

Minutes of the
NIU Board of Trustees
LEGISLATION, AUDIT AND EXTERNAL AFFAIRS
COMMITTEE MEETING
August 27, 2009

CALL TO ORDER

The meeting was called to order by Chair Cheryl Murer at 11:12 a.m. in the Board of Trustees Room, 315 Altgeld Hall. Recording Secretary Sharon Banks-Wilkins conducted a roll call of Trustees. Members present were Trustees John Butler, Manuel Sanchez, Barbara Giorgi Vella, Student Trustee Matthew Venaas and Chair Cheryl Murer and BOT Chair Marc Strauss. Not present was Trustee Myron Siegel. Also present were Committee Liaison Kathryn Buettner, Board Parliamentarian Kenneth Davidson and President John Peters.

VERIFICATION OF APPROPRIATE NOTICE OF PUBLIC MEETING

Confirmation of Open Meetings Act public notice compliance was given by Parliamentarian Kenneth Davidson.

MEETING AGENDA APPROVAL

Trustee Sanchez made a motion to approve the agenda. The motion was seconded by Trustee Vella. The motion was approved.

REVIEW AND APPROVAL OF MINUTES

It was moved by Trustee Vella and seconded by Trustee Sanchez to approve the minutes of the June 4, 2009 meeting. The motion was approved.

CHAIR'S COMMENTS

Chair Murer welcomed University Advisory Committee representatives, Jay Monteiro, President of the Operating Staff Council, and Ms. Bobbie Cesarek, President of the Supportive Professional Staff Council.

I just wanted to welcome everybody back to campus again, Ms. Cesarek said, it is nice to see the full Board here. Congratulations to everyone on their new positions as chairs of various committees, and I look forward to working with you throughout the coming year. I would like to add a special welcome to the new Student Trustee, Mr. Matthew Venaas, and congratulate him on his election to the Board.

We, as a committee, also want to congratulate Mr. Venaas on his appointment and in joining our Board, Chair Muerr said, and we hope you have a wonderful year coming up. Thank you, Student Trustee Venaas said, and I am looking very forward to working with all of you over the next year. Chair Murer mentioned that Student Trustee Venaas interned in Congressman Foster's office this summer. That is correct, Student Trustee Venaas confirmed. It was a really amazing experience and took up most of the summer, but it was one of the most worthwhile experiences I have ever had.

PUBLIC COMMENT

The Chair asked Board Parliamentarian Kenneth Davidson if any members of the public had registered a written request to address the Board in accordance with state law and Board of Trustees *Bylaws*. Mr. Davidson noted that no timely requests for public comment had been received.

UNIVERSITY REPORT

The Legislation, Audit and External Affairs Committee is in some ways a juxtaposition in that when we are talking about legislative matters, there is a great deal of creativity and subtlety related to it, Chair Murer commented. When we are talking about audit, it is much more didactic and specific. It is an interesting committee because we are self-monitoring on things like compliance activities of the university, especially as we encounter as a result of new legislation.

Since we last met as a committee in early June, the Governor and the General Assembly concluded the Fiscal Year 2010 budget process in mid-July. For those of you who were here during the Finance Committee, we heard about some of the precariousness of the budget allocations. So we hope as the days go by we will see a much clearer picture, particularly related to the grant funding for our students and to our capital budget.

Agenda Item 7.c. – Congressional Report

Ms. Buettner stated that the summary in the Board report set out the Obama administration's higher education agenda, including new legislation that passed the House within almost a week when introduced in July, which is unheard of in Washington. Basically, this bill would, among many other things, declare that Pell Grant funding was an entitlement. As the August recess has progressed and the politics of federal budgeting have ensued, it is becoming clearer that when Congress returns right after Labor Day the provision that would make Pell Grant funding an entitlement will probably not pass. However, there are significant efforts underway to reshape and codify into federal law that the Pell Grant funding would be increased annually at a rate that exceeds the cost of living, which would be the next best thing to an entitlement program for students. Priorities have been set forth by the Obama administration for research funding: science and technology for economic growth, green technology, medical research, information technology to reduce healthcare costs, and national security. NIU has several initiatives that fit into these categories, so the opportunity is bright for this university over the next decade to access enhanced research funding in those particular areas.

