995 of the UC Office of Laboratory Animal Care, a post she has now held for more than 12 years.

Last fall, Dr. Diggs was elected vice president of the ACLAM and will serve as president of the organization in 2010. ACLAM is a specialty board recognized by the American Veterinary Medical Association and consisting of 685 active diplomates in the field of laboratory animal medicine. Such specialists work for academic, governmental, and private research organizations, providing specialized veterinary medical care, research support, and appropriate care for laboratory animals.

The Council on Accreditation for the Association for Assessment and Accreditation of Laboratory Animal Care awarded Dr. Diggs’ animal care and use program at UC full re-accreditation in 2007, as well as its fifth gold star. The Council called operations
under Dr. Diggs' leadership “exemplary” – the result, she says, of a 20-year upgrade and enhancement effort.

Dr. Diggs' research interests are in the area of public health and zoonotic diseases. She is the author of numerous publications and book chapters and has been recognized by, among others, the Berkeley Staff Assembly, the Blue Key National Honor Fraternity, and the Veterans Affairs Central Office in Washington, D.C.

Portland State University
Portland State University requests authorization to award honorary doctorates at Portland State's 2007 Commencement Ceremony. The University is proud to recognize the achievements of Richard Pimentel, internationally recognized expert on disability management and an architect of the Americans with Disabilities Act (ADA). Mr. Pimentel, once a student at Portland State, has also graciously accepted an invitation to deliver PSU's 2008 commencement address. The extraordinary challenges Mr. Pimentel has overcome will be an inspiration to PSU's graduating class and their families and friends.

As a lecturer on motivation, attitudes toward disability, diversity, and career development, Mr. Pimentel emphasizes the special challenges faced by the differently-abled. In 1990, when the ADA was signed into law, he was recognized by the Equal Employment Opportunity Commission as a significant contributor. Author of Working with People with Disabilities in a Job Placement/Job Retention Environment and contributor to many books and training manuals related to disability and diversity in the workplace, Mr. Pimentel is currently developing a training program to support the transition of wounded and disabled veterans from Iraq and Afghanistan into the workforce. The training focus is on post traumatic stress syndrome and traumatic brain injuries.

Staff Recommendation to the Board:
Staff recommends the Board authorize Oregon State University to award an honorary doctorate to Dr. Helen Diggs and Portland State University to an award honorary doctorate to Mr. Richard Pimentel at their June 2007 Commencement ceremonies.

(Board action required.)
Risk Management Update

The Board’s Finance and Administration Committee has asked for an update from OUS Risk Management in light of the December 28, 2007, Supreme Court decision in Clarke vs. Oregon Health & Science University.

**Governor’s Office activities:**
Following the Court of Appeals decision in this case, the Governor’s Office established a task force to develop strategies should the Supreme Court uphold the Court of Appeals ruling. Participating on that task force were representatives from the Governor’s Office, the Department of Justice (DOJ), and the Department of Administrative Services (DAS).

The task force held a number of briefings on the situation for Agency Heads. It continues to provide updates as new information is acquired.

**Department of Administrative Services – Risk Management Division (RMD) activities:**
Following the Court of Appeals decision in 2006, RMD devised strategies that included:
- requiring supplemental actuarial studies with multiple tort cap scenarios
- consideration of purchase of commercial excess liability insurance
- a review of other state tort caps
- a review of the State of Washington program
  - Washington has no tort caps
  - Washington is highly self-insured, with commercial excess liability insurance

Following the Supreme Court decision in 2007, RMD formally requested the supplemental actuarial study (generally, actuarial studies are done on a biennial basis).

In order to obtain commercial excess liability insurance, agencies were sent a number of insurance applications to obtain more precise exposure information from the 140 agencies, boards, and commissions.

Since there is a special insurance market for higher education, all seven of the institutions, as well as the OUS risk management office, were required to complete five applications for the various supplemental types of insurance afforded higher education institutions. Additional general liability and public entity applications were required as well. RMD is currently working to consolidate those applications and submit them, along with the last ten years of claims data, to various underwriters.

In partnership with DOJ, RMD is working to review the indemnification and insurance language in state contracts.
**DOJ activities:**
DOJ has undertaken a review of the remedy clauses included in the Oregon Constitution in 1857. This involves:
- a review of what claims existed in common law
- a review of what defenses existed in common law
- an attempt to develop claims and litigation strategies

**Likely outcomes:**
The Oregon University System and the other state agencies will likely see a combination of self-insurance and commercial excess liability insurance. Particularly in OUS’ case, there may be several layers of liability insurance, given the market specific to higher education.

At this point, it is impossible to predict what additional insurance coverage will cost. It will depend upon the limits chosen, the availability and cost of commercial excess liability coverage, whether there is a change in the statutory level of tort caps, and emerging or unpredictable exposures.

RMD has said that they do not anticipate additional charges being added to the 2007-2009 liability charges. They expect to bill $71 million for 2007-2009 risk charges, an increase of almost $31 million than that which will be billed for the 2007-2009 biennium.
Legislative Concept Proposals

As was discussed in the February Board meeting, it is now time to approve legislative concepts that would be submitted to the Department of Administrative Services (DAS). Such concepts are intended to give the OUS greater flexibility in operations in order to operate in the most efficient and effective manner practical.

