

TAMU Faculty Senate
Personnel & Welfare Committee

Annual Report: AY 2008-09

Michael L. Greenwald, Chair

P&W Committee Members, 08-09:

M. Greenwald, Chair; R. Paetzold, co-Chair

K. Aufderheide, J. Aune, W. Bangerth, A. Cepeda-Benito, J. Cerami, H. Gaede, M. Hanik,
R. Hutchinson, J. Jaros, R. Lints, C. Loopstra, S. Mannan, K. McKenzie, T. Murphy, B. Norby, F. Pearl,
D. Peterson, A. Hill Price, K. Qaraq, K. Snowden, S. Stabile, R. Stewart, R. Warden, K. Winemiller,
D. Zoran

The Committee met on the fourth Monday of the month at 3:00pm in the Senate Conference Room.
Exceptions: November; December; January.

I.

Recommendations/Resolutions passed:

- A.** The Committee considered the following charge, issued in the summer of 2008, from the Executive Committee:

Evaluate the impact of a College of Engineering requirement for including laboratory safety as a part of the annual review process for faculty and staff, and in particular for enforcing teaching personnel to include safety as a portion of a laboratory course grade through HR performance appraisals.

After considerable discussion, the Committee passed a unanimous recommendation that each department's faculty be permitted to vote whether to incorporate a safety requirement into the existing research, teaching, and service components for their annual performance appraisal, with a vote of the majority of the departmental faculty being required to change the existing departmental policy. Additionally, it was suggested that centralized training materials, complete with tests, be made available on-line by the university, and that certificate notification be provided as proof of test passage.

- B.** In response to a Systems Rule (08.01.01) change, the Committee issued the following recommendations after considerable e-mail and group discussion:

WHEREAS, the TAMU Faculty Senate, through its Personnel and Welfare Committee, was asked to comment on **System Rules 08.01.01 (Civil Rights Compliance)**, including these sections:

2. RESPONSIBILITIES OF ALL EMPLOYEES

- 2.1 All employees are responsible for ensuring their work and educational environments are free from illegal discrimination, sexual harassment, and related retaliation. When alleged or suspected discrimination, sexual harassment, or retaliation is observed by or made known to an employee, the employee is responsible for reporting that information. The identity of the reporting individual will remain confidential to the extent allowed by law.

- 5.2 System members may not ask any disability-related questions or require any medical examination before an offer of employment has been made. Members may state the physical requirements of a job and ask if an applicant can satisfy those requirements with or without a reasonable accommodation. Members may also ask applicants to describe or demonstrate how they would perform job tasks, as long as all applicants in the job category are asked to do this. However, when a member can reasonably believe that an applicant will not be able to perform a job function because of an obvious or a voluntarily disclosed disability, that applicant can be asked to describe or demonstrate how he or she would perform job tasks, without the member having to ask all applicants to do so.

THEREFORE, the Faculty Senate recommends the following comments and changes which should be forwarded to the University Risk and Compliance Office:

1. The regulation should not lay out “sexual harassment” as though it is the only form of harassment that is prohibited [see 2.1 and numerous other sections]. ALL forms of harassment tied to protected class status are prohibited by law, so racial harassment, age harassment, disability harassment, etc., are also prohibited. The term “harassment” would be better placed prior to “illegal discrimination.”

Justification: A person reading this regulation might not necessarily understand this distinction.

2. Also, in 2.1 the language makes it sound as though a loss of rights will occur if “the employee” doesn’t report appropriately (i.e., “the employee is responsible for reporting that information”). In fact, employees may file claims and bring suit without reporting to the institution at all. Also, it sounds as though there is an affirmative duty to act if one “observes” discrimination, harassment, or retaliation. Although ethically the Senate may hope for that, there is no legal obligation and the university cannot require this form of reporting. The Senate urges that statement be added to indicate that no loss of legal rights will occur if the conduct is not reported internally. Furthermore, the phrase “strongly encouraged to report” should be substituted for “is responsible for reporting.”