Also included are two bills pending in Congress that we are tracking, and we have had some input in the creation of those bills. Open Source Textbooks for Colleges is a bill that is sponsored by our own congressman, Bill Foster. When he was considering this idea, I had conversations with Provost Alden, Dean McCord, Dean Vohra and some of the other deans about the concept of possible assistance to college students as they tackle the ever-increasing issue of textbook fees. Also, the Mental Health on Campus Improvement Act, Senate Bill 682 is a bill that has been introduced by Senator Durbin. Again, in the aftermath of February 14, our office and many across the university have had discussions with members of the staff of the judiciary committee and we were involved in the early stages and on the edges of the development of this particular bill. Unlike Springfield, Congress usually takes a long time to pass a bill, sometimes two full years. So neither of these is ready to move quickly, but they are moving, they have been filed and they are picking up cosponsors.

I am a native of Rhode Island, Chair Murer said, and when I hear about the Pell Grants I think back to Senator Claiborne Pell, who initiated it. What strikes me, especially today, after our other discussions, is that one person can really make a difference. He made a difference in higher education. We often talk about the Pell Grants without realizing it is reflective of one person who decided to really commit himself to higher education in his career.

This is a little off subject, Trustee Sanchez said, but since we were talking about Washington, D.C. and the Judiciary Committee, I would be remiss if I did not acknowledge something that I never thought I would witness in my lifetime, and that is our first Latina Supreme Court Justice, Justice Sotomayor. It is an honor to now see more diversity reflected in our Supreme Court. Frankly, regardless of what might have been said by some of the pundits, I believe all of us, especially in higher education, will benefit from her elevation to that position in the Supreme Court. It is good to have another woman on the court as well.

The Higher Education Opportunity Act, which is the federal authorization for higher education policy for the nation, passed in 2008 after years of discussion in Congress. Each meeting of this committee will

review one area of this comprehensive legislation, Chair Murer said, and it is very important that we are updated about what is going on with the legislation and the opportunities that are available to us.

Agenda Item 7.a. – Fiscal Year 2010 Budget Update

Madam Chair and members of the committee, Mr. Zehnder said, I also want to extend my welcome to our new Student Trustee. I met Matt in Washington where he and two other of our students were interning out there. I think they were enjoying themselves, but also making valuable contacts.

The two previous committees touched on two of the primary issues of my report, capital projects and the MAP money. To summarize where we left off the last time this committee met, the legislature since then passed an increase and the Governor vetoed back to last year's higher education levels. Our appropriation was \$107.4 million, but that includes the CHANCE funding in our base, which is a step forward for us. There were very few supplemental actions. Most of the higher education budgets were straight carryovers. In the prior committee meeting, on the capital bill, we talked about the funding for Stevens, the Tech Building, the renewal monies and Cole Hall. I will commend Dr. Williams and Jeff Daurer for the actions that both the Board and the planning departments have taken because it is key to have the paperwork and the authorization to proceed in place. The Governor's Office of Management and Budget (OMB), will determine when it is timely to issue the bonds subject to the approval of the comptroller and the treasurer. There is some controversy on the authority of the funding sources. One of the sources of the bond revenue was video games, and there are certain jurisdictions that are taking action not to approve video games in their areas. Also, there have been statements leading to what may be a legal suit on the increase in the liquor fees by one of the distributors that is questioning the differential between hard liquor, wine and beer, which may tie it up. So, how soon the money is going to be available is in question, but at least we are prepared as soon as that funding is available to get in the queue and on the priority list.

In your report are two pages on grant allocations. A number of the grants were cut in half, some were zeroed out. One of the few increases in grants this year was a P20 Student Information System increase or a new grant. Also, High-Need Health Occupations received increase monies and grants. Regarding our discussion earlier on the critical aspects of the MAP, the funding was cut in half. Also, there was no funding for the veterans grants.

Agenda Item 7.b. – 96th General Assembly Report

A number of bills have been signed since your report was put together, Mr. Zehnder said. House Bill 35, Illinois Transparency and Accountability Portal information is on the web site and expands to cover other public expenditures of funds and contracts. House Bill 382, the Nurse Educator Scholarships, was vetoed by the Governor to make it subject to appropriations, which puts that money at extreme risk. House Bill 461, the College Textbook Publishing, was signed by the Governor and will be effective July 1, 2010. It makes information on prior editions and what changes have occurred to warrant the new publication required. House Bill 725, Sign Language College Credit, had a rulemaking amendatory veto, but no substantial changes were made to that bill. Dual College Credit was signed by the Governor, and it will be effective January 1, 2010. The Governor also signed a bill which will make disclosure of base salary and benefits of faculty and administration. It mandates that the information be provided to the Board of Higher Education. The Credit Card Marketing Act, which impacts disclosure and mandates the financial education program was signed and will be effective January 1, 2010. Senate Bill 51, which impacts to a substantial effect the procurement procedures for higher education, was sent back to the legislature by the Governor with recommended changes. I have been working with Steve Cunningham, who has been working with his counterparts at the other public institutions to determine how extensive that impact will be, what we feel the rules will be when it is implemented, and whether or not subsequent cleanup legislation may be required. Senate Bill 1483, a Medical Practice Act, which impacts the speech language pathology practice, was signed by the Governor. We were advocates for that change, and it was signed and is effective August 25, 2009.

