SUPPLEMENTS

Supplement A - OSBHE Administrative Rules
Supplement B - OSBHE Bylaws
Supplement C - OSBHE Internal Management Directives
Supplement D - Testimony by the Oregon Student Lobby Re Proposed 1978-79 Instruction Fees
Chapter 10.200--Board Procedures

10.260 Appearances Before the Board

Individuals and organizations desiring to appear before the Board to present any matter concerning higher education are asked to file a written request stating the purposes of the appearance and naming explicitly the person or persons who desire to speak to the Board. The written request shall be delivered to the Board Secretary at least seven days before the meeting at which the matter is to be heard, in order that the Board President may be advised of the request and the appearance may be scheduled. Individuals and organizations not complying with this rule may be denied an opportunity to be heard by the Board. If written materials are submitted for Board consideration, 35 copies thereof shall be furnished by the submitter.

10.275 Procedural Rule for Changes and Additions to Administrative Rules

(1) Prior to adoption, amendment or repeal of any rule, except a temporary rule, when the Board does not plan to hold a public hearing, it shall give notice of the proposed adoption, amendment or repeal. The notice shall include a description of the proposed action in sufficient detail to inform people that their interests may be affected, the place at which data or views may be submitted in writing to the agency, a designation of the person to whom a request for public hearing must be submitted and the time and place therefor, and the time, place and manner in which the proposed rule or amendment may be inspected or a copy obtained. The notice shall be published:

(a) In the Administrative Rule Bulletin referred to in ORS 183.360 at least fifteen (15) days prior to the effective date;
(b) By mailing a copy of the notice to persons on the Board mailing list established pursuant to ORS 183.335 (3);
(c) By mailing a copy of the notice to the following persons, organizations or publications:

(A) Board Members;
(B) Presidents, Department Institutions;
(C) United Press International;
(D) Associated Press;
(E) The Oregonian;
(F) The Oregon Journal;
(G) Eugene Register-Guard;
(H) Corvallis Gazette-Times;
(I) Willamette Week;
(J) Medford Mail Tribune;
(K) Department Student Newspapers;
(L) Daily Journal of Commerce;
(M) The Daily Tidings;
(N) KOAC-KOAP-TV-Radio;
(O) KDIN-TV-Radio;
(P) KOV-TV;
(Q) KATU-TV;
(R) KYXJ;
(S) KPTV;
(T) KVAL-TV.

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(2) When a public hearing will be held by the Board on the proposed adoption, amendment, or repeal, the notice shall include a description of the proposed action in sufficient detail to inform individuals that their interests may be affected, the time and place of the public hearing, the time, place and manner in which the rule or amendment may be inspected or a copy obtained and a statement that the Board will conduct the hearing. The notice shall be publicized at least fifteen (15) days prior to the date of the public hearing in the manner set forth in subsections (l)(a), (b) and (c) above.

Chapter 30.000--Admissions Requirements

30.030 Compulsory Pre-Entrance Physical Examination and Immunizations

(1) For the protection of the public health and benefit of the student, the Board requires a physical examination of all students or, at the discretion of the institution, a completed health history questionnaire on a form supplied by the institution, as a condition of enrollment in institutions under Board control.

(2) A report from a private physician may be required in certain instances by institutions using the health history questionnaire. Cases justifying use of a private physician's report include students participating in varsity athletics, students with special health problems, and students requiring clearance for participation in physical education.

(3) All students must present appropriate proof of immunizations and tests required by regulations now or hereafter approved by the Board and set forth in the institutional catalogs.

(4) Students declining immunization on religious or medical grounds may be admitted, but students declining immunization on the basis of religious conviction may be admitted only if:
   (a) They provide a statement from their church attesting to their church membership and to the fact that immunization is contrary to the religious beliefs of the church or religious organization to which they belong;
   (b) They, and in the case of minor or dependent students, their parents or guardians with them, agree in writing to assume all expense in connection with their care and isolation should they acquire, while students at the institution, those diseases for which immunization is required of other students.

Chapter 30.100--Residence Classification

30.105 Residence Classification

All students shall be classified by the several institutions for admissions and fee purposes as resident or nonresident students except students attending a summer session of an institution under the Board's control.

30.110 Nonresident Students

Except as modified by AR 30.120(1), a nonresident student is defined as:

(1) An unemancipated student whose parent or legal guardian is domiciled outside of Oregon at the time of the student's registration; or

(2) An emancipated student who has not met the domiciliary requirements of AR 30.120(4) at the time of registration. An emancipated student is one whose domicile is independent of that of parents or legal guardian, and who receives no financial support from parents or legal guardian.
30.115 Payment of Nonresident Fee

(1) All students who are classified as nonresidents shall pay a nonresident fee.

(2) An Oregon resident student whose classification is changed to that of nonresident during the school year shall pay the nonresident fee beginning the fall term of the next school year. The student is obligated to notify the institution of any change of domicile.

(3) Refunds of the nonresident fee may be granted if the student shows that the classification previously assigned was in error.

30.120 Changes in Domicile

(1) A student enrolling as an entering freshman after graduating from an Oregon high school with not less than one year of regular attendance shall be considered a resident student. If the student transfers to an institution outside of Oregon and later seeks to enroll again in an Oregon Department institution, the residence classification shall be reexamined and determined on the same basis as for any other transfer student.

(2) A student whose nonresident legal custodian establishes an Oregon domicile during a school term shall be entitled to register as a resident student at the beginning of the next term.

(3) If an emancipated student establishes domicile outside of Oregon during the school year, the resident fee shall continue to be assessed until the beginning of the fall term of the next school year. Thereafter, the student shall be assessed the nonresident fee.

(4) An emancipated student who establishes an Oregon domicile as determined by AR 30.125, shall pay a nonresident fee unless:

(a) The student establishes Oregon domicile at least six months prior to the time of initial registration;

(b) The student does not attend an Oregon institution of higher education, either public or independent, including a community college, during any part of such six-month period. However, an emancipated student who does not establish an Oregon domicile at least six months prior to initial registration at an Oregon institution, and who resides continuously in Oregon during twelve months, may be considered an Oregon resident for fee purposes if circumstances in the case meet the provisions of AR 30.125.

(5) Once established, residence is presumed until the student provides sufficient evidence to refute the presumption.

(6) An unemancipated resident student enrolled in a Department institution, who remains in this state after Oregon-domiciled parents or legal guardian move from the state, shall retain resident classification so long as attendance (except summer sessions) at an institution in Oregon is continuous.

30.125 Determination of Residence

(1) A student's parent or legal guardian, or an emancipated student, shall be deemed to have an Oregon domicile if a bona fide fixed and permanent residence is established and maintained in Oregon, with no intention of changing residence to outside the state when the school period ends. Factors that will be considered in determining if an Oregon domicile has been established are: abandonment of previous domicile, rental or purchase of a home, presence of family, presence of household goods, length of time in state, nature and permanence of employment, sources of financial support, ownership of property, place of voting, and payment of Oregon personal income taxes.
(2) The same criteria will be used to determine whether a resident who has moved has established a non-Oregon domicile.

(3) If institutional records show that the domicile of a student's legal custodian, or of an emancipated student, is outside of Oregon, the student shall continue to be classified as nonresident until entitlement to resident classification is shown. The burden of proof will be upon the student to show that the classification should be changed.

(4) In determining the residence classification of any person, recognition is to be given to the principle that domicile is not established by mere attendance at a college or university.

30.127 Residence Classification of Federal Service Personnel

(1) A person in federal service on a full-time basis (either military or civilian) is qualified for resident classification for fee purposes if that person is assigned to duty in this state, performs duties within the geographical limits of Oregon, and is residing within the state.

(2) An Oregon resident entering federal service retains Oregon residence classification until the claim is voluntarily relinquished.

(3) An Oregon resident who has been in federal service and assigned to duty outside of Oregon is required to return to Oregon within sixty days after completing federal service to retain classification as an Oregon resident.

(4) A person who continues to reside in Oregon after separation from federal service (either military or civilian) may count the time spent in the state while in federal service to support a claim for classification as an Oregon resident.

30.128 Residence Classification of Aliens

(1) An alien holding an immigrant visa (admitted for permanent residence in the United States) shall be regarded as a citizen for the purpose of determining residence. Time toward residence shall be counted from the date of receipt of the immigrant visa.

(2) An alien possessing a student visa or other temporary visa cannot be classified as a resident.

30.130 Review of Residence Classification Decisions

(1) A permanent interinstitutional review committee consisting of the officers determining student residence classification at Department institutions and two students appointed by the Chancellor, with a member of the Chancellor's staff, selected by the Chancellor, as chairman, shall be established. Residence cases of unusual complexity, especially where there may be conflict of rules, may be referred to this committee for decision. Any student who is dissatisfied with the residence classification may appeal to the interinstitutional review committee for decision. In exceptionally meritorious or hardship cases, totaling not more than 5% of the nonresident enrollment of the institution concerned, this committee may allow exceptions to the rules.

(2) A permanent administrative review committee consisting of the Chancellor, who shall serve as chairman, the Assistant Attorney General assigned to the Department, one student, and a non-voting member from the Chancellor's staff, selected by the Chancellor, shall be established. The Chancellor may select a staff member to serve as a voting member of the committee and to preside over committee deliberations if the Chancellor is unable to attend. A student whose residence classification has been reviewed by the interinstitutional committee referred to in subsection (1) of this rule, and who is dissatisfied with the decision of that committee, may appeal to the administrative review committee. The decision of the administrative review committee shall be final.
A certification officer designated by the Board shall determine the residence classification of any person seeking certification as an Oregon resident, pursuant to the terms of the WICHE Compact. Any person dissatisfied with the decision of the certification officer may appeal to the administrative review committee. The decision of the administrative review committee shall be final.

30.135 Student Exchanges

(1) Students attending Oregon graduate or professional schools under terms of the WICHE Compact shall be considered residents for fee purposes.

(2) Under the WICHE Student Exchange Program, certification of students as Oregon residents for purposes of attending institutions not under Board control or in other states shall be guided by rules set forth in AR Chapter 30.

(3) (a) Department institutions may enter into agreements with individual institutions in other states or other countries whereby resident students specified by name in the Oregon institutions may transfer to the other institution, and an equal number of students specified by name from the other institution may transfer to the Oregon institution with a reciprocal waiving of additional fees ordinarily assessed to nonresident students in both institutions.

(b) The recommendation for a student exchange program, together with a copy of the proposed agreement between the institutions, shall be approved by the Chancellor before the exchange program is undertaken. Further, the program recommendation and the proposed agreement between the institutions shall set forth the reasons why the exchange would be of particular benefit to the students in their chosen study programs.

(c) If an approved agreement provides for exchange of equal numbers of students, then unforeseen circumstances which later might cause a student to withdraw from the program shall not void the arrangements agreed upon by the two institutions.

Chapter 31.000--Student Health Services

31.010 Student Health Services

(1) The institutions shall operate or provide student health services to safeguard the health of their students through health education, medical treatment of injuries and diseases, and limited counseling services.

(2) Health services supported by student fees shall be available only to enrolled students who have paid health service fees. Institutions may permit part-time students, except non-matriculants, to participate upon payment of the fees. This rule shall not prohibit an institution from rendering health services to other persons on campus if an emergency occurs.

(3) Charges may be made for prescriptions, laboratory services, immunizations, and other special services in accordance with regulations adopted by the institutions. The institutions may deduct such charges from breakage fees or make other arrangements for payment.

(4) The health services will not pay or be responsible for bills from private physicians or private hospitals, except in cases of advance contractual arrangements made by the institutions.

31.030 Hospitalization

A student may be allowed infirmary care for limited periods in accordance with rules adopted by the institutions.
Chapter 31.100--Housing

31.110 Purposes of Student Housing

(1) Student housing shall be planned to extend educational opportunity to students.

(2) Institutions providing housing shall maintain services and establish rules permitting residence hall living and the operation of family housing facilities to contribute to the institution's educational objectives.

31.120 Self-Supporting Concept for Student Housing

(1) The self-supporting concept, as applied to student housing, anticipates that there shall be sufficient total income from service charges to pay all direct costs and designated apportioned major physical plant costs. The apportioned costs include those for heat, utilities, repairs, insurance and grounds maintenance. The remaining income shall be identified as "net income."

(2) In recognition of the regular and frequent use of housing facilities for general institutional purposes, housing income is not to be charged for minor physical plant costs or for apportionment of institutional and Board's Office administrative costs.

31.130 Self-Liquidating Concept for Student Housing

(1) The self-liquidating concept, as applied to student housing, anticipates that net income shall be sufficient to meet depreciation costs on buildings and structures as well as to provide a reasonable return on the capital investment value. Determination of "reasonable return" shall be based on:

   (a) The estimated current market value of the land;

   (b) The estimated cost of replacing the facilities and equipment which usually will be related to the value at which insured;

   (c) The composite interest rate of Board bond borrowings under Article XI-F(1) of the Oregon Constitution.

(2) This "reasonable return," plus the money set aside to meet building depreciation costs, will be available for debt service where applicable, thereby meeting the self-liquidating requirement of the Oregon Constitution.

31.140 Rates of Charge for Student Housing

(1) Student housing charges shall provide sufficient income to make each category of housing--family housing, residence halls, and cooperative housing--self-supporting and self-liquidating. Under exceptional circumstances the Chancellor may authorize the use of income from one category to support the operation of another and the use of commingled student building fees to assist with financing of student housing.

(2) Rates of charge in the residence halls within the Department and within an institution shall be similar.

31.160 Institutionally-Controlled Cooperative Housing

Institutionally-controlled cooperative housing projects shall be limited to those meeting the following conditions:

(1) The institutions select students occupying the units;

(2) Rental contracts are made between individual student occupants and the institutions;

(3) The units are wholly self-supporting and self-liquidating.
31.180 **Fraternities and Sororities**

(1) Guidelines for fraternity and sorority living are as follows:

(a) Fraternities and sororities shall comply fully with Board anti-discrimination rules and policies;

(b) The existence of fraternities and sororities shall be compatible with the educational objectives of the institution;

(c) Fraternities and sororities shall be housed in privately-owned facilities constructed on privately-owned land;

(d) The institution shall be responsible for judging the adequacy of the fraternity and sorority houses for off-campus living for its students.

(2) In carrying out its responsibilities under subsection (1)(d) of this rule, the institution shall require proof of compliance with minimum health and safety standards under applicable public regulations.

**Chapter 33.100--Solicitation of Students for Funds**

33.110 **Solicitation of Students for Funds Prohibited**

Solicitation of funds from students for whatever purpose is prohibited unless authorized by the President of the institution involved.

**Chapter 33.200--Student Conduct**

33.210 **Proscribed Conduct**

The Board has proscribed certain conduct as listed in AR 42.410. Students engaging in proscribed conduct will be subject to sanctions according to institutional procedures.

**Chapter 34.000--Student Records**

34.010 **Institutional Regulations**

(1) The Board delegates to the President of each institution responsibility for developing institutional rules governing the form and variety of student records to be maintained in the institution, the nature of the information to be collected, and the way in which such student information is to be recorded, maintained, used, and eventually disposed of. Such institutional rules shall be consistent with Oregon laws and Board rules and with federal statutes and regulations.

(2) In the development of these rules, the President will give faculty and students an important voice, consistent with the nature of the academic community.

34.015 **Definitions**

(1) "Personal records" means records containing information kept by the institution, division, or department concerning a student and furnished by the student or by others at the student's or the institution's, division's, or department's request, including, but not limited to, record of grades attained, information concerning discipline, counseling, membership activity, employment performance, and other individual student behavioral records.

(2) For purposes of compliance with ORS 351.065, "records of academic achievement" shall mean the record of credits earned toward a degree and/or degree(s) received.
34.020 **Purpose of Student Records**

Only personal records demonstrably and substantially relevant to the educational and related purposes of the institution, division, or department shall be generated or maintained.

34.025 **Certain Information Not Required To Be Provided by Students**

No student shall be required to provide, except voluntarily, information as to race, religion, political affiliation or preferences, or personal values, except as required by state statute, federal law, or valid federal rules, regulations, or orders.

34.030 **Locations and Custody of Student Records**

Official student personal records shall be maintained in locations central to the institution, division, or department by which they are maintained, with the custody thereof assigned to designated personnel specifically charged with preserving the confidentiality of records in accordance with institutional rules.

34.035 **Release of and Access to Student Records**

(1) Appropriate information about the student may be released without the student's consent. Such unrestricted access shall be limited to the following information:

   (a) Directory information, that is, information generally needed in identifying or locating a named student.

   (b) Objective evidence of a student's academic achievement, which is interpreted to be limited to information as to the degree(s) earned.

(2) Each institution shall each year give public notice of the categories of personally identifiable information which the institution has designated as directory information. Students shall have the right to refuse to permit the designation of any or all of the categories of personally identifiable information with respect to that student as directory information.

(3) All other information in the student records apart from directory information as defined in subsection (1) above, shall be considered personal and confidential and subject to the restrictions hereinafter set forth in AR 34.040 through 34.055.

34.040 **Confidential Records--Restrictions on Release**

(1) Personal records designated as confidential pursuant to ORS 351.065 or pursuant to the federal legislation known as the Buckley Amendment, shall be available only to institutional personnel who have to fulfill their official, professional responsibilities as defined in institutional regulations. These records may not be released to any other person or agency without the student's written consent, unless on receipt of a subpoena or other court order or process. Institutional rules may provide for designated institutional officials to appear in court to test the validity of a subpoena or court order or process relating to release of student records.

(2) The President, or a designee, may make exception to the foregoing rule and may disclose personally identifiable information from the educational records of a student to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individual. The factors to be taken into account in determining whether personally identifiable information from the educational records of a student may be disclosed under this section shall include the following:

   (a) The seriousness of the threat to the health or safety of the student or other individual;
(b) The need for the information to meet the emergency;
(c) Whether the individuals to whom the information is disclosed are in a position to deal with the emergency;
(d) The extent to which time is of the essence in dealing with the emergency.

(3) The health and safety exception to confidentiality shall be strictly construed.

Petition by Student for Change in Personal Record

The student shall have the right to review with appropriate institutional personnel any information contained in the student's records and to petition appropriate institutional officials as defined in institutional rules for additions or deletions to the record where the accuracy of the information in the file is in question, except in the following instances:

(1) Records created or maintained by a physician, psychiatrist, psychologist or other recognized professional or para-professional acting in a professional or para-professional capacity or assisting in that capacity.

(2) Records created, maintained, or used only in connection with the provision of treatment to the student and not disclosed to anyone other than individuals providing the treatment; provided, that the records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(3) Records relating exclusively to an individual in that individual's capacity as an employee.

(4) Financial records and statements of the parents of students, or any information contained therein.

(5) Confidential letters and confidential statements of recommendation which were placed in the educational records of a student prior to January 1, 1975, provided that the letters and statements were solicited with the written assurance of confidentiality or sent and retained with a documented understanding of confidentiality and were used only for the purposes for which they were specifically intended.

(6) Confidential letters of recommendation and confidential statements of recommendation which were placed in the educational records of the student after January 1, 1975, respecting admission to an educational institution, respecting an application for employment or respecting the receipt of an honor or honorary recognition provided that the student has waived rights to inspect and review letters and statements of recommendation.

Availability of Student Records for Research Purposes

(1) The need for institutions to make information regarding the student available for research purposes shall be acknowledged and provided for in institutional rules on student records. The institutional rules shall provide adequate provisions to conceal the identity of students whose personal data or information is included in research.

(2) If the confidentiality of student records seems to be jeopardized in any way by release of information for research purposes, institutional rules shall provide that the institution is to obtain the student's written consent prior to releasing information for research purposes.

Permanence, Duplication and Disposal of Student Records

(1) Individual student records shall be maintained only for the minimum period of time required to serve the official functions of the office generating and maintaining them. The records shall then be disposed of in a manner designed to assure confidentiality.
(2) The permanent retention of student records shall be limited to records which the President or the State Archivist determine to be of long-range value to the student or the institution.

(3) Duplication of permanent student records shall be minimized. Duplicate permanent records shall be destroyed in accordance with subsection (4) of this rule.

(4) All duplicate copies of permanent records and all temporary student records shall be destroyed at a time to be determined and set forth in institutional rules and in a manner designed to assure confidentiality.

Chapter 35.000--Discrimination

35.011 Assistance to Organizations

No institution or division shall recognize, register or otherwise provide assistance to any organization which discriminates in its membership on the basis of age, handicap, national origin, race, marital status, religion, or sex, except that institutions or divisions may provide assistance to organizations exempted under Title IX of the Educational Amendments of 1972 from discriminating on the basis of sex in their membership policies.

35.015 Definition of Discrimination

As used in AR 35.015 to 35.090, "discrimination" means any act that either in form or operation, and whether intended or unintended, unreasonably differentiates among persons on the basis of age, handicap, national origin, race, marital status, religion or sex.

35.016 Discrimination Prohibited in all Higher Education Programs, Services and Interschool Activities

No person in Oregon shall be subjected to discrimination in any Department program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly of the State of Oregon. Each institution and division shall promptly adopt and publicize, and shall maintain, a procedure for redressing the grievances of persons who are subject to discrimination. AR 35.015 to 35.090 do not apply to claims of discrimination in employment, promotion, tenure or termination of employment.

35.017 Appointment of Compliance Officer

The Chancellor shall appoint a compliance officer who shall be responsible directly to the Chancellor for: (a) general oversight of Department efforts to comply with ORS 659.150 and 659.155, and for bringing to the attention of the Chancellor any needed changes in Board rules or policies relating to compliance with such statutes; (b) working with Presidents or Division Heads, or their designees, as requested, in assisting institutions and divisions in the development and maintenance of effective policies and rules relating to compliance with ORS 659.150 and 659.155, and in evaluating the effectiveness of their application; (c) evaluating periodically the evidence as to compliance with ORS 659.150 and 659.155, and reporting such evaluations to the Chancellor, Presidents and Division Heads concerned; and (d) carrying other responsibilities relating to assuring compliance with ORS 659.150 and 659.155 as may be assigned by the Chancellor.

35.020 Admissions

(1) No person shall, on a prohibited basis, be denied admission or be subject to discrimination in admission.