Therefore Section 2.1 should now read (suggested changes in italics):

All employees are responsible for ensuring their work and educational environments are free from *illegal harassment, discrimination*, and related retaliation. When alleged or suspected *illegal harassment, discrimination*, or retaliation is observed by or made known to an employee, the employee is *strongly urged to report* that information. The identity of the reporting individual will remain confidential to the extent allowed by law. *There shall be no disciplinary action taken nor loss of legal rights if the conduct is not reported internally.*

Whereas Section 5.2 is surprisingly bold in allowing interviewers to use “reasonable belief” that an “obvious” disability may keep an applicant from performing job tasks. The “regarded as” being disabled prong of the ADA may actually cover this situation and provide the basis for a lawsuit, particularly with the new amendment to the ADA. It is not good practice to allow such an applicant to be treated differently than all other applicants, in any event.

Therefore, the final sentence of 5.2 should be stricken from the regulation so that the regulation reads:

- 5.2 System members may not ask any disability-related questions or require any medical examination before an offer of employment has been made. Members may state the physical requirements of a job and ask if an applicant can satisfy those requirements with or without a reasonable accommodation. Members may also ask applicants to describe or demonstrate how they would perform job tasks, as long as all applicants in the job category are asked to do this.

Approved by the FS Personnel and Welfare Committee: April 27, 2009.

- C.** In response to an issue concerning summer workloads for professional faculty in the College of Education and Human Growth raised by Sen. McKenzie in a Committee of the Whole, the Committee invited Dean Doug Palmer (CEHG) and Associate dean Larry Oliver (CLA) to discuss potential solutions to the problem. In April the Committee passed the following resolution, which was forwarded to the EC for inclusion on the May FS Agenda:

WHEREAS the Personnel and Welfare Committee finds that a few department or degree programs must teach important courses in the summer and that faculty must be available in the summer when students are [only] available,

THEREFORE, for these programs we recommend that faculty be paid a 11.5 or 12 month salary.

Justification: Giving compensatory time-off during the fall or spring semesters is not an acceptable solution because faculty in these programs are also expected to participate in departmental, college and university activities.

Approved by the Personnel and Welfare Committee: April 27, 2009.

II.

Outstanding charge

In August, the P&W received the following charge from the EC; it will be an agenda item on the September 2009 meeting:

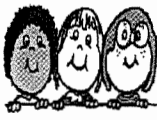
You are asked to consider a resolution concerning expanding healthcare coverage at Texas A&M beyond the traditional household. The EC requests P&W to do any research necessary to comment on the resolution and present to the EC by October 1, 2009 for disposition by the October 2009 Faculty Senate meeting

III.

Additional issues considered

- A. Elizabeth Schwartz (HR)** attended all meetings and informed the Committee about benefits and other issues. She answered questions raised about such issues as: changing one's benefits; reasons for increase in premiums and co-pays; pending legislation affecting benefits; ORP vendors, etc. The Committee expresses its gratitude to HR for sending a knowledgeable representative to each P&W meeting.
- B.** The Criminal Background Checks committee has completed the preliminary draft of the University Rule, required by the new System Regulation. The Rule is circulating within the University community for comment.
- C.** A new system regulation (12.07), with an approval date of 9/26/08, appears to create the potential for longer terms of appointment for non-tenure track faculty. Deliberations focused on the part of the regulation emphasizing that appointments to non-tenure track positions were for persons holding terminal degrees. P&W referred the regulation to the Faculty Senate Executive Committee for appropriate consideration.