Trustee Sanchez stated that he heard no reference to the pending bill to remove all governor-appointed board members and inquired on its status.

What was termed the “Fumigation Bill” did not pass in the Senate after intensive discussion on the floor the last week of session. With the action the Governor took yesterday to step aside from the removal of the last two remaining trustees at the UI, the sponsor of the bill has indicated he may bring that up again in the veto session. So, that may come around. The other bill that I did not mention was termed “the Harper Initiative.” There was no need at this point to report on that bill because it did not pass the Senate, and we have been making strides in working with that institution in baccalaureate completion efforts.

Agenda Item 7.e. – Internet2 Technologies and the NIU School of Music

Because of time, Chair Murer said, we are going to rearrange the information items, and focus on Agenda Item 7.e, Internet2 Technologies and the NIU School of Music. This has been a significant investment which, when combined with NIUNet, has enabled the School of Music to participate in video conferencing technology that will benefit the students and faculty at NIU. New federal money for broadband internet connectivity makes Internet2 resources viable, and the number of instructional opportunities and professional partnerships open to our faculty and students is incredible.

Paul Bauer, Director of the School of Music, introduced himself and demonstrated the use of this new technology. I have been asked to describe Internet2 and live interactive technologies as are currently and can be potentially used by NIU, Dr. Bauer said. Internet2 is a private Internet superhighway that offers tremendous bandwidth without the congestion of the commodity or regular Internet. Last spring semester, we had nearly 30 Internet and video technology events. This included live web stream concerts, NIU faculty teaching students at other universities, guest faculty from other institutions teaching NIU students, and the NIU School of Music maintains an active online presence through YouTube, MySpace, UStream.TV, and Twitter.

Some examples of the results of our efforts include an online review of NIU’s internationally respected steel band and its online performance that we presented last April. I quote from the review on a web site from Trinidad, called Steel Talks, of the concert which they watched live on the web: *“Steel Talks’ sees this particular Internet stream as an example of what the standard should be when considering a good quality broadcast of a steel band event over the Internet. Other Internet streams and broadcasts viewed and heard in the past, including that of Tobago’s Panorama, and other steel band music performances always leave a lot to be desired [and] do grave disservice to the instrument, its musicians and the art form.”*

Last month, NIU Students performed live for an international conference in Ohio from an NIU Music Building recital hall. One more particularly interesting result of our online presence is that a Romanian cellist living in the Netherlands became familiar with NIU’s artist faculty Avalon String quartet by watching YouTube. She contacted Avalon’s cellist, Cheng-Hou Lee, and is now our newest international graduate student in the School of Music this fall.

Most important is that under Associate Vice President Wally Czerniak, ITS has invested in the university’s infrastructure to become a member of Internet2. It has been a tremendous investment with the support of the Board of Trustees. It has laid the groundwork for NIUNet, which reaches throughout northern Illinois through grants and will reach about 80 hospitals over the next couple of years. I became aware of this investment through presentations on campus. In spring 2007, NIU School of Music faculty member Greg Beyer was connected with the University of Alaska at Fairbanks and a musician in San Francisco to perform simultaneously in a live performance in its first successful Internet2 event.

It is very exciting to see this process, Chair Murer said. We talk about technology and broadband, but this is it, live and in action. We want to welcome all the students to our meeting because we rarely have the opportunity to have the students participate in committee meetings. So, on behalf of the Board of Trustees, we are delighted to have you participating in this process.

This is a great natural teaching environment to respond rather naturally, Dr. Bauer said. I find that faculty adapt very easily to this technology, and interaction becomes a very nice flow back and forth. The quality of the video and the audio makes this quite viable. We can connect multiple sites, all interacting with this software we are using today.

The NIU College of Music and Performing Arts has always had an outstanding reputation, Chair Murer said, but this provides us with worldwide access to the quality of what is happening at NIU. Since we are receiving comments from around the world about the quality of the performances at NIU, she requested that a log be kept and perhaps shared with the committee at the next meeting.