(2) Each school, department, or college in any institution, which has an independent admissions process, or one supplementary to the institutional admissions process, is considered an administratively separate unit for admissions purposes and may not discriminate unreasonably on any of the prohibited bases (i.e., age, sex, marital status, handicap, national origin, race, religion).
(3) No test or other criterion for admission which unreasonably differentiates among individuals on a prohibited basis shall be used, unless the use of the test or criterion is shown to be a valid means of predicting success in the educational program, and other suitable tests or criteria not having such an adverse effect are shown to be unavailable.

(4) No preference in admission shall be given one person over another on a prohibited basis, such as by ranking individuals on a prohibited basis.

(5) Numerical limitations on the number or proportion of persons to be admitted may not be established on a prohibited basis.

(6) In making admissions decisions, an institution:
   (a) Shall not apply any rule concerning marital, parental, or family status of an applicant or student which treats individuals differently on a prohibited basis;
   (b) Shall not consider pregnancy, childbirth, termination of pregnancy or recovery therefrom to determine eligibility for admission, unless on a case-by-case basis the health of an individual relates directly to the capacity to participate effectively in activities necessary to the program. Such determinations shall be treated no differently than other health conditions;
   (c) Shall not make pre-admission inquiry as to marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs."

35.021 Recruitment

(1) In recruiting students, institutions shall not unreasonably differentiate among individuals on a prohibited basis.

(2) An institution shall not recruit primarily or exclusively from schools or other educational institutions which admit students predominantly on a prohibited basis, if such actions result in discriminatory enrollment.

35.022 Educational Programs and Activities

(1) No individual shall, on a prohibited basis, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other educational program or activity operated by the institution, or, although not operated by the institution, is required of students by the institution.

(2) In providing aid, benefit, or service to students, institutions shall not discriminate on a prohibited basis, except where differential treatment is not unreasonable within the meaning of ORS 659.150 and 659.155.

35.023 Access to Course Offerings

There shall be no unreasonable differentiation among individuals on a prohibited basis in access to classes, courses of study, or other educational programs or activities offered by the institutions, provided, however, that:

(a) Students may be grouped within physical education classes and activities by objectively measured ability. They may also be separated by sex within classes during participation in bodily contact sports. Curricula serving the particular activity needs of males or those of females may be offered, but enrollment may not be restricted on a prohibited basis;

(b) Physical education classes may use different standards for measuring skills and progress if use of a single standard would, on a prohibited basis, have an adverse effect on persons, or on the likelihood of their participation;
(c) Theater, dance, choral music and other artistic activities may differentiate participants in roles on the basis of sex if necessary to achieve specific artistic objectives.

35.025 Counseling and Use of Appraisal and Counseling Materials

(1) Institutions shall not discriminate among students on a prohibited basis in assistance rendered in making educational or career choices, or in the counseling and guidance services offered, nor among applicants for admission if such services are offered.

(2) Students or applicants for admission involved in the appraisal or counseling process shall not be differentiated on a prohibited basis by the nature of tests and materials used, except or unless differentiated materials covering the same occupations and interest areas are shown to be essential to the elimination of bias with respect to age, sex, marital status, handicap, national origin, race, and religion.

35.026 Housing

Institutions offering housing facilities shall not, on a prohibited basis, unreasonably differentiate among applicants or students in housing fees charged or services or benefits offered in housing, except as provided below:

(1) Separate housing may be provided for the separate sexes;

(2) Available housing may be divided between men and women on the basis of the number of applicants for housing of each sex, provided the housing is comparable in quality and cost;

(3) Qualifications for occupancy of family housing shall be the same for married women students as for married men students, and shall be the same for single parents of either sex.

35.027 Comparable Facilities

(1) Separate rest rooms, change and locker rooms, showers, baths and toilet facilities, provided on the basis of sex, must be reasonably comparable in convenience and quality.

(2) Institutions and divisions should ensure reasonable access by handicapped persons to facilities including classrooms, locker rooms, showers, and rest rooms.

35.028 Financial Assistance

(1) In providing financial assistance to applicants or students, institutions shall not unreasonably differentiate on a prohibited basis, except as provided below:

(a) In determining the amount or types of assistance to be granted;

(b) In limiting eligibility for assistance which is of any particular type or source;

(c) In the application of criteria.

(2) Institutions may not assist any person, organization, or group in the administration of financial aid on a prohibited basis.

(3) Institutions shall comply with implementing regulations of Title IX, Educational Amendments of 1972, with respect to administration of sex-restricted scholarships and fellowships.

(4) Institutions that award athletic scholarships or grants-in-aid must ensure that reasonable opportunity exists for members of each sex to participate in intercollegial athletics. Athletic scholarships, unlike non-athletic scholarships, may be awarded on the basis of sex, inasmuch as separate teams are permitted.
35.029 Employment Assistance to Students

(1) Institutions and divisions shall assure that nondiscriminatory policies are followed in employing students.

(2) Institutions and divisions shall not assist prospective employers or agencies known by them to discriminate on a prohibited basis in their recruitment, hiring, or employment practices. Placement officers and other Department personnel who assist in the recruiting and hiring of students shall take steps to inform prospective employers of the requirements of nondiscrimination under the law.

35.030 Health and Insurance Benefits and Services

(1) An institution or any of its constituents, including student groups, may not offer to students a medical, hospital, or accident policy, plan, benefit, or service that unreasonably discriminates on a prohibited basis.

(2) Institutions may offer a benefit or service even though it is not used by the same proportion of students of one group as of another. When full-coverage health services are provided, basic gynecological care shall be provided.

(3) Whatever limits a health service establishes as to services offered shall not differentiate unreasonably among individuals on a prohibited basis.

35.031 Marital or Parental Status

(1) Any rule dealing with marital, parental, or family status must be applied equally to men and women students.

(2) (a) Institutions and divisions shall not discriminate against any student, or exclude any student from an educational program or activity, including any class or extracurricular activity on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity.

(b) Institutions and divisions may require the student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal educational program or activity so long as certification is required of all students for other physical or emotional conditions requiring the attention of a physician. In such cases, the institution may require reasonable efforts by the affected individual to secure appropriate health insurance coverage or to hold the institution harmless from consequences flowing from error or misdiagnosis on the part of the student's physician.

(3) Pregnancy, termination of pregnancy or related conditions must be treated the same as other temporary disabilities. Whatever benefits and services are available to students who are temporarily disabled, including medical services and leaves of absence, shall apply equally to pregnancy-related disabilities.

(4) Institutions and divisions may maintain, on an elective basis only, educational programs or activities specifically for pregnant students. When such programs and activities are maintained, institutions and divisions shall assure that they are comparable in quality to those offered non-pregnant students.

(5) Institutions and divisions shall consider pregnancy and pregnancy-related conditions a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.
35.032 Athletics

(1) No person shall, on a prohibited basis, be excluded from participation in or be treated differently from another person, or otherwise be discriminated against in any intercollegiate, club, recreational, or intramural athletics offered by the institution, except as provided below:

(a) Intercollegiate and club sports, where team selection is based on competitive skills, may have separate teams based on sex or physical handicap;

(b) If only one team is offered in a non-contact sport, students may not, on a prohibited basis, be excluded from trying out;

(c) If only one team is offered in a bodily contact sport, members of the excluded sex need not be allowed to try out;

(d) Non-contact intramural and recreational sports, where team selection is not competitive, must be offered on a coeducational basis. Separate teams may be offered for contact intramural and recreational sports.

(2) Institutions shall not, in the provision of athletic opportunities, unreasonably differentiate among individuals on a prohibited basis.

(3) In assessing the total athletic opportunity provided, institutions shall be guided by regulations implementing Title IX of the Educational Amendments of 1972, and shall assess at least the following:

(a) Appropriateness of equipment and supplies;

(b) Games and practice schedules;

(c) Travel and per diem allowances;

(d) Opportunity for coaching and academic tutoring;

(e) Coaches and tutors;

(f) Locker rooms, practice and competitive facilities;

(g) Medical and training services;

(h) Housing and dining facilities and services;

(i) Publicity.

(4) Athletic expenditures need not be equal but the pattern of expenditures must not result in a disparate effect on opportunity. Institutions may not discriminate in the provision of necessary equipment, supplies, facilities, and publicity for sports programs.

35.033 Textbooks and Curricular Materials

Nothing herein either prohibits or requires the use of any particular textbook or curricular materials. If, however, materials are found upon investigation to exert a discriminatory impact on the basis of age, sex, marital status, handicap, national origin, race or religion, the institutions and divisions shall make a reasonable effort to make available supplemental alternative non-discriminatory materials.

35.035 Procedure for Reporting Discrimination

(1) Each institution and division shall make available a person to serve as a grievance counselor to assist students and others in formulating and following up complaints of alleged prohibited discrimination.
(2) Each Department institution or division shall designate a compliance officer to receive complaints of alleged noncompliance with AR 35.016. Reasonable efforts shall be made to give notice of the name, office address and telephone number of the grievance counselor and compliance officer to all applicants for and recipients of the services of each Department institution or division.

(3) All complaints shall be made to the compliance officer at the respective institution or division and shall be put into writing by the compliance officer if not submitted in writing, and signed by the complainant. The complaint shall set forth the factual basis of the alleged noncompliance within 180 days from the date of the alleged noncompliance.

(4) Upon receipt of the complaint, the compliance officer shall promptly deliver copies of the complaint to the President of the institution or Head of the division involved and to any individual respondents, and to the Chancellor of the Department. The compliance officer shall retain a copy of the complaint in files established at the institution or division for that purpose.

35.036 Exemption From Reprisal or Retaliatory Action

No individual filing a complaint or otherwise participating in any of the actions authorized under AR 35.015 through 35.090 shall be subject to reprisal or retaliatory action by any institution, division, or employee of the Department for having participated in activities provided for under the Administrative Rules.

35.037 Investigation of Complaints

(1) Within 30 days after receipt of the complaint, the institution or division shall complete such investigation of the matter as it deems necessary, order the correction of any noncompliance found to exist or have occurred and transmit a report of the findings of its investigation and corrective action to the Chancellor, to the complainant and to the compliance officer with whom the complaint was filed.

(2) The 30-day period allowed under subsection (1) may be extended for not more than 30 days upon application by the institution or division and approval of the Chancellor.

35.040 Appeal to the Chancellor

(1) In the judgment of the Chancellor, whenever an institution or division fails to conduct a satisfactory investigation, fails to take appropriate corrective action or fails to make reports on complaints within the 30-day period where no extension has been granted or within the period allowed under the extension, the Chancellor shall initiate an investigation of the complaint.

(2) Whenever the complainant is not satisfied with the report, or if no report is made within the time allotted, the complainant may request in writing that a hearing be held on the complaint. The request shall state the reasons for dissatisfaction. The request shall be filed with the compliance officer who shall forward a copy promptly to the Chancellor. On receipt of the request, the Chancellor may order the hearing; provided, however, that the Chancellor may review the report and other information presented and then may order that no hearing be held and declare that the action of the institution is satisfactory. The Chancellor's order shall be final.

35.041 Appointment of Hearing Officer

The hearing shall be conducted by a hearing officer appointed by the Chancellor.

35.045 Notice of Hearing: Time and Place

The hearing officer conducting the hearing shall set a hearing date not more than 10 days after receipt of the request for a hearing. The hearing shall be conducted at the institution or division at which the complaint was made. Written notice of the time and place of the hearing shall be given to the complainant and the respondent institution or division at least 10 days prior to the date set for the hearing. The hearing officer may postpone the hearing for valid and sufficient cause, with notice to all parties. The hearing officer shall not permit unnecessary delay.
35.050 Written Statement of Case

Not less than five days before the date set for the hearing, the respondent institution or division may file with the hearing officer such written statement of its case as it elects to file and shall file a copy of the report of its investigation and action. A copy of any written statement and report of the investigation and action shall be provided the complainant at the same time they are provided to the hearing officer.

35.055 Open Hearings

The hearing shall be open to the public, except when materials are considered which are not public records.

35.060 Conduct of Hearing

(1) A tape recording or other verbatim record of the hearing shall be taken and maintained.

(2) The testimony of witnesses, on oath or affirmation, and other evidence concerning any disputed facts shall be received by the hearing officer. The hearing officer shall exclude irrelevant, immaterial or unduly repetitious evidence, but shall accept all other evidence of a type commonly relied on by reasonably prudent persons in conduct of their serious affairs.

(3) The hearing officer shall encourage stipulations of undisputed facts, and may seek to conciliate the dispute either before or after the hearing.

(4) The hearing officer shall make findings of fact according to the preponderance of evidence.

35.065 Presentation of Evidence

The complainant shall have the responsibility of producing satisfactory evidence of respondent's noncompliance with AR 35.016. Both the complainant and the respondent shall have the right to appear and to participate in the hearing, to present relevant evidence to the hearing officer, to cross-examine witnesses and to submit rebuttal evidence.

35.070 Position Summaries

At the conclusion of the testimony, the hearing officer may permit each party to make a summation; if this privilege is extended to one side, it must be extended to the other side. The hearing officer may request the timely submission of written summations.

35.075 Findings and Recommendations

(1) The hearing officer shall make explicit findings of fact respecting the alleged noncompliance of the respondent institution or division. The findings shall be based on the hearing record.

(2) If the hearing officer finds that noncompliance has occurred, the hearing officer shall formulate a curative recommendation for compliance.

(3) In formulating the curative recommendation, the hearing officer shall consider the willingness and ability of the respondent to eliminate the noncompliance and any other factors relevant to the particular case.

(4) The hearing officer shall submit findings of fact, conclusions and curative recommendation to the Chancellor, the complainant, the respondent institution or division, and the Director of Affirmative Action for the State of Oregon.

35.080 Order by Chancellor

(1) The Chancellor may accept, modify or reject the findings of the hearing officer, and shall issue an order containing any findings of fact based on the hearing or on investigation by the Chancellor under AR 35.040 and the action necessary for compliance, if the institution or division is found in noncompliance. The order shall be issued no more than 15 days after completion of the hearing and copies shall be given promptly to the respondent, to the complainant and to the compliance officer of the affected institution or division.
(2) If the Chancellor believes sanctions should be imposed against any individual in addition to action necessary for compliance, the Chancellor shall notify the head of the institution or division, stating the reasons. Any proceedings thereafter taken against any individual pursuant to this paragraph shall be according to Administrative Rules of the Board or rules of the institution or division, as appropriate.

(3) If requested, the hearing record shall be put into writing and shall be made available to the complainant and the respondent institution or division for copying, or copies thereof shall be made for them. The cost of reducing the record to writing, and of the making of copies thereof, shall be borne by the party so requesting.

35.085 Sanctions Against Institution or Other Division

(1) If, based on the Chancellor's own investigation of alleged noncompliance or as a result of the Chancellor's examination of the findings of fact of the hearing officer, the Chancellor concludes that any institution or division has violated AR 35.016, that the institution or division has a record of noncompliance, that the magnitude and effect of the institution or division's noncompliance is sufficient to warrant monetary sanctions, or that there is unwillingness of the institution or division to comply with AR 35.016, or any combination of these conclusions, the Chancellor may impose a monetary sanction against the institution or division.

(2) A monetary sanction imposed under this rule shall not exceed the amount of legislatively appropriated funds received by the institution or division against which it is assessed. No monetary sanction in excess of $10,000 shall be assessed without approval of the Board.

35.090 Requirement of Prompt Attention to Complaints

It is the desire and direction of the Board that, in carrying out the duties imposed on them by AR 35.015 to 35.085, the Chancellor, Presidents, Division Heads, compliance officers, hearing officers and other personnel shall give high priority to the performance of such duties and shall proceed as expeditiously as possible to ascertain whether discrimination exists and to take curative measures.

35.095 Students Unable Because of Religious Beliefs to Attend Classes on Certain Days

Any student who, because of religious beliefs, is unable to attend classes on a particular day shall be excused from attendance requirements and from any examination or other assignment on that day. The student shall make up the examination or other assignment missed because of the absence.

Chapter 40.000--Classification

40.040 Academic Rank

(1) Academic ranks shall consist of graduate rank and faculty rank. Graduate ranks are graduate teaching assistant, graduate research assistant, and fellow. Faculty ranks are instructor, senior instructor, research assistant, research associate, lecturer, assistant professor, associate professor, and professor. Faculty rank will not be given to graduate students.

(2) The following definitions of the graduate rank of fellow and of the less common nonprofessorial faculty ranks shall govern their use:

(a) Fellow: This rank may be used in a variety of cases where individuals are associated with the institution for limited periods of time for their further training or experience; they may or may not be required to provide services to the institution. The rank may be used for both pre- and post-doctoral fellowships.
(b) **Research Associate:** This rank may be used for staff appointees engaged in the conduct and direction of independent research activities. Such appointees will normally hold the doctoral degree or the highest degree appropriate to the field in which the research is being conducted.

(c) **Senior Instructor:** This rank may be used for the appointment or promotion of staff members who have special skills or experience needed in the instructional program of the institution, but who would not normally be appointed or promoted to professorial ranks. Promotion to the rank of senior instructor will not be made effective before the end of the third year of service. Appointment or promotion to the rank of senior instructor may be made with or without indefinite tenure. Appointment to this rank does not preclude subsequent advancement in rank under appropriate conditions.

(d) **Research Assistant:** This rank may be used for staff appointees engaged in the conduct of research under supervision. Such appointees will normally hold the masters degree or such other degree appropriate to the field in which the research is being conducted.

(e) **Lecturer:** This rank may be used for appointments of faculty members for part-time service who have limited formal academic preparation but whose professional achievements are such that their expected salary would equal that paid to persons with professorial rank.

(3) The adjectives "adjunct" or "visiting" may be joined to academic ranks in those cases in which the institution wishes to draw upon the skills of certain persons in the community or in other educational, industrial, or governmental institutions for help in carrying forward teaching, research, or service commitments (e.g., doctors, dentists, lawyers, psychiatrists, professors, or administrators at other academic or governmental institutions, public school teachers or administrators.)

(4) Academic rank is assigned to staff members in the unclassified academic service whether the type of service is teaching, research, extension, administration, or other service. Deans, Vice Presidents, Presidents, Chancellor, and Vice Chancellors shall have the academic rank of professor.

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**Chapter 40.100--Compensation**

**Compensation Plan for Academic Staff**

(1) Pursuant to state law, the principles of a compensation plan are established for the academic staff as set out below. Pay ranges shall be established for the various academic ranks with due consideration given to relative responsibilities of each rank, prevailing rates of pay in other universities, colleges, and elsewhere for similar responsibilities, availability of a competent professional staff, living costs, and other pertinent information.

(2) Minimum and maximum rates and such intermediate rates considered necessary and equitable shall be established for the various academic ranks and positions, provided, however, that exceptions may be allowed as circumstances require. Normally the established minimum pay rate for a rank shall be paid upon appointment. It is permissible in the interest of the state to make an appointment above or below the minimum rate for the academic rank. Similarly, the salary of an individual may be above or below the prescribed normal maximum for the academic rank. Normally academic staff members shall be paid at one of the rates set forth in the pay ranges, subject to availability of funds and the exception noted above.

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(3) Salary increases are not automatic. Increases shall be recommended only for staff members demonstrating high standards of work performance. Increases shall normally be effective beginning with the fiscal year following completion of one year’s service.

(4) Implementation and amendments to the plan shall be based on recommendation of the Chancellor after consultation with the Presidents and Division Heads.

40.130 Compensation Plan for Classified Staff

Compensation of classified employees including fringe benefits and other conditions and terms of employment shall be according to the rates and regulations in the state compensation plan, or by collective bargaining agreement, as appropriate.

40.140 Payment of Academic Staff Compensation

Salaries of all Board academic staff, with the rank of instructor or above, employed on an academic year basis, unless authorized otherwise by the Chancellor, shall be paid as follows:

One-eighth of the annual salary shall be paid at the end of September of each year, one-ninth at the end of each succeeding month to and including May, and one-eighth at the close of the fiscal year.

40.160 Additional Pay to Full-Time Staff

Institutions and divisions are authorized to provide payment in addition to regular salaries when, at the request of the home institution or division or another Department institution or division, a staff member provides substantial service over and above the regular services expected.

40.170 Perquisites

When employes receive perquisites, such as living quarters or meals, in addition to cash salary, proper notation thereof shall be made on the salary budget together with an explanation showing items allowed and the value thereof. Granting of perquisites to employes on a wage or salary basis requires the approval of the President of the institution or Head of the division concerned at the beginning of each fiscal year.

40.175 Student Enrollment for Spouse and Dependent Children

(1) The spouse and dependent children of regular Department staff members with a full-time equivalent of at least .50 may enroll as students at resident fee rates in Department institutions.

(2) The spouse and dependent children of Department visiting instructors from other countries or other states with a full-time equivalent of at least .50 may enroll in Department institutions at resident fee rates during the terms that the parent, guardian, or spouse is serving a Department institution as a visiting instructor.

Chapter 41.000--Conditions of Service

41.010 Appointment Procedures

(1) Each person to be appointed or reappointed as a member of the faculty shall be sent written notification of appointment and conditions and terms thereof for each period of employment. The notification shall be signed by the President, or for non-institutional personnel by the Chancellor or a designee. All appointments for a period in excess of one year must be authorized by the Chancellor.
(2) The notice of appointment shall include, but not be limited to, the following:

(a) Effective date of appointment,
(b) Description of position offered (including reference to any unusual duties),
(c) Academic rank and title offered,
(d) Duration of appointment,
(e) Tenure status, including the nature of any restrictions on eligibility for tenure (e.g., limited term or temporary appointments or appointments funded by grant funds beyond institutional control),
(f) Compensation,
(g) Other conditions of employment.

(3) The faculty member shall be provided written information concerning duties, responsibilities and institutional expectations. Such written information shall be provided with the initial notice of appointment and whenever significant changes occur. The written information shall include:

(a) Specific expectations relating to the particular position;
(b) General institutional expectations as to professional standards, obligations, and responsibilities to be met by faculty members, including but not limited to the following:

(A) Criteria to be used in evaluating the faculty member in connection with renewal of appointment, promotion, tenure (if faculty member does not have indefinite tenure), and post-tenure review (if the faculty member has indefinite tenure);

(B) Procedures to be used in application of the evaluative criteria, including identification of officers responsible for accumulating the information and data necessary to the evaluation, making the evaluation, counseling with the faculty member concerning performance and areas of desirable improvement, and such additional information as is necessary to outline clearly the procedures to be used;

(C) Kinds of information that will be gathered by the institution as the basis for evaluating the faculty member;

(D) A reference to Board and institutional rules relating to faculty records;

(E) The nature of the institutional staff career support program, with specific reference to institutional assistance available to assist the faculty member in improving teaching and other scholarly activities;

(F) A reference to the agreement required by AR 41.120(6) concerning the extent to which prior experience will be credited as a part of the probationary period of employment;

(G) A reference to any exceptions agreed to as provided in AR 41.150.

