

## **FACULTY EXTRA COMPENSATION TASK FORCE REPORT**

Regent Koch – Thank you Virginia. I've got your document here and all the Regents have received the document. So what we're going to do today, we're not going to be approving anything, we're not doing that but we wanted to hear your report. We then will ask for Vi to review the consultant and I know there will be some questions that we would like to ask of you and we appreciate the length of time you have put in on this and this is a very important issue at the University and needs to be looked at very, very carefully so that everybody is satisfied with what we do. So it's your turn.

### Dr. Virginia Shipman, Chair, Task Force

- Welcome and I am pleased to be here to talk about this. It's been a very stimulating and challenging and I have, I hope, have learned a lot from it. I want to say this is a very nice next step from what we were just hearing about. You don't work on policies such as these or any other policies for this University without having the collaboration, cooperation and understanding and respect for all the individuals that are affected by these policies. They may be called faculty policies but they are affecting everything else in the University. They do affect our students, they affect in terms of our administrators, other faculty, etc. So first and foremost, I want to thank the Regents for the opportunity because this started with the openness that Chairman Koch talked about of this particular Board by the fact that when we, the Faculty Senate Operations Committee, was brought in, in terms of having some input to have a chance to review and give their responses back to the Regents for an internal audit that was going on. That was the first time that I know that whenever faculty were involved in such a situation that actually faculty were involved in actually looking at the situation and giving some feedback.

At that time I also wanted to commend the Regents for having been so responsive to what the Faculty Operation Committee members that were working on that audit, when they prepared their report, when they delivered it at the meeting of the Board of Regents that they made the recommendation that the task force, after we had looked at these policies which were being reviewed in relation to that audit that their recommendation of the Faculty Operation Senate Committee was that these policies really needed to be looked at, reviewed. That we didn't feel that they were up to date and current, they hadn't been looked at in a long time and as we well know, policies need to continuously reviewed and see how they are working and that it's a dynamic state of change.

Under that guise, the fact that when the Faculty Operation Senate Committee said that therefore they recommend that the Regents appoint a task force and the next step, a very important one, as an aspect of shared governance that both people representing faculty, administrators, various parts of the

University campus that they be involved in doing that. So Regent Koch at that moment, one often expects, I think faculty often expect that they write memos, put in requests and then it takes a while before there is a response. At that meeting, President Koch said, "Yes we will have that task force and yes Virginia you will chair it." That wasn't what I was asking for but we were asking for that kind - - and to have a task force that was made up of people of some of the people that are affected by such policies. So one I want to start there.

The other thing is I wanted to mention into some of these actual recommendations was the fact that this turned out to be a much more complex and difficult job that we maybe should have realized would be, but until you start reading things and start seeing things what other universities have done and also - -

Regent Koch – I can't hear, sorry, I can't hear, go ahead.

- - and also the fact of being aware of the many, many tangents that are involved in policies such as this. We also had to get to know each other as a committee. One of the things we pointed out, we need to start to have more. If you're going to have shared governance you have to have people talking together. You have to have people brought together on committees and as Jackie pointed out there may be some where primary deliberations, decisions will be made and when part or another but all if them need to have an opportunity to provide input and to share concerns. So we had to get to know each other. And I want to say this was a marvelous group of people from which I learned a tremendous amount. The range of expertise, etc. - - we had health sciences, we had law school, we had engineering, we had education college, we had Anderson School - - we had a variety of people who were faculty, some members of the Operation Committee. A member that later became a current member of the Operation Committee. We had people that were in Dean's offices, people - - faculty that had been chairs, administrative experience, faculty that weren't. So you had a wide range of people working with faculty and being responsible for these policies and monitoring them and making sure they were working. You had people with lots and lots of experience. We also had the very able help, I want to mention, of Breda Bova who represented the President's office in terms of making sure that we could get information we needed and what not, would make sure - - bring up things, get aware of the histories of the policies. We also in terms of having our chair of the internal audit who, again, was not a voting member on our committee but was somebody that provided very necessary information so that the policies recommended here were ones that would also meet any of the needs of the auditing policies that we also have. So therefore we had the two areas. We had C130 and C140, one talking about outside activities and one talking about extra compensation for tasks that a faculty member may be asked or agrees to serve on within the university.

I am assuming you have, of course, the whole thing there. You have both the copy of the current policies, you have a copy of the revised ones. You have the statement and notes that we pointed out so that to point out what some of the major differences are and the other thing I want to say is that the absolute need that this was something done also because, again, I was chair of this and had come in on it as president of the Faculty Senate last year, is the fact of following the appropriate policies and procedures that would work with the Faculty Senate so that as soon as we had drafts - - we also sent out drafts to the full faculty in terms of notes, comments and what not. People would remind us of universities they had been at. We, ourselves, reviewed about 60 some complete policies in these same areas of outside consulting and doing work within their own universities and represent a wide passion of ones that we think of in our peer institutions but also that go farther a field within the United States. So what may have taken a little time was the fact that we wanted to make sure that we got all those kind and they were turned over to the Faculty Senate who then the Operation Committee managed to review, made some changes and bring it to the Faculty Senate body in terms of their responses. I am sure you will hear more as Jackie pointed out, recently there was just another vote, a final vote, that is in process going to the president and that you will here. I am talking, therefore, I have been asked to just talk about the task force. But I want to point out that these are predominantly, as you will see, essentially highly similar and actually are more similar now than they were. They ended up being a fine tuned editing with a couple definite differences in policies between the Senate and the task force but which now actually have been, after reading the consultant which Provost Florez will be talking about, the consultant, the responses to both sets of policies.

What we wrote down and I will maybe just mention those to open up for questions, where there the differences.

Regent Koch – First of all Virginia, all of the Regents have got this document and they have had it for a number of weeks so we have read, I know they all have read all of the report so we do have that. I don't think we need to - - I think once we get the report then I do know there are a number of questions that we want to ask so the Regents have had this for a couple, three weeks to look at and they've got all the reports, they've got everything, and I know that they have been paying a lot of attention to what has been provided to us. So we don't need to go through - - because I think we all know what the changes are, we all know what the differences are we just have I am sure a number of questions.

Regent Eaves – Mr. Chairman, the one thing that I would appreciate is knowing about this new vote on the Faculty Senate. I am not sure which provisions they are voting on.