Agenda Item 7.d. – Fire Safety Mandates as Required by the Higher Education Opportunity Act of 2008

Scott Mooberry, Campus Fire Safety Program Manager from NIU's Environmental and Safety Department, presented a brief report on fire safety mandates contained in the Higher Education Opportunity Act and the current implementation status of these mandates at the federal and state levels. I am also the designee appointed to submit the annual fire safety report in accordance with the Higher Education Opportunity Act (HEOA), Mr. Mooberry said. The short story of the fire safety program is we have been recording fire safety statistics for about ten years now. During that time, we have recorded about 20 fires. Fortunately, we have had no fatalities and only two minor injuries. Recent HEOA requirements required us to look at our reporting structure, and we were able to formalize it with relative ease and with few additional resources. The program has experienced some long-term success and that is due to the demonstrated collaborative effort provided between students, staff and faculty and the Divisions of Finance and Facilities and Student Affairs, as well as the partnerships we have with the Office of the State Fire Marshall and the DeKalb Fire Department.

I want to highlight two positive examples as a result of this program. Recently, we had an accidental cooking fire in Stevenson Towers. Just the week before, we had trained the community advisors in the residence halls on proper fire safety, specifically, the use of fire extinguishers and how to initiate building evacuation procedures. So the CA was well prepared and successfully extinguished the fire and initiated building evacuation techniques with the assistance of our Department of Public Safety and DeKalb Fire Department. Fortunately, there were no fatalities and no major injuries reported.

We are in the process of retrofitting our residence halls with sprinkler systems. Though the university never gets excited about unfunded mandates, we realize that retrofitting our residence halls with sprinkler systems does preserve life and property. So I just want to give you a brief update on where we are in the process. This past summer we finished the retrofit of Lincoln and Douglas Halls on time and within budget. We are slated to do the Neptune complex next summer. The campus fire safety program has had a role in this project by assisting in the planning and design phases of these important projects. Once these sprinkler systems go online, it will be the responsibility of the campus fire safety program to manage their maintenance and testing for years to come.

The university is expected to be in compliance with Higher Education Opportunity Act fire safety reporting starting this fall when the campus fire safety program puts the report on the university web site. The final rules are anticipated to be formally enacted in summer 2010. At that point, in addition to posting our report on the university web site, we will submit the report to the U.S. Department of Education. The process is very similar to what is being done with the Clery crime reporting statistics. Lastly, this slide is the reporting tool that I am using. It is called Campus Fire Data and was developed by the Center for Campus Fire Safety. This is what my colleagues around the country at other universities and colleges are using to compile the data that will be included in our annual fire safety reports.

Agenda Item 7.f. – NIU Activity Related to the American Recovery and Reinvestment Act of 2009

We would like to follow up on an issue that we have already discussed at great length this morning during other committee meetings that relates to the stimulus funds and opportunities for generating research grants, Chair Murer said. We have asked Dr. David Stone, Director of the Office of Sponsored Projects, to provide a context of the information contained in our materials. She asked Dr. Stone, who was present at an earlier discussion on this topic, to look at this from a future perspective and what opportunities there are, as well as the prognosis, not just quantitatively in terms of money, but how it looks for NIU.

Dr. Stone reported that the American Recovery and Reinvestment Act of 2009 (ARRA) was signed into law on February 17, 2009. Under the Act, federal agencies were given roughly \$21.5 billion to fund research and development projects that would create jobs and help stimulate the economy. The

agencies were given broad discretion regarding how funds were to be allocated. The National Science Foundation chose to spend the majority of its ARRA funds by reviewing proposals that had been received and reviewed after October 2008 and to fund those that had been found to be meritorious but for which sufficient funds were not available.

NIU was exceptionally fortunate and well-positioned in that regard in having 47 proposals pending review with NSF between October 2008 and March 2009 totaling just over \$16 million. Of these projects, three have been funded, totaling \$1.5 million, and 43 proposals are still pending.

Additionally, in the period since March, NIU faculty and staff have submitted 22 new proposals, totaling \$40 million, in response to specific ARRA solicitations from federal agencies. These include two major requests: one \$15 million proposal for facilities related to the research room of the Proton research and Treatment Center from Outreach to the NIH, and one \$8 million proposal for a major wind energy project from Engineering and Engineering Technology to the Department of Energy. Five additional proposals totaling \$8 million are being prepared for submission.