41.015 Consultative Procedures

The President shall establish written procedures through which faculty, department heads and deans shall have the opportunity for effective participation in deliberations leading to recommendations for appointment, reappointment, tenure, or promotion of faculty. The procedures established shall also provide for consideration of information from other appropriate sources, including, but not limited to, student evaluations of faculty.
1.020 Terms of Service of Faculty

(1) Academic staff may be appointed on the academic-year basis, the fiscal-year basis, or on such other basis as may be arranged in individual cases.

(2) An academic year is normally the three-term period of service extending from September 16 of one calendar year through June 15 of the next calendar year, or for a comparable period of service within the fiscal year, whichever best serves the particular type of work involved, as may be required by the President. Nothing in this regulation shall be construed to prevent a staff member employed on an academic-year basis from being employed during the remainder of the fiscal year, in the summer sessions or in other service for any of the institutions, provided responsibilities for the regular academic year have been fulfilled to the satisfaction of the department head and the dean or director of the division.

41.030 Working Hours

The varied nature of the work of faculty members whose duties are administrative, instructional, research, or extension makes it impractical to define the exact number of working hours. All such faculty members are required to give the institution their undivided efforts. Determination of time of service is the responsibility of the President.

41.040 Professional Activities--Outside Employment

No full-time employe of the Department or of any of the institutions or divisions shall engage in any outside employment which substantially interferes with duties.

41.050 Vacations

Vacation privileges mean absence from duty for the purpose of recreation and rest for a limited period during which regular compensation is received. Vacation privileges are not cumulative from year to year. Vacation privileges are open only to employees serving for twelve months of the year. Academic staff members who are appointed on a twelve-month basis are eligible for a one-month vacation with pay after eleven months of service. Rules governing vacation privileges for classified staff members are set forth in the State Compensation Plan.

41.060 Absence Due to Illness

Reassignment of the work of a staff member incapacitated by illness over a period longer than one month must have the approval of the President or Division Head.

41.061 Sick Leave Plan for Academic Personnel

(1) All full-time academic staff will be credited with eight hours of sick leave for each full month of service, or two hours for each full week of service of less than one month. Part-time academic staff employed .50 FTE or more will be credited a prorata amount. No credit shall be given during periods of sabbatical leave, educational leave or leave without pay.
(2) Academic staff who have earned sick leave credits shall be eligible to use the credits for any period of absence from service which is due to the employee's illness, bodily injury, disability resulting from pregnancy, necessity for medical or dental care or attendance on members of the employee's immediate family (employee's parents, spouse, children, brother, sister or member of the immediate household) where employee's presence is required because of illness or death in the immediate family of the employee or the employee's spouse.

(3) At the time and in the manner prescribed by the Chancellor, each academic employee covered by these provisions shall certify to the officer designated the amount of sick leave earned and the amount of sick leave with pay utilized. Sick leave records will be maintained in an appropriate file for each staff member until separation or retirement, whichever first occurs.

(4) Academic staff members with less than 520 hours of earned unused sick leave may be advanced the difference between earned unused sick leave and 520 hours when the need arises. As sick leave is earned, the amount shall replace any sick leave advanced until all advanced time is replaced with earned time. The purpose of this provision is to assure academic staff members of at least 90 calendar days of sick leave with pay at all times. Unused advanced sick leave may not be considered for purposes of retirement benefits. There shall be no limitations on the amount of earned sick leave which can be accumulated.

Chapter 41.100--Tenure and Promotion

41.070 Program Staffs for Governmental Contracts

(1) The President of each institution shall determine whether unclassified personnel employed in federal or foreign governmental contract programs, which have qualification or tenure requirements substantially different than those for regular academic staff, shall be subject to provisions regarding vacations, tenure and promotion, sabbatical leave, and timely notice and termination of employment.

(2) For those employees which the President determines shall not be subject to the above-mentioned provisions, applicable employment conditions shall be stipulated in their notice of employment, unless stated in Board policies or Administrative Rules.

41.105 Kinds of Appointments

(1) Appointments authorized in Department institutions are: (1) fixed-term appointments, (2) tenure-related appointments (annual tenure and indefinite tenure).

(a) Fixed-term appointments:

(A) Fixed-term appointments are appointments for a specified period of time, as set forth in the notice of appointment. The faculty member thus appointed is not on the tenure track and the timely notice provisions do not apply.

(B) Fixed-term appointments may be made and are renewable at the discretion of the President.

(C) Fixed-term appointments are designed for use at the discretion of the President in such cases as appointment of visiting faculty (or similar category), academic staff members whose support wholly or principally comes from gift, grant or contract funds, the cessation of which funding would eliminate the budget base for the position in question, and part-time faculty. Visiting appointments to any faculty member shall not exceed a total of seven years.

(D) Institutional staffing plans shall define the characteristics, proper use, and appropriate limits on use of visiting faculty or similar category.
(b) Tenure-related appointment:

(A) Annual tenure appointments are appointments given to faculty employed .50 FTE or more whom the institution considers to be on the tenure track, in that on completion of an appropriate probationary period they will be evaluated and considered for appointment to indefinite tenure. If the initial annual tenure appointment or successive annual tenure appointments are to be terminated otherwise than for cause or for financial exigency, timely notice shall be given the faculty member.

(B) Indefinite tenure appointments are appointments given selected faculty members having an appointment of .50 FTE or more. Such appointments are made by the President in witness of the institution's formal decision that the faculty member has demonstrated such professional competence that the institution will not henceforth terminate employment except for cause, financial exigency, or program or department reductions or eliminations.

(2) "Tenured" faculty, as referred to in Board policies and Administrative Rules, are faculty who have been awarded indefinite tenure.

Eligibility for Indefinite Tenure

(1) Indefinite tenure may be awarded to faculty employed on appointments of .50 FTE or more as senior instructor, assistant professor, associate professor, professor, if otherwise qualified in accordance with institutional criteria and the Board's Administrative Rules.

(2) When indefinite tenure is awarded, there shall be a statement in the faculty member's personal file that the tenure appointment relates only to that FTE level specified in the notice of appointment for the year indefinite tenure is to become effective. For the indefinite tenure appointment to take effect, the statement concerning indefinite tenure must be signed by the faculty member and by the institutional officer authorized by the President to sign such statements. Alteration in the initial commitment may be by mutual consent of the faculty member and the institution or by action provided for elsewhere in the Board's Administrative Rules.

(3) Standards of performance and scholarly quality shall be the same for part-time and full-time faculty members.

(4) Faculty members on a full-time tenure appointment may, by mutual agreement of the faculty member and the President or a designee, be given reduced appointments of less than 1.0 FTE under terms and conditions mutually agreed to in writing by the faculty member and the President or a designee.

(5) Indefinite tenure shall be awarded to faculty of demonstrated professional competence by the President under terms and conditions set forth in the Board's Administrative Rules and policies and in applicable institutional rules.

(6) Tenure is reaffirmed as being institutional. Faculty having achieved tenure status in one Department institution cannot thereby claim tenure in other Department institutions. Probationary years of service in one Department institution may be counted toward probationary service requirements in another Department institution only with the latter's written approval.

Initial Appointment and Probationary Service for Faculty on Tenure-Related Appointments

(1) All faculty members on tenure-related appointments of .50 FTE or more, except as provided below, shall be appointed initially on one-year appointments.

(2) Awarding of tenure to full-time faculty, except as provided below, shall involve assessment of the faculty member's performance each year during the probationary period, and assessment of performance over not less than five consecutive years (counting the year at the end of which tenure is granted). An additional probationary year may be required by the President, following which, if the faculty member is not awarded tenure, terminal notice shall be given, except as provided elsewhere in these Administrative Rules.
(3) The probationary period for regular part-time faculty employed .50 FTE or more in a tenure-related appointment shall be the same as for full-time faculty, except that it shall be calculated in terms of FTE years rather than calendar years.

(4) Notwithstanding subsections (2) and (3) of this rule, the President may in special circumstances consider for tenure any probationary faculty member of the rank of assistant professor or higher, prior to completion of the normal probationary period, when, following a performance evaluation of the faculty member, a finding is made that such an early award of tenure would be to the advantage of the institution. In no event will the first consideration for tenure occur later than in the fifth year.

(5) Faculty members given an initial appointment at the rank of full professor may be granted tenure on appointment, at the discretion of the President. In unusual cases, and only when specifically approved by the Chancellor, associate professors may be given tenure on initial appointment.

(6) At the time of initial appointment, a mutually acceptable written agreement shall be reached between the faculty member and the President or a designee, subject to delegation of authority under the Board's Administrative Rules or policies, as to the extent to which prior experience of the faculty member shall be credited toward the probationary period required before the faculty member may be considered for tenure. The terms of the agreement shall be included in the notice of appointment.

41.130 Consecutive Annual Appointments

A series of annual appointments shall be considered consecutive whether or not interrupted by one or more official leaves of absence. An official leave of absence does not count as a year of service for purposes of tenure, nor does it prejudice the staff member's right to consideration for tenure for service actually rendered.

41.140 Seventh Annual Appointment

A full-time faculty member on annual tenure for a sixth consecutive year shall be awarded indefinite tenure commencing the seventh consecutive year or given notice of termination effective at the end of the seventh year.

41.145 Appointment of Regular Part-Time Faculty Beyond the FTE Equivalent of the Sixth Consecutive Year

A faculty member on a part-time annual tenure appointment of .50 FTE or more during each full academic year for a sufficient number of years to equal six or more years of full-time service may be reappointed under one of the following conditions:

(1) With indefinite tenure at the FTE level specified in the notice of appointment for the year indefinite tenure is to become effective;

(2) With notice of termination effective at the end of the next year.

41.150 Exceptions

The provisions of AR 41.110, 41.120, 41.130, 41.140, and 41.310 shall apply to all tenure related appointments unless in individual cases there is a specific written agreement to the contrary between the institution and the faculty member. The agreement to the contrary shall be incorporated or referred to in the notice of appointment.

41.160 Criteria for Faculty Evaluation

(1) Criteria for faculty evaluation, developed with the participation of appropriate faculty and institutional councils, shall be established in each institution:
(a) As a guide in evaluating faculty in connection with decisions on reappointment, promotion, and tenure;

(b) As a basis for assessing those aspects of the faculty member's performance in which improvement is desirable, whether the faculty member is tenured or non-tenured, with a view to stimulating and assisting the faculty member toward improvement through the resources available under the institution's staff career support plan.

(2) The criteria shall reflect the primary functions for which the Department was established, namely:

(a) Instruction;

(b) Research accomplishments and other scholarly achievements, or where relevant, other creative and artistic achievement;

(c) Professionally-related public service, through which the institution and its members render service to the public (i.e., individuals, agencies or units of business, industry, government);

(d) Institutional service, including but not limited to contributions made toward departmental, school, or institutional governance, service to students through student welfare activities such as individual student advising, advising with student organizations or groups, and similar activities.

(3) The criteria shall provide guidelines for sources and kinds of data that are appropriate as a basis for effective faculty evaluation at each administrative level (e.g., department, school, institution) and in each area (e.g., teaching, research and scholarly activity, etc.) where faculty evaluations are required. Specific provision shall be made for appropriate student input into the data accumulated as the basis for reappointment, promotion, and tenure decisions, and for post-tenure review. Sources of such input shall include, but need not be limited to, solicitation of student comments, student evaluations of instructors, and opportunities for participation by students in personnel committee deliberations.

Post-Tenure Review

(1) Tenured faculty members shall be evaluated periodically and systematically in accordance with plans developed in the institutions.

(2) Institutional plans for post-tenure reviews shall include, but not necessarily be limited to:

(a) A statement of the objectives of faculty post-tenure review and evaluation;

(b) A statement of criteria to be used in evaluations, the nature and kinds of data that will be accumulated, and the method of data collecting;

(c) A designation of persons making evaluations;

(d) A designation of the frequency and regularity of evaluations;

(e) A description of the institutional plan for relating post-tenure reviews to the faculty reward system, such that, appropriate recognition for excellence can be provided;

(f) A description of the institutional plan to deal firmly but humanely with situations in which the competence or the vitality and drive of a particular faculty member have diminished to such an extent that the resources of the faculty career support program are unable to provide the stimulation or help necessary to return the faculty member to a fully effective state.

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Chapter 41.200--Sabbatical Leave

41.205 Purposes of Sabbatical Leave

(1) Sabbatical leave is granted to staff members of academic rank for purposes of research, writing, advanced study, travel undertaken for observation and study of conditions in our own or in other countries affecting the applicant's field or related scholarly or professional activities. Since sabbatical leave is a privilege and not a right, it is granted only when it can be shown that the applicant is capable of using this period in a manner which will provide greater service to the institution and to the state.

(2) The policy on sabbatical leaves shall be uniform for all Department institutions insofar as possible.

41.210 Eligibility for Sabbatical Leave

(1) An academic staff member may be considered for sabbatical leave only after having been employed full time in the continuous service of the Department for six academic or fiscal years with the rank of instructor or above. Academic staff members employed on successive academic year appointments are considered as serving continuously. Academic staff members employed full time on academic-year appointments may be considered for a second sabbatical leave, and succeeding leaves thereafter, after completing six years of full time continuous service following return from the last sabbatical leave. Academic staff members employed full time on twelve-month appointments may be considered for a second sabbatical leave, limited to four months, after four-and-one-half years of full time continuous service following return from the last sabbatical leave, or, after six years of full time continuous service following return from the last sabbatical leave, they may be considered for any one of the three types of sabbatical leaves listed in AR 41.235. Cases involving mixed terms of service, or other irregular conditions, may be adjusted by administrative officers in accordance with the principles set forth in this chapter.

(2) Sabbatical leave privileges may be granted to staff members in special positions of responsibility and trust, even though such positions are without definite academic classification as to rank. Recommendations for sabbatical leave for persons not otherwise qualified may be made in exceptional cases at the discretion of individual presidents.

(3) For purposes of determining eligibility for sabbatical leave, time spent by a staff member on an authorized military leave from a Department institution shall be considered as institutional service, with the understanding that during the military leave the staff member is considered to have the same academic rank held at the commencement of the leave.

41.215 Approval of Sabbatical Leave

Sabbatical leave shall be granted only if approved by the President and the Chancellor.

41.220 Sabbatical Leave Reports

During the period of sabbatical leave the staff member shall inform the President in writing if any change is made in the program for sabbatical leave as outlined in the application. At the end of the sabbatical leave the staff member shall submit a report of the accomplishments and benefits resulting from the leave, filing copies with the department head, the dean, and the President.

41.225 Obligation to Return

Each staff member in applying for sabbatical leave shall sign an agreement to return to the institution for a period of at least one year's service on completion of the leave.

41.230 Length of Leave for Academic Year Staff

Staff members employed on an academic year basis are eligible for one of the following types of leave:
(1) One academic year (three terms) on one-half salary during the period of sabbatical leave;

(2) Two-thirds of an academic year (two terms) on five-eighths salary during the period of sabbatical leave;

(3) One-third of an academic year (one term) on full salary during the period of sabbatical leave.

41.235 Length of Leave for Fiscal Year Staff

Staff members employed on a fiscal-year basis are eligible for one of the following types of leave:

(1) One year (twelve months) on one-half salary during the period of sabbatical leave;

(2) Two-thirds of a year (eight months) on five-eighths salary during the period of sabbatical leave;

(3) One-third of a year (four months) on full salary during the period of sabbatical leave.

41.240 Cost of Sabbatical Leaves

The cost of granting sabbatical leaves shall be financed within the funds allotted to the institutions.

41.245 Supplementing of Sabbatical Incomes

Staff members on sabbatical leave may supplement their sabbatical salaries to a reasonable degree, provided that such supplementation does not interfere with the objectives of the sabbatical leave.

Chapter 41.500--Resignations and Terminations

41.305 Resignations

Notice of resignation shall be filed in the President's Office as early as possible but in no event later than one month before the resignation is to take effect.

41.310 Timely Notice

(1) If any appointment of a full-time academic staff member who is on an annual tenure appointment as defined in AR 41.105 is to be terminated other than for cause or financial exigency, timely notice of termination shall be given in writing as follows: during the first annual appointment, at least three months' notice prior to expiration of the appointment; during the second year of service, at least six months before expiration of the appointment; thereafter, at least twelve months' notice before expiration of the appointment.

(2) Timely notice shall be given to part-time academic staff members on annual appointments on the same basis as to full-time faculty members cited above, except that the length of timely notice for part-time faculty members shall be calculated in terms of FTE years of service rather than in calendar years.

41.315 Terminations

Terminations can be either for cause or not for cause. Policies regarding terminations for cause and other sanctions apply to all members of the academic staff, both those having indefinite tenure and those not having indefinite tenure.

41.320 Termination Not for Cause

Termination not for cause is defined as any termination other than for cause as set forth in AR 41.325.
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(1) Staff Members with Indefinite Tenure

(a) The appointment of an academic staff member with indefinite tenure will not be terminated for reasons other than for cause, except for financial exigency or program or department reductions or eliminations. Before the appointment of any academic staff member on indefinite tenure can be terminated for financial exigency, a bona fide determination will be made by the President that a financial exigency does exist, and that sufficient funds are not available for payment of compensation for the position concerned. Program or department reductions or eliminations may be made by the President, upon determination, pursuant to institutional procedures providing for faculty and other appropriate input, that such reductions or eliminations are consistent with institutional goals and needs.

(b) Responsibility for the decision as to whether a state of financial exigency exists, and the subsequent decision on actions necessary to meet the financial exigency, or the decision as to the necessity for program or department reductions or eliminations resulting in termination of employment of tenured faculty, shall rest with the President. In considering such matters, the President shall confer in a timely manner with appropriate faculty and other institutional councils and with the Chancellor and the Board concerning the issues involved in arriving at decisions in the foregoing areas.

(c) Institutional procedures relating to program or department reductions or eliminations shall reflect a regard for the rights of the affected academic staff member, and such procedures may not be used as a substitute for the provisions of AR 41.330-41.390, which set forth the procedural protections to be accorded staff members.

(d) If a tenured faculty member's appointment is terminated or if the appointment of a non-tenured faculty member is terminated before the end of the period of appointment because of financial exigency, or because of program or department reductions or eliminations, the released faculty member's place will not be filled by a replacement within a period of two years, unless the released faculty member has been offered reappointment and a reasonable time within which to accept or decline it.

(e) If the staff member cannot be retained either in the position in which presently employed or in some alternate position, maximum possible notice of termination shall be provided the academic staff member being terminated for financial exigency, and in the case of faculty terminated because of program or department reductions or eliminations not demonstrably related to a state of financial exigency, twelve months' notice shall be given.

(2) Staff Members without Indefinite Tenure

Appropriate notice of termination shall be provided staff members holding annual tenure appointments as set forth in AR 41.310. If the employment of such staff member is being terminated for financial exigency or program or department reductions or eliminations so as to render impossible the provision of notice as set forth in AR 41.310, maximum possible notice will be provided.

41.325 Termination and Other Sanctions for Cause

The appointment of a tenured or non-tenured academic staff member may be terminated, or other sanctions imposed, for cause. Sanctions for cause include oral or written warning or reprimand, removal from an assigned post and reassignment, suspension for a period not to exceed one year, and termination. Sanctions more severe than oral or written warning or reprimand shall be imposed in accordance with the procedure in AR 41.330-41.390. Sanctions of oral or written warning or reprimand may be imposed in accordance with institutional procedures.
41.330 Definition of Cause

"Cause" shall mean: (1) conviction of a felony or of a crime involving moral turpitude during the period of employment by the Department (or prior theretoe if the conviction was willfully concealed in applying to the Department for employment); (2) conduct proscribed by AR 42.410; or (3) failure to perform the responsibilities of an academic staff member, arising out of a particular assignment, toward students, toward the faculty member's academic discipline, toward colleagues, or toward the institution in its primary educational and scholarly functions and secondary administrative functions of maintaining property, disbursing funds, keeping records, providing living accommodations and other services, sponsoring activities, and protecting the health and safety of persons in the institutional community. Evidence to demonstrate cause under the standard set forth in item (3) of this definition of "cause" may include, but is not limited to, evidence of incompetence, gross inefficiency, default of academic integrity in teaching, research, or scholarship, intentional or habitual neglect of duty, and failure to perform adequately for medical reasons.

41.335 Initiation of Formal Proceedings

If the President determines that there is probable cause to impose a sanction or sanctions more severe than an oral or written warning or reprimand on an academic staff member, the President shall attempt to reach a satisfactory resolution of the matter. If no satisfactory resolution is reached within a reasonable time, the President shall authorize the preparation of formal charges in accordance with institutional procedure. The charges shall specifically state the facts believed to constitute grounds for imposition of a sanction or sanctions. The person authorized to prepare the charges shall not participate in evaluating the charges. Charges shall be filed with the President, and a copy personally delivered, or sent by certified mail, to the academic staff member within 10 days after the authorization of preparation of charges. The charges or a notice accompanying the charges shall inform the academic staff member of the right to a formal hearing on the charges and of the academic staff member's duty to notify the President within 10 days after the charges have been delivered or sent whether such hearing is desired.

41.340 Temporary Suspension of Academic Staff Member

No restraints shall be placed on the academic staff member between the filing of charges and the President's action on the hearing committee's report. However, if at any time during the pendency of charges against an academic staff member the President makes a written finding stating the reason that there is a clear and present danger that the academic staff member's continued performance of duties will be harmful to the institution, to the academic staff member, or to the public at large, the President may suspend the academic staff member, without loss of compensation, from some or all duties.

41.345 Academic Staff Member's Request for a Formal Hearing

Within 10 days after the personal delivery or mailing of a copy of the charges to the academic staff member, the academic staff member who is so charged shall state in writing to the President whether a formal hearing on the charges is desired. This 10-day period may be reasonably extended by the President. If the academic staff member requests in writing that a formal hearing not be held, the President may impose an appropriate sanction or sanctions on the academic staff member to be effective as determined by the President. The President shall promptly give written notice thereof to the academic staff member; provided, however, that the appointment of an academic staff member shall not be terminated except as provided in AR 41.370.

