Adoption of OAR 580-21-050, Grievance Procedures
Resolution Favoring Oregon Site for Superconducting Super Collider
Proposed Oregon Trade & Marketing Center
ADJOURNMENT
STATE BOARD OF HIGHER EDUCATION  
MINUTES OF SPECIAL MEETING HELD BY  
CONFERENCE TELEPHONE CONNECTION  

June 1, 1987  

Meeting #550  
At the call of the President of the Board, a special meeting of the State Board of Higher Education was held by conference telephone connection.  

ROLL CALL  
The meeting was called to order at 10:15 a.m., June 1, 1987, by the President of the Board, Mr. James C. Petersen. On roll call, the following answered present:  

Mr. Robert R. Adams  
Mr. John W. Alltucker  
Mr. Gene Chao  
Mr. F. David Crowell  
Mr. Mark S. Dodson  
Mr. Richard F. Hensley  

Mr. Michael W. Hermens  
Mrs. Janet S. Nelson  
Mr. Louis B. Perry  
Mr. George E. Richardson, Jr.  
Mr. James C. Petersen  

OTHERS PRESENT  
Centralized Activities--Chancellor William E. Davis; Secretary Wilma L. Foster; Larry Pierce, Vice Chancellor for Academic Affairs; Wil Post, Vice Chancellor for Public Affairs; Virginia Boushey, Assistant to Executive Vice Chancellor; Jim Sellers, Director of Communications, Public Affairs; Karen McCumsey, Secretary to the Chancellor.  

Media Representatives--Rob Prieve of the Corvallis Gazette Times; Rick Obritschkewitsch of The Vanguard.  

Adoption of OAR 580-21-050, Grievance Procedures  
The public hearing on OAR 580-21-050, Grievance Procedures, was held Thursday, May 28, 1987, at 10:00 a.m. Virginia Boushey opened the hearing and asked for testimony and comments from those attending. In attendance were: Muriel K. Jackson, Assistant Vice President for Administration, University of Oregon; Jetta Siegel, representing the Oregon Conference of the American Association of University Professors (AAUP); Ken Ramsing, Associate Dean for Administration, College of Business Administration, University of Oregon; and Joseph Hynes, Vice Provost for Academic Personnel, University of Oregon.
Muriel Jackson commented that institution rulemaking should not be necessary with respect to institution grievance procedures and suggested instead use of the institutional equivalent of the Internal Management Directive. She then offered comments proposing that the rule provide more procedural specificity. In addition, she suggested some changes aimed at clarification of the language in the proposed rule.

Jetta Siegel commented that the AAUP supports the language in the temporary rule and urges its adoption as a permanent rule.

Joseph Hynes commented that Section (3)(c) of the temporary rule establishes a limit of 150 days between presentation of a written grievance and final action by the Board. However, in Section (9) the Board is allowed 60 days within which to reach its decision on appeal. That could leave the institution only 90 days to process a grievance through the various levels which may include a contested case hearing. Vice Provost Hynes suggested that in line 5 of Section (3)(c) the number 150 be changed 180. This change would also bring the rule into conformance with Senate Bill 619 which allows 180 days between filing of a grievance and final Board action.

Prior to the public hearing, Assistant Attorney General James Mattis also commented that the rule should be amended to allow 180 days between filing of a grievance and final Board action.

Representative Bruce Hugo, Chairman of the House Education Committee, and Senator Larry Hill, Chairman of the Senate Labor Committee, suggested that the language in Paragraph 9 having to do with the Board's scope of review was ambiguous and should be clarified. In response to their concerns, revised language was prepared with the assistance of Assistant Attorney General Jerry Casby.

In addition, comments have been received from Dr. John Kendall, Dean of the Medical School at the Oregon Health Sciences University, and from Dr. Knud Larsen, president of the Oregon State University Faculty Association. Dr. Kendall said that in his opinion the rule is tipped too heavily in favor of a grievant. He suggested the language be changed to spell out the rights of the institution as well as the grievant. Dr. Larsen recommended inclusion of more specific procedural detail and a provision for appeal to a neutral arbitrator chosen by the grievant and the institution president.
Staff Recommendation to the Board

After due consideration of all comments received regarding the grievance procedure rule, the staff recommends that the Board act to adopt the language contained in the temporary rule adopted May 15, 1987, with the following three amendments:

1. In line 5 of Paragraph (2), after the phrase "nondiscriminatory employment practices" insert a comma.

2. In line 5 of Paragraph (3)(c), delete "150" and insert "180."

3. In line 4 of Paragraph (9), after "Board review shall be ...," delete the remainder of the paragraph and insert "on the record. The Board shall not reverse the decision of the president unless a procedural error is committed, the decision of the president is not supported by substantial evidence, or the decision is inconsistent with applicable law."

