

UNIVERSITY OF KENTUCKY  
LEXINGTON, KENTUCKY 40506

UNIVERSITY SENATE COUNCIL  
10 ADMINISTRATION BUILDING

November 8, 1978

TO: Members, University Senate

The University Senate will meet in regular session on Monday, November 13, 1978 at 3:00 p.m. in the Court Room of the Law Building.

AGENDA:

- 1) Approval of the Minutes of October 9, 1978.
- 2) Brief Comments: Joseph A. Bryant, Jr., Chairman
- 3) Action Items:
  - a) Proposal to establish a policy on Medical Disability: A recommendation from the University Senate to the Administration for implementation. (Circulated under date of November 3, 1978.)
  - b) Proposal to change in the Senate Rules (Section I, 2.2.1 [a]) to extend the term of the Senate Council Chairman on the Senate Council. (Circulated under date of November 6, 1978)
  - c) Proposal to extend eligibility of Sergeant-At-Arms to allow members of the staff to serve in this capacity. (Circulated under date of November 8, 1978.)

Elbert W. Ockerman  
Secretary

/cet

Reference copy

MINUTES OF THE UNIVERSITY SENATE, NOVEMBER 13, 1978

The University Senate met in regular session at 3:00 p.m., Monday, November 13, 1978, in the Court Room of the Law Building.

Joseph A. Bryant, Chairman, presiding

Members absent: Michael Adelstein, C. Dwight Auvenshine, Michael A. Baer, Charles E. Barnhart, R. Paul Baumgartner\*, Mark Birkebak\*, Brack A. Bivins\*, A. Edward Blackhurst\*, Jack C. Blanton, Robert N. Bostrom\*, C. Frank Buck\*, Joseph T. Burch, John L. Butler\*, Joe B. Buttram\*, Patricia Cegelka, Linda Chen\*, Donald B. Clapp, Lewis W. Cochran, Clinton Collins\*, Frank Colton\*, Ronda S. Connaway\*, Samuel F. Conti\*, Paul Davis\*, Patrick P. DeLuca\*, George W. Denemark, David E. Denton, Ronald C. Dillehay\*, Roland Duell\*, Anthony Eardley, W. W. Ecton\*, Jane Emanuel\*, Richard A. Etlin\*, Wilbur W. Frye\*, James E. Funk\*, Alexander Gilchrist\*, Jon P. Gockerman\*, Abner Golden\*, Robert B. Grieves\*, George W. Gunther\*, Joseph Hamburg, S. Zafar Hasan\*, Raymond R. Hornback, Charles W. Hultman\*, Clyde L. Irwin, H. Douglas Jameson, Malcolm E. Jewell\*, James D. Kemp\*, Edward J. Kifer\*, Robert W. Kiser, James A. Knoblett, Mark Koopman, Jane Kotchen\*, Joseph Krislov, William B. Lacy\*, Thomas P. Lewis, Austin S. Litvak\*, Paul Mandelstam\*, Kenneth M. Martin\*, William L. Matthews, Marcus T. McEllistrem, Phillip W. Miller, Scott Moffitt, William G. Moody\*, Robert C. Noble, Philip J. Noffsinger\*, Elbert W. Ockerman\*, Merrill W. Packer, Bobby C. Pass\*, Ronda S. Paul, William K. Plucknett, Deborah E. Powell\*, Kim Ratcliff\*, David H. Richardson, Wimberly C. Royster\*, Ramona Rush\*, Stanley R. Saxe\*, Gerard E. Silberstein\*, Otis A. Singletary\*, John T. Smith, Stanford L. Smith, Tim Smith\*, Lynn Spruill\*, John B. Stephenson, Joseph V. Swintosky\*, Gene Tichenor, Lee T. Todd\*, M. Stanley Wall, Richard L. Warren\*, Mike Whitlock\*, Paul Willis, J. Robert Wills, Constance P. Wilson\*, H. David Wilson\*, Robert G. Zumwinkle\*

The minutes of the regular meeting of October 9, 1978, were accepted as circulated.