41.350 Hearing Committee

Unless the academic staff member requests in writing that a formal hearing on the charges not be held, such hearing shall be held before a special ad hoc committee of from three to five members. Committee members shall be selected in the following manner: the advisory council, faculty senate, or other proper elective faculty body shall appoint one or more permanent panels each consisting of ten faculty members; from one, or if necessary, two, of the permanent panels, the same elective body will name from three to five to
serve as the hearing committee. The academic staff member and the administration are each allowed one peremptory challenge; a committee member so challenged will then be replaced from the same panel or panels of ten each by the elective body initially charged with impanelling. The committee shall be constituted promptly and shall complete the hearing and its report within 30 days of its constitution, if possible. The hearing committee shall elect a chairman from among its members.

### Conduct of Hearing

1. **Conduct of Hearing**

   (1) The committee shall set a date for the hearing, giving the academic staff member and the administration sufficient time to prepare the case. The academic staff member and the administration shall have the option of assistance by counsel, both in preparing for and at the hearing. Not less than one week before the hearing date, the academic staff member shall file with the committee any written statement regarding the case. The committee shall review the charges and the academic staff member's statement, if any, prior to the hearing.

   (2) The committee shall consider the case on the basis of the obtainable information and decide what, if any, sanction or sanctions it will recommend be imposed on the academic staff member. The academic staff member shall have the option of a public or private hearing. The conduct of the hearing shall be under the control of the committee chairman, subject to the requirements of this chapter and the procedure of the committee. The committee chairman shall have the powers of a hearing officer as defined in AR 41.430.

   (3) A verbatim record of the hearing shall be kept. At the hearing, the committee shall receive the testimony of witnesses, on oath or affirmation, and other evidence concerning any disputed facts. The administration shall have the burden of proving its formal charges against the academic staff member, and the committee findings shall be according to the preponderance of the evidence.

   (4) The committee shall not be bound to follow court procedures or rules of evidence, except as otherwise required by law. The academic staff member shall have the right to appear, to participate in the hearing, and to present relevant evidence to the committee. The academic staff member may be represented by counsel with or without being present. The academic staff member and the administration shall have the right to confront and cross-examine all witnesses. Insofar as possible, the administration will secure the cooperation, for attendance at the hearing, of witnesses requested by the academic staff member. The academic staff member and the administration shall be given reasonable opportunity to submit rebuttal testimony or other evidence. At the conclusion of the testimony, the committee may permit each side to make an oral or written summation; if the privilege is extended to one side, it must be extended to the other side. When the committee is satisfied that all pertinent and available evidence has been received, and that such summations as it deems appropriate have been presented, the hearing will be adjourned. The committee will then go into executive session for the purpose of deliberation.

### Committee's Report

The committee, by agreement of a majority of the members thereof, shall make explicit findings based on the hearing record with respect to each specification in the formal charges lodged against the academic staff member. Within 10 days following determination of its findings the committee shall recommend, by agreement of a majority of its members what, if any, sanction or sanctions shall be imposed on the academic staff member. The President and the academic staff member shall be given copies of the findings and recommendation. The verbatim record of the hearing shall be made available to the President and to the academic staff member. A copy shall be made available at cost on request by the academic staff member.
365 Action by the President

If deemed necessary, the President may refer the matter back to the committee for further findings of fact. The President shall, promptly after receipt of the committee's final report and after reasonable opportunity to consult with the Chancellor and others, give the academic staff member and the Chancellor written notice of the decision. If the decision is to impose a sanction or sanctions on an academic staff member, the notice shall include the reasons therefor, and when it is to be effective; provided, however, that the appointment of an academic staff member shall not be terminated except as provided in AR 41.370.

41.370 Date of Termination

If the appointment of an academic staff member is to be terminated for cause, the appointment shall not be terminated earlier than one month or later than one year from the date of the written notice of the President's decision, provided however, that an academic staff member having indefinite tenure whose appointment is terminated for cause other than misconduct shall continue to receive salary at the current rate for one year from the date of the written notice of the President's decision.

41.375 Review by the Board

1) The Board shall review any case involving imposition of a sanction or sanctions on an academic staff member having indefinite tenure on written notice of appeal by the academic staff member. The appeal shall be filed with the Board Secretary within 10 days (or within such extension of time as permitted by the Chancellor) of the date of the written notice of the President's decision, stating grounds for the appeal, with a copy to the President. The Board may on its own initiative review any case involving the question of imposing a sanction or sanctions on an academic staff member. On receiving written notice of appeal by an academic staff member having indefinite tenure or on notice of the Board's decision to review a case, the President shall forward to the Board Secretary a copy of the charges in the case and the academic staff member's written statement, if any, in answer thereto, and the verbatim record of the hearing, and any exhibits, the committee's findings and recommendations, and a copy of the notice of the President's decision.

2) The Board may review the case on the record only; return the case to the institution from which it came for the receipt of further evidence or testimony; conduct such hearings as it deems proper for its review; refer the matter to a committee of Board members for consideration, including possible hearings, and recommendations; or refer the matter to a hearing officer for hearings and recommendation. The Board shall make such determination of the case, pursuant to its policies, as it deems just.

3) If the Board sustains the decision to impose a sanction or sanctions on the academic staff member, the sanction or sanctions shall be effective at the date originally named by the President, or such later date as determined by the Board.

41.380 Board's Initiative in Bringing Investigation or Charges

On any occasion when it appears to the Board that there is probable cause to impose a sanction or sanctions on an academic staff member, the Board may direct the President to determine whether there is such probable cause. If the President finds that there is probable cause to impose a sanction or sanctions on the academic staff member, the President shall have formal charges prepared and proceed with the case as provided in AR 41.335. If the President finds that there is not probable cause to impose a sanction or sanctions on the academic staff member, the President shall transmit such report to the Board, including a full statement of reasons for the finding. If the Board, after receipt of the report, deems that the facts of the case warrant the filing of formal charges, the Board shall provide the President with a statement explaining its exceptions
to the findings and may direct the President to have formal charges prepared or, at the request of the President, the Board may direct some person within the Department to prepare the formal charges. The subsequent procedure shall be the same as if charges were initially authorized to be prepared by the President.

41.385 No Reprisals

No employee of the Department shall be subject to any reprisals by the Department for appearing as a witness or for participating as a member of a committee in any of the proceedings provided for in this chapter.

41.390 Personnel Record

No notation shall be made in the personnel record of an academic staff member of any investigation which has not resulted in formal charges being brought against the academic staff member under AR 41.325-41.380 or which has not resulted in the imposition of a sanction of oral or written warning or reprimand in accordance with institutional procedures, as provided in AR 41.325.

41.395 Discretionary Review of Academic Non-disciplinary Personnel Decisions

An academic staff member aggrieved by a President's non-disciplinary personnel decision may appeal such decision as follows:

(1) Any request for Board's Office review shall be made only after the academic staff member has exhausted all internal institutional procedures appropriate for reviewing the decision in question.

(2) All requests for review shall be in writing, shall be addressed to the Chancellor, and shall state succinctly the basis of the grievance and the reasons of academic policy which justify further review of the decision.

(3) Any decision to take further action with respect to an alleged grievance shall be discretionary with the Board.

(4) Requests for review shall be assigned to the Chancellor or a designee for examination, informal settlement if possible, conduct of a conference or hearing, if necessary, and report and recommendation to the Board if the grievance is not resolved.

(5) Consideration of any request shall be limited to appellate review of alleged errors by the appointing authority with respect to procedure, adherence to Administrative Rules or applicable law, and fair consideration of the facts. The scope of review shall not include a de novo review on the judgment exercised by the President.

Chapter 41.400--Contested Cases

41.405 Construction

These rules shall be liberally construed to secure just, speedy and inexpensive determination of the issues presented. These rules are intended to carry out the intent of the Oregon Administrative Procedures Act and are to be interpreted consistent therewith. Any situation not provided for in these rules shall be governed by the Act and, to the extent applicable, by the law applicable to suits in equity in the circuit courts of Oregon.

41.410 Notice of Hearing

If a contested case hearing is to be held by the Board, or by a hearing officer designated by the Board, the Board shall ascertain the time most convenient for the hearing and shall give all parties thereto at least ten days' notice of the time, place and nature of the hearing. The time may be shortened or extended by stipulation of all parties.
1.415 **Subpoenas**

Subpoenas requiring attendance of witnesses or the production of documentary or tangible evidence at a hearing may be issued by the Board, when authorized by law, on request by any party to the proceeding, including the Board itself, on proper showing of general relevance or reasonable scope of the evidence sought.

41.420 **Assignment To Hear Proceeding**

(1) The hearing shall be before the Board except in those cases assigned by the Board to a hearing officer.

(2) The word "Board" in these rules shall include hearing officer wherever applicable.

41.425 **Disqualification**

Any party to a proceeding before the Board may file an affidavit of personal bias against any officer conducting the hearing. Any hearing officer may withdraw from the proceeding because of personal bias or for any reason deemed sufficient by the Board. The Board, in its discretion, may order a hearing on a question of disqualification of a hearing officer.

41.430 **Powers of Hearing Officers**

(1) A hearing officer or the Board when authorized by law shall have the following powers:

(a) To give notice of and hold hearings;

(b) To administer oaths and affirmations;

(c) To examine witnesses;

(d) To issue subpoenas;

(e) To rule on offers of proof and receive evidence;

(f) To regulate the course of the hearing, including the power to eject any person who in any manner interferes with the orderly procedure of a hearing;

(g) To hold conferences, before or during the hearing, for the settlement or simplification of issues, with consent of the parties;

(h) To dispose of procedural requests or similar matters;

(i) To make initial decisions;

(j) To take any other action proper under these rules, including the making of findings of fact, and recommendations to the Board.

(2) The hearing officer's authority in each case will terminate when:

(a) The hearing officer withdraws from the case for any reason;

(b) The time for appeal has terminated.

41.435 **Who May Appear**

(1) Each party may be represented by counsel.
(2) Any individual may appear for himself or herself, and any member of a partnership which is a party to any proceeding may appear for such partnership on adequate identification.

41.440 Standard of Conduct

Contemptuous conduct by any person present at a hearing shall be grounds for exclusion from the hearing by the hearing officer.

41.445 Hearing Recorder

The official record of the hearing shall be stenographically or mechanically recorded by a person or persons assigned by the Board capable of doing such recording. The method used shall be in the discretion of the Board.

41.450 Transcript of Testimony

A transcript of the official record shall be furnished by the Board for the purposes of rehearing or judicial review. The cost of the record shall not be taxed to parties other than the Board except as is specifically provided in ORS 183.415(8).

41.455 Continuances and Postponements

Motion for continuance or postponement of any hearing may be granted by the Board for good cause.

41.460 Evidence

(1) In general:

(a) The testimony of witnesses at a hearing shall be on oath or affirmation administered by an officer of the Board authorized to administer oaths and shall be subject to cross-examination.

(b) Any witness may, in the discretion of the Board, be examined separately and apart from all other witnesses except those who are parties to the proceeding.

(c) The Board may limit oral argument in its discretion.

(2) The oath or affirmation taken by a witness before testimony shall be in the same form and manner as is provided by law.

(3) Every party shall have the right to present a case or defense by oral, documentary or other satisfactory evidence, to submit evidence in rebuttal, and to conduct such cross-examination as may be required for a full and complete disclosure of the facts.

(4) The party having the affirmative of the issue shall have the burden of proof.

(5) Admission and exclusion of evidence:

(a) Evidence of a type commonly relied on by reasonably prudent persons in the conduct of their serious affairs shall be admissible, but irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(b) Hearsay evidence shall not be admissible over an objection based on lack of opportunity to cross-examine.

(c) The Board may limit expert and opinion evidence in its discretion.
(6) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, that party shall state briefly the grounds of such objection, whereupon the Board shall give the party adversely affected by its ruling on the objection an automatic exception.

(7) After first advising all parties of its intention to do so, the Board may take notice of judicially cognizable facts as is provided by law and of general, technical or scientific facts within the specialized knowledge of the Board members.

41.465 Informal Disposition

Informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default, unless precluded by law.

41.470 Record

The stenographic or mechanical record of the testimony and exhibits, together with all pleadings, motions and rulings filed in the proceedings, all stipulations, statements of matters officially noticed, questions, and offers of proof, objections and rulings thereon, and proposed findings and exceptions, shall constitute the exclusive record for decision. The record shall also include any Board proceeding on disqualification of any hearing officer and the proposed, intermediate or final order, if any.

41.475 Decision

(1) Except as provided in AR 41.475 (2), the Board shall render its decision within sixty days after completion of the hearing. The decision shall be accompanied by findings of fact and conclusions of law. A copy of the decision and the accompanying findings of fact and conclusions of law shall be mailed to each party.

(2) If a majority of the Board officials have not heard the proceedings or read the transcript, a proposed decision of the Board, including findings of fact and conclusions of law, shall be mailed to each party, who shall have fifteen days after receipt to submit written exceptions to the proposed decision to the Board and to request an opportunity to present argument to the Board. The Board shall grant such opportunity for argument as soon as it can reasonably be arranged. The Board shall render its decision, accompanied by findings of fact and conclusions of law, within sixty days after presentation of the argument.

Chapter 42.000--Academic Freedom

42.010 Academic Freedom

(1) All teachers in Department institutions are entitled to freedom in the classroom in discussing their subjects, but they should be careful not to introduce into their teaching controversial matter which has no relation to the subject.

(2) As a matter of policy the Board does not attempt to control or sway the personal opinion of any person on the faculty or otherwise on the payroll of any of the institutions or divisions, nor the public expression of that opinion. In the exercise of this freedom of expression, faculty members should manifest appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not institutional spokesmen.

Chapter 42.100--Political Activities

42.110 Public Activities

(1) Although there is no prohibition against active participation by Department employees in various community and public affairs, it is expected that time given to such activities shall not interfere with the duties of the employees concerned.
(2) No employee shall take action which might be construed as committing the institution or the Board to a position on public issues.

42.130 Candidates for Public Office

(1) In accordance with the Oregon Constitution, it is Board policy to allow employees to seek political office and to serve in the event of election. Before an employee shall become a candidate for any public office, whether for a salaried or nonsalaried position, the employee is expected to consult with the President.

(2) Political activity shall in no way interfere with the performance of the major duties prescribed by the Board and the presidents.

(3) Because circumstances under which a campaign is conducted will vary widely depending on the nature of the elective office and the extent of opposition, the determination of whether an employee may continue full-time duties while conducting or engaged in a campaign rests with the employee's President. In the event of election to the State Legislature, an employee normally will be placed on leave of absence without pay during the period of full-time responsibility. If elected or appointed to a full-time salaried office, the employee may be placed on leave of absence without pay during the term of office or may be required to resign.

42.150 Relationships with State Government

(1) Except for the Chancellor and designees, no employee of the Department is authorized to represent the Department, including any institution or other activity thereof, to the Legislature, its members or its committees, to the Office of the Governor, and to the Executive Department and its Divisions.

(2) Nothing in this section shall be construed as inhibiting an employee of the Department from exercising the right of citizenship in a personal capacity, or be construed as inhibiting any employee of the Department from appearing before a body of state government identified in this section in response to a request from that body.

(3) Faculty members are authorized to visit the Legislative Sessions and Hearings with their students in the interests of furthering the effectiveness of organized class work, or to respond to requests from the Legislature for establishment and maintenance of special involvements such as student intern programs.

Chapter 42.300--Holidays and Miscellaneous Privileges

42.310 Academic Staff Holidays

The following are institutional holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. On these days all employees compensated on an annual or monthly basis are excused from regular institutional work, except where their duties are of such character that release is not practicable. Other holidays designated by state law, such as Veteran's Day, Lincoln's Birthday and Washington's Birthday will not be considered institutional holidays unless the institution is closed by a discretionary act of the President. Any business transaction required or permitted to be performed on a holiday designated by state law may be performed on the next succeeding business day without penalty, even though the institution may be open on the holiday.

Holidays for academic staff shall be those days designated as institutional holidays and any additional day designated by the Governor.


1.320 Academic Study Privileges

Staff members may have the privilege of registering for class work on the following conditions:

(1) Graduate teaching and research assistants (fully admitted graduate students appointed to an assistantship while working toward an advanced degree), if appointed as an assistant at .3 FTE, may register for a maximum of 12 credit hours per term. If appointed as an assistant at .15 FTE, may register for a maximum of 15 credit hours per term. On the approval of the President, the assistant may be authorized to exceed the per term credit hour limitation, but may not exceed, as a .3 FTE, 36 credit hours per academic year, or as a .15 FTE, 45 credit hours per academic year.

(2) On approval of the President, full time staff members may register for a limited amount of work for credit, generally for not more than three term hours of credit. Employees in Centralized Activities must have the approval of the Chancellor before registering.

(3) Auditor privileges are accorded staff members under the same general procedures and conditions as provided above.

(4) Staff members will pay applicable fees listed in the fee schedule.

42.330 Physical Education Privileges

Insofar as practicable, physical education facilities are available to staff members for recreational purposes on payment of an appropriate fee.

2.340 Student Health Services

Student health service facilities are not available to staff members.

Chapter 42.400--Proscribed Conduct

42.410 Proscribed Conduct

Procedures to impose applicable sanctions may be instituted against any person engaging in any of the following proscribed conduct:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other institutional activities, including the institution's public service functions or other authorized activities on institutionally-owned or controlled property.

(2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on institutionally-owned or controlled property.

(3) Possession or use of fire arms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on institutionally-owned or controlled property, in contravention of law or institutional rules.

(4) Detention or physical abuse of any person or conduct intended to threaten imminent bodily harm or endanger the health of any person on any institutionally-owned or controlled property.

(5) Malicious damage, misuse or theft of institutional property, or the property of any other person where such property is located on institutionally-owned or controlled property, or, regardless of location, is in the care, custody or control of an institution.
(6) Refusal by any person while on institutional property to comply with an order of the President or appropriate authorized official to leave such premises because of conduct proscribed by this rule when such conduct constitutes a danger to personal safety, property or educational or other appropriate institutional activities on such premises.

(7) Unauthorized entry to or use of institutional facilities, including buildings and grounds.

(8) Illegal use, possession, or distribution of drugs on institutionally-owned or controlled property.

(9) Inciting others to engage in any of the conduct or to perform any of the acts prohibited herein. Inciting means that advocacy of proscribed conduct which calls on the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of persons, and the protection of its property.

Chapter 42.500--Employment Discrimination

42.510 No Discrimination Based on Race, Color, Religion, National Origin, Handicap, Age or Sex

There shall be no prohibited employment discrimination based on race, color, religion, national origin, handicap, age or sex in the Department.

Chapter 42.600--Employment of More Than One Member of a Household

42.610 Employment of More Than One Member of a Household

(1) In appointing academic staff members, the Department seeks those persons most qualified to fulfill its teaching, research and service obligations. Accordingly, members of the same family may be appointed to academic staff positions when it has been determined that they are the most qualified candidates for the positions.

(2) No academic staff member, without prior permission of the immediate supervisor, shall participate in employment decisions, supervision or grievance adjustment concerning or involving the staff member's spouse, child or stepchild.

Chapter 42.700--Board Rules Governing Institutional Rules Relating to Faculty Records

42.710 Institutional Rules

(1) The Board delegates to the President responsibility for developing institutional rules governing the form and variety of faculty records to be maintained in the institution, the nature of the information to be collected, the way in which such faculty information is to be recorded, maintained and used, and eventually disposed of. Such institutional rules shall be consistent with Oregon laws and the Board's Administrative Rules. Copies of faculty records rules adopted by each institution shall be presented to the Chancellor and shall be maintained on file in the Board's Office.

(2) The Board expects that the Presidents will give faculty an important voice in developing these rules, consistent with the nature of the academic community.
Definitions

(1) "Personal records" means records containing information kept by the institution, school, division, or department concerning a faculty member and furnished by the faculty member or by others, including, but not limited to, information as to discipline, counseling, membership activity, other behavioral records, professional preparation and experience, professional performance (e.g., assignment and workload, quality of teaching, research, and service to the institution), personnel data relating to such matters as promotions, tenure, leaves, retirement credits and the like, and professional activities external to the institution, including, but not necessarily limited to, awards, recognition, research activities, travel.

(2) For purpose of compliance with ORS 351.065, "records of academic achievement" shall mean the record of credits earned toward a degree or in post-doctoral work and/or certificate(s), diploma(s), license(s) and degree(s) received.

Limitation on Records To Be Maintained

Only records that are demonstrably and substantially relevant to the educational and related purposes of the institution, school, division, or department shall be generated and maintained.

Confidential Information Relating to Employed Faculty Not To Be Sought Nor Accepted

When evaluating employed faculty members, the Board, its institutions, schools or departments shall not solicit nor accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential.

Certain Information Not Required To Be Given by Faculty Members

No faculty member shall be required to give, but may voluntarily provide, information as to race, religion, sex, political affiliation or preferences, except such information that may be required by state statute, federal law, or valid federal rules, regulations, or orders. Where the faculty member is asked for such self-designation for any purpose (including federal requests for information), the request shall state the purpose of the inquiry and shall inform the individual of the right to decline to respond.

Locations and Custody of Faculty Records

Official faculty personal records shall be kept in locations central to the institution, school, division or department by which they are maintained. Custody shall be assigned to designated personnel specifically charged with maintaining the confidentiality and security of the records in accordance with institutional rules. No institution shall maintain more than three files relating to the evaluation of a faculty member, except that an institution may maintain one additional confidential file which shall contain only material excised from other records as permitted by ORS 351.065 as "designated" or "authorized."

Release of and Access to Faculty Records

(1) Appropriate information about the faculty member may be released on request and without the faculty member's consent. Such information shall be limited to:

(a) Directory information, that is, information generally needed in identifying or locating a named faculty member including such information as is readily found in published documents such as institutional catalogs;

(b) Objective evidence of a faculty member's academic achievement, limited to information as to the number of credits earned toward a degree or in post-doctoral work, and certificate(s), diploma(s), license(s), and degree(s) received.
(c) Salary information and the record of terms or conditions of employment;

(d) Records tabulated from students' classroom survey evaluations, on a finding by the President that privacy rights in an adequate educational environment would not suffer by disclosure.