The proposed permanent rule, with the amendments included, appears below:

Grievance Procedures

580-21-050 (1) The institutions shall adopt, in consultation with faculty advisory committees including female and minority faculty and representatives of certified bargaining units, if any, appropriate grievance procedures, in accordance with the rulemaking procedures of the Administrative Procedures Act. The grievance procedures shall apply to all unclassified academic employes with faculty rank.

(2) "Grievance" means a complaint by an academic employe that the employe was wronged in connection with reappointment, compensation, tenure, promotion, or other conditions of employment. "Other conditions of employment" shall include, but not necessarily be limited to, violations of academic freedom, discriminatory employment practices and nondiscriminatory employment practices, and laws, rules, policies and procedures under which the institution operates. The adopted procedures shall not lessen any employe rights under existing institutional grievance procedures.

(3) The rules shall:

(a) Set out the details of a grievance procedure appropriate to the institution.
(b) Include both informal and formal steps. The formal steps shall include an appropriate administrator, a faculty committee (at the option of the grievant), and the institution president. However, a grievance may be resolved at any step. In a formal grievance, all complaints, responses, and decisions must be in writing.

(c) Establish time limits within which a grievance must be filed and for each step which will permit timely resolution of issues. Informal grievances shall receive a response within 15 calendar days. In no instance shall the length of time between the presentation of the written grievance and the Board's decision be more than 180 days, unless agreed to by the grievant. In the event a decision is not made at any level within the designated time limit, the grievance shall be forwarded to the next step;

(d) Provide for a hearing, at the option of the grievant, by a faculty committee selected by the faculty at the institution.

(4) The institution may elect not to proceed with a grievance if the grievant also seeks resolution in another forum.

(5) The institution shall adopt rules of procedure for the faculty committee which allow for:

(a) A meaningful opportunity for the grievant to be heard;

(b) An opportunity for each party to present evidence, argument, and rebuttal;

(c) The right to representation for each party at that party's expense;

(d) A hearing open to the public at the option of the grievant to the extent allowed by law;

(e) Written conclusions, based only upon evidence presented at the hearing; and

(f) Access by each party to a complete record of the hearing.

(6) The faculty committee shall make recommendations regarding the disposition of the grievance.

(7) Unless the grievance is resolved at a lower level, the president of the institution, or a designee of the president, shall review the recommendations of the faculty committee, if any, and the president shall issue a decision.

(8) If the president rejects or modifies the recommendations of the faculty hearing committee, the reasons shall be stated in writing, and a copy provided to the grievant.

(9) The grievant may appeal the decision of the president to the Board. The Board shall adopt rules for hearing appealed cases and may delegate the case to a hearings officer. In either case, the appeal shall be heard and a decision reached by the Board within 60 days. Board review shall be on the record. The Board shall not reverse the decision of the president unless a procedural error is committed, the decision of the president is not supported by substantial evidence, or the decision is inconsistent with applicable law.
(10) Where collective bargaining agreements or Administrative Rules exist at an institution in which grievance procedures are specified and such procedures exceed the standards in this rule, such agreements or Administrative Rules shall control.

(11) After consultation with the appropriate faculty committees and approval of the Chancellor's Office, each institution shall adopt its rules by June 1, 1988.

(12) Each institution shall report annually to the Board beginning July 1989 on the number, basis, and outcome of all formal grievances filed under the rules herein required.

Board Discussion and Action

There was a brief discussion of whether to specify an earlier date in Paragraph 11 for the adoption of institutional rules. However, in view of the limited possibility of involvement of the faculty during the summer months, it was agreed the date should remain as originally recommended.

Mr. Adams and Mr. Alltucker each raised questions concerning the understanding of the conditions under which the Board could reverse the decision of the president of the institution. It was explained that the decision could only be reversed in the event of any of the three reasons designated in Paragraph 9. It was also stated the provision for reversing the decision due to lack of substantial evidence would cover a determination by the Board that the decision of the president had been arbitrary or capricious. The language relating to substantial evidence is consistent with provisions of the Administrative Procedures Act.

The Board approved the staff recommendations as presented and adopted OAR 580-21-050, Grievance Procedures. On roll call vote, the following voted in favor: Directors Adams, Alltucker, Chao, Crowell, Dodson, Hensley, Hermens, Nelson, Perry, Richardson, and Petersen. Those voting no: None.