Ms. Hood – I can answer that question. Perhaps President Schmidly can also lend some insight here but my understanding of the process was that the task force did their work, that came to us, we looked at the policies presented to the Senate. The Senate passed a version then the consultant was brought in. The consultant made their recommendations.

Regent Eaves – I am familiar with that.

Ms. Hood – It came back to the Senate, looked at the consultants recommendations, decided in this case to accept those recommendations.

Regent Eaves – Which ones? I've got the consultant's report here, specifically which of the items mentioned in the consultant's report have been voted on.

Ms. Hood – Howard Snell actually ran that process through the Senate so if he could come up and say a couple words about which aspects.

Mr. Snell – We identified three key recommendations of the consultant. One was to include lectures and the policy of C130. The second was to remove a reference to a five day work week in C130 and the third was to add a fair market value comment to the policy C140. The Faculty Senate voted on those and accepted those three recommendations and has incorporated them in the final version approved by the Faculty Senate which now, as we understand the policy, goes to President Florez' office, President Schmidly's office and then onto you.

Regent Eaves, Regent Koch – Thank you.

Dr. Shipman – Maybe also to clarify, that means that just with all the papers that are there, to realize that means it's essentially exactly the same as the task force report with one difference where, since we haven't, we decided to leave ours the way it was rather than voting again on whether we went along with the recommendation. The only difference now is that we have left in the statement about full time lecturers being exempt from these policies.

Regent Koch – Okay, now do you have anything else you want to say before I go to VI?

Dr. Shipman – No, just before – oh you want to do Vi and then questions.

Regent Koch – Why don't you sit right there in front because [end of tape]

Provost Vi Florez – Mr. Chairman, President Schmidly and Members of the Board, as you have heard from Jackie and then also from Virginia about the process, one of the things that I wanted to just articulate before I move

forward is that the next step to the process was when you had given a directive that we would probably get a third view in relationship to what had been submitted.

Regent Koch – What the process is going to be after we have your report and we start asking questions I am sure that when we start asking questions I am sure that when we start asking questions that I know are going to be asked there are going to be some other stuff that is going to have to come back before we can finish any policies. Well what we're doing is we're not proving anything but we've got a lot of questions and we're going to probably need some answers which we would hope get quickly.

Provost Florez – Right, well I want to thank the task force, the Faculty Senate and then Dr. Holder out of the Provost's office along with Rocky Martinez and Mark Chisholm because they provided a tremendous amount of support as well to the work that was done in relationship to the revision of these two policies.

The outside consultant was Dr. Lucy Lapovsky and she was recommended to us from the Association of Governing Boards of Universities and Colleges. I had quite a bit of conversation of the leadership of this association and they recommended her simply because she had been a president before. She had experience in higher ed especially with finance and working with different public and private sectors of higher ed. She is definitely recognized as a leader in higher education and felt that her work in relationship to policy revisions and implementations as a leader in higher ed would be a good thing. So she was the one, we began working with her and we submitted to her everything that you have in Tab 10. Tab 10 was all of the information, the report from the task force, the Faculty Senate, the current policies and the revised policies and any other notes that she may need in this process. So that is all in Tab 10 for you to take a look at and I am sure you have already done that.

Her recommendations, first of all, she as you can see from her own recommendations, she really commends the university for the time that it took and the thought in relationship to reviewing and revising these policies. Policy C130 that dealt with outside employment and conflict of commitment, she basically agreed that those activities should be encouraged on behalf of the faculty but at the same time she felt that there should be limits put in place in relationship to insure that adequate time to devote to contractual responsibilities of the faculty was put in place and that it was implemented. She did, at that point, as Howard mentioned earlier, that she recommended that lectures be included. They were excluded from the process before in relationship what came from the Senate as well as the task force and she really believed that lectures should be included simply because they are also responsibility for teaching responsibilities on campus and felt that if we did

not include them they would be looked at as something outside on the fringe and not really as a part of the institution. So she highly recommended that they be included and the Faculty Senate dealt with that and they have recommended that they are included.

The other part of her recommendation had to do with faculty members, full time contract, and this was in relationship to the distinction between the work that they do within the institution and the work that they do outside of the institution. She also recommended that it made sense in relationship how the faculty were seeing that, that they were two very different things and should be reviewed differently and compensated differently. So she felt that the additional work at the university strengthens the commitment and contribution of full time faculty. We have examples of that like in our freshman learning communities for example, those are activities that go beyond. Well if the faculty is compensated that is inside work and it shouldn't count as that part of those 39 days that are now in our own policies. So that was one of the things also that she recommended. The other was the work week and currently right now in our own policy we use the term "week" instead of breaking it up into a five day. We use a term of seven days within that week and she recommended that we stick to that, that we use our own policy and continue with the historical university interpretation of a work week.

Policy C140 had to do with extra compensation paid by the university. Again, he or she felt that it made sense to strengthen the commitment of the full time faculty to the university and that there are already controls within the department and within at the level of the deans in relationship to how they should approve that. So if a request came through it goes through these levels of accountability and so that seemed to be already in place so she encouraged that. Then also the proposed policies she felt provided a rationale way of establishing compensation additional faculty, university work within the existing policy. Where it was different from what we submitted was, she used the fair market value instead of the daily rate in relationship to compensation of faculty.

So as stated before, the major three things were 1) the inclusion of lectures in relations to these policies, 2) the definition of work week which she suggested we use what we currently use, and 3) the market value in relationship to compensation. Those were the major things that she highlighted. All in all, in my working with her and speaking to her on the phone as well, she felt that we were pretty much in line with many of the institutions across the country and that's hard to define because you're looking at public and private and the different sizes, different demands, so forth. She commended us for the work that we are doing.

I also have Dr. Holder here with me and Rocky Martinez and Mark Chisholm from the office and they will lend to the discussion if there are any particular questions of detail that need to be answered. Thank you.

Regent Koch – Okay well I think we’ll get into the questions now. Who wants to start off?

Regent Eaves – May I ask a question? The composition of the Committee, was Don on the Committee?

Regent Koch – Don was on it, yes.

Regent Eaves – You were the only regent on it?

Regent Chalmers – That’s correct.

Regent Eaves – Were you the chair? I guess Virginia was.

Regent Chalmers – Virginia was.

Regent Eaves – Is there anything Don wants to say to us about this?