(2) All information in the faculty member's personal record file, apart from that identified in subsection (1) above, shall be considered personal and subject to restricted access as hereinafter set forth in AR 42.740 through 42.775.

42.740 Confidential Records--Restrictions on Release

(1) Personal records designated as subject to restricted access in accordance with authority granted in ORS 351.065 shall be available only to institutional personnel, such as faculty, administrators, students and others serving on official institutional committees or in other official institutional capacities. Such persons shall have a demonstrably legitimate need to review the records in order to fulfill their official, professional responsibilities as defined in institutional rules and to the faculty member who is the subject of the records as provided for in AR 42.746-42.765. These records may not be released to any other person or agency without the faculty member's written consent, unless on receipt of a valid subpoena or other court order or process or as required by state statute, federal law, or valid federal or state rules, regulations, or orders.

(2) Institutional rules shall provide for designation of institutional officials to appear in court to test the validity of a subpoena or other court order or process relating to release of faculty records when validity is in question.

42.746 Access to Files by Faculty Members

(1) Faculty members shall be allowed full access to their own personal files and personal records kept by the institution, school, department or division, except as provided in subsections (2) and (3) of this rule.

(2) Letters and other information submitted in confidence to the institution, school, department or division prior to July 1, 1975, shall be maintained in the evaluation files permitted by AR 42.730. However, if a faculty member requests access to such letters and other information pertaining to the faculty member, the anonymity of the contributors of letters and other information obtained prior to July 1, 1975, shall be protected. The full text shall be made available to the faculty member except those portions of the text which would serve to identify the contributor, which shall be excised by a faculty committee created pursuant to institutional rules. The excised portions of the documents may be retained in the confidential file permitted by AR 42.730.

(3) Confidential letters and other information received by the institution, school, department or division after July 1, 1975, prior to the employment of a faculty member, shall be placed in evaluation files relating to the faculty member. If the applicant is not employed, the confidential information submitted concerning the applicant shall remain confidential. If an applicant who is employed requests access to personal files, the anonymity of the contributors of confidential pre-employment letters and other pre-employment information shall be protected. The full text shall be made available, except that those portions of the text which would serve to identify the contributor shall be excised and may be retained in the confidential file permitted by AR 42.730.

(4) Any evaluation received by telephone shall be documented in each of the faculty member's evaluation files by means of a written summary of the conversation with the names of the conversants identified.
(5) If the institution, school, department or division solicits or accepts student survey evaluations of the classroom or laboratory performance of a faculty member, the survey evaluations shall be conducted anonymously. Reports tabulated from student evaluations shall be placed in the evaluation files defined in AR 42.730. Survey instruments from which evaluation data are obtained shall be delivered to the faculty member. No other evaluative material shall be accepted from students unless the students are first clearly informed that the faculty member will have access to such material and that the anonymity of the student cannot be preserved.

42.750 Entry Into File of Comments, Explanations and Rebuttals

(1) The institutional, school, divisional, or departmental official shall, upon request, offer the faculty member opportunity to enter into the evaluation file a rebuttal, refutation, or explanation of any observations contained therein.

(2) On a faculty member's request, an appropriate faculty committee, as defined in institutional rules, shall examine the faculty member's file to verify that all statements therein have been provided. If not, the committee shall require that the information be made available.

(3) On a faculty member's request, the faculty committee shall examine the confidential file to verify that it contains only those excised portions provided in AR 42.746. The committee shall have the authority to require that any other material be removed from the confidential file.

(4) A copy of the periodic, regular written evaluation of the faculty member containing or having attached to it a statement to the effect that the faculty member may discuss the evaluative statement with the evaluating administrator, shall be given the faculty member. A copy of the evaluative statement, signed by the faculty member signifying receipt of a copy thereof, shall be placed in the faculty member's evaluation file. The faculty member may enter into the evaluation file such comments, explanations, or rebuttals as desired. A copy of such comments, explanations, or rebuttals made by the faculty member shall be attached to each copy of the evaluative statement retained by the institution, school, division or department.

42.760 Retention of Evaluative Materials Concerning Candidates For Possible Employment

(1) If an individual is not employed, it is expected that the evaluative materials brought together by the institution as it evaluates an individual's qualifications in connection with possible employment will be retained as long as may be necessary to respond to affirmative action investigations and investigations of any claimed violation of the civil rights of any person in connection with employment. Thereafter, they will be disposed of in a manner designed to assure confidentiality, in accordance with rules of the State Archivist.

(2) When federal rules or orders require certain personal records to be compiled before the employment of a faculty member and retained thereafter, such records pertaining to persons not employed which have been obtained with the promise of confidentiality will be closed to all persons except as required by federal rules or orders.

42.765 Availability to Faculty Members of Objective Information Concerning Categories of Staff

Institutional rules shall establish procedures through which the faculty member who feels adversely affected by the institutional, school, divisional or departmental personnel action or lack thereof may request from designated institutional officials objective or quantitative information contained in limited access files concerning personnel actions affecting categories of faculty members, where such actions appear to have relevance to the case of the faculty member requesting the information. Information may include but need not be limited to: assignment, load, list of publications. It shall not include any evaluative statements concerning faculty members.
Availability of Faculty Records for Research Purposes

The need for educational institutions to make information about the faculty member available for research purposes shall be acknowledged and provided for, providing the institution has adequate provisions to conceal the identity of the faculty member whose personal data or information are being included in the research. If the confidentiality of faculty records would be jeopardized in any way by the release of the information for research purposes, institutional rules shall provide that the institution obtain written consent of the faculty member prior to releasing personal information for research purposes.

Permanence, Duplication and Disposal of Faculty Records

(1) The individual faculty member's record shall be maintained only for the time required to serve the basic official functions of the office which generates and maintains it. It should then be disposed of in a manner designed to assure confidentiality.

(2) The permanent retention of faculty records shall be limited to those which the President or the State Archivist shall determine to be of long-range value to the faculty member, to the institution, or to the public. ORS 351.065 provides that access to personal records more than 25 years old may not be limited.

(3) Duplication of faculty records shall be minimized. Duplicated records that are made shall be destroyed at a time to be determined and set forth in institutional rules and in such manner as to assure confidentiality in accordance with the rules of the State Archivist, or with the Archivist's approval.

Chapter 50.100--University of Oregon Health Sciences Center

Function and Responsibility

The function of the University Hospital of the University of Oregon Health Sciences Center is to augment the teaching, research, and medical care programs of the institution. University Hospital includes inpatient services, outpatient clinics, emergency department and ancillary services. In carrying out this function, it will operate as an integral part of the Health Sciences Center. Responsibility for its operation will be placed on a director appointed by the President of the Health Sciences Center.

Health Sciences Center Advisory Council

(1) The Health Sciences Center Advisory Council shall serve in an advisory capacity to the President of the Health Sciences Center.

(2) The Advisory Council shall consist of nine to fifteen members appointed on staggered terms. Initial appointments made in 1975 shall be for two, four and six years. Thereafter, appointment terms will generally be for a six-year period. Appointments shall be approved by the Board on recommendation by the President of the Health Sciences Center.

(3) The Council shall have the authority of the governing body of the University Hospital for purposes of meeting (a) conditions for participation of hospitals under the statutes, rules and regulations of the Social Security Administration for the Medicare and Medicaid programs, and (b) standards of the Joint Commission on Accreditation of Hospitals.

(4) The Advisory Council shall report to the Board at least annually on its activities.

Selection of Patients

Authority for selection of patients to be admitted to the hospital is delegated to Health Sciences Center authorities. All admissions shall be determined on the basis of the educational, health care and research programs of the Health Sciences Center. There will be no committal system. Patients may be self-referred, or referred by licensed physicians, ambulatory care clinics, and agencies charged with responsibility for their medical care.
Care of Patients

Professional care of patients in the hospital is to be given only by licensed practitioners who are members of the active medical staff of the University of Oregon Health Sciences Center hospitals and clinics.

Patient Financial Policies

(1) All patients shall be charged on a uniform basis for hospital services in accordance with established fee schedules.

(2) Patients shall be financially screened by trained credit officers under the supervision of University Hospital administration to determine patient resources and ability to pay.

(3) Patients may be granted charity allowances on the basis of financial screening and ability to pay.

(4) Patient selection shall be based primarily on the value to the teaching program, not on ability to pay.

Medical and Surgical Charges

Patients in the University Hospital who are found able to pay the costs of all or part of the medical and/or surgical professional services performed by School of Medicine faculty members are to be billed for such services by the faculty members concerned. Bills are to be presented to patients only in those instances where investigation of the patient's financial resources discloses that funds are available to pay for the services and where the faculty member rendering the services approves charging the fee.

Oral Health Service Charges from School of Dentistry

Invoices for professional oral health services provided patients in the University Hospital shall be submitted to the patient by the Health Sciences Center. An invoice is to be presented only where investigation of the patient's financial resources discloses that funds are available for this purpose and the faculty member rendering the service approves the fee. Generally, the patient is not to be billed for oral health services until after any obligation to pay the hospital bill is satisfied.

Chapter 51.000--Libraries

Coordinated System of Libraries

A closely coordinated and integrated system of autonomous libraries shall be maintained. Unnecessary duplication in materials, services, and procedures will be avoided. The library facilities and resources of the entire Department will be readily available to all faculty members and students of Department institutions.

Chapter 52.000--Educational Broadcasting

Broadcasts During Legislative Sessions

(1) Programs are authorized during the time of Oregon Legislative Sessions, and members of the House of Representatives and the Senate are to be invited to participate. Legislators are free to handle the content of time allotted to them in any way they choose, to discuss any issues, and to invite other persons to participate with them.

(2) Proper safeguards are to be taken in announcements on each program broadcast by the educational stations so that the Board and the stations do not bear any responsibility for material presented by members of the Legislative Assembly or their guests. Such announcements are to read as follows: "In offering the facilities of the state educational broadcasting service to elective officials of Oregon, this station and the State Board of Higher Education take no position on controversial matters which may have been dealt with on the preceding program."
Use of Capitol Studios

Use of studio facilities in the Capitol Building shall be made available to legislators, other state officials, and to other stations for the preparation, at cost, of broadcast production.

Program Invitations to Governor

It is considered a part of programming policy that the Governor of the State of Oregon or a designee be invited to participate in various programs.

Programs on Political Issues

Oregon Educational and Public Broadcasting Service stations are authorized to present programs which offer differing points of view concerning political and controversial issues. Federal statutes and rules and regulations of the Federal Communications Commission covering political candidates and controversial matters will apply to programming.

Institutional Credit Announcements

Institutional credit announcements may be made by the stations in return for use of program material.

Chapter 60.000--Board's Financial Powers

Delegation and Assignment of Responsibility

The Board delegates general supervision of fiscal and administrative activities to the Chancellor and the staff. Major changes in organization or procedures in such activities shall be reported to the Board's Committee on Finance, Administration, and Physical Plant for approval. The Board directs the Vice Chancellor for Administration to execute Board policy in all areas of fiscal and administrative services. Among these are:

1. Designing, installing, supervising and auditing of fiscal and accounting policies and procedures in the Department.

2. Designing budget systems and procedures describing Department goals, program proposals to achieve these goals, and the level and type of financial support necessary to implement approved programs during prescribed time periods. The Office of Administration is also responsible for budget execution review to assure conformance with the adopted budget.

3. Establishing policies and procedures for administration of gift, grant, and contract funds.

4. Custody, control and management of the investment of Department funds.

5. Coordinated administration of policies relating to procurement, receipt, and management of tangible personal property of the Department.

6. Development of an analytic program, founded on recognized institutional research techniques, providing input to the Department's budget preparation and program evaluation efforts.

7. Development of a program to analyze Department administrative policies and practices and recommend specific actions to improve services and minimize costs.

8. Sign claims on behalf of the Board for payment by the Executive Department; sign payrolls; and sign checks on bank accounts with the State Treasurer or commercial banks.
60.050 Institutional Authority to Establish Fees and Charges

(1) The Board of Higher Education delegates to each President the authority and responsibility to establish as necessary, but ordinarily not more often than annually, fees for certain services and materials provided or coordinated by the institution. The fees are supplemental to required instruction fee, building fee, health service fee, incidental fee, and other charges determined and established by the Board. The additional services and materials for which fees and charges may be established include student family, cooperative, and miscellaneous housing; instruction-related services; motor vehicles and bicycle parking; hospital, medical, surgical, oral health, and clinic services; short courses and workshops; fines for violation of campus regulations; special music, counseling, and testing services; and off-campus facilities and services arranged by the institution.

(2) For services and materials other than student family, cooperative, and miscellaneous housing, the fees and charges shall be established at levels which assure recovery of the cost of providing the services and materials, including that portion of the operating costs required by legislative action on the Department budget, and in accordance with criteria stated in the Administrative Rules.

(3) The rates for student family, cooperative, and miscellaneous housing shall be the amount necessary to meet, for that type of housing, the operating costs, required assessments, debt service, and the requirements of the Board's building repair reserve and equipment replacement reserve policies. For each type of housing, the rates charged for individual units may reflect differences in the age, quality, location, level of service provided, and other factors affecting the relative economic value of the unit.

(4) Residents of each of the three types of housing shall contribute, by means of applicable rental rates, toward the total debt service of that type of housing.

(5) Provision for debt service related to each of the three types of housing is the responsibility of the institution at which the housing is located.

(6) For housing units scheduled for demolition, the institution shall provide a means for timely accumulation of reserves or for the acquisition of other funds sufficient to cover the costs of razing and removal. For this purpose, each of the three types of housing shall be provided for separately.

(7) Fees and charges and amendments thereto which the president has Board-delegated authority to establish shall be adopted only after approval by the president in the manner required by the Administrative Procedure Act (ORS Chapter 183). Copies of all fee schedules, charges, and amendments shall be presented to the Vice Chancellor for Administration for filing in the Chancellor's Office.
60.051 Hospital Charges

(1) Patient fee schedules shall be established and maintained by the University of Oregon Health Sciences Center and shall be adequate to meet costs of operating the Hospital and other commitments in the approved budget. The schedules must be approved by the Hospital Director and the President and filed with the Vice Chancellor for Administration.

(2) Charges may be established for:
   (a) Room, board, and nursing services per patient day;
   (b) Per diem ancillary services;
   (c) Itemized ancillary services;
   (d) Outpatient charges;
   (e) Medication and medical supplies.

(3) Costs and charges shall be computed in a manner consistent with generally accepted accounting principles for hospitals and the requirements of third party carriers.

(4) Charges for room, board, nursing services, ancillary services, and outpatient services must be maintained for at least ninety days following adoption.

(5) Inpatients shall pay or make arrangements for payment of services at the time of discharge. Outpatients shall pay or make arrangements to pay for services before completion of the last visit.

60.052 Medical, Surgical, Oral Health, and Medical and Dental Clinic Professional Service Fee Schedules

(1) Medical, surgical, oral health and medical and dental clinical professional service fees billed by faculty members and clinics at the University of Oregon Health Sciences Center must be approved by clinical departments concerned, the appropriate Dean, and the President and filed with the Vice Chancellor for Administration.

(2) Fees may be adjusted to reflect changing costs, but a schedule of fees must be maintained for at least ninety days following adoption.
Traffic Regulations, Parking Fees, and Enforcement Fines

(1) The Board delegates to each President the authority and responsibility to enact such rules and fines as deemed necessary and desirable to provide for policing, controlling, regulating, and enforcing traffic and parking of motor vehicles and bicycles on property owned by or under the control of the Board.

(2) Parking fees shall be charged at any institution where Article XI-F(1) bond proceeds have been used to finance the cost of acquiring parking sites or to make improvements thereto. Parking fees shall also be charged even though borrowed funds were not obtained if the operating and maintenance cost is $6 or more per parking space per year.

(3) When fees are to be assessed to users of automotive parking facilities, the rate of charge and income to be produced shall be in such an amount which, with interest income, will provide sufficient funds to cover all operation and maintenance costs and also meet bond debt service and reserve requirements where applicable.

(4) Institutional accounts are not to be charged for parking space furnished to employees for personally-owned automobiles. A charge may be made against a department, however, where parking space is furnished to a person with a privately-owned vehicle who is rendering service for the benefit of the department with no compensation, such as volunteer doctors at the University of Oregon Health Sciences Center.

(5) Institutions shall adopt rules concerning the operation and parking of bicycles on property owned by or under the control of the Board. The rules shall clearly state where bicycle parking will be permitted and where it will not be allowed. Penalties for violations may be proposed.

(6) All traffic and parking rules approved by the President must be filed with the Vice Chancellor for Administration no later than September 1 of each year.

(7) Rules must remain in effect for at least one full calendar year following adoption unless prior approval is obtained from the Vice Chancellor for Administration.

Vehicle Operation and Maintenance Rules

(1) The Board of Higher Education delegates to each President the authority and responsibility to establish rules for the operation of institutional motor vehicles and standards of vehicle maintenance and repair.

(2) Driver rules established under this authorization shall state required licenses and specialized driver training, driving record review procedures, and minimum physical qualifications.

(3) Standards for vehicle safety and maintenance established under this authorization shall require periodic and annual inspections which include review of all chassis and engine components, interior and exterior parts and surfaces, the driver compartment, and all lights.

(4) Rules and changes thereto, authorized under subsection (1) shall be established only after approval of the President. Copies of rules and regulations and changes shall be presented to the Vice Chancellor for Administration for review and filing in the Board's Office.

Chapter 61.000--Accounting Policies

Relations with Affiliated Organizations

(1) The assets, liabilities, income and expenditures of affiliated organizations shall be excluded from the accounting records of the Board, its institutions and divisions.
To protect the intent designated by the donor, gifts which are required by Board policy or rule to be transferred from an affiliated organization to an institution before disbursement shall be expended by the institution from restricted accounts established for such purposes. Expenditures made by an institution for purposes designated by an affiliated organization shall be made only after the transfer of funds from the affiliate to the institution.

The institution shall prepare an annual report at the close of each fiscal year, summarizing the amounts received from each affiliated organization, the purposes intended, the expenditures therefrom, and such other information about the relationships between the affiliated organization and the institution as may be pertinent to the full disclosure of the resources held for the institution.

Chapter 63.000--Gift, Grant, and Contract Management

General Authority

The Board encourages gifts by faithfully devoting them, subject to the terms of the gift, to the institution or program for which intended, and by other suitable means.

Delegation

Institutions are authorized to apply for and accept, on behalf of the Board, gifts or grants and to negotiate contracts that will not result in:

(a) Enrollments in excess of those on which budgets have been based;

(b) Commitment of funds beyond those available in budgets approved by the Board, or the normal continuation thereof;

(c) Creating a commitment for the institution or the state to continue support of a program funded through gifts, grants or contracts, in the event such funds are discontinued;

(d) Development or support of activities inconsistent with the approved mission of the department and/or institution;

(e) Launching of new curricular programs which have not received prior Board approval;

(f) Purchase of land or improvements thereof requiring an outlay of $10,000 or more;

(g) Establishing or significantly expanding a clientele for services of an essentially non-research or non-instructional nature.

The Vice Chancellor for Administration or a designee is authorized to approve application for and acceptance of other gifts, grants, or contracts.

Institutional Responsibility

Requests for gift, grant, or contract funds may be initiated by an institution, division or statewide service, acting for the Board, subject to the following considerations:

(1) A request obligating the Board to increase an allocation of state appropriations or seek additional state funds were the gift, grant or contract to be discontinued is subject to Board approval before the request is submitted to the granting agency.
(2) A request contemplating purchase of land or construction of a building, structure, or other improvement requiring a total outlay of $10,000 or more, regardless of the source of funds, is subject to approval by the Office of Facilities Planning before the request is submitted to the granting agency.

(3) When all or a major portion of project performance requires the services of institutional personnel or use of its property or if project funding includes indirect cost allowances, funding is to be requested in the name of the Board.

63.050 Board Acceptance of Scholarship Gifts

(1) Gifts made to an institution by any donor to provide scholarships on a competitive basis shall be reported to the Board as scholarship gifts, provided the institution participates in the selection of the recipients.

(2) Gifts made to an institution by nonprofit organizations for the benefit of designated students shall be reported as scholarship gifts to the institution on the assumption that the recipients were selected on a competitive basis.

(3) Gifts made by individuals, or by partnerships and corporations operated for profit, for designated students not selected on some competitive basis ordinarily used in selecting scholarship recipients, shall not be accepted as scholarship gifts to the institution. These payments may be deposited to the credit of the student in the institutional business office in an agency account known as "Student Safekeeping." These contributions or payments shall be considered gifts to the recipient and not to the institution and will not be reported to the Board.

Chapter 66.000--Patent Policies

66.010 Objectives of Patent Policy

The objectives of the Board's patent policy are:

(1) To assist personnel of higher education institutions to develop and protect inventions.

(2) To promote public welfare by patenting inventions and by encouraging the marketing of products or processes resulting from the inventions to the end that there will be the greatest possible benefit to the public.

(3) To establish equities and protect the interests of all parties concerned with the inventions.

(4) To promote further research.

66.020 Patent Agreements Required of Employees

As a condition of employment the following employees are required to execute an "Agreement to Assign Inventions or Patent Rights":

(1) All academic staff members unless exempted by the President.

(2) Nonacademic staff members whose normal duties would include the performance of research.

(3) Other employees as designated by the President.

66.030 Reporting of Inventions

An employee who develops an invention, whether work-related or not, shall report findings to and confer with the institutional patent committee to determine possible patentability. Disclosure of details of an invention that might jeopardize patentability shall be delayed until the committee has acted.
66.040 **Patent Assignment Agreement**

At the time an invention is reported to the institutional patent committee, the employee shall enter into a patent assignment agreement with the Board if it is determined that the invention was developed in the course of the employee's normal duties and/or that institutional facilities or services were used in developing the invention.

66.050 **Execution of Contracts and Assignments**

(1) The Vice Chancellor for Administration shall determine the form of an agreement to assign invention and patent rights to be executed by staff members pursuant to AR 66.020.

(2) The Vice Chancellor for Administration is authorized to enter into patent assignment agreements with staff members, subject to Board policies.

(3) The Vice Chancellor for Administration is authorized to enter into necessary patenting and marketing agreements to secure the evaluation of and maximum benefits from any invention.

