



MINUTES
Montana Board of Regents
Conference Call Meeting

July 15, 2013
1:00- 1:30 PM

Monday, July 15, 2013

The meeting convened at 1:00 PM.

Roll call indicated a quorum present.

Regents Present: Angela McLean, Chair, Paul Tuss, Vice Chair, Todd Buchanan, and Major Robinson and *Ex officio* member Clay Christian. Regent Jeff Krauss and Student Regent Zachary Rogala were excused. *Ex officio member* Governor Steve Bullock was represented by Shannon Obrien, and Superintendent Denise Juneau was excused.

Roll call, approval of minutes, and introductions

- May 22-24, 2013 Meeting Minutes
- June 17, 2013 Conference Call Meeting Minutes

Regent Paul Tuss moved approval of the minutes. Regent Robinson requested an edit be made to the minutes and moved approval of the minutes as amended. Motion passed 4-0, with Regent Jeff Krauss and Student Regent Zachary Rogala absent.

ACTION

BOR Policy 703 Revision; OCHE *ITEM 160-101-R0713*

OCHE staff attorney, Jessica Brubaker, explained the proposal to revise the Board of Regents' non discrimination policy to include gender identity and sexual orientation to the list of classes that are protected from discrimination. This process began last fall when ASMSU and ASUM submitted a joint resolution to the Board and the Commissioner requesting that these changes be made. She noted that legal counsel completed a review of the legal landscape surrounding this issue and learned that while federal and state law is unsettled, the trend is clearly moving towards legally recognized protection from discrimination on the basis of gender identity and sexual orientation.

She noted that she and Deputy Commissioner Neil Moisey formed a working group comprised of campus administrators, students and commissioner's office representatives. The committee worked to identify the programs and processes on campus that would be affected by the proposed policy change and discussed the feasibility of making the policy change both amongst ourselves and with other members of the campus community. Ms. Brubaker concluded that there was broad support for the change, and that there were no insurmountable implementation obstacles that would caution against making this change. The working group supports this change as an important affirmation of the university system's commitment to an inclusive, safe and positive campus environment.



MONTANA UNIVERSITY SYSTEM

Regent Tuss moved approval of ITEM 160-101-R0713. Motion passed 4-0, with Regent Jeff Krauss and Student Regent Zachary Rogala being absent from the meeting.

CONSENT

- a. Staff Item; UM Western *ITEM 160-1600-R0713*
- b. Staff Item; MSU-Bozeman *ITEM 160-2000-R0713*
- c. Staff Item; MSU-Billings *ITEM 160-2700-R0713*
- d. Staff Item; MSU-Northern *ITEM 160-2800-R0713*
- e. Professor Emeritus of Journalism: Clemens Work; UM-Missoula
ITEM 160-1001-R0713
- f. Professor Emeritus of Mathematics: Marcy Barge; MSU-Bozeman
ITEM 160-2001-R0713
- g. Operating Agreement With Alumni Foundation; MSU-Bozeman
ITEM 160-2002-R0713
- h. Expend Student Computer Fees; Great Falls College-MSU *ITEM*
160-2901-R0713
- i. Expend Student Equipment Fees; Great Falls College-MSU *ITEM*
160-2902-R0713

Regent Robinson moved approval of the consent agenda. Motion passed 4-0.

INFORMATION

- a. PPACA Health Care Tax Penalties

Chief Legal Counsel, Vivian Hammill, explained that there are three situations in which an employer might face the possibility of a penalty tax according to New Internal Revenue Code Section (4980H).

The first is imposed when an employer does not offer a plan to 95% or more of its full-time employees. (Full time being 30 hours) The fine is \$2000.00 fine per employee, per year- times the number of employees-prorated by the number of months out of compliance.

The campuses and OCHE are all considered one employer for PPACA fines. One miscount or lack of paperwork showing that an employee was offered but declined the health insurance could cost the campuses and OCHE collectively a lot. The federal government plans to fund PPACA oversight with fines. Auditors are posed to start now in 2015 instead of 2014.

The second fine or tax penalty can be imposed when an employer offers a plan, but the plan does not meet minimum standards and/or is not affordable. The fine goes up to \$3000.00 per employee.



MONTANA UNIVERSITY SYSTEM

The third fine or tax penalty, often referred to as the 'Cadillac' plan tax, is on that portion of the value of a plan considered to be too generous. It's scheduled to take effect in 2018. The penalty for Cadillac plans is a 40% excise tax for every dollar the plan costs over \$10,200.00 annually for each employee's plan. Large employers that pay a big share and offer decent coverage, such as the Montana University System and Unions, are caught in this one.

Associate Commissioner Kevin McRae noted that it is difficult to define who works part time and full time when dealing with adjunct faculty. He said the MUS will need to analyze how to count the amount of working time for adjunct faculty.

Commissioner Clayton Christian stressed that his office and the campuses need to take the entire issue very seriously as it could potentially have a substantial impact to the MUS. He stressed that the MUS may not know if there is a compliance issue until after an audit is completed, at which point the fine may already have been imposed.

Chair Angela McLean requested that the commissioner's staff keep the BOR updated on this.

Ms. Hammill noted that this federal program does not have funding and it will be using the funding from the fines imposed to fund their program. She is working closely with the Director of MUS Benefits, Connie Welsh, on the PPACA issues.

b. Level II Memorandum

Deputy Commissioner Neil Moisey explained the requests for program approvals.

c. Addition of Men's and Women's Cross Country Teams; UM Western

Chancellor Dick Storey, UM Western, explained that the campus needs to add two additional sports to remain in compliance with NAIA rules, which require institutions to sponsor a minimum of six championship sports by the beginning of the 2015-2016 academic year.

The meeting recessed at 1:40 PM.

The board met in executive session for the purpose a system-wide legal update and adjourned at 4:30 PM.

Approved by the Board of Regents on

Date

Date



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Clayton T. Christian
Commissioner of Higher Education
and Secretary to the Board of Regents

Angela McLean
Chair, Board of Regents