Regent Chalmers – I learned a whole lot. This is a much more complex issue in my opinion than most of the regents thought when they started asking the question in the first place.

Regent Koch – Well when I think when the questions were asked it is more complex.

Regent Eaves – I’m prepared to ask questions.

Regent Koch – Fine, do you want to go first?

Regent Eaves – I will.

Regent Koch – I always like to follow up that way if you ask one of the questions that I have I can take credit for it but I’d like you start up because I know you don’t read stuff or pay attention to anything. When you have somebody like Mel – Mel I don’t know if you had time to read it so why don’t you start he questions.

Regent Chalmers – In Oklahoma we would compare you to Christmas goose.

Regent Eaves – As I understand it from what’s been said, the more recent Faculty Senate action agreed to let lecturers be covered by this proposed new policy, agreed to delete the specification of a five day work week and also

adopted the consultant's recommendation that additional work should be compensated at fair market value.

Dr. Holder – That is correct.

Regent Eaves – Okay, I just wanted to be sure. I don't want to spend time asking questions about that unnecessarily then. I guess my first question is does the university place any restrictions on outside work by staff? Does anyone know?

Dr. Shipman – Staff are allowed - - don't have to follow a policy of a certain number of days or not, they are free.

Regent Eaves – That's no my question. Is there, let me phrase it a different way Virginia, is there any university imposed restriction on outside work by full time staff members?

Provost Florez – I can answer that Regent Eaves. I would say generally the answer to that is no. Now there may be some specific restrictions in some contracts. For example, perhaps in athletics there might be specific restrictions but generally the answer is no. Now there would be restrictions on additional work at the university and the amount of time that would take if it were an extra assignment at the university. Outside of their working hours, no.

Regent Eaves – So your contract with the university specifies that you are a full time employee?

Provost Florez – Yes.

Regent Eaves – Does it specify that you will not hold any other employment?

Provost Florez – Generally no unless someone has a specific contract that would say otherwise but overall most staff do not have that kind of restriction.

Regent Eaves – So the university, if somebody works full time at the university, and that would be considered what, a 40 hour week?

Provost Florez – Yes, generally.

Regent Eaves – If somebody works 40 hours a week at the university, are they allowed to work less than 40 hours a week and do outside work?

Provost Florez – Yes and they would also be allowed to work 40 hours a week and work outside as well.

Regent Eaves – My question was would they be allowed to work less than 40 hours a week and do outside consulting?

Provost Florez – During that same period of time?

Regent Eaves – Uh-huh.

Provost Florez – While they are being classified as a full time employee?

Regent Eaves – Yes.

Provost Florez – Now the guideline on that is that they would have to take annual leave if they wanted to do that.

Regent Eaves – So the answer would be no without taking annual leave.

Provost Florez – Yes.

Regent Eaves – And is that true for all full time staff members.

Provost Florez – That would be generally true. I can't think off hand of any situations where that might be different.

Regent Eaves – Now one of the - - I haven't already agreed with this but when I got on the Board of Regents I learned that there was a long standing historical precedent of whenever we gave pay increases to faculty we gave the same increase to staff and vice a versa. My understanding is that policy has been followed to this day. We do not give faculty a higher increase across the board than we give staff. You may not know about that because - -

Provost Florez – I do, we have data over at least the last 20 years and that has not always been the case. There have been years where there have been different amounts.

Regent Eaves – Not since I've been on the Board of Regents. I've been here since '03.

Regent Koch – You have a resolution that was approved by both the staff and the faculty to state that so there is a resolution between both bodies and that's the answer.

Regent Chalmers – I'm hearing something different. The history since '03 is what Mel says. The history before that is what you say. They are not necessarily all the time. They have never been coupled.

Provost Florez – We have data that shows that there have been a number of years where the pay increase percentage amounts have not been the same. Over the last 20 years or so we have that data.

Regent Eaves – That may be the case. I know since I've been on the Board of Regents I've been told that that rule is almost inviolate, it's going to cause big problems if we decouple faculty and staff increases and that's the message I have been delivered loud and clear.

Regent Koch – I have too and I was told two days ago that there is a written agreement. I don't know the fact, that's what a staff person told me, I don't know if that's the case. That doesn't bind us. Mel is totally correct, since I've been on the Regents we understood there was some formal agreement between both. We don't need to debate that issue but that's what we've understood.

Regent Chalmers – Mr. Chair, I do think it's important. I would like the truth from a historical standpoint. What you believe, I may believe different because I've only been on the regents two years, this university is 100 years old.

Regent Koch – Well Mel, you can look at Mel and I, we're both old.

Regent Chalmers – You haven't been on it, you've only been on it 80% of that time. I think we need – I would like the record.

Provost Florez – I can produce that data.

Regent Chalmers – I would like the record we know what we're dealing with the facts.

Regent Koch – We've got two people raising their hands, faculty member over here and Paul, I'll take faculty member first.

Faculty Member – It's my understanding from just speaking with Jackie that the resolution in question was passed in 2001.

Regent Koch – So I was correct, okay.

Regent Chalmers – Whose resolution?

Regent Koch – It was a resolution between the faculty and the staff.

Regent Chalmers – Not the Board of Regents?

Regent Koch – No, not the Board of Regents.

Regent Eaves – We have been acquiescing to it at least since '03 as far as I know.

Regent Chalmers – That would mean seven of the 120 years we've been in existence.

Regent Koch – John, you're making your hand movements, what do you want to say?

Faculty Member – Please forgive President Koch, I was president of the Faculty Senate for three years, from 1999 to 2002 and in 2001, this is correct, we in the Faculty Senate passed a resolution requesting that from now on there would be no difference in the percentage salary increase on an annual basis between faculty and staff. But yes, you are very correct, from a historical perspective the differences have been considerable and they have varied on a year by year basis. Sometimes they are very close to one another but not always identical.

Regent Koch – Okay Paul?

Dr. Paul Roth – Mr. Chair and members of the Regents, for the purposes of full disclosure, the routine on the part of the Regents just to refresh everyone's memories, when the Regents approve compensation increase, there is a little footnote that usually is included with that that exempts faculty at the School of Medicine. So historically it's rare that the faculty in the School of Medicine get the same level of compensation as the staff.

Regent Koch – I knew you were going to mention that.