(4) On recommendation of the President, the Vice Chancellor for Administration is authorized to execute a limited release of invention and patent rights to inventors. Such limited release will provide that the inventor(s) may recover reasonable exploitation and patenting costs of the invention and a sum not to exceed $10,000 out of the first net patent income, with the inventor(s) and the Board sharing in the balance of the net patent income as provided in AR 66.080 and 66.090.

66.060 **Research and Development of Inventions with Outside Organizations**

(1) In accepting funds from governmental and nonprofit agencies for research, the institution agrees to abide by the established patent policies of those sponsoring agencies covering such grants.

(2) Where it appears in the interest of the Board, the inventor, the institution, and a commercial sponsor, on recommendation of the institution involved, the Board may grant rights to the commercial sponsor, including the right to acquire the proprietary interest in and to any invention or patent right thereon, developed during the research sponsored by it.

66.070 **Appointment of Committee**

The President may appoint a patent committee for assistance and advice concerning development of inventions and patents at the institution. In the absence of such appointment, the President shall assume the duties and functions of the institutional patent committee.

66.071 **Duties of the Committee**

The duties of the patent committee shall be:

(1) To counsel with the inventor, evaluate patent possibilities, and appraise equities of inventors.

(2) To assist the inventor in all possible ways to the end that appropriate inventions are patented and exploited. If the committee ascertains that an invention is not work-related, it may recommend to the President that the Board waive its rights to the invention.

(3) To investigate possibilities of entering into agreements with outside agencies for evaluating the patentability and marketability of inventions with the understanding that any cost of evaluation is to be borne by the institution, subject to approval of the Chancellor.
(4) To refer the invention for evaluation of patentability and marketability to any outside organization with which the Board has a patenting and marketing agreement provided, however, that the inventor has executed an "Agreement to Assign Invention and Patent Rights," pursuant to AR 66.020.

(5) To counsel with the inventor concerning the terms of the patent assignment agreements provided for in AR 66.040.

(6) To advise the President of the patent policies of any sponsoring agencies and assist the responsible investigator in complying with policies of sponsoring agencies.

66.072 Action of Committee to be Expedited

The patent committee and the inventor have an obligation to satisfy the requirements of the patent policy in a manner which will not disrupt the orderly dissemination of scientific information. The patent committee shall expedite determination of patent possibilities of the invention. The patent committee shall take appropriate action either to seek a patent within three months after full disclosure or to recommend to the President that the Board relinquish and waive any interest the Board may have in the invention.

66.080 Inventor's Royalties

In determining the disposition of patent income due consideration shall be given to the equity of all parties in light of all circumstances surrounding development of a particular patent. The patent agreement negotiated with the inventor shall not provide for royalties in excess of 30% of net patent income received by the Board.

5.090 Board’s Income from Patents

The Board’s net income from a patent is to be dedicated to the institution of the inventor, subject, however, to the limitation of ORS 351.250. The use of such net income shall be subject to approval of the President and in harmony with the established Board budget policy.

Chapter 67.000--Copyright Policies

67.010 Copyright Policy

(1) It is Board policy to encourage the production and dissemination of copyrightable materials. An individual or group may produce such materials through individual effort or in conjunction with a project having support administered through an institution within the Department.

(2) The copyrightable results of activities supported to a substantial degree by the Board should be utilized in a manner which will best serve the public interest. This can be accomplished, in some situations, by distributing materials without copyright. In other situations, copyright protection in the name of the Board or its institutions may be desirable during development or as an incentive to promote effective dissemination of such materials. In the latter situations, appropriate arrangements for copyright and distribution, including royalty-sharing with the author(s), may be authorized on the recommendation of the President or a designee.

67.020 Definitions

The following definitions apply to AR Chapter 67, unless otherwise indicated by the content:
(1) Copyrightable material includes but is not limited to:
   (a) Books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals;
   (b) Lectures, musical or dramatic compositions, and unpublished scripts;
   (c) Films, film strips, charts, transparencies, and other visual aids;
   (d) Video and audio tapes and cassettes;
   (e) Live video or audio broadcasts;
   (f) Programmed instructional materials;
   (g) Computer programs.

(2) Individual effort--individual initiative, not as a specific institutional assignment, and with only incidental use of Board facilities or resources.

(3) Board-assisted individual effort--individual effort, but with Board support in the form of significant personnel time, facilities or other Board resources.

(4) Sponsored effort--institution-assigned effort when one of the purposes of the assignment is development of copyrightable materials and substantially all of the personnel time, facilities or other resources for the assignment are provided by the Board or a sponsor, such as a federal agency.

(5) Net royalty income—that amount of gross royalty income remaining after required payments to grant or contract sponsor(s).

### Determination of Equities

67.030

(1) Copyrightable materials developed solely by individual effort should be copyrighted, if at all, in the name of the author(s). All rights, including those to royalties, reside with the author.

(2) Copyrightable materials developed by Board-assisted individual effort should be copyrighted, if at all, in the name of the author(s). The costs of Board support for such effort will be agreed on by the author(s) and the President or a designee, and the author(s) will reimburse the institution for such costs out of royalties received from the copyrighted materials.

(3) Copyrightable materials developed under sponsored assignments should be copyrighted, if at all, in the name of the institution or the Board, with appropriate acknowledgement to the author. The grant or contract sponsor may have provided limitations with respect to disposition of rights in these materials and the institution and author are obligated to adhere to those limitations. Royalty income received from materials copyrighted in the name of the Board or the institution will be deposited in the Higher Education Invention Fund. The net royalty income received by the Board from copyrighted materials may be shared, to the extent permitted by the sponsoring agency other than the Board, with the author(s) at a rate to be negotiated but not to exceed 50% of such income. The income received by the Board less the amount distributed, if any, to the author(s) will be dedicated to the institution of the author(s) subject to limitations of ORS 351.250.

### Administrative Procedures

67.040

(1) The President of the institution or the Head of the division is responsible for administering the policies and procedures outlined in AR 67.010 through 67.030, including the securing of such relations and/or assignments necessary for accomplishing the aforesaid rules. The President may delegate part or all of the responsibility to a copyright committee or others as deemed necessary.
(2) To the extent practicable and at the time of a sponsored assignment where copyrightable materials may be expected to be produced, affected staff are to be advised of copyright limitations imposed by extra-mural sponsors, if involved, and the institution's policy on copyrighting and royalty sharing with the author(s).

(3) Proposed agreements producing and distributing materials intended to be copyrightable in the name of the institution or Board and for royalty sharing with the author(s), are to be approved for legal sufficiency by the Board's attorney and executed by the Vice Chancellor for Administration or a designee.

Chapter 70.000--Acquisition of Real Property

70.020 Conveyances

Authorized conveyances of all real property shall be approved by the Assistant Attorney General serving as chief counsel to the Department, or a designee, and executed by the Board President and Board Secretary pursuant to ORS 351.150.

70.021 Easements

The Board President and the Board Secretary are authorized without Board approval to execute easements affecting real property owned by the State of Oregon for the benefit of the Department in accordance with the following:

(1) The easement shall be recommended by the Chancellor or the Vice Chancellor for Facilities Planning and shall be in a form approved by the Board's legal counsel.

(2) If the property affected is within approved projected campus boundaries, the easement shall relate only to underground utilities with appropriate access.

(3) If the property affected is not within approved projected campus boundaries, the easement shall relate either to utilities or to rights of way for access to adjacent properties.

(4) Easements granting rights in real property other than those set forth in subsections (2) and (3) of this rule shall be approved by the Board prior to their execution by the Board President and Board Secretary.

70.040 Purchases of Real Property

The Vice Chancellor for Facilities Planning has authority to purchase real properties, with appropriate report to be made to the Board, subject to the following conditions:

(1) Location. Properties shall be located within the Board-established projected campus boundaries of an institution. Property exchanges are subject to specific Board authorization.

(2) Sources of Funds. Properties to be used principally as sites for educational and general construction or improvements, or principally for current educational and general use, shall be financed from funds available for these purposes, usually a state appropriation or proceeds from the sale of bonds issued under the provisions of Article XI-G of the Oregon Constitution. Properties to be used principally as sites for auxiliary enterprises construction or improvements, or principally for current auxiliary enterprises use, shall be financed from funds available for these purposes, such as proceeds from the sale of bonds issued under provisions of Article XI-F(1) of the Oregon Constitution or appropriate restricted funds.

(3) Purchase Price. Purchases shall be made at prices based on current market values, determined by averaging two or more independent appraisals. Limit on each purchase shall be $25,000.
(4) **Priority of Property Acquisitions.** To the extent practical, purchases shall be made in the following priority order:

(a) Site for building construction or other improvement project for which funds are available;

(b) Unimproved property;

(c) Property with improvements having value materially less than the land;

(d) Sites intended for building or other improvement project for which construction authorization is expected to be sought from the Legislature at its next session, with a high priority assigned to the project;

(e) Property for which the owner plans costly improvements or other action which would materially increase the market value and cost to the Board if acquired later;

(f) Property offered for sale by owner.

(5) **Condemnation.** Authorization to acquire real property by condemnation is subject to specific Board action.

### Chapter 70.100--Capital Construction

#### 70.146 Appointment of Professional Consultants

The Vice Chancellor for Facilities Planning is authorized to select and employ architects, engineers, planners, and such other professional consultants (collectively called "consultants" in this rule) in accordance with the following standards and procedures:

(1) The purposes of this rule are to assure that consultants are considered fairly for professional service contracts and that those selected will be highly qualified and to encourage excellence and cost consciousness on the part of consultants. The following factors shall be considered in evaluating and selecting consultants:

   (a) Specialized experience, design talent and technical competence, including an indication of the planning process expected to be used for the work;

   (b) Capacity and capability to perform the work, including any specialized services, within the time limitations for the work;

   (c) Past record of performance on contracts with governmental agencies and private owners with respect to such factors as cost control, quality of work, ability to meet schedules, and contract administration;

   (d) Availability to and familiarity with the area in which the work is located, including knowledge of design and construction techniques peculiar to it;

   (e) Proposed cost management techniques to be employed.

(2) Each President shall designate a planning official who shall maintain a current roster of consultants interested in performing services for that institution. Consultants wishing to be considered for assignments at any institution may file a complete statement of qualifications and experience, in any desired format, with the planning official of that institution. This rule does not preclude consideration or selection of consultants not on an institutional roster.
(3) At least annually, in an Oregon newspaper of general circulation to consultants, the Vice Chancellor for Facilities Planning shall publish a notice stating in substance that copies of this rule may be obtained from the Board's Office of Facilities Planning and that consultants are invited to submit qualifications to the planning officials of the institutions for consideration. A copy of this rule and a list of the names and addresses of the institutional planning officials shall be provided to any consultant on request.

(4) For professional service contracts where the anticipated professional fee is $500 or less, the Vice Chancellor for Facilities Planning may authorize an appropriate institutional official to contract for such professional services with any qualified consultant.

(5) For professional service contracts for minor capital improvements, rehabilitation and repair projects, feasibility studies and similar services, normally involving an anticipated professional fee of $5,000 or less, the institutional planning official shall:

(a) Select at least three consultants who appear to have the qualifications for and interest in the proposed assignment;

(b) Notify each such consultant in reasonable detail of the proposed assignment;

(c) Determine the consultant's interest in and ability to perform the proposed assignment.

The institutional planning official may, but need not, arrange for such consultants to be interviewed by a panel, as provided in subsection (6) of this rule, and shall report to the Vice Chancellor for Facilities Planning as to the qualifications and interest of each such consultant and the institution's recommendation or preference for selection.

6) For professional services contracts for capital construction projects (as defined in the Budget Preparation Manual of the Executive Department) and for retainer-type contracts of any nature, except in emergency situations, the institutional planning official shall select at least seven consultants who appear to have the qualifications for and interest in the assignment. Each consultant selected shall be invited to interview for the assignment, and those who indicate interest shall be interviewed. The interview shall be conducted by a panel of at least three persons representing the President, the planning official, and the prospective users of the facility or those expected to request services under the provisions of the proposed retainer contract. Following the interviews, the institutional planning official shall report to the Vice Chancellor for Facilities Planning as to the qualifications and interest of each such consultant and the institution's recommendation or preference for selection.

7) In the cases described in subsections (5) and (6) of this rule, the Vice Chancellor for Facilities Planning or a designee may interview any or all of the recommended consultants and shall select one consultant in accordance with the standards set forth in subsection (1) of this rule. The Vice Chancellor for Facilities Planning shall then negotiate a contract with the selected consultant, but if a mutually satisfactory contract cannot be agreed to, then the Vice Chancellor for Facilities Planning may select another from the recommended consultants.

8) A report of all appointments under subsection (6) of this rule shall be made to the Board at the meeting following such appointments.

9) This rule does not apply to amendments, modifications, or supplements to executed professional services contracts.
Naming Buildings After Persons

The Board shall not name any building or structure of the Department after a living person. Exceptions may be considered and made if a donor contributes a substantial share of the cost of construction or for unusually meritorious cause.

Prequalification for Public Improvements

(1) Pursuant to ORS 279.039(1) and OAR 127-40.030 of the Public Contract Review Board, the Department requires prequalification prior to bidding of all persons or firms desiring to bid for contracts for public improvements of the classes of work hereinafter specified which exceed $50,000 in estimated value. The prescribed prequalification application shall be submitted to the Vice Chancellor for Facilities Planning of the Oregon State Board of Higher Education, P. O. Box 3175, Eugene, Oregon 97403, or to a designee. Such application shall be submitted on forms prescribed by the Public Contract Review Board and may be submitted at any time. Only one such application needs to be filed each year. It may be prepared as of any date selected by the prospective bidder, provided complete and accurate information is available. Applications which have been filed and are still current will be considered in determining prequalification status on bid invitations prior to the expiration of such applications.

(2) Blanket approval of prequalification with the Department will not be given for any period of time. Rather, a separate review will be made by the Vice Chancellor for Facilities Planning or a designee for each construction project and contract under consideration in order to determine whether a prospective bidder is qualified to bid thereon.

(3) To qualify to bid on a particular project, if an application has been filed currently, then the prospective bidder must advise either the architect or engineer or the Vice Chancellor for Facilities Planning in writing of the intention to bid on the particular project at least ten days prior to the date set for opening bids. If a current application has not been filed previously, then to qualify to bid on a particular project, the prospective bidder will be required to submit a prequalification application either to the project architect or engineer or to the Vice Chancellor for Facilities Planning or a designee at least ten days prior to the date set for the opening of bids. A prequalification application submitted less than ten days before the bid opening may be considered, but final action cannot be assured.

(4) Classes of work for which prequalification is required:

(a) Highway, Road and Street Improvements;
(b) Concrete Paving and Flatwork;
(c) Rock Crushing;
(d) Bituminous Oiling;
(e) Bituminous Paving;
(f) Reinforced Concrete Construction;
(g) Bridge and Overcrossing Construction;
(h) Dredging and Piledriving;
(i) Excavation and Grading;
(j) Sewer Construction;
(k) Sewage Treatment Plants;
(l) Sewage Pumping Stations;
(m) Water Lines;
(n) Water Reservoirs;
(o) Water Tanks--Steel;
(p) Water Tanks--Concrete;
(q) Electrical Wiring;
(r) Traffic Signalization;
(s) Outdoor Illumination;
(t) Building Construction;
(u) Building Alteration and Repair;
(v) Demolition and Related Excavation and Clearing;
(w) Painting of Buildings and Structures;
(x) Plumbing;
(y) Heating;
(z) Roofing;
(aa) Air Conditioning;
(bb) Irrigation and Sprinkling Systems;
(cc) Drainage;
(dd) Landscaping;
(ee) Other.

Chapter 71.200--Use of Property

71.210 Use of Institutional Property

All institutional property is intended for institutional use and not for private purposes.
ARTICLE I

Board of Higher Education

The property and affairs of the Oregon Department of Higher Education shall be managed and controlled by the Board of Higher Education. The Board has the power to make rules pursuant to the laws of the State of Oregon for the guidance of the officers and employees of the Department and for the governance of the educational institutions in the Department and the students thereof. It is expressly understood that nothing contained in these Bylaws shall be deemed to limit or restrict the general authority vested in said Board for the management, control and operation of the Department of Higher Education.

ARTICLE II

Officers of the Board

Section 1--Enumeration

The officers of the Board shall be a president, a vice president, a member of the executive committee, and a secretary. The secretary shall be appointed from time to time, and the other named officers shall be elected annually at or prior to the Board's regular meeting in July. The Board may appoint assistant secretaries or other officers from time to time.

Section 2--Service of Officers

All officers of the Board shall serve at the pleasure of the Board.

Section 3--Duties of Officers

A. The Board president shall preside at all meetings of the Board and shall perform such other duties as may be assigned by the Board.

B. The Board vice president shall, in the absence or inability of the president to act, perform the duties of the president.

C. The secretary shall: (1) keep a record of all Board transactions, (2) prepare a docket for all Board and Board Committee meetings, listing all proposals, communications and business transactions to be considered at the Board meeting, (3) maintain minutes of all Board meetings and Board Committee meetings, (4) furnish copies of all Board minutes and dockets to members and to all institutions under control of the Board, (5) maintain on file all Committee reports, other Board records and documents, official Board correspondence and other files, and (6) perform such other duties as the Board may authorize or direct.

The secretary shall be the custodian of the seal of the Board and shall affix the seal to minutes and other instruments as required.

D. The assistant secretary shall, in the absence or inability of the secretary to act, accept service of process, and when requested to do so by another officer of the Board, the Chancellor or a Vice Chancellor, execute documents and certificates on behalf of the Board. The assistant secretary shall perform such other duties as the Board shall authorize or direct.

Section 4--Office Vacancies

A. If a vacancy occurs in the office of the Board president, the vice president shall become president of the Board until a new president is elected.

B. If a vacancy occurs in the office of the vice president, the office shall remain vacant until an election is held to elect a new vice president.
7. If a vacancy occurs in the office of the president when the office of the vice president is vacant, the executive committee member elected by the Board shall become Board president until a new president is elected.

Section 5--Absence of Officers from Meetings

If neither the president nor the vice president is able to attend any duly-called Board meeting, the executive committee member elected by the Board shall serve as president pro tem for that meeting.

Section 6--Executive Committee

The Executive Committee shall consist of the Board president, vice president and the executive committee member elected by the Board to serve as a member of the committee. The Executive Committee shall take final action for the Board in such matters as may be specifically referred to it by the Board with power to act. Between Board meetings, the Executive Committee shall act for the Board in minor or emergency matters, subject to Board approval at its first subsequent meeting.

ARTICLE III

Meetings

Section 1--Regular Meetings

The Board shall hold at least six regular meetings each year. Meetings are to be held in January, March, May, July, September, and November.

Section 2--Requirements for Meetings

A. All Board and Board Committee meetings, except executive sessions, shall be open to the public.
B. Representatives of the news media shall be allowed to attend executive sessions other than those executive sessions held under the authority of ORS 192.660(2)(a) relating to labor negotiations. The Board may require that specified information which is considered in an executive session not be disclosed.

Section 3--Subjects of Meetings

A. At regular meetings the Board may act on any subject within its powers provided that at the request of three members action will be delayed until the following meeting on any major issue presented for the first time.
B. Subjects to be acted on at special meetings shall be confined to those specified in the notices of such meetings.

Section 4--Place and Time of Meeting

Except when otherwise determined by the Board, the place and time of meetings shall be determined by the Board president, and shall be announced in the notification of the meeting issued by the secretary.

Section 5--Quorum for Business

Six members shall constitute a quorum for transaction of business.

Section 6--Order of Business

The order of business at all meetings shall be:
A. Roll call,
B. Reading of minutes of previous meeting,
C. Report and recommendations of the Chancellor,
D. Reports of Committees,
E. Other scheduled matters,
F. Report of the Board president,
G. Communications, petitions and memorials,
H. Unfinished and miscellaneous business,
I. Election of officers (July meeting, or as required to fill vacancies),
J. Adjournment.

Section 7--Parliamentary Rules

Parliamentary rules according to the 1971 edition of Roberts' Rules of Order shall be observed in conducting Board business unless modified by Board action.

Section 8--Executive Sessions

A. During a duly-called meeting, on the call of the Board president, the Board may meet in executive session to consider matters set out in ORS 192.600(1).
B. During a duly-called meeting, on a two-thirds majority vote of the Board, the Board may meet in executive session to consider matters set out in ORS 192.660(2).
C. Prior to meeting in an executive session during a duly-called meeting, the Board president shall identify the authorization under ORS 192.610 to 192.690 for the holding of the executive session.
D. If an executive session is to be held, not during a duly-called meeting, notice of such session shall be given to Board members, and to the general public. The notice shall also state the specific provision of law authorizing the executive session.
E. No executive session shall be held for the purpose of taking any final action or making any final decision.
F. The Board may limit the minutes of executive sessions to material the disclosure of which is not inconsistent with ORS 192.660.

Section 9--Special Meetings

A. Special meetings may be called by the Board president or on the written request of six members of the Board.
B. Notice of a special meeting shall be given to Board members and the general public at least 24 hours in advance of the meeting.
C. In case of an actual emergency, a meeting may be held on such notice as is appropriate to the circumstances.

ARTICLE IV

Committees

Section 1--Appointment of Committees

A. All committees shall be appointed by the Board president, unless otherwise ordered by the Board.
Standing committees shall be appointed no later than the first meeting after the election of officers, except that, when a vacancy occurs on a committee, the president shall appoint a person to fill the vacancy.

C. Special committees may be appointed at any meeting.

D. The president shall appoint committee heads at the same time the committee is appointed.

Section 2--Standing Committees

The standing committees of the Board shall be:

A. The Committee on Finance, Administration, and Physical Plant;

B. The Committee on Instruction, Research, and Public Service Programs.

One or more staff officers of the State Department of Higher Education shall be assigned as consultants to each of the two committees.

The Board's Standing Committees shall meet at the call of their chairmen approximately three weeks before each regularly scheduled Board meeting.

Section 3--Committee for Recommendation of Degrees

The Board president shall appoint a representative for each institutional commencement to visit the respective institutions with power to act for the Board in considering recommendations for degrees. These appointments shall be made at the March Board meeting or at other meetings as required.