The legislation establishing ARRA stipulated that for most federal agencies the goal was to allocate the vast majority of ARRA funds within the first year. While OSP continues to be alert to additional calls for proposals, Dr. Stone concluded, we expect a much smaller number of opportunities to arise over the coming months and year.

When asked about the timeframe for receiving the stimulus money over multiple fiscal years, Ms. Buettner replied that, again, it depends on the source of the funds. For these federal research programs, she said, most of it should be, as Dr. Stone said, obligated at the end of Fiscal Year 2010. But their Fiscal Year 2010 does not start until October 1 of this year. We are hearing on some of the cable news networks and in other media how much of the actual stimulus money that was passed as part of this package in February actually has gone out for distribution. That number is somewhere around 11 percent so far. It is that way because the federal government is so large and there is quite a bit of oversight required, and they have not yet set up the standards for oversight. One of the things that is also delaying us and everyone else who submits under these programs at NSF, NIH and NIST, etc. is that they are all very competitive and they all have to be peer reviewed. We were fortunate enough to get ours out earlier because everything else now requires peer review, and they are coming in by the thousands. We are looking at peer review processes that could take until next spring or summer before we would even know whether these newer proposals will qualify for funding. Most of the money that was given to the states for the state fiscal stabilization funds, which came to the Governor, has gone out the door, and the Department of Education has been responsible for that. That is not research grant funding; that is actually money that was given to the states to help augment the deficit problems the states were facing. Illinois has received the majority of its funding already, and allocations will cease to exist for Illinois at the end of Fiscal Year 2010. The fact that we have no more money coming to the state out of that stimulus bill for FY11 is a significant issue for the general budget for the state.

Agenda Item 7.g. – Benefit Provisions for Marital Status/Domestic Partnerships

Over the past several weeks, if not longer, Chair Murer said, an issue has been brought to our attention by Trustee Butler who requested an analysis of the status of domestic partnership benefit provisions. This is a very complex and sensitive issue because it relates to social mores, it relates to issues that are much more comprehensive than those we have here at the university in definition and general application of benefits. Dr. Steve Cunningham took the challenge and prepared a very comprehensive listing and comparative analysis for this meeting. I want to preface comments by simply saying I thank Trustee Butler for bringing this to our attention. This is a very important matter, especially at a public university. I do not think we will resolve anything today, but today will be a good beginning of understanding, in particular, where NIU sits compared to its peer organizations relative to what we have done to address the issues of domestic partners.

Beginning on page 45 of your Board books is a brief introduction, and then a table that primarily summarizes the benefits, Dr. Cunningham said. One of the main reference points for domestic partner policies is in the area of employee benefits. This table shows the benefits offered by the State of Illinois, the primary ones for which NIU employees are eligible, and then the NIU-sponsored benefits, as well as

information about how eligibility varies on the basis of marriage or domestic partnerships. The State of Illinois benefits across all of the universities are as provided by the State program. These are governed by statutes and regulations, most of which are administered by Central Management Services (CMS).

Our PowerPoint presentation has more specific information and will get into these policies a little further. I want to recognize Deborah Haliczzer, our Director of Employee Relations, whose insurance office administers many of these benefits. Next to her is Celeste Latham, our Director of Operations. Her office works with a good deal of this information, and she helped me with the research for this summary as well.

We find that nationally, as well as in the state, the term domestic partner really does not have a standard legal definition. Typically the definition is found at the local, state or municipal level through policy, ordinance or by statute. In Illinois, for the conditions of employment, the primary reference is the State of Illinois Health Insurance Program where same sex domestic partners are recognized. So in the system of state statutes and regulations, we find domestic partners defined as “unrelated, same sex individuals who reside in the same household and have a financial and emotional interdependence consistent with that of a married couple for a period of not less than one year and continue to maintain such arrangement” and an affidavit of domestic partnership also is required. That is the prequalifying condition for eligibility to the CMS Health Insurance Program. As we conducted a survey, we looked at universities primarily in our peer group. We wanted to look at other universities, the contents of their board regulations, their administration of benefits as well as their implementing policies for university-sponsored benefits. We have monitored this over the years, and we found that NIU programs are generally consistent with the other public universities across the state. For this presentation, we are primarily focusing on the larger, Carnegie doctoral granting and above universities in the state – NIU, UI, SIU and ISU. We found no specific reference to domestic partnerships in those board regulations or statutes. We do find across all these universities that domestic partnerships are referenced clearly in their benefit policies.