- D.** At its February meeting, Dr. Victor Willson, Head of Education Psychology (CEHR), discussed staffing problems his department faced because of an unusual number of extended sick leaves. A variety of solutions were suggested, although ultimately the problem is one of financial support from the College.
- E.** Former Senator Jim Woosley discussed a problem he encountered with Scott & White re exorbitant consultation fees. The item was referred to HR for inclusion in the following years deliberations with health providers. (See attachment: letter from JW to Dr. Rohack, S&W).
- F.** Responding to an item raised in the Committee of the Whole, the Committee sought and received a clarification from the Becky Gates Children's Center re limitations on enrollment. A number of changes that address this problem will go into effect on September 1, 2009. (See attachment from BGCC).
- G.** A proposal to tie annual merit raises to the completion of mandatory on-line training (e.g., security, fiscal policies, etc.) was discussed. The Committee agreed that since taking such training is a part of one's job description/expectations it is not unreasonable to tie merit raises to the completion of training.
- H.** The proposed "guns on campus" resolution was discussed. The Committee agreed that guns on campus are not conducive to a safe environment.



BECKY GATES
Children's Center

1479 TAMU
Texas A&M University, College Station, Texas 77843-1479
(979) 458-5437, FAX (979) 458-1010

March 17, 2009

Dear Parents,

We will have some changes to our operation that will go in effect starting September 1, 2009.

- Increase the entry age of infants from 8 weeks to 12 months
- Add 4 additional spots to the infant program
- Add 4 additional spots to the preschool program
- Increase the childcare tuition rate for newly enrolled infants from \$730/mo to \$800/mo.

The reasons and benefits of making the changes include:

- **Accommodate those with a greater demand on our waitlist.** The waitlist list has more infants who will be 12-18 months in September than we have of those who will be 8 weeks to 11 months.
- **Increase our infant enrollment** from 12 to 16 and **reduce the waitlist time** for families wanting entry into the infant room. Parents of infants on the waitlist are already informed that the minimum wait to get in is 18 months. Changing the entry age would not delay their probable date of entry. If anything, some would get in earlier.
- **Guarantee 16 openings in the infant program each September.** This change would not only create additional openings for families without children currently enrolled, but since the infants would be older when they enrolled, we could guarantee that ALL enrolled in the infant program would move to the toddler wing each September. This is something that we've never been able to guarantee before.

We've kept the infant program in its current design mainly as a "community service" feature for our enrolled families. Enrolled families have always gotten priority on the waitlist when waiting to enroll a sibling, and because of that priority, most of our infants in both classes were siblings. In fact, for 5 years straight only siblings were enrolled in the young infant class. Families without a child already enrolled have little to no chance of getting a baby enrolled before they became toddler age. In fact, many of these families thought that it was misleading to even advertise that we took young infants since there was such a slim chance of anyone from the "outside" getting their baby enrolled in the program.

- **Reduce the risk of Sudden Infant Death Syndrome** by discontinuing crib use.
- **Revive our goal of being an educational childcare facility** by moving away from "babysitting" to more of a teaching and learning model with the older infants.
- **Infant program would be in a better position to pay for itself** by increasing the monthly rate for infants from \$730/month to \$800/month. The preschool program currently subsidizes the infant program by approximately \$35,000/yr. To give you an idea of what other Texas university childcare centers are charging for infants, the University of Texas has rates based on family income. Infant charges range from \$875-\$980 per month. Students

are charged 690/mo. The University of Houston charges students \$820/mo., staff \$920/mo., and faculty \$940/mo. for infant care. Since this is a greater increase than we've had in the past, families who have babies currently enrolled in the young infant class would not expect such a large increase next year. Therefore, instead of a \$70/month increase, those families will have a \$35/month increase as their babies will remain in the infant program for an additional year because they would not yet be 18 months. We are aware that the families who will be impacted the most financially are those with infants. However, if we are to keep infant care at our facility, we must charge a rate that will come closer to covering the costs of the care.