Regent Eaves – Thank you for reminding me. Okay, Paul's comments lead me to another question. Being an attorney I am familiar that faculty members at the law school certainly consult as expert witnesses and expert consultants in legal matters for various law firms. I assume that in the School of Medicine, that there must be some opportunity for outside consultation of a similar sort. Is that correct Paul?

Dr. Paul Roth – Mr. Chair and Regent Eaves, our faculty often are involved with outside professional activities including expert witness and a number of other activities but we track that very, very closely.

Regent Eaves – Tell me about that.

Dr. Paul Roth – Our current policy and practice is that any faculty member that would like to be involved in anything involving outside activities, actually whether remunerated or not, requires their chair approval since we believe a

physician, this is mostly for the clinical faculty, that a physician is often on call seven days a week and the chair has to be sure that we have adequate coverage for patient care needs prior to any faculty member being allowed to leave and do other activities. So all of that has to be approved at the chair level and as it relates to full compensation, very often the faculty member elects to take annual leave. So there are really two options, either they do it on university time which means that any remuneration comes back to the university with the chair and the dean's approval. Then in that situation, they are covered, they can use university resources and in most case they are also protected under Risk Management since there are a lot of those kinds of activities which would expose the individual faculty member. In those cases where the rare occasion where faculty directly receive compensation, that is done while they are on annual leave and the chair has to be sure it doesn't interfere with the other activities.

Regent Eaves – Is there a record keeping requirement on how much outside work is being done by a faculty member?

Dr. Roth – I don't think we mandate record keeping but each case has to be approved and I'll have to double check into that.

Regent Eaves – What I am leading up to is this question, I note in the policies that the Faculty Senate voted on, at least the ones I have, there is no distinction made between the policy that we're looking at here and what might be happening at the medical school or at the law school. After hearing what Paul is saying, it sounds to me like the medical school is in a very unique situation. Did the medical school have a representative on the committee?

Dr. Shipman – John Trotter was on our task force as well as was the associate dean of the law school. They were in complete agreement with exactly what was written in the current, our recommended policies.

Regent Eaves – It sounds to me like the medical school has a more stringent policy than what is being proposed here.

Dr. Shipman – Well remember what is going to happen when we make the distinction between policies and procedures, it then goes to the executive vice president at the Health Sciences as well as here and then it's in consultation with the particular departments and the particular deans and chairs, for those individuals because one of the things we did learn at the medical school and the Health Sciences, is a very detailed description by the particular employee in agreement with their department chairs, supervisors, whatever, of what exactly their responsibilities are. So when you are deciding whether you are giving approval for something outside, and we pointed out in our notes and my transmittal letter, it depends on what we have. The good judgment of our chairs and deans, department administrators, etc. that they keep a very good

record and monitoring of these things so that they know whether this individual is managing to maintain what is expected for them to be doing for their job to be able to do this. Health Sciences does have a very detailed description and those are the things that would be worked out but every different job on campus. So in a sense it is saying, none of this can work unless you have everybody in a sense, faculty, their supervisors, their administrators, being well aware of are people adequately doing their current required job responsibilities. Then yes, it's to the benefit of everyone that they are also contributing to their communities, their professions, etc. and jobs. And that's also important for when you are doing other jobs for the university that first of all they have to make sure they are not hurting their program by doing additional jobs. So in a sense, that has to be worked out at every different level. But the understanding, for example, the law school one of the things came up, was that when new faculty are hired now they sign an agreement that they cannot work for other law firms in the state because of the conflict with the kind of juries and the help that they are using, the clinics that they are doing with clients would put them in a conflict.

Regent Eaves – I think you're making the point that I was making. The requirements of the law school and the medical school are more stringent than this policy. That being the case, I can understand why their representatives on this committee would have no objection to this policy because it is much more lenient than their policy. I would like to get a copy of the policy at the law school and a copy of the policy at the medical school so I could sort of compare them in doing my final thoughts on this.

The other question I had is with regard to union contracts covering UNM employees, I know a number of the staff are covered and then at the hospital we have a number of the professional staff like nurses that are covered, how do those union contracts deal with outside work. Has anyone looked at that? Because some of the nurses are faculty members, right?

Dr. Roth – Mr. Chair and Regent Eaves, I think there may be one or two. Most of the nursing supervisors and other nurses at UNM Hospital often have volunteer faculty appointments in the College of Nursing but I am not sure that there is any full time faculty in the College of Nursing.

Regent Eaves – Let me ask it another way then. Are there any faculty members that would be covered by this policy that are also covered by union contracts? Other than maybe a couple that Paul just identified?

Provost Florez – No, the answer to that would be no.

Regent Eaves – Let me talk a minute about the issue of the work week. As I understand the current policy as described in the materials that I have been given, back in the notes and questions, as to how weekends and holidays are

handled. It says, "Currently we count holidays and weekends against the 39 work day rule on the main campus as do all of the other universities whose policies the task force consulted." And currently as I understand it, the 39 work day rule on outside employment is what we have here at the university and if we, for instance, were to agree that the word "week" rather than "five day work week" or "seven day work week" if we just used the word "week" what construction is going to be placed on that? I know the consultant recommend we just use the word week and apparently the faculty has backed off from the five day work week request but how are we going to construe the word week? Is every faculty member free to construe it however they want to so that the 39 day rule is done on the basis of a seven day week or a five day week? So that if a faculty member wants to construe it's a five day week, then they can have 39 days outside work as opposed to a faculty member who were to construe it the other way. I don't know. It seems to me that if we just use the word week, what we are doing is very ambiguous and it's going to leave it open to individual interpretation on the part of the faculty members and if a faculty member says well I only have a five day week at the university that faculty member would then achieve about another 104 days of outside work that was available and I don't think we should leave it open to individual interpretation. What is the interpretation? Are we going to have a mandated interpretation?