First we will look more specifically at the board regulations and the definition of family relationships. Many times the applicability of benefits, leave entitlements and so on relates back to the definition of family in board regulations. The NIU regulation references immediate family, immediate household, and it is within the scope of immediate household that implementing regulations for other NIU benefits incorporated domestic partnerships. We also noted that ISU, SIU and the UI do not actually reference the immediate household relationship. So NIU's definition's a little broader than the others insofar as we reference the immediate household. Going beyond the Board *Regulations* to the actual university procedures that relate to domestic partner benefits, all four of these university systems include and reference domestic partnerships. NIU includes same and opposite sex domestic partnerships as does ISU. However, SIU and the UI in their eligibility criteria have limited the eligibility to same sex only consistent with the State definition for qualification for medical health insurance benefits. These universities also require an affidavit of domestic partnership. Northern does not since that is incorporated that into our application material. For example, if an employee makes an application for a leave benefit related to a spouse or a sibling, the same thing applies for domestic partners, and we do not require an extra layer of documentation to qualify for those benefits. Again, all of the universities administer these benefits as required by the state agencies, statutes or regulations that are involved. The medical insurance program administered by CMS has incorporated same sex domestic partners for about three years, and all of the universities administer this in the same way. ISU has maintained a reimbursement program. Before the State recognized domestic partnerships, the universities implemented and were in the process of implementing a reimbursement program where, based upon documentation and qualification, an employee could be reimbursed essentially what the State insurance cost was for the benefit so that they could purchase private insurance for their domestic partner. But, after the state implemented the program, all of the universities have taken steps to use that program as the domestic partner program for health insurance. However, with the state provided life insurance programs, the programs do not recognize domestic partners, and that is consistent across the universities.

The Retirement System has three basic plans: the portable program and the traditional basic plan program do not recognize domestic partners for survivor benefits; and the self-managed plan, a defined contribution plan, also does not have a survivor benefit, but does recognize a domestic partner as a named beneficiary. State provided benefit programs such as the medical care and dental care assistance plans are regulated by federal tax law and do not recognize domestic partnerships. Finally, there are statutes that govern tuition waiver qualifications for employees, and, generally, the universities maintain

their tuition waiver programs consistent with state statutes. The universities are audited with respect to compliance with state statute, and those statutes, as written, do not recognize domestic partners either, or children of domestic partners. Note in the summary that ISU and SIU have taken steps to recognize domestic partners as stepchildren, which are a qualifying relationship for the state dependent tuition waiver benefit.

Benefits not provided by the state, but provided by NIU included, for example, bereavement leave for domestic partners, both same and opposite sex. The UI and SIU have maintained the same sex qualification and ISU's policies are the same as NIU's. That also applies to the provisions for family sick leave. NIU is actually one of the first universities to implement a procedure to recognize domestic partners for leave entitlements parallel to the Family Medical Leave Act, which does not recognize domestic partners.

The nondiscrimination policies pertain both to marital status and sexual orientation, so there is no discrimination on the basis of a domestic partnership by virtue of marital status and/or sexual orientation.

Before I entertain questions, Chair Murer said, I want to thank you for the work that you and your office did. One of the things we worked on together is to try and make it understandable, and you succeeded in that today. In reading this last slide, it appears that NIU has been a bit more aggressive than its peer organizations in the recognition of both same and opposite sex, especially where it is within the control of the university.

This is a very thorough summary of existing practices, Trustee Butler said, and I am grateful that we had such a comprehensive explanation of what is and is not provided. The report in our books is quite comprehensive and goes on to include what is and is not provided to students on the basis of domestic partnerships. One issue for students would be what the residency policies are and whether or not the university recognizes the domestic partner of a student as a resident of the state of Illinois, which they would, or at least would begin the process of recognition, if they were married. I see this as a broader issue than just personnel policy but also Student Affairs policy. Missing in the report is the sort of glaring reality that the Board *Regulations* starkly include benefits offered on the basis of marital status, but not domestic partnership, and that leaves us, as a committee, with a discrepancy between what is practiced and what is in Board *Regulations*. The natural thing for me to say is "why don't we correct the discrepancy?" That would not require that we do anything different than we are now except that we would make it clear in the Board *Regulations* what we provide, because the big question that I have is how do existing employees and students know that they have these benefits? Beyond that, how would people coming here as employees or students know that these benefits exist? That is why it is vital to me that the Board *Regulations* explicitly acknowledge what is provided. Then, we can talk about the more comprehensive and difficult discussion of what we might do with what is not provided or where policy is not clear.