The Chairman reminded the Senators of the Christmas party scheduled for Tuesday, December 12, from 4:00 to 6:00 p.m. at the Alumni House. He noted that the proposal for a Multidisciplinary Gerontology Center, originally scheduled for the agenda, had been withdrawn for consideration at a later date. He also assured those present that the "investigation of the office of the Physical Plant by the Senate Council," reported in the Kernel, was neither underway nor contemplated. He observed that the Council had merely taken notice of complaints made against that office and referred the whole matter to a sub-committee.

The Chairman recognized Professor Daniel Reedy for a motion. On the recommendation of the Committee on Academic Organization and Structure and with the concurrence of the University Senate Council, Professor Reedy moved approval of the proposal to establish a policy on Medical Disability. This was circulated to members of the University Senate under date of November 3, 1978.

The Chairman noted that there was a statement of background from the Senate Council in the circulated proposal and also a statement in the proposal itself. He added that the Council was not proposing legislation in this matter since the Senate does not have the power to legislate here. It does have the power and responsibility to recommend to the Administration its' considered opinion on any subject that affects either directly or indirectly the academic program. The Chairman then asked Professor Andrew Grimes, Chairman of the Committee that had formulated the proposal, to come forward and answer questions.

\*Absence explained

The floor was opened for questions and discussion. Professor Zolondek said that it seemed to him that at the present time the University did not have what one would call partial disability but was opening the mechanism for a person totally disabled that when he returned he would be going under partial disability. Why not, he asked, face the problem from the front door rather than the back?

Professor Grimes replied that the TIAA insurance does not cover partial disability but total disability. What the current proposal attempts to do is to provide a transitional period from the status of total disability to a return to regular employment. It recommends a policy that will encourage a person who is not totally disabled and wants to return to work with full time faculty status to do so. Professor Zolondek objected that the proposal does not take into account partial disability and noted that it applied only to faculty members who have been totally disabled and are now seeking to return to work. Professor Grimes acknowledged that the report does not address the problem of partial disability.

The Chairman then called attention to the six (6) principles set forth in the proposal and asked for comment on these separately. One Senator asked for clarification of items six (6) and seven (7). The Chairman noted that item six (6) simply required the University to secure independent medical opinion as needed and that item seven (7) required the University to recognize the need for a transition period.

Dr. Bosomworth said that he would like to commend the Committee for attempting to formalize the proposal. The Deans of the Medical Center had met and believed the proposal could be improved in certain technical ways. He noted that in item five (5), the proposal dealt with the formulation of a policy which carries the responsibility of managing the rehabilitation as an institutional responsibility. This portion of the policy recommendation will require further definition and careful analysis for flexibility.

Professor Grimes replied that the document was not a statement of policy but a statement of principles that should help to formulate the policy.

Professor Lienhard observed that he was uneasy with an attempt to write a book of rules governing an operation which apparently was being done successfully without rules. Professor Oberst replied that the problem was that the operation had not been conducted successfully. State law does not permit spending money for the Commonwealth except for services rendered; the University is now attempting to establish a policy which will permit it to deal with those academic public servants who for one reason or another have become disabled. Professor Wagner noted that the proposal does not eliminate the current informal arrangements but deals directly with the whole disability issue. Professor Grimes said that operationally the proposal addressed directly those cases when the departmental resources are unable to handle the short time, one semester disability issue. Professor Zolondek then asked about the legal status of the distribution of effort. Professor Grimes replied that he did not know about the legal status of the distribution effort but that if someone were on partial disability and in the transition period and subsequently returned to full-time status, that arrangement would be reflected in a revised distribution of effort.

One Senator observed that this whole matter was not the Senate's business. The Chairman acknowledged as much, but observed that the Senate was obligated to make recommendations to the Administration about any matter affecting the academic program.

A motion was made and seconded to approve the proposal and to transmit it to the Administration. The motion passed.

The proposal as presented reads as follows:

Medical Disability Committee Report:

The policies and procedures in the University's regulations which govern the process and decision-making involved in changing a faculty member's status from "regular faculty appointment" to "disability leave" are quite clear. The faculty member applies for disability leave and with the recommendation of his physician, it is granted.

However, a considerable amount of uncertainty and misinformation exists at all levels of the University concerning the reverse process. It is not clear how a faculty member changes his status from disability leave back to regular faculty appointment. The question becomes considerably more difficult when the disability results from psychiatric disorders.