Dr. Shipman – The interpretation is the interpretation it is now which is a seven day week. That is not saying that that is what faculty, when they write in – like in our college we have at the end of every semester we write in how many days. What people have done, I think, does vary and because maybe just because it is vague. There is no doubt that people are very concerned about it being - - as you know in my transmittal letter I pointed out that it - - I don't perceive it. I'll talk for myself, because it was my point in the transmittal letter, nobody really wants to feel that they work for a place that insists that it's a seven day week, 24 hours, that people didn't need personal time. So in a sense because people find that almost impossible to believe that that is what the present policy is, they make all kinds of different definitions and the task force tried to start to work on that and saw that there wasn't a single university policy that we read, they all leave it vague. Which only points out it is a very difficult one. What I suggested in terms of my transmittal letter, I felt that for the health and physical mental health, they need to have leisure for the good of families, for the good of society. People need to recognize that. But how we actually define that, by the way it's only 39 days for a nine month contract, it's 52 days for a 12 month, okay. So we said this needs further thought and work on that and to get people to recognize because we couldn't say you don't count weekends because we have weekend classes. The hospital has to be there on weekends, they have a somewhat different policy on holidays. They asked for a - - because the hospital has to have some doctors there and nurses and what not, is that they then asked for a substitute day they can take out of their time. So we couldn't use the words

weekend, so we couldn't say that in this sense we say, okay, we'll leave it the way it is because we don't know what the best one is and we didn't, it's true, we didn't agree with the policy as first put in by the change by the Senate. However, we recognize the need for further work on that and to come up with something so it is clear because at this point we are saying that policy meant seven days and that's what we're saying that until you do some more refining for all faculty have to know seven days, all the others, and they have to look at it. U of California in the state one, is actually, they talked about using in every department or every time it comes up, the persons use common sense to figure out what the work week is. That also leads to ambiguity. But it was interesting, the only place was the University of Colorado we read, would even define a day because faculty as from staff, they are not on an hourly and that's why we took out what was current for extra comp where they did it by your pay rate. We changed, no, we want the person who is requesting some additional work somewhere in the university, they decide what that actual task should require. We don't like the equity that if people happen to be at a lower paying job, they are doing another job that everybody has agreed that this person is competent for and they are going to do it competently, they should be getting the same pay despite how much seniority they have. Fair market value was something that was added by the consultant. Our problem is that we know that colleges differ tremendously in their ability to actually have the funds to give fair market value. But on that issue I think there is agreement that we should work on it but we're not ready so at this point rather than making up another number, we said start here and then recognize we would hope that another task force or whatever way you decide to do it, people come together to work out what really makes sense.

Regent Eaves – But the purpose of this task force, which has spent a tremendous amount of time now, is to clear up ambiguity so that everybody knows what it is and currently, according to the notes and questions, insert in the hand out we have, we count holidays and weekends against the 39 day work day rule on the main campus as do all of the other universities whose policies the task force consulted. So I don't understand why we ought to leave that ambiguous. It seems to me that if all the other universities are doing that, at least the ones you looked at, I don't know why we don't continue - - why we don't formalize what we're saying now and say it's a seven day work week. That's in practice what we're doing. That's what other universities do so why leave it vague? I'm just going to pose that question.

Dr. Shipman – Well we thought we weren't leaving it vague because we said at this point it's seven days but we realize we have to work on it but we couldn't see jumping from a 14% time, which is what the 39 days are up to what is it, 43% of your time for a five day week. But it might be that some other percent would be a fine one and then what you'd say is five days and it's whatever five days that individual is doing.

Regent Eaves – After the discussion we are having and we have been presented with either a choice of a five day work week or a seven day work week and if we decline to pin that down and stick with the word week, by itself undefined, you can be sure somebody is going to take advantage of that because they are going to say okay, you didn't tie it down and you knew what you were doing.

Dr. Shipman – But now you're being - - you were just told that the Senate has agreed to the seven day which is what the consultant said. So you're not - -

Regent Eaves - - No, that's not my understanding. I am at a disadvantage because I haven't seen anything from the Senate but my understanding is that you adopted the consultant's report.

Mr. Snell – The Senate would be happy to address the issue if you would like since we are responsible for the five day work week comment. The desire of faculty to include the five day work week comment was not actually motivated for a desire to have more consulting opportunity and that is the reason that the Faculty Senate decided to remove it. The desire of the Faculty Senate in adding the five day work week was in recognition of the need for some personal time. Most of the senators were shocked to find out that there was an assumption that it was a seven day work week. Most senators just assumed that as most places, there was some personal time in the work week. So in removing the reference to five day work week, the Faculty Senate agreed to do that, at a very close vote by the way. It was 14 to 12 or something, I can't remember exactly. On the opportunity to person look at a personal time issue, not for more consulting opportunity, no one is arguing with the 39 days of consulting opportunity, they are just arguing with whether or not you can have a day in the weekend, consult on Saturday, go to work five days week, whether that is acceptable or not. So one proposal from some faculty senators was to, in the future, look at an appropriate level of effort. There is another part of the handbook that deals with effort by faculty, and to perhaps address the work week issue in that part. But to remove the five day work week from the consulting issue because we realized that it appeared that we wanted more opportunities to consult and that was not the motivation so that is why it has been removed. The assumption, as you pointed out, is a seven day work week and so that would not change, 39 days within a whole semester for nine month faculty.

I'd like to make one more comment. You've made several references to the medical school where they have the opportunity to consult on annual leave time. We have no annual leave as nine month faculty so there is no way we could use annual leave during the semester to consult.

Regent Eaves – What percentage of our faculty would be classified as nine month faculty and what percentage would be classified as 12 month faculty?

Mr. Snell- I don't have the exact figure but on main campus I would suspect it is close to 90% would be nine month.

Regent Eaves – 90%? So that leaves the entire summer, basically, for them to do whatever they want to do with that.

Mr. Snell – It leaves the entire summer without any form of remuneration from the university, yes that's true.

Regent Eaves – I know, I'm saying that - - that's also an opportunity to do whatever work they want to do during the summer. I tell you what my concern is, let me make sure I understand it, the Faculty Senate – have you now agreed that the policy will expressly state a seven day work week?

Mr. Snell – I cannot speak for the Faculty Senate, I can speak for what we voted on.

Regent Eaves – That is what I am asking.

Mr. Snell – Which was to remove the reference to a five day week, which I assume means a seven day week. I agree with you. I assume that means a seven day week. We did not vote on phrasing it as a seven day week.

Regent Eaves – So it just says week now rather than specify the number of days?

Mr. Snell – Yes, but the number of days are specified by the 39.