ARTICLE V

Appointments

This Board may make decisions concerning the appointment of a Chancellor and decisions concerning the appointment of assistants at any duly-called meeting at which a quorum is present, but no such decision shall be made at a special or emergency meeting unless the call of the meeting includes notice that such decision will be considered. The Board may delegate to the Chancellor or to other persons within the Department of Higher Education, the authority to appoint other employees in the Department of Higher Education and in the institutions under the control of this Board.

ARTICLE VI

Internal Management Directives

Internal management directives and policies may be adopted, amended or repealed by motion or resolution of the Board. The Chancellor, presidents and others to whom they or this Board may delegate such authority may also adopt, amend or repeal directives within the scope of such authority.

ARTICLE VII

Procedure for Changing Bylaws

A. At least ten (10) days prior to adoption, amendment or repeal of any bylaw, notice of the proposed adoption, amendment or repeal shall be given to each Board member.

B. When notice has been given as provided in subsection A. of this section, Board bylaws may be adopted, amended or repealed by an affirmative vote of a majority of the Board members present at a duly-called meeting, providing a quorum is present.
Chapter 10.200--Board Procedures

Preparation of Meeting Agendas and Dockets

(1) All material to be presented at any regular Board meeting shall first be presented to and considered by the appropriate Board Committee at a Committee meeting before the official Board meeting. In cases of necessity, the Chancellor may allow presentation of items not previously considered by the appropriate Board Committee. The docket prepared by the secretary shall be mailed to each Board member at least one week in advance of the Board meeting.

(2) All material to be presented to Standing Committees for consideration shall be delivered to the secretary at least three weeks before the Committee meeting, except in cases of necessity, so that the secretary may have the Committee agenda, together with an abstract of supporting material, prepared and forwarded to each Board member at least one week before the Committee meeting.

Chapter 11.000--Duties of the Chancellor

General Duties

The Chancellor is the chief executive officer of the Department responsible for implementation of the Board's decisions and plans. The Chancellor shall be responsible for presentation of all business and other matters to be considered by the Board at any of its regular or special meetings or by any Board Committee.

Preparation of Annual Report

The Chancellor shall prepare and transmit to the Board an annual report of Department activities for each fiscal year ending June 30. The report shall include such information as the Chancellor deems advisable, and as may be required by the Board, by statute or by the Governor.

Chapter 11.100--Authority of the Chancellor

Administrative Authority Over Staff and Employees

(1) The Chancellor shall make recommendations to the Board, in which rests the sole power of decision, concerning the selection, appointment, promotion, salaries, transfers, suspensions, and terminations of appointments of the Secretary and Assistant Secretary to the Board and the Vice Chancellors, Presidents, Vice Presidents, and Executive Deans (e.g., deans of faculties, deans of administration) of the Department.

(2) The Chancellor is authorized to approve, on recommendation of the President, the selection, appointment, promotion, salaries, transfers, suspensions and terminations of appointments of school or college deans.

(3) The Chancellor is authorized to approve, on recommendation of the President (or Division Head in the case of divisions appended to the Board's Office), appointments, transfers, resignations, leaves of absence, changes in tenure status, promotions, establishment of emeritus status, fixing of salaries, or terminations of appointments of faculty members and other employees of the institutions and divisions, except as provided in subsections (1) and (2) above, or the Chancellor may delegate full responsibility for the foregoing personnel actions to the presidents or division heads.
(4) The Chancellor is authorized to select, appoint, promote, fix the salaries and tenure status of, grant leaves to, transfer, suspend or terminate the employment of all Board's Office employees, except as provided in subsection (1) above.

11.120 Authority To Appoint Committees and Determine Jurisdiction

The Chancellor may appoint interinstitutional councils and committees to formulate policy proposals, to advise on matters pertinent to Department operation and, when appropriate, to administer Board policies. In making appointments, the Chancellor shall consult with the administrative officers of the institutions and divisions to be represented. Members of such councils, committees or other advisory bodies shall serve without additional compensation. The Chancellor shall decide all questions of jurisdiction, not otherwise specifically defined by Board action, of the several councils, faculties and officers.

Chapter 11.200--Budget Authority

11.210 Budget Adjustments

(1) The Chancellor is authorized to approve the following budget adjustments:

(a) Temporary and nonrecurring transfers between requisition and salary accounts within a department;

(b) Temporary and nonrecurring budget transfers between departments or other units of an institution or division provided they are not used to create new permanent positions or other recurring expenses;

(c) Budget additions to care for emergencies in staff, requisition accounts, or repair and maintenance items from the Board's unappropriated fund or the Board's emergency reserves provided no single addition may exceed $10,000, and provided these funds are not used to create new permanent positions or other recurring expenses.

(2) A permanent record of all personnel adjustments and budget transfers approved by the Chancellor shall be maintained in the Board's Budget Office. Changes in the Board's unappropriated fund or emergency reserves resulting from budget transfers approved by the Chancellor shall be included in a report from the Board's Budget Office presented to Board members at each regular meeting. If policy questions or unusual appointments are involved, the Chancellor will consult with and secure the approval of the Board.

Chapter 11.300--Official Communications

11.310 Official Communications Between the Board, the Chancellor, and the Staff

Official communications from staff members of Department institutions and divisions to the Board shall be made through the respective Presidents, Division Heads and the Chancellor.

Chapter 11.400--Relationships with State Government

11.420 Chancellor is Official Representative to State Government

(1) The Chancellor is the official representative of the Department to the Legislature, to the Office of the Governor, and to the Executive Department.

(2) The Chancellor may appoint from the administrative officers, members of the faculties or other employees of the Department, such persons to assist as representatives to the Legislature, to the Office of the Governor, and to the Executive Department as the Chancellor may deem to be advisable.
(3) The Chancellor may request that a President of an institution or Head of a division direct appropriate administrative staff members to accommodate necessary and desirable direct communication on institutional and divisional matters with the Budget and Management Division of the Executive Department.

Chapter 12.000--Appointment and Duties of the President

12.010 Appointment of the Presidents

The Presidents shall be appointed by the Board to serve at its pleasure and shall hold the rank of professor.

12.020 Presidents Responsible to the Chancellor

(1) The President is the chief executive officer of the institution and a member of the Chancellor's executive staff. The President is responsible to the Chancellor for all matters concerning the institution and is an adviser to the Chancellor in matters of interinstitutional policy and administration.

(2) The President shall develop and recommend to the Chancellor, in consultation with appropriate committees or members of the institution:

(a) Such policies, plans, budget and standards affecting the institution as deemed necessary and/or advisable.

(b) The appointment, promotion, tenure status and salary within the approved budget of all staff members having academic rank.

12.030 Relationship of President to Chancellor and Board

(1) The President or a designee shall approve all recommendations transmitted to the Chancellor from the institution.

(2) The President or a designee is encouraged to attend all meetings of the Board (except executive sessions) and its committees, and is expected to attend those meetings at which matters affecting the institution are to be considered.

Chapter 12.100--Authority and Responsibilities of the Presidents

12.110 General Responsibilities

The President is delegated full authority and responsibility to administer the affairs of the institution in accordance with Board policies, plans, budgets and standards, including the management and expenditure of all institutional funds, within budgetary and other limitations imposed by the Board.

12.120 Authority Over Faculties and Committees

The President shall have the right to preside over the deliberations of the institutional faculty legislative bodies and shall have the right of veto over their decisions, subject to review by the Chancellor. The President shall have the right to define the scope of authority of faculties, councils, committees and officers of the institution, subject to review by the Chancellor when not otherwise specifically defined by Board action.

12.130 Responsibility for Student Conduct and Discipline

(1) The President is responsible for development and administration of institutional policies and rules governing the role of students and their conduct. In carrying out this responsibility, the President shall take into account the views of students, faculty and others.
Institutional rules shall establish guidelines for student conduct which set forth prohibited conduct and provide for appropriate disciplinary hearings and sanctions for violations of institutional rules, consistent with standards of procedural fairness.

The Board recognizes and affirms the importance of active student involvement in the deliberative and decision-making processes.

Chapter 13.000--Legal Services

13.010 Legal Services

The Oregon Department of Justice provides all legal services for the Department. Requests for legal services, including opinions, may be referred to the Attorney General or to the Assistant Attorney General serving as chief counsel to the Department. The Chancellor may designate those who, in addition to the Board or its members, shall be authorized to request legal services on behalf of the Department.

13.020 Legal Counsel

The Assistant Attorney General assigned to the Department shall be responsible to the Chancellor. The Vice Chancellor for Administration shall be responsible for coordinating provision of legal services in the Department.

Chapter 13.200--Cooperating Educational Agencies

13.210 Western Interstate Commission for Higher Education

The Department is authorized to take any necessary action to achieve the ends of the Western Regional Higher Education Compact.

13.220 Educational Coordinating Commission

The Department is authorized to cooperate with the Oregon Educational Coordinating Commission for purposes of coordinating the various educational functions of the State which are related to more than one area of education.

13.230 High School-College Relations Council

The Department is authorized to cooperate with the High School-College Relations Council to achieve Council aims and objectives.

13.240 State Scholarship Commission

The Department is authorized to cooperate with the State Scholarship Commission in matters relating to financial aid for students in institutions under Board control.

13.250 Community Colleges

The Department will cooperate with all Oregon community colleges to facilitate transfer of students desiring to enter four-year institutions following attendance at two-year institutions.

Chapter 20.000--State System Curricula

20.020 Board Oversight of Higher Education Curricula and Departments

The Board shall exercise general oversight of curricula and instruction in the Department, including but not limited to curricular allocations, and establishment of centers, institutes, and similar agencies. The Board shall maintain a statement of policies underlying the curricular allocations within the Department. The Board shall act on institutional requests for modification of existing curricular allocations, including addition and deletion of curricular programs, in accordance with Board policies.
(2) The Board's Office shall act on institutional requests for authorization to add, drop or alter courses in Board-authorized curricular programs. The Board's Office shall submit a report to the Board each year regarding courses added, deleted or significantly altered with comments on the budgetary implications of these changes on institutions, programs, employees, and students affected by these changes.

(3) The Board's Office shall keep the Board informed of state educational needs and shall encourage vigorous institutional planning to meet these needs.

(4) The Board's Office shall act in other capacities in curriculum and instruction as the Board may determine.

(5) The Board's primary consideration, in meeting curricular responsibilities, shall be to assure that educational opportunities are adequately available to qualified persons without unnecessary duplication of educational resources.

20.030 Functions of Department Institutions

Department institutions shall serve the important functions of: (a) instruction, (b) research, and (c) public service. Of these, instruction shall hold the highest priority. Research and public service, as important companion functions to instruction, may vary from institution to institution in their relative importance among the three institutional functions. Research shall be recognized as an integral and necessary part of instruction, particularly in graduate and advanced graduate education, and as vital to the continuing economic and social health of Oregon.

Chapter 21.000--Vice Chancellor for Academic Affairs

21.010 Duties of the Vice Chancellor for Academic Affairs

(1) Under the direction of the Chancellor, the Vice Chancellor for Academic Affairs directs work of the Board's Office relating to curriculum and instruction, and student and faculty personnel. The Vice Chancellor for Academic Affairs also has responsibility for the Division of Continuing Education, the Division of Teaching Research, and the Board's Office of High School Relations.

(2) In the area of curricular and instructional affairs, the Vice Chancellor for Academic Affairs shall have full responsibility within the Board's Office for development of staff studies, reports, and recommendations for the Chancellor, the Board's Committee on Instruction, Research, and Public Service Programs, and the Board.

(3) In the areas of student affairs and faculty affairs, the Vice Chancellor for Academic Affairs shall have major staff responsibility. Aspects of student or faculty personnel issues which have fiscal implications shall be coordinated with the Budget Office, the Office of Administration, and the Office of Personnel Administration. Aspects of student or faculty affairs which involve campus planning shall be coordinated with the Office of Facilities Planning.

Chapter 30.000--Review of Admissions Requirements

30.020 Review of Admissions Requirements

The Board shall review and set academic admissions requirements for the institutions. Changes in admissions requirements shall be announced at least one year in advance of the effective date, whenever possible.
Chapter 32.000--Financial Aid to Students, General Policy

32.010 Department Encouragement of Financial Assistance

The institutions shall provide financial assistance to students to the extent possible by encouraging gifts and grants for scholarships, student loans, work grants, and other financial aids.

32.030 Department Assistance for Out-of-State Study

The Department shall assist Oregon students in special study programs out of state in accordance with provisions of the Western Interstate Commission for Higher Education Compact and under other student exchange arrangements.

Chapter 42.800--Staff Career Support Program

42.810 Staff Career Support Program

(1) A staff career support plan shall be developed and maintained by each institution, through institutional procedures which provide for input from appropriate faculty and institutional councils. The plans shall be subject to review by the Chancellor and the Board.

(2) The institutional plans shall include, but not necessarily be limited to:

(a) A statement of plan objectives;

(b) A statement as to the extent of institutional commitment to supportive programs for staff development;

(c) A specific delegation of authority, responsibility, and duties to the following key administrators and faculty groups for implementing the staff career support plan: vice presidents for academic affairs or deans of faculties, deans of schools or colleges, chairmen of academic departments, faculty advisory committees or councils, individual faculty members;

(d) Delineation of the specific elements of the planned staff career support program for:

(A) Beginning faculty members,

(B) Faculty members in mid-career,

(C) Faculty members in late-career;

(e) A statement as to the nature of the planned periodic institutional evaluation of the proposed plan as the program on which it is based progresses;

(f) A statement as to the way in which the institution's faculty reward system is keyed to the staff career support plan.

Chapter 50.000--The Chancellor's Health Services Adviser

50.050 The Chancellor's Health Services Adviser

The President of the University of Oregon Health Sciences Center shall be the Chancellor's chief adviser on health services for Department institutions.
Chapter 50.100--University of Oregon Health Sciences Center Disposition of Fees

50.165 Disposition of Professional Medical Fees

Collections of medical and surgical fees billed by members of the faculty are to be divided between the faculty and the School of Medicine in accordance with a plan agreed on by the Dean, the Hospital Director, the faculty members generating such income and the President. Amounts received by the School of Medicine, exclusive of reimbursement of hospital costs, are to be placed in a Medical Education Improvement Fund in the gift and grant group of accounts, to be used for purposes of strengthening the instruction, research, and patient care programs.

50.175 Disposition of Professional Oral Health Fees

Collections of professional oral health fees billed by members of the faculty are to be divided between the faculty and the School of Dentistry in accordance with a plan agreed on by the Dean, the faculty members generating such income and the President. Amounts received by the School of Dentistry are to be placed in a Dental Education Improvement Fund in the gift and grant group of accounts to be used for purposes of strengthening the instruction, research, and patient care programs.

Chapter 51.000--Libraries

51.020 Coordination of Libraries

Coordination of all library development, processes, and services will be achieved through:

(1) A Chief Librarian at each institution who, while working in close cooperation with other Department librarians and the Director of Library Services, shall be directly responsible to designated institutional officers for all phases of operation of the institutional library or libraries.

(2) A Director of Library Services who will also serve as chief librarian of one of the institutional libraries. The Director of Library Services shall: administer the work of the Central Library Services Office; avoid unnecessary duplication among the libraries, either in resources or services; coordinate and integrate development and work of the libraries wherever possible; direct work and deliberations of the library council; make biennial reports on the development, operation, and problems of the libraries to the Chancellor and such annual and special reports as may from time to time be required; maintain and accumulate, monthly and annually, statistics for the libraries; serve as an adviser to all chief librarians in the Department and to the presidents whenever they may so desire; and advise and counsel the Chancellor on all Department-wide problems and undertakings touching the operation of the libraries.

51.030 Central Library Services Office

A Central Library Service Office, administered by the Director of Library Services, is established, with the following functions:

(1) Maintenance of centralized bookkeeping records for all Department libraries, furnishing each library, as frequently as it may require, a statement of its disbursements and financial status.

(2) Pooling of orders for all supplies and equipment, such as catalog cards, business forms and furniture, on which quantity discounts may be obtained.

(3) Research and planning touching all phases of library operations, including buildings, equipment, and systems design.

(4) Coordination of activities in the application of automated systems to the libraries.
Library Council

A library council is established, consisting of the Chancellor or a designee, the Chief Librarian of each institution, and the Director of Library Services. This council will meet periodically to discuss problems of mutual concern and interest, and to develop plans for maximum development and utilization of library resources and services. The Director of Library Services shall serve as Council chairman.

Chapter 61.000--Accounting Policies

Assignment of Responsibility

Subject to review and modification by the Chancellor or the Board, the Vice Chancellor for Administration shall be responsible for:

1. Developing detailed regulations applicable to creation and maintenance of accounting policies, records, and reports.

2. Providing central fiscal and accounting services, including payroll accounting, property accounting, and disbursement of state, federal, and all other funds under Board control.

3. Auditing and reviewing institutional and other unit accounting procedures and records to assure conformity with statutes, Administrative Rules, Board policies, and accepted accounting principles and procedures.

4. Preparing accounting and other financial reports, including a comprehensive annual report of Department assets, liabilities, reserves, income, expenditures, and balances.

Institutional Responsibility

The institutions and other Department administrative units shall maintain accounting records and related documentation in such form and detail as required by the Office of Administration and may maintain additional records deemed essential to effective institutional administration.

System of Accounting Records and Reports

Department accounting records and reports shall be in conformity with generally accepted accounting principles for higher education institutions and hospitals, and shall be designed to meet institutional requirements for information to facilitate effective management and to discharge the Department's fiduciary responsibility to the people of the state.

Cash Funds

All funds made available to the Department or any of its units, whatever their source, shall be entered in the accounting records and disbursed in accordance with procedures established by the Vice Chancellor for Administration.

Cash Receipts

Cash receipts shall be deposited promptly in accordance with requirements established by the Vice Chancellor for Administration.

Working Funds

Revolving funds and petty cash funds may be authorized by the Vice Chancellor for Administration, as necessary, for Department activities. Authorization must designate the individual to be personally responsible.
61.043 Receivables

The Vice Chancellor for Administration shall establish or approve procedures to be followed by institutions and other business offices to assure a diligent effort to collect accounts and notes receivable, including, when appropriate, the withholding of student transcripts, cancellation of registration, or denial of graduation.

61.044 Disbursements

The Vice Chancellor for Administration shall establish procedures to assure that Department funds are paid out only for lawful purposes and in accordance with Board policies.

Chapter 62.000--Budget Policies

62.020 Institutional Responsibility

In accordance with instructions from the Vice Chancellor for Administration or a designee, the institutions, divisions, and statewide services shall provide detailed descriptions of their biennial plans and programs and the resources required for them.

62.030 Special Requirements

(1) All auxiliary enterprise and service activities shall be budgeted separately from educational and general activities and shall receive no subsidy from state funds, except as otherwise directed by the Board.

(2) Alumni associations may be subsidized only to the extent of providing office space and funds to maintain alumni records necessary for Department requirements.

(3) When approved in the institutional budget, operations of an affiliated organization may be subsidized, to a limited and reasonable degree, from funds otherwise available to the institution.

62.040 Budget Development Process

The Chancellor shall review the biennial budget requests developed by the institutions, divisions, and statewide services, conferring with other Department personnel as necessary, before submitting recommendations for Board consideration.

62.050 Budget Execution--Board Approval

No funds may be authorized for disbursement by an institution, division, or statewide service except as provided in an annual budget execution program approved by the Board.

62.051 Budget Execution Plans

Consistent with legislative appropriations and Executive Department allocations, the Vice Chancellor for Administration shall develop plans for budget execution pursuant to Board policy and the Chancellor's instruction.

62.052 Institutional Participation

The institutions, divisions and statewide services shall provide such assistance in developing the budget execution program as the Vice Chancellor for Administration deems necessary.

62.060 Budget Adjustments

(1) Each President, Division Head or Statewide Service Executive is personally responsible for maintaining expenditures within limits established by the budget execution program adopted by the Board.
(2) Transfers within budget accounts may be made by the presidents, division heads and statewide service executives.

(3) Transfers between budget accounts may be made by the presidents, division heads and statewide service executives provided that such transfers do not change the total budget authorization of the institutions and divisions and provided that they conform to budget limitations by function and category.

(4) Transfers between funds or institutions not anticipated in the budget require Board approval unless otherwise delegated to the Chancellor for approval.

62.061 Savings in Budget Accounts

All unobligated net budget balances remaining at each institution at the close of each fiscal year shall be returned to the Board's unappropriated funds, except for those in auxiliary enterprises and service activities and approved reserves, which may be carried over from one fiscal year to the next.

Chapter 63.000--Gift, Grant and Contract Management

63.040 Contracts

(1) The Vice Chancellor for Administration or a designee is authorized to enter into contractual agreements not required by statute to be acted on by the Board. Except for contracts and agreements for which the Vice Chancellor for Facilities Planning is responsible, the Vice Chancellor for Administration or a designee may authorize institutional personnel to enter into contracts or agreements not involving unresolved policy questions.

(2) Contracts involving policy questions shall be reviewed with or reported to the Board.

Chapter 64.000--Investment Management

64.010 Assignment of Responsibility

(1) Except for contracts or agreements governed by Section 64.040, the Vice Chancellor for Administration is authorized to purchase, sell or exchange securities for the Board. Prior approval of the Board President or the Chairman of the Committee on Finance, Administration, and Physical Plant is required for any transaction undertaken by the Vice Chancellor involving amounts in excess of $20,000, except that approval is not required for purchases of securities of the United States, its agencies, or Certificates of Deposit of Oregon banks.

(2) The Vice Chancellor may transfer, endorse, sell, assign, set over, and deliver stocks, bonds, debentures, notes, evidences of indebtedness, or other securities standing in the name of or owned by the Board, and may make, execute, and deliver any instruments necessary to effectuate such authority.

(3) The Vice Chancellor may designate staff members to act on specifically identified transactions or limited responsibilities referred to above. Each designation shall be reported in writing to the Board President and the Chairman of the Committee on Finance, Administration, and Physical Plant.

64.020 Voting Stock Ownership

(1) Except as otherwise provided by law, by direction of the Board or the Committee on Finance, Administration, and Physical Plant, or by terms of a contract or agreement with the Oregon Investment Council or other investment counselors, the Vice Chancellor for Administration is authorized to vote stock ownership in accordance with the recommendations of corporate management. In the absence of such recommendation or if deemed prudent to deviate from management recommendations, the Vice Chancellor shall consult with the Board President or the Chairman of the Committee on Finance, Administration, and Physical Plant before voting the affected stocks.
(2) The Vice Chancellor may seek the assistance and counsel of such persons as deemed advisable.