- **Increase Center enrollment from 154 to 162**, thus generating additional revenue which would support a salary increase for all Lead Teachers. As you may or may not know, we are an auxiliary and as such we must fund all salaries, pay plan adjustments, cost of living increases, and merit increases using our main revenue stream, which is our childcare tuition. Keep in mind that our salaries for our teaching staff, while higher than other childcare centers in the area, are still not sufficient to recruit and retain highly educated professional teachers when vacancies arise. Currently our starting salary is \$21,000/year for teachers with bachelors' degrees, associate degrees, or Child Development Associate certificates. It can be difficult to attract highly educated and experienced applicants with such a low starting salary. In addition, we are sometimes unable to keep our degreed teachers because we cannot compete with public school salaries. Our Lead Teachers deserve higher salaries and by adding 4 spots to the preschool wing, we would be able to generate additional revenue to increase those salaries.

If we did not implement any of these changes, the tuition for all enrolled families would have to increase between \$60-65/month to cover the cost of the infant class as is and to increase the teacher salaries. Typically, the annual childcare tuition increases have ranged from \$15-25 month to cover merit increases and operational cost increases. **With the changes, the expected increase in monthly tuition for children in the toddler and preschool program is \$20.00/month.**

We did not approach this lightly. We've tried to look at many sides and come up with solutions that would address the issues while not impacting the Center negatively overall. By making these changes we're not only attempting to address multiple challenges, but we've also found a way to meet those challenges without negatively impacting the Center as a whole. In addition, if we are able to attract and retain quality staff with higher salaries and staff development opportunities, the entire Center benefits.

We have the full support of the Vice President of Student Affairs, General Weber. The Parent Advisory Council also weighed in on this. And while no one on the Council wanted the entry age for infants to change, most understood the overall situation and supported the changes. They all agree that our teaching staff deserve higher salaries and they all believe that more childcare opportunities are needed for those families affiliated with the university and for those who are being recruited by the university. However, everyone understands that we are limited with what we can do with our resources and we must be willing to make the tough decisions that will benefit the overall success of the Center.

These changes will be implemented starting September 1, 2009. If you have questions or concerns, please speak to me or Cathy Bresley. As always, thank you for understanding and supporting our efforts to meet the needs of our families and our staff.

LETTER FROM FORMER SENATOR JIM WOOSLEY RE 'EXCESSIVE' MEDICAL BILL FOR CONSULTATION.

Dear Dr. Rohack,

Thank you very much for your response. I am happy to read and better understand the terminology related to the words "bill", "cost", "co-pay" and "charge". I am also more educated regarding what the "bill or charge" from Scott & White covers. I also fully understand that the term "cost" is considered what Scott & White bears for the service provided.

I previously was aware, but thank you for making this clear that Medicare, Medicaid, Chip and uninsured patients are highly supplemented by the private sector.

Please do not take my attention to the bottom line as being without understanding of the situation or without thankfulness for your response, but most aware citizens are knowledgeable what shape our health care is in. I want to also confirm that I have no challenge to the expertise of the specialist that I met. As a matter of fact, I wish to report that I do not have anything but satisfaction with our short meeting, although I did not get to know her very well. However, the bottom line is that what this patient experienced was a chat with a physician that looked at numbers on a document, interpreted and concurred with what other physicians have suggested at the rate of approximately \$70 per minute for 5 minutes, which included time for greetings and salutations. Please don't take the following sarcastic analogy personally or without reason, but according to Scott & White's policy, if I walked by the window and the physician gave me a thumbs up as I passed, the rate would be approximately \$350 per the 1 - 2 second thumbs up. Of course this is ridiculous, but is it any more ridiculous than what Scott & Whites policy now extends in this case and probably many others?

May I suggest that the Scott & White policy of "payment is not a time based system" should be re-evaluated?

I am sure that you have heard all of the concerns and opinions you want to hear from me, but please, if there is anything that I can do to help with this issue from a patients point of view, do not hesitate to call on me.

Sincerely,

Jim

Jim Woosley
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Master Instructor P.A.D.I.
Department of Health and Kinesiology