Regent Eaves – I understand. I understand that but my point is a different point than that. If you are, for instance, a nine month faculty member and you have the 39 days that's fine, but I work in a profession where all of my time is accounted for and I get paid by the number of hours that I work usually, and I work a lot of time on weekends and night, it's a routine for me. I think a lot of professional people do that to keep up with the competition. I have a real concern that if we have some provision in our rule that says the possibility of construing it as a five day work week still exists because the word week is ambiguous, which it is, that you'll have people say okay, I can do my 39 days a year plus I can also do another 104 days a year because I can do both days on weekends if I want to and we also know probably nobody is going to do what I just said but if somebody goes even part way to doing that we all know that all of us need time off on weekends and if you are working - - if you were to work 100 days a year on outside consulting or 75 or 80 days a year on outside consulting it would certainly impact your performance in the classroom and at the university because the stress you would be under and the time it would take to do all of that and so I just think that word week ought to

be clearly defined as a seven day work week so we do not have the ambiguity that can be construed as allowing potentially another 104 days of outside work per year. Admittedly nobody is probably going to do that because that would be a super human task to do it but 39 could easily be expanded to 70 or 80 and I think that is not good for the university and I do not think it is good for the students. So that is my concern.

Regent Chalmers – I have a real problem. I don't have a problem with week, the word week, and if we need to define it as seven days, fine. I have a real problem calling it a seven day work week because no one works seven days. So we have to quit calling this work week, its just a week, and a week is to me not very ambiguous, a week is seven days. Faculty has agreed to that so I don't know why we have to

Mr. Snell – May I respond?

Regent Koch – We need to move along here. Go ahead.

Mr. Snell – I think the proposition of calling it a seven day week would certainly be acceptable. Calling it a seven day work week does give the sense  
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Regent Chalmers – The problem, this is why it gets complicated, the faculty felt like seven - - they were thinking seven day work week and they said we feel like we're slaves. We have our own time off. That is really what the faculty issue was so just a seven day week solves the problem with them and with you.

Regent Eaves – I do too. I totally agree with that.

Dr. Shipman – And that would be no problem for the task force.

Regent Koch – Go ahead Mel.

Regent Eaves – The other, one of the other points, in our hand out and it's a page that is not really clear where it came from or what it is but it is labeled "Procedures regarding extra compensation" and I don't know if that was - -c an you tell me the source of that document.

Dr. Shipman – It's what the task force did. The task force said we want to make sure, because we went back and forth and some times it was hard reading some of the other university ones, that we want to keep policy separate from procedures, not going into every single specific procedure of how each thing is to be done because it will be worked out at the particular departments and schools and colleges. So what we said is at the end of each policy the suggested change policy, here are some guidelines that we want to

be sure that when the people are working out the specific details of doing things, here are some guidelines we want to be sure you follow.

Regent Eaves – I can read what it says so I now understand the source of it. My comment was that, and I think those six bullet points on that document are good, one of my concerns when I was reading the policies that had been approved by the Faculty Senate and even the task force, is that the faculty reporting and compliance responsibilities and the maintenance of records and supporting documentation were really not specified and I had some concerns about that. So this is basically saying that the administration, the Office of Provost and Executive VP for Health Science, will be responsible for that. Let me ask Vi and Paul, have you all discussed what kind of procedures would be adopted to implement that or is that premature?

Regent Koch – Let's move along because we're slowing down.

Regent Eaves – Short answers would be good.

Regent Koch – We're dragging a lot of this stuff out.

Mr. Snell – Those of us on the task force have considered this briefly and we do have procedures in place now so we would model those, the new procedures on those. We really did this partly because of the medical school or the north campus would probably have different procedures.

Regent Eaves – Could the procedures you're talking - - I asked for the law school and the medical school procedures, could I see the procedures that you currently have in force that you just referenced?

Mr. Snell – Yes sir.

Regent Eaves – Thanks. The other issue that I had some concerns about is the fact that under the policy that is being recommended that time working within the university in other units, compensated time, is apparently allowed to be unlimited. I know the consultant says that she thinks that is okay and she doesn't disagree with that. All I have on this is really anecdotal and rumor because I have not talked to anybody out it, but as I understand it, University College has employed a number of faculty members to teach at University College who are also full time faculty, compensated faculty members in other units. So the time that they spent teaching in University College is in addition to their full time compensation wherever else they may be working here at the university. I have some concerns about that because I really don't know how - - what are we talking about? How much time is being spent working in University College by these people who are contracted to be full time employees in another unit? How many people are doing that too?

Mr. Snell – Rocky Martinez has actually looked up those numbers. Rocky, is it a bout 20 people?

Regent Koch – So we have a number of people that are doing that.

Mr. Snell – Not a large number and usually it's just one course.

Regent Eaves – And you're talking about University College?

Mr. Snell – Yes sir.

Regent Eaves – Across the university, how many are doing something similar? Having a full time contract in one unit and then being paid to work in another unit?

Mr. Snell – Probably not many more than 20. University College is the chief college that does use outside faculty to teach their courses.

Regent Eaves – My concern about that, and it doesn't sound like there are that many people involved so it may not be a huge concern but I will state it anyway, if someone can - - if nine month faculty member has 39 days to work for outside compensation and then they are able to work in University College in addition to that, on top of their full time obligation to the university in another unit, to me that sounds like it's a pretty liberal policy and I am not so sure it's a good idea. But I am just going to express that concern because when I vote on it I am going to take that into consideration. If there is anybody that wants to address it, I'd be glad to hear it either now or later.

Dr. Shipman – Like any extra comp, their immediate supervisor, their chair and their dean, have to say that this will not interfere with them doing those things first of all. So somebody can't just do say three courses and then take on this as additional and get additional money. In some cases what some of the people are doing is if there is a decision that that is allowed to meet their teaching requirement they are not getting actual extra money. So some of them do it - - suppose they have something where somebody is expecting three courses to be taught, they get approval to only do two, that that be okay because they have other people covering things and they can use the third course, the one they do for University College. That way they are not getting extra money toward that salary.

Regent Koch – Okay, let's shorten our answers. Go ahead Mel. We need to move this on.

Regent Eaves – I think I've covered, I've got other questions but for purposes of today I think I have covered the main questions I have.