To make sure I understand your question, Chair Murer said, it is in two parts: One, that in your opinion the university has not communicated effectively what is covered such as the bereavement and other issues.

Trustee Butler replied that was the case. But what is important for the purview of this committee, he said, is to see that the Board *Regulations* are consistent with practice and that practice is consistent with the Board *Regulations*. The larger questions of what we might expand, what we might offer in relation to other colleges and universities, are policy questions that are broader and require a more substantial dialogue and education. The first thing we should do if we are going to do that, in my opinion, is to access the substantial 17-year plus history of discussion of this issue on campus in which there have been presidential level commissions and Human Resources ad hoc subcommittees that have discussed this issue, defined the term domestic partner and talked about how we would establish the existence of those partnerships, what sort of unique features would be involved in establishing that definition for Northern as opposed to other colleges and universities. That is a separate issue, I think. What I am concerned about is that absent explicit inclusion in the Board *Regulations*, how is anyone to know there is equitable coverage? Second, absent explicit inclusion, there remains broad room for supervisory discretion both whether to allow the extension of such benefits and over the intentions behind equitable coverage. So, absent that explicit mention of what is and is not covered, you leave these employees and

these students at the mercy of individuals who may not know that we provide these benefits or may not be sympathetic to the situation of students, faculty and staff who want to avail themselves of what they are entitled to.

So what you want for us to bring back as a committee to Dr. Peters, Chair Murer said, is an operational issue to assure, where there are benefits to be covered, that it is the policy of the university to assure information is communicated effectively. That is simply an operational issue for assurance, because Dr. Cunningham has indicated through policy that certain things are covered, both same and opposite sex, whereas certain things are not. But the complexity is that as a state university, a lot of the issues of benefits are intertwined with marital status. That, as indicated by some of the specific line items, is defined by state law as it recognizes or does not recognize marriage. This is a national issue that we are struggling with, not just a university issue. So you want us to operationally assure that there is no gap in the application of policy as well as the dissemination of information as to what the benefits are to all proper individuals, whether they are employees or students.

That is important, Trustee Butler said, and I think we need to do that. But as is the purview of this committee, I believe it is an obligation to see that what is currently being practiced in the university is communicated clearly in the Board *Regulations*. I remind this committee that this matter came up in relation to an amendment to the Family and Medical Leave provisions. If you read the adopted language, it does not say anything about domestic partners. When you are in a domestic partnership and you are looking to see what a university provides and what it does not, you look to what it is they can provide and what they cannot, and you read language such as that, and you are not there. Your partnership is not acknowledged. That is not an issue where we would need to worry about what the state or even the federal government is providing because there is nothing that precludes Northern from explicitly expanding the coverage as it has and communicating that in its Board *Regulations*, except, to be very frank and to acknowledge the reality of this, except the social dilemmas that are associated with taking that step, which I am well aware of and do not want to pretend to not acknowledge. But where we already provide the benefits, let us acknowledge it.

Chair Murer asked Trustee Butler if other than anecdotal, he had assurance that people do not know these things. Trustee Butler answered, absolutely. The committees that have discussed this have learned that there is not a consistent application of these benefits, Trustee Butler said, that people do not know they exist. When I personally was contemplating whether to come to Northern as a faculty member or other offers that I had received, I went to the Board *Regulations*. Maybe as a former student trustee, I went there because I thought that was where it was, and it was not there. But I do not know whether there is a substantial problem of people not recognizing this. As far as I am concerned, one individual who leaves the university because they are not treated fairly or in accordance with the consistent application of policies is too many.

It goes without saying that we have a history at the university of being sensitive to comprehensive application of whatever the rules are in universal application, Chair Murer said. Maybe what we are saying this morning is that we need to again acknowledge and renew the commitment at the beginning of a school year that whatever the policies are, they will be uniformly and consistently applied, and that we will be proactive in assuring that all stakeholders have access to complete awareness of what they are entitled to. Trustee Butler indicated that he appreciated that and stated that he appreciated the progress that has been made. In particular, I would say all of the progress that you see in this presentation is due to the leadership of John Peters, Trustee Butler said. President Peters is appreciated greatly by the stakeholders that have brought these concerns to him. But I will say that this Board will never receive credit and this university will never fully be acknowledged for the progressive steps it has already taken until it amends its Board *Regulations*. The stakeholders on this issue are waiting for us.