The Chancellor presented the following resolution supporting the selection of an Oregon site for the Superconducting Super Collider:

RESOLUTION

Oregon offers unusual strengths as a site for the Superconducting Super Collider (SSC), which will be the world's largest atomic particle accelerator.

Oregon offers not only a receptive citizenry but also access to the resources of major research campuses and the assistance of Regional Services Institutes on the regional college campuses.
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Siting of the Superconducting Super Collider on an Oregon site offers the advantages of access to recognized research scientists, availability of a highly educated labor force (with access to universities, colleges, and community colleges for further training) and proximity to campus educational, cultural, and entertainment offerings in nearby cities.

Siting of the Superconducting Super Collider in Oregon will promote the work of SSC physicists while also furthering the research of academic physicists in the state.

Therefore, the Oregon State Board of Higher Education goes on record as enthusiastically favoring an Oregon site for the Superconducting Super Collider, and offers its further assistance to those who select the site, and to those who construct and operate the SSC.

Board Discussion and Action

The Board approved the Chancellor's recommendation and adopted the above resolution, with the following voting in favor: Directors Adams, Alltucker, Chao, Crowell, Dodson, Hensley, Hermens, Nelson, Perry, Richardson, and Petersen. Those voting no: None.

Staff Report to the Board

Dr. Pierce said Mr. Roger Smith, Director of the Department of Economic Development, had contacted him on Friday regarding a proposal to develop an Oregon Trade and Marketing Center in Portland. The Center, jointly developed by the Governor and Mr. Robert Short, Chairman of Portland General Electric, would provide a single location for a number of public and private agencies involved in promoting international trade. The Center would also have facilities for receptions, conferences, and displays. One of the agencies being proposed for the Center is Portland State University's International Trade Institute.

The Oregon Trade and Marketing Center would be located in the Willamette Center Office Complex, currently owned and occupied by Portland General Electric. Portland General Electric would provide, at nominal or reasonable cost, two floors of the Willamette Center Tower for office space and the entire Activities Building for display, reception, and conference facilities. It is anticipated that banks and businesses involved in international trade would move into the new Center once it becomes recognized as the focal point for international trade in the Northwest.
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There are several major participants involved in this plan. Senator Hatfield has said he would help with funding and with the mechanics of moving a couple of federal agencies into the Center. The Legislature must approve of the Center and provide funds to the Department of Economic Development for its operation. Because the Governor needs the Legislature's blessing, he feels some urgency in moving forward with the proposal. He would like the Board's support for the idea, realizing that there are many details that remain to be completed before the Center is actually established in the Spring of 1988.

President Sicuro and Dr. James Manning, Director of the International Trade Institute at Portland State University, support the proposal. At this time, it is not clear whether all or just some of the Institute's programs would move into the new Center. Whatever the final configuration, the Governor and the Department of Economic Development believe the Institute is an essential part of this concept.

Time to consider this proposal has been limited. It is clear, however, that if the Governor decides to have a focal point for international trade in Portland, the Institute should be a part of that activity. It is conceivable that this new Oregon Trade and Marketing Center could provide an opportunity to expand the role of the Institute to include elements of programs from other colleges and universities in the State System.

Staff Recommendation to the Board

The staff recommended that the Board approve in concept the participation of the Oregon State System of Higher Education and Portland State University's International Trade Institute in the proposed Oregon Trade and Marketing Center. The staff further recommended that the Board notify the Governor of its support for the concept and its willingness to cooperate in every way possible to make the Center a success.

Board Discussion and Action

Mr. Perry said his only concern with the proposal was with the matter of funding. Dr. Pierce indicated he had discussed with Mr. Smith the fact that further details with respect to the plan and the funding would be necessary before the Board could go beyond approval of the concept.

Mr. Alltucker moved approval of the concept, with the understanding there would be participation by all parts of the State System.

Mr. Chao suggested the participation should not be required but that all institutions who would like to and could do so would participate.

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Mrs. Nelson expressed a concern that, with the center located in Portland, other parts of the state might not be involved in this important activity.

Mr. Petersen said he would anticipate that because of the Economic Development Commission's interests, the whole state would be involved through that agency. Mr. Dodson indicated that the consolidation of related activities into one location should make it easier and provide better access for those from other parts of Oregon.

The Board approved the staff recommendation as presented and clarified further during the discussion. The following voted in favor: Directors Adams, Alltucker, Chao, Crowell, Dodson, Hensley, Hermens, Nelson, Perry, Richardson, and Petersen. Those voting no: None.

ADJOURNMENT The Board meeting was adjourned at 10:45 a.m.

James C. Petersen, President  Wilma L. Foster, Secretary