Regent Koch – I’m a little more direct so let me just go through this. It just seems at the university we make things so complicated and I guess that’s maybe academic situation but I have a business and Don’s got a business and I’ve heard what it is. I just have some real simple questions. What is an average professor’s time that they work? What is the average course load? When we look at all this stuff I don’t see anywhere in here, we’re talking about approving outside work or whatever situation is, but it seems because I’m sure that in Don’s shop there that his mechanics have a certain job description or what they are supposed to do and they work their 40 hours and after that they can go somewhere else and do whatever. It seems to me when I look at all of this stuff there is nothing addressed, if I’m a faculty member and I am teaching the number courses that are required by me and my contracts, I’ve got some questions I would ask the consultant to do and they are really interesting questions that she answered so are we saying that the average teacher is four classes a week? Before you can determine if that person can do outside work, is there anything in writing, anything that says this is your requirement, this is how many hours you’re supposed to work. Hours or course load teaching and all that so that person when they are hired say this is what I have to do. It seems to me is what we’ve got here are all ways to get around potentially that. By outside work, we’re going to work outside work. If I have people work for me, I have a real strict agreement just about like Paul. My people go to work for me, they work 40 hours a week, they’ve got a job description, yes I have to approve if they have outside work. Is it going to affect their work, are they going to be working late nights which they are not going to be able to put it. When you look at all this stuff, you look at everything, I see nothing in here, I see nothing that says, what is the average course load? What is the average for a professor? What is the average for research? So that it seems to me when it gets down to that and I am a professor here and I am doing what I required to do, that I have a contract to do and I am doing that and performing that in whatever length of time that is and I am being compensated on it in the proper way and if I do that and I want to do something outside that doesn’t interfere with that, that seems like a simple way to look at it. But when we go to do this, we’ve got the 39 days, we’ve got this, so when I look - - we talk about the five day week, is it a five day week from Tuesday to Saturday and I heard all the discussions. So the question I have is does every professor when you hire them have a certain requirement of how many courses they teach and how many hours they are supposed to put in? Is there anything like that in the university?

Mr. Snell - Yes sir, Regent Koch, those - - parts of the medical school and Paul can - -

Regent Koch – I’ve already heard the medical school, I’ve got the answer.

Mr. Snell – We do not put the course load requirement in the faculty contract.

Regent Koch – Well let me just finish that right there. So Dons a professor and I am a professor and I have a less course load, whatever it is. All it seems to me, it comes down to, if that professor approved by the dean and everything else, is doing the requirements that they are asked for – the number of students they are teaching, the course and everything else and they are performing under that agreement and they are not interfering and they want to do some outside work as long as it doesn't affect that, do we have such a thing?

Mr. Snell – Well remember that faculty, particularly tenure stream faculty, have research requirements and service requirements.

Regent Koch – What I am saying, I see where you're coming but you're still not getting right direct - - it's a real simple answer it seems to me. If I am a research faculty, I've got the notes that she gave me, so I am just saying, do we have a standard to what it is. So that when we have standard and a professor is following those standards and it's across the university what is the average professor load? What is the average course load? So that if we have that or what the standards are that I am being compensated for that. If I do less than that I think it would affect my compensation if I want to teach less courses. So when it comes through and the person has done all that, honored all that and there is a standard to it and there is not a different standard for this division or that division, they are uniform standards throughout the university, do we have such a thing.

Mr. Snell – There are no uniform standards.

Regent Koch – That's what I thought. So the situation is what you've got, what we are trying to do is figure a way that if I am a professor and I am doing what I said and I have done all my work and I have classes and lectures and research and I've done all that and the dean says he's doing just fine and I want to do some outside work that is not going to affect that and I ask for approval.

Dr. Shipman – That's why we asked, I'm sorry to interrupt.

Regent Koch – Let me finish Virginia, the situation is, the question is we do not have anything that to determine what it is. So then it's judgment. This dean might be different than that dean and we're trying to come up with a policy here that says what somebody would like to make extra income and what are the provisions. So when I go through all of this, what's the average course load, what's the average professor to a load. Is there a definition or a job description that does so that if that person does that then I could care less if they are going to do outside work. So we go through all this complicated stuff, 39 days and everything else. So it just seems to me – I don't think that Don who has like four or five automobile dealers and you know what you would imagine if it's a mechanic or whatever and they perform in their job

and they are doing their job, five days or whatever, and they want to work outside you probably might want to know what is going on but - -

Regent Chalmers – I think all businesses have that, have a problem with that. But with all due respect a university is a different enterprise than a for profit automobile dealership or insurance agency. This is the complications that I not only learned but grew to appreciate in the committee work. It is very easy for lay people, not connected with the university at all, to believe that a professor with a PhD and doing a terrific amount of research teaches two classes a semester, that's six hours a week

Regent Koch – That's not what I'm saying.

Regent Chalmers – I understand but the idea, and what we heard earlier on governance and the academic freedom, we need to do something for the good of the organization and it seems to me that the whole idea, I don't care I hope they all make a whole lot of money outside, as long as there is not a conflict of commitment. That is what the policies are tending to show. And it is virtually impossible to have a set of procedures, which is different than policy, and we are getting confused a little bit here, as the committee did for a while. The committee finally said we have got decouple our thinking policy verses procedure because procedures can be different in the medical school, law school, university all of them can be different as long as we are trying to do things for the common good and that is we want faculty that does not have a conflict of commitment and does their job. Believe me, when you look at the requirements to get tenure and to stay tenured, not only teaching classes and preparing but also doing research and some of that research - - this policy would allow because you don't have uniform work loads, for one semester I may take a less number of classes to teach if I get extremely involved in an important piece of research. I don't make that decision on my own. I must get approval to do that. At some point the person in charge is going to be held responsible for teaching and research and if they are not doing the job, for whatever reason, there should be consequences going all the way up from professor to dean, department head, provost, university president. I wish that we could say one size fits all and in the running of a university I found out that is virtually impossible so you have to have policies and people have to work within the policies. The procedures may be different from university or college to college.

Regent Koch – I went and asked our expert these questions and when you read these we are not necessarily following some of the things they said in here in regards to course load and everything else, am I correct?

Mr. Snell – No I think we're pretty close to that.

Regent Koch – In accordance with the response they have there?

Mr. Snell – That’s an average though.

Regent Koch – That’s what?

Mr. Snell- That’s an average as she points out.