I do not know what the implications are to make those changes, Chair Murer commented. We would have to direct our General Counsel and Dr. Cunningham to inform us how to be responsive to your next step. What we heard today and what we have agreed to today is just a reconfirmation of the consistency of application and the proactive activity of assuring that people know what their benefits are.

Trustee Vella stated that she also thought it should be referred to our counsel and maybe President Peters and Steve Cunningham also. I am not quite sure what these Board *Regulations* say or do not say or if they have to address it at all.

This has been an extremely productive exchange, Trustee Butler said. We are aware of a discrepancy between Board *Regulations* and current practice. We are also aware that we are not providing equitable coverage across the board in areas where we have discretion. I would challenge whether we have even more discretion than has been defined here. This is a start, and I appreciate, very much, Trustee Murer's commitment to seeing that this information come to this committee as thoroughly as it has, and I am comfortable where we are. As I said when I first raised these concerns, I thought it was a much more comprehensive question. At this point, I think Trustee Murer and I should get together and talk about the extent to which some of this discussion might continue in the committee that I chair. Some of it might also then come back to this committee when we are talking about the amendment of the actual Board *Regulations*.

President Peters stated that there was a need for some Board direction, because he was not sure what the university's next step should be.

Right now, Chair Murer said, I do not think anything needs to be done other than continued assurance that we do our job well and that operations have been sensitized to this issue, in particular, so that we mitigate any anecdotal response to something like that. First, at this point, do what you and your staff do every day with a reconfirmation of that commitment. Second, as Trustee Butler has said, we need to continue to think about this, but we also need to understand what our responsibilities are, what differentiates our fiduciary responsibility from some of our own social beliefs, and it is our bound duty to not interface those issues and objectives. We cannot interface that with the mandates to the Board. We will continue to be sensitive to this issue, and the financial crisis is not necessarily an affirmative defense, but it is an impacting factor. So, we need to put the possible financial impact in the context of any future decisions. These discussions are controversial and very serious, and it is important that they continue to be entertained by this committee.

I support your statement on the difference between fiduciary duty and personal reasoning, absolutely, Trustee Boey said. I also want to clarify that I, myself, do not know all the *Regulations* in detail. Trustee Butler referred to the discrepancy between a Board regulation and some other publications or rules and regulations. I wondered if he could clarify what some of those are.

I have seen only one actual printed set of guidelines that explicitly directs unit leaders to recognize domestic partners in the application of bereavement and family medical leave. It was on Human Resources stationery, and I do not know how often that is distributed. What I am concerned about is a discrepancy between practice and Board *Regulations*, not so much what is in writing. I agree with President Peters that the Board has to provide leadership on this issue because the university constituencies and leaders, such as Mr. Cunningham, Ms. Haliczzer and Dr. Peters, have gone as far as they can without the Board acting in some affirmative manner.

OTHER MATTERS

Agenda Item 8.a. – Federal Trade Commission Red Flag Rules

Mr. Greg Brady, University Counsel and Deputy Ethics Officer, made a brief presentation on the Federal Trade Commission Red Flag Rules. The item before you is a proposed identify theft prevention program. It was developed in response to final regulations by the Federal Trade Commission for financial institutions and creditors to identify, detect and respond to signs of potential identify theft, i.e., red flags. Normally colleges and universities are not considered financial institutions like a bank, but they may be creditors, and they may hold accounts that establish a continued relationship with a customer like a student through an extension of credit and can afford installment payments on such an account. NIU is in this position, and as such, it falls within the coverage of these Red Flag Rules. The FTC already has identified 26 red flags that may be a potential sign of identity theft for institutions to consider. A primary example of such a red flag would be an address discrepancy that is associated with a request for a new bank card or a new credit card within a close period of time. The Red Flag Rules require us to have such

a program, Mr. Brady said, and it specifically requires that the initial written program be approved by the governing board of the institution. The compliance deadline for this is November 1, 2009.

Chair Murer asked for a motion to approve the recommendation as follows: "The university requests that the Board approve the initial written program with appropriate delegation of oversight, development, implementation and administration of the program to a designated member of senior management as determined by the President." Trustee Strauss so moved, seconded by Trustee Vella. The motion was approved.

NEXT MEETING DATE

The Chair announced that the next regular Legislation, Audit and External Affairs Committee meeting will be held on Thursday, November 12, in DeKalb.

ADJOURNMENT

Chair Murer asked for a motion to adjourn. Trustee Strauss so moved, seconded by Student Trustee Venaas. The meeting was adjourned at 12:43 p.m.

Respectfully submitted,

Sharon M. Banks-Wilkins
Recording secretary