The following concepts for legislative changes are presented for OUS Board approval for submission in the 2009-2011 Legislative process:

(1) Legal Services (recommended)

Under Oregon Revised Statutes Chapter 180, the Attorney General and the Department of Justice are responsible for the legal services and representation of state agencies, including the Oregon University System. As a part of this authority, the Attorney General may appoint "special assistant attorneys general" for particular assignments and has done so to provide for the in-house counsels for the Chancellor's Office, the University of Oregon, Oregon State University, and Portland State University. Because of the unique and multi-faceted nature of a higher education legal practice, however, with particular consideration to capital construction, intellectual property, and contractual agreements, it could enhance System efficiency if OUS and its member institutions possessed statutory authority, outside of ORS Chapter 180, to hire its own legal counsel.

(2) Delegation of Authority from Board to Chancellor/Presidents (recommended as a placeholder at this time)

As outlined in Oregon Revised Statutes Chapter 351, the State Board of Higher Education possesses broad governing authority. As the Board increasingly engages in transactional, as opposed to policy or advocacy work, it may be required to amend ORS Chapter 351, and perhaps Chapter 352, to permit delegation of specific powers, particularly those of a transactional nature, to the Chancellor or the OUS presidents as the Board determines necessary for the efficient and effective operation of the System and individual institutions. We are recommending that this be filed as a placeholder only at this time, with final direction pending the work of Director Kelly’s focus group.

(3) Campus Public Safety – (not recommended at this time)

At the request of the Chancellor, each campus has completed a conversation with its faculty, staff, and students regarding campus public safety issues. The results of these conversations will be reported at the Board meeting.
(4) Investment Earnings (recommended)

Currently, the investment earnings generated on student tuition and fees and other university operating revenues accrue to the state’s General Fund and not to OUS. In addition, all of these funds are invested in the state’s Oregon Short-Term Fund, comprised of fairly liquid investments. You will recall that this was the subject of a budget note attached to our 2007-2009 operating budget and, in accordance with this budget note, a study was conducted by the Legislative Fiscal Office (LFO) and the State Treasurer on this issue.

OUS is requesting the authority to retain the investment earnings on all of its funds for the purpose of generating additional revenues to hold down tuition costs and improve services to students. In addition, we are requesting specific statutory authority for the State Treasurer to consolidate these cash accounts and invest these funds in a discreetly managed portfolio as was recommended by the LFO/State Treasury study.

(5) Risk Management (recommended)

Currently, OUS has delegated authority only to purchase student-related coverage (other than for liability) and fine arts coverage. OUS has benefited greatly from developing relationships with brokers and insurers, thus ensuring timely renewals and the best rates available. All other insurance coverage is provided or purchased by DAS. Staff believe that statutory ability to contract for all of its insurance coverage with other insurance agencies or groups created uniquely for universities, such as WICHE, will result in a more efficient, cost-effective system for obtaining insurance coverage. There are strong indications that other university systems save substantially by obtaining their insurance through such groups. We are therefore seeking statutory authority to purchase all insurance coverage directly in the marketplace, as opposed to having DAS do this for OUS.

(6) Payroll Deduction Authorization (recommended)

ORS 292 specifies all payroll deductions that can be authorized by a state agency. From time to time, campuses would like to add voluntary payroll deductions for local non-profits or other reasons. This legislative concept would modify ORS 292 to authorize the OUS Chancellor to, where warranted, approve voluntary payroll deductions if requested by OUS or its member institutions.

(7) Non-State Funded Capital Projects (recommended)

This Legislative Concept would increase the delegation from the Legislature to the Board to establish Other Funds limitation for new projects or supplement existing projects without further Legislative approval. The Legislature would set an overall Other Funds limitation each biennium that could then be subsequently re-allocated by the Board to specific projects. This concept would provide the campuses with
greater flexibility in managing their donations by allowing more gift opportunities to support the educational mission of the Universities. This change would maintain accountability to the Legislature and Board, but would provide a timely and entrepreneurial focus on results rather than process.

(8) Generation and Sale of Energy (recommended)

Several of the OUS universities are exploring the possibility of generating electrical power to meet their energy needs. In some cases, excess power would be sold to local utilities. Possible sources of electrical power include steam (UO), geothermal (OIT), biomass (EOU), wave energy (OSU), and cogeneration facilities, solar, and wind power (multiple campuses). In order to sell excess energy, OUS needs specific statutory authority to generate and sell power and may need to seek federal, state, and local approvals without turning OUS into a utility subject to the jurisdiction of the Public Utilities Commission. In addition, OUS may need specific statutory authority to transfer or sell tax credits to private entities, since OUS cannot utilize the tax credits itself.

(9) Dental Clinics (recommended as a placeholder at this time)

Three OUS campuses (OIT, PSU, and UO) currently have dental clinics associated with their student health centers. ORS Chapter 679 governs the practice of dentistry and dental clinics in the state. OHSU is currently exempted from this statute. Given the concerns with the current tort laws, this is something that should be carefully considered. If campuses wish to continue to operate dental clinics, we will need specific statutory exemption. Alternatively, campuses could contract with licensed dental clinics or OHSU for these services. Because of these issues, staff recommends that this be approved as a placeholder only at this time, subject to an investigation of alternatives as outlined above.

*Staff Recommendation to the Board:*
Staff recommends the Board approve those items for which “recommended” has been placed next to the title of the Legislative Concept. Staff further recommends approval of the items for which “recommended as a placeholder at this time” has been placed next to the title of the concept, subject to either continued work of specific Board work-groups or further investigation of other alternatives. At this time, staff does not recommend the campus public safety concept as described above.

(Board action required.)