Regent Koch – The situation as I see where we are in regards to all of this is that there needs to be a definition, I believe, and I would leave that up to our president to what he wants to do further. I told him that we would listen to this and listen to all the comments, but it still seems that regardless, there should be, everybody should when they are hired have an understanding of what they are supposed to do and if they do that and they do it properly whatever it is, whatever division it is, and they want to do outside work that to me is not a problem. And the more we make it complicated, which we do, the more we make it complicated the more difficult it is. So I would, as I told Dr. Schmidly, we have had a great discussion here, longer discussion than we wanted and we haven’t resolved anything yet, but I am just going to go to you and see what your comments are that you might want to go from here.

President Schmidly – Actually what the consultant wrote in terms of describing what an average professor and teach course load is I found to be very reasonable and consistent with what I have seen at other institutions. I think the key issue is the one that Regent Chalmers mentioned Mr. Chairman and that is this issue of you don’t want a conflict of commitment. The first commitment of all of our faculty must be to our students and also to the scholarship in their field because their commitment to the students is best conducted when they are scholars in their field and that is where the research comes. In many fields and in some fields more so than others, doing outside work, even if you are compensated for it, makes you a better expert to contribute in the classroom to the students. The devil here is in the details as our discussion is pointing out. The institutions where I have worked wrestled with the same issue, the institutions where I worked previously. What was required in all of them was a written form that had to be filled out in advance by the faculty member requesting to do outside work. The judgment was very strongly placed in the hands of the department head and the dean and if there could not be a resolution there in the provost as to whether that created a conflict of commitment. Also, the institutions where I worked you had to lay out what the compensation was going to be so that the department head and dean knew that. That paperwork was tracked, it was very clear and it was summarized and so we knew what people were doing outside of their commitment to the classroom and to their scholarly work. We had a few conflicts come up here and there but for the most part [end of tape] two days a week at the institution where I worked to do outside consulting. Anything beyond that I had to take annual leave. Clear cut, simple. The problem is it is much more difficult when you are a nine month employee because you do not

get annual leave and that is where you come into what is a reasonable amount of opportunity to do outside work that does not create a conflict of commitment. That can vary from one discipline to another. You will find for example, in some fields there is very little opportunity to do outside work. I mean it just doesn't exist. In fields such as engineering and business, it is much more common. It is becoming more common in the sciences than it used to be. There is no substitute in any of this for the good judgment of a department chair and a dean and for what Virginia mentioned earlier, common sense. When you try to write a policy that will detail and will be 100% for every part of the institution - law school, medical school, English department, engineering department – Mr. Chairman, that is going to be in my estimation impossible. So given this discussion, if you will allow me, I would like to work with Faculty Senate. We now have the task force report and I would like for us to come back to you with the best recommendations we can in April.

Regent Koch – Well that's what I'd like to do. I appreciate the time we are discussing, this is a major issue and one maybe we have gone a long time. We've all got our different opinions and where it is but it is one that has got to get corrected and solved where it is. So I would say that, yes Mel?

Regent Eaves – When you are finished I was just going to add something.

President Schmidly – I have made a list of all the questions that all the members of the board have asked and I will make sure that those questions are considered and answered.

Regent Abeita – I can appreciate the effort that has gone into this and I think it is very important to develop policies separate from procedures and I would just urge that as you move forward that it is very clear that these are policies subject to restrictions or specific requirements that each college or school may do. I don't see anything in here and that became clear when Paul was talking about how outside compensation is paid to the university if it is done during what you would call university time. But the policies say that outside remuneration will be going directly to the faculty. So there is a discrepancy there and it's not real clear in here that, as Dr. Schmidly has said, each school or there may need to be specific procedures for the different colleges and schools, that that is reflected in the policy so that it is very clear that this is an overall policy and this is what we are concerned about and you are concerned about, what is it, there is that term that is really good, I guess the conflict and that- - conflict of commitment – that's it exactly, thank you. That is really it and then within that that there is more specific and I think then that is the way to address a lot of these specific concerns that you have and I would just encourage you to really make sure that that is done in there because it seems like this is all trying to make it one size fits all and it is really difficult thing.

And I appreciate all of the comments and the work and this is just a Herculean task and so you've got a lot of stakeholders so keep it up and again, just make that distinction that these are policies and each - - there might be specific procedures that are different than this.

Dr. Shipman – I think that's what we tried to do because we recognize that it would have been completely inappropriate for a team of ten people to write the procedures of every single part and that is why we said we wanted to give you guidelines to say but you must maintain this. So, in a sense, exactly what Chairman Koch said, we agree whole heartedly that those have to be very clearly done but we felt we were not the right people to do it. It was those particular departments and chairs. For example, in our college, we have an exact teaching load. We know what they are, we know the exceptions and people write them out and it's approved but we felt that should be done at each of the individual places and so we said though everyone must have written out procedures, they must have recording, they must keep records because - - so it wasn't like leaving it up and saying yea, but you don't have to let everybody else know so that we know and can monitor that the policies are maintained but it has to be done by the people involved.

Regent Koch – Jack, you had a comment.

Regent Fortner – One thing Mr. President which I would also ask you to give some thought to is some kind of conflict policy in the sense of - - I remember it was 1981 and I was practicing law with the Sutin, Thayer & Browne law firm and they were being sued and a law professor was an expert for the firm suing them in a malpractice case. In the executive committee meeting, one of the lawyers said, "Wait a minute. We're giving the - - our firm gives the university \$50,000 a year so that one of their employees can be an expert witness against us in a law suit." So the question I ask is, is there some type of conflict policy that we may need so that when we have outside consultants, especially whether it is the medical school or the law school, where someone says, "I need an expert to testify against the Bank of America and so what if they just donated \$250,000 grant to the university." So the question is, are we going to have, take it a step further and have some kind of conflict check that we don't have employees of the university acting as experts against some of our biggest supporters?

Regent Koch – It's a good question. So are you writing that down?

President Schmidly – Yes sir.

Regent Koch – So what we have come to the conclusion here, first of all Virginia, thank you. We understand the nature of all this. As I said we're not making any decisions today and I can see our President has been writing many, many notes. You've heard all kinds of questions so I feel real strongly

it's up to the President to come up and refine this and under his time table to do that. We've had a long discussion, a little over an hour and a half discussion and the amount of time is we've done - - we'll leave that in your hands Mr. President and I am sure when you come back we can do that in about five minutes, go through it real quickly. Again, Virginia, did you have any other comments?

Dr. Shipman – No, that's fine.

Regent Koch – Anybody else have any other comments in regards to this subject? Okay, so let's move on.