64.030 Custody of Board Securities

(1) Custody of the Board's securities is placed with the Vice Chancellor for Administration or a designee, and authority is granted to make arrangements for safety deposit boxes or for other safekeeping arrangements.

(2) The Vice Chancellor or a designee is authorized and empowered to obtain, deposit, and release securities from banks to protect funds for the Department.

64.040 Employment of Investment Counsel

Subject to prior approval by the Board, the Vice Chancellor for Administration may enter into contracts or other agreements with the Oregon Investment Council and/or other professional investment counselors to invest endowments in securities, pursuant to law.

64.050 Delegation of Investment Authority

Subject to such conditions as may be imposed, and compatible with statutes and Administrative Rules, the Vice Chancellor for Administration may delegate to the Controller responsibility for managing investments of the Higher Education Bond Building Fund, the Higher Education Bond Sinking Funds and the Current Donation Fund.

64.060 Reports on Investments

(1) The Vice Chancellor for Administration shall report to the Board not less than semi-annually on corporate stock investment status and transactions, pursuant to contractual arrangements with the Oregon Investment Council or investment counselors. The report shall, among other matters, provide information regarding the market and book values of the stocks, the current dividend rate, purchases and sales, and gains and losses.

(2) The Vice Chancellor shall report to the Board at least annually on all investments of all funds, with such recommendations as are appropriate.

64.081 Endowment Fund Investments

(1) The objectives of investment for the Endowment Fund accounts are to secure the maximum current dividend or interest income consistent with sufficient growth in the principal value of the investments to maintain, so far as possible, the purchasing power of future income therefrom.

(2) The number of shares of voting stock owned in any one company shall not exceed 5% of the total number of outstanding voting shares.

(3) Prudence shall be followed to avoid investing an unreasonable percentage of funds in the securities of any one corporation or organization.

(4) Periodically, the Vice Chancellor for Administration shall distribute to the Endowment accounts the appropriate portion of estimated earnings for the current fiscal year. The estimates of earnings shall be adjusted at the end of each year to give the effect to over- or under-realization.

(5) Each institution will administer the expenditures of Endowment Fund income in such a way as to assure the existence of a balance in each endowment operating account at the end of a fiscal year.

(6) Some gifts or bequests are subject to investment conditions stipulated by the donor which prevent the investment of moneys in security pools. The investment program for these gifts and bequests shall be as directed by the terms of the gift or will, and pursuant to statute and Board policy.
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34.082 Quasi-Endowment Fund Investments

(1) The objective of investment of Quasi-Endowment Fund accounts is to obtain increases in corporate earnings which may be evidenced by increasing dividends, and also by increases in the market value of the investments. Conversion of investments may be effected by periodic sales of shares of stock, with all or part of the capital gains made available for current expenditures.

(2) The number of shares of voting stock owned by the Board in any one company shall not exceed 5% of the total of outstanding voting shares.

(3) Prudence shall be followed to avoid an unreasonable percentage of funds being invested in securities of any one corporation.

(4) The Vice Chancellor for Administration shall authorize the expenditure of moneys from the various Quasi-Endowment accounts pursuant to the Board-approved or authorized budget program for the current fiscal year, subject to the exercise of prudent judgment.

(5) Some Quasi-Endowment gifts or bequests are subject to investment conditions of the donor. The investment program for such gifts and bequests shall comply with such conditions, consistent with statute and Board policy.

Chapter 65.000--Property Procurement/Management

65.010 Assignment of Responsibility--Personal Property

The Vice Chancellor for Administration or a designee shall develop and coordinate procedures used by the institutions and other administrative units for:

(1) Procuring needed supplies and equipment, in accordance with applicable state laws and regulations.

(2) Managing stores of supplies or equipment.

(3) Maintaining appropriate inventory procedures.

(4) Protecting against hazards of loss by fire, theft, or otherwise.

(5) Disposing of supplies or equipment no longer required and depositing of proceeds.

65.020 Purchases to Conform with Department of General Services Regulations

All purchases of supplies, equipment and services, other than personal, shall conform with regulations of the Department of General Services.

65.050 Purchase of Books and Periodicals

Only books and periodicals used as laboratory or office manuals may be purchased from department, contract, or grant funds.

Chapter 70.000--Acquisition of Real Property

70.050 Land Acquisition Policies

Land to be used for educational and general buildings and facilities, for which state appropriated funds will be sought, shall be purchased from state appropriated funds, including proceeds from the sale of bonds under Article XI-C of the Oregon Constitution. Land for buildings or other facilities for auxiliary enterprises shall be purchased from self-liquidating bond funds and/or balances available for auxiliary enterprises. Generally, no prorating of land cost will be required if the site will be used for buildings, structures, or other facilities involving both types of financing. Under such conditions, financing land acquisition costs normally would relate to the principal use of the buildings, structure, or other facilities, as measured by the gross square foot area thereof.
Rededication of Physical Facilities

The following guidelines shall be followed for establishing the amounts of adjustments to the appropriate bond sinking fund reserves for the rededication of buildings and facilities from one type of use to another:

(1) For buildings and facilities thirty years of age or older, no adjustment is required for rededication.

(2) For buildings and facilities less than thirty years of age which are no longer needed for the original or modified purpose prior to the proposed rededication:
   (a) If purchased for cash, the adjustment shall be equal to the capitalized value less depreciation calculated at the rate of 2% per year for the first ten years and at the rate of 4% per year thereafter; provided, however, that for buildings and facilities other than student residence halls and food service units, for which the debt service requirements are consolidated on a Department-wide basis, the amount of the adjustment shall not be less than the balance of any bonded indebtedness incurred for that building or facility.
   (b) If leased temporarily or sold on contract, the rental or annual payment shall be equal to the annual debt service requirement applicable to that building or facility for a period of time equal to the difference between the age of the building and thirty years.

(3) For other desired rededications of buildings and facilities which are less than thirty years old:
   (a) If purchased for cash, the adjustment shall be determined from the current market value of the building or facility.
   (b) If leased temporarily or sold on contract, the rental or annual payment shall be based upon current commercial rates for comparable space.

(4) Land rededication:
   (a) If the property was purchased prior to July 1, 1963, no adjustment is required.
   (b) If the property was purchased after July 1, 1973, full reimbursement will be provided plus interest at the rate prevailing at the time of original purchase.

Exceptions to subsections (1), (2), and (3) above may be necessary or desirable under those circumstances in which gift and/or grant funds were used to finance the building or facility, or a portion thereof, subject to certain conditions or obligations, or where major rehabilitation or remodeling of the building or facility has been undertaken.

Chapter 70.100--Capital Construction

Master Campus Planning

It is Board policy that master campus plans be developed and adopted for each institution under Board control. Plans shall include campus boundaries, ultimate and intermediate enrollment predictions, proposed sites for buildings, automotive parking requirements, pedestrian circulation, density of buildings, and student housing requirements for single students and students with families. Inasmuch as master plans require constant updating, the Board's Office and the institutions shall have staff members assigned to review of the plans. In addition, the institutions may employ professional consultants to assist in preparing such plans or in reviewing them.
Space Use Objectives and Building Planning Standards

Institutions and divisions shall follow the space use objectives and building planning standards adopted by the Board on December 10, 1969. Details of the space use objectives and building planning standards are outlined in the "Planning and Procedures Handbook for Campus and Building Development" issued by the Board's Office of Facilities Planning.

Categories of Capital Outlay Expenditures

Construction funds for buildings or other facilities to be used for educational and general purposes shall be sought through state appropriation, including authorizations for bond borrowings under the provisions of Article XI-G of the Oregon Constitution. Construction funds for buildings or other facilities for auxiliary enterprises shall be sought from self-liquidating bond borrowings under provisions of Article XI-F(1) of the Oregon Constitution and/or from balances available for auxiliary enterprises, including commingled student building fees. If a project involves both purposes, costs shall be prorated.

Cost Allocation of Utility Services

In general, capital outlay costs for future central heating and other utility services, including major additions and improvements thereto, shall be allocated between state tax funds (including bond borrowings under Article XI-G of the Oregon Constitution) and other funds (self-liquidating bond borrowings and balances) in proportion to the respective total capacities required for the educational and general plant and auxiliary enterprises such as student housing, health services, student centers, and athletic facilities.

Capacity to Finance Auxiliary Enterprise Projects

1. Buildings and structures constructed pursuant to bonding authorization granted by Article XI-F(1) of the Oregon Constitution shall be limited to those which conservatively appear to the Board to be wholly self-liquidating and self-supporting from revenues, gifts, grants or building fees.

2. Bonding authorization is subject to establishing and maintaining a reserve equal to the two ensuing years of debt service on presently outstanding and proposed new bonds. The net income shall be conservatively estimated separately for each category of auxiliary enterprise.

3. The annual net income shall be at least 150% of the annual debt service coverage for bonds issued prior to May 6, 1963, at least 125% for bonds issued between May 6, 1963, and February 18, 1969, and 100% for bonds issued after February 18, 1969, provided the composite annual net income equals 125% of the annual debt service coverage for bonds issued prior to January 24, 1973.

4. Student building fees shall be applied primarily for debt service related to construction of health service facilities, student centers and recreational facilities. Revenue-producing auxiliary enterprises such as housing and parking are expected to be wholly self-supporting from user fees and charges. Such enterprises shall pay for all direct costs and apportioned physical plant costs. In exceptional or emergency circumstances, the Chancellor is authorized to transfer moneys from student building fee accounts to institutional accounts, if needed to meet the annual debt service requirements.

5. In determining the annual net income to be expected from institutional residence halls to meet the required debt service, the basis shall be the ratio of the replacement value of the institution's residence halls to the replacement value of all residence halls at all institutions.
70.140 Air Conditioning

Air conditioning shall be planned in libraries, classrooms, laboratories, administration buildings, and other similar facilities. If the financial program will not permit inclusion of the actual air conditioning equipment, provisions shall be made for the possible later installation of the equipment.

70.160 Approval of Plans, Specifications, and Contracts

(1) The Vice Chancellor for Facilities Planning is authorized to:

(a) Review and approve subsequent phases of planning for buildings and other capital construction projects provided there are no material deviations from the schematic design phase of planning or cost estimates previously approved by the Board;

(b) Prepare requests to the Emergency Board for release of funds for projects requiring Emergency Board approval;

(c) Receive bids and award construction contracts for any project for which bids are within available project funds.

(2) Appropriate reports shall be made to the Board.

70.165 Bid Procedures

(1) Normally, in soliciting bids for capital construction, the Board will seek separate quotations for at least three major categories of work (general, mechanical and electrical). However, in most instances involving direct construction cost estimates of $1,500,000 or less, or when the project includes substantial alterations to an existing building, a single bid will be sought for the work. Furthermore, when it is estimated that less than $100,000 will be spent for any one of the categories of work, that category will be lumped together with one or more of the other categories.

(2) The above procedures shall not preclude the possibility of soliciting separate bids for certain portions of work, such as built-in fixtures or special equipment items involving substantial sums, if, in the judgment of appropriate Board officials, such procedures appear necessary or desirable.

70.170 Acceptance of Buildings

Subject to any specified qualifications, the Vice Chancellor for Facilities Planning or any designees may inspect and accept construction work for and on behalf of the Board.

70.180 Plant Rehabilitation

The Chancellor may allocate funds from the Board's reserve for physical plant rehabilitation and minor capital outlay. The Vice Chancellor for Facilities Planning is assigned the responsibility of recommending such allocations to the Chancellor with appropriate report to the Board at the meeting following such action, subject to the following conditions:

(1) The work to be financed from such allocations is needed and relates only to buildings or facilities owned and operated within the educational and general plant;

(2) The allocation for any project shall not exceed the following limitations:

(a) For the repair, rehabilitation or minor improvement of a state-owned residence occupied by the Chancellor or a President--$5,000,

(b) For all other physical plant rehabilitation or minor capital improvements--$25,000.
(3) The work does not involve restoration of damaged areas following a fire or other casualty which is covered fully or partially by the State Restoration Fund;

(4) The work does not involve contractual arrangements with or assessments by other units of government (e.g., improvements of streets or highways, installation of traffic signals, construction of sewer systems, etc.);

(5) The nature of the work is such that in the judgment of the Chancellor no major policy questions would be raised by the Board concerning the use therefor of funds appropriated from the State General Fund.

Chapter 70.200--Vice Chancellor for Facilities Planning

70.210 Duties of Vice Chancellor for Facilities Planning

Under the direction of the Chancellor, the Vice Chancellor for Facilities Planning shall be responsible for the work of the Board's Office of Facilities Planning and is designated as the appropriate Board official to perform the following services subject to applicable statutes, Board rules and directives:

(1) Negotiate and execute professional services agreements for architectural and engineering services, including supplements to such agreements.

(2) Review and approve subsequent phases of planning for projects for which the schematic design phase of planning has been approved by the Board.

(3) Approve or deny requests of construction contractors for prequalification for bidding.

(4) Solicit and open bids for construction, rehabilitation, demolition, repair and maintenance, furnishings, etc.

(5) Prepare and execute contracts for construction, rehabilitation, demolition, repair and maintenance, furnishings, etc., including change orders; provide notices of contract award or of the rejection of bids.

(6) Inspect and accept the work of contractors for construction, rehabilitation, demolition, repair and maintenance, furnishings, etc.

(7) Prepare and execute applications for federal grant assistance or loans relating to facilities planning, construction, land acquisition, etc., and submit payment requests and reports relating thereto.

(8) Acquire lands within the approved projected campus boundaries, including appraisals and other matters relating to acquisition of real property.

(9) Perform such other services relating to acquisition of land and the planning and construction of facilities as may be required.

(10) Provide surveillance of physical plant operations.

Chapter 71.200--Use of Property

71.230 Use of Facilities for Other than State Purposes

The various Department institutions normally shall not make available buildings and other institutional facilities to outside organizations. Exceptions to this policy shall be approved by the President. Exceptions will be made only in case of community, regional, or state gatherings where no admission fee is charged or where the using organization is a governmental agency or public body. The benefiting organization in all instances will be expected to meet any normal expenses such as janitorial, policing, and other overhead expenses.
71.240 Lease of Retail Store Spaces in Institutional Buildings

Spaces in institutional buildings and structures shall be made available on a continuing basis for retail sales or services only when the institution has established that an educational purpose or need would be served by such action. The availability of retail spaces is to be publicized as widely as practicable and tenants for these spaces shall be selected on the basis most favorable to the state. Length of leases shall be no longer than necessary for the lessee to recover leasehold improvement costs, generally not to exceed five years. Rental rates shall provide for rent adequate to meet the Board's financial standards for self-supporting or self-liquidating enterprises, including provisions for real estate taxes. Percentage rents shall be at least equal to building owners' and managers' schedules for similar stores in the area. The chief business officer of the institution shall report annually to the county assessment officer that the property is being leased or rented to an outside organization.

Chapter 80.000--Vice Chancellor for Educational Systems

80.010 Duties of the Vice Chancellor for Educational Systems

(1) Under the direction of the Chancellor, the Vice Chancellor for Educational Systems recommends and implements policy for systems and services supporting Department programs. The Vice Chancellor for Educational Systems has responsibility for data processing and computing services and both academic and administrative educational systems.

(2) The Vice Chancellor for Educational Systems is a member of the Chancellor's staff.

(3) General responsibilities of the Vice Chancellor for Educational Systems include the following:

(a) Development of plans, reports and documentation for the Chancellor, Computer Policy Council and the State Board of Higher Education.

(b) Coordination and control of Department activities as dictated by Department policy. This includes planning, implementation and performance review.

(c) Coordination with other Board staff as appropriate. Coordination with the Office of Administration relative to data processing and budget matters; with the Office of Academic Affairs relative to computer services supporting the research and instructional programs.

(d) Coordination of Department activities with other state agencies and offices as appropriate.
The Oregon Student Lobby urges the State Board of Higher Education to adopt the proposed instruction fee schedule approved by the Committee on Finance and Administration in LaGrande on April 28. The amended schedule prepared in May now being recommended to you will generate a tuition surplus in 1978-79 of $500,000, if not considerably more, which is not necessary to finance the Department of Higher Education's expenditure authorization, nor to provide a margin of safety.

We will not take time to prove what you already know: many students are having serious difficulty in keeping up with tuition increases which have outpaced the cost of living over the past ten years. The Lobby confines its testimony today to the two fee schedules which have been considered by the Board and the political circumstances surrounding the upward revision of the proposed 1978-79 resident undergraduate and graduate instruction fees. As you can see on page 57 of your docket the amended schedule would cost residents $12.00 more per year than the April schedule.

First, we must dispel any concern on the part of the Board that approval of the
lower resident instruction fees will not provide adequate income for the operations of the Department of Higher Education. The Chancellor and his staff, like the Board itself, are very careful to plan for sufficient revenues to support the authorized budget. Indeed, this effort to assure adequate income has been the object of sharp criticism by the Legislative Fiscal Office, (LFO.) The Board must pardon our skepticism when we are asked to believe that our eagle-eyed Vice Chancellor for Finance and his staff recommended fees which would have placed the Department a half-million dollars in the red. This is what the docket suggests when it states, on page 56 - "Since the prior staff recommendation was intended to conform to legislative intent rather than to generate the current resources needed to support the expenditure budget, the increase now recommended appears to be appropriate and will meet the Department's expenditure authorization for 1978-79." This potential deficit was not called to the Board's attention previously.

If we are to judge by this year's experience it is far more probable the Department will overrealize tuition income again next year. In January your staff projected approximately $1.7 million in overrealized tuition in 1977-78. In April it identified an additional $590,216 projected for 1978-79 from two particular tuition income sources, (fee rounding and changes in the retention rate,) which generated only $537,739 in overrealized tuition this year. The April schedule was designed to offset these two sums plus an additional $540,000 (approximately,) for an accounting error. What has been overlooked is the potential for another $1.0 to $1.5 million in overrealized tuition in '78-79 from sources other than changes in the retention rate and fee rounding.
We are compelled to defend your staff's work from their own criticism. We believe the April fee schedule not only provides for adequate income to support the 1978-79 expenditure authorization, but a sizeable income "cushion" as well.

The concern about providing "adequate resources" derives from the Legislative Fiscal Office's views expressed in its analysis of the April fee schedule when it was presented to the Emergency Board on May 11 and 12. At that time the Department's April fee schedule was revised downward to eliminate not only the $540,000 accounting error, but also the $353,000 which the Chancellor had proposed to collect and spend in order to carry out in 1978-79 the underfunding/stabilization adjustment plan approved for 1977-78 at the January meeting of the Emergency Board. Thus, the fees provided for an offset of $890,000 over and above the roughly $790,000, ($537,000 + $590,000 - $335,000,) proposed in April.

The LFO commented;

The additional reduction of $890,000 appears excessive, diverting General Fund equivalent revenues unrelated to tuition, invading balances the 1977 Legislature felt should remain intact, and creating the possibility of demands on the Emergency Board.

The Lobby and Board can share a chuckle over the spectacle of the Legislative Fiscal Office complaining about the Department's failure to generate enough income. For the past several months, even years, we have heard nothing but harsh criticisms from the LFO about the Department's efforts to pad its budget and build up huge secret reserves. Frankly we think this argument is a bit of political fluff the LFO cooked up to supplement its chief argument, which follows:
The alternative Higher Education strategy appears to be to reduce resident tuitions to the lowest possible levels on the possibility that low tuitions will increase enrollments, thereby justifying FTE generated budgetary increases in the future.

If accomplished, this will confront the 1979 Legislature with two difficult choices:

1. Adding several million dollars in General Fund support to prevent large tuition increases in 1979-80 and again in 1980-81 or

2. Allowing tuitions to be brought back up to the 1977-79 policy levels with the blame placed at the Legislative doorstep.

Clearly the LFO's chief concern is not the students' or the Department's welfare but avoiding embarrassing legislators by forcing them to make difficult political choices. His argument on tuition can be paraphrased as "Since we are going to be forced to kick the students in the teeth in 1979-81, we had better prepare them for it now by kicking them in the shins in 1978-79, even though we don't need the money." We don't know whether to laugh or cry at this kind of reasoning.

We would also like to draw the Board's attention to the use of this year's overrealized tuition. In January the Lobby identified only $537,739 which it felt was appropriately used as a tuition offset. In effect we allowed the Chancellor a free political hand with the remaining $1.2 million. It was recognized at the time that it was very unlikely any General Funds reserved by the Emergency Board would be approved for increases in Department of Higher Education expenditures, and that it was probable any such increases would be funded entirely out of the tuition overrealizations. That is what occurred in fact.
At the January Emergency Board meeting the Chancellor requested $902,855 in General Funds to be matched with $351,111 from overrealized tuition to rectify cumulative underfunding in 1977-78. This is the same ratio of General Funds to tuition which supports the Education and General Services budget. At that meeting a compromise devised by the Executive, based on an alleged conflict between the 1% stabilization policy and salary underfunding, was approved. The Department's expenditure authorization was increased by over $400,000, all of it derived from students' tuition.

This has been the pattern over the past several years—overrealized tuition is used to support budget adjustments between legislative sessions, thus increasing the aggregate student share of the cost of instruction. This trend was displayed in one of President Boyd's presentations, Wednesday. We are not complaining about what has become politically inevitable. We understand and sympathize with the severe budget problems confronting our institutions, but we question the equity of generating ever increasing amounts of surplus tuition money which will be used to shift the burden of the cost of instruction onto the group least able to defend itself politically and most sensitive to increases in the cost of higher education—the students.

The Board should not be overly concerned about differing with the Legislative Fiscal Office's recommendations. Both the April and the revised May schedule fall within the instruction fee guidelines contained in the Department's budget notes. The State Board of Higher Education still has the statutory authority to set fees, not the Legislative Fiscal Office. At its last meeting the
Emergency Board refrained from recommending any particular fee level. The Board is free to adopt the schedule already approved by the Finance Committee with the assurance it will provide more than adequate income and is in accord with legislative guidelines.

Finally, the Lobby expresses its pleasure that anticipated tuition increases have not materialized. We look forward to working with the Board in trying to mitigate the increases anticipated for the 1979-81 biennium.

Thank you for your attention.

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