The absence of clear policies presently requires each faculty member's case to be considered in an ad hoc, sometimes informal and at times arbitrary manner. Faculty subject to the reality of declining health now have to endure the additional hardships created by uncertainty in the administration of the program, since administrators have few guidelines for dealing with the issues.

Principles:

- 1) Tenured and non-tenured faculty on total disability have the right to regular employment status when the condition of their health improves to the point where they are able to meet the customary requirements of performance. Total disability is considered as a leave of absence without pay.

Reason: Total disability is not to be confused with (1) retirement for medical reasons, or (2) termination for medical reasons (see Figure 1). The former is possible only at the request of the faculty member (p. 10, Board of Trustees Minutes, April 5, 1977), the latter should occur only after prescribed procedures (pp. 184-191, AAUP Bulletin Summer, 1976, see 4 (e)). In these two events, procedures must be followed which are designed to protect the rights and privileges of the faculty member.

These two procedures include safeguards to tenure and academic freedom which would be violated if faculty did not have the right to return to their regular faculty status when their health is improved.

It may be that the assumptions under which the disability program was designed or implemented were unrealistic. In particular, returning to regular faculty status seems not to have been considered a likely alternative after total disability. Customarily, faculty either elected early retirement for medical reasons or passed away; both situations avoid the issue of returning to full-time faculty status.

- 2) The University has an obligation to facilitate the restoration to health (particularly in the case of psychiatric disorders) of previously capable and productive faculty.

Reasons: Widely held beliefs about equity and reward for long and loyal service obviously support the principle. In addition, the University has an interest in healthy, capable faculty.

From a pragmatic perspective, such a supportive posture by the University will have a positive effect on the morale of all those in the academic community. Maintaining some part of one's faculty role, even if on disability leave, may be therapeutic. The work routine and interactions associated with a faculty position are probably useful for rehabilitation.

- 3) University and departmental administrators should cooperate with medical experts and authorities in developing a rehabilitation program that both meets the needs of the faculty member and does not compromise the primary mission of the University.

Reason: The University milieu may be appropriate to meet the therapy requirements of particular faculty members. The work environment of faculty is the arena in which they must function successfully if they are to remain in academia.

Candid consultations between physicians and university administrators, and even colleagues may provide valuable insights to understanding disabilities and their rehabilitation.

Obviously the work setting is not to be considered only a therapy setting, but to some extent the University and department can facilitate and support rehabilitation efforts.

- 4) Ordinary departmental resources (office space, services, clerical assistance) should be committed to a rehabilitation program.

Reason: Departmental resources can usually accommodate to the requirements of a faculty member on disability leave. Such resources help maintain the bond between the faculty member who is disabled and his department colleagues and the rest of the University community. Such bonds are probably valuable to the disabled faculty member.

- 5) If rehabilitation efforts will require economic and manpower resources beyond those of a given department, such resources should be committed to a rehabilitation program by a higher administration level.

Reason: Department manpower and economic resources are limited and allotted to specific programs and activities. Ordinarily, slack in these resources does not exist at the

department level to support a rehabilitation program for a disabled faculty member. These resources can only be committed to the rehabilitation effort by higher levels of administration.

- 6) When a disabled faculty member decides to return to full time regular status and has his physician's recommendation to do so, the University may elect to secure an independent medical opinion of the faculty member's condition. Should the two medical opinions differ significantly, the two disagreeing physicians may jointly agree on a third independent medical opinion whose judgment should help resolve the differences.

Reason: A high degree of uncertainty is associated with long term prognostications, particularly about psychiatric disabilities. A panel of expert opinion might reduce the uncertainty.

- 7) In view of the uncertainty associated with psychiatric illness, and other health problems, the sharp distinctions between "full time faculty employment" and "disability leave" should be reduced. An "explicit" period of transition must be recognized when a faculty member is attempting to come back on the job after a period of disability. The transition may include:

- (1) A change of duties in the department.
- (2) Part time responsibilities.
- (3) A change to another department.
- (4) Other viable changes.

The transition period should be designed by the University administration in conjunction with the faculty member's physician and TIAA's rehabilitation program. The period should be primarily therapeutic for the faculty member. The period should be for a specified length of time. Standards of work performance and compensation should be established for the period consistent with the faculty member's health and his capacity for work. Both work and medical progress should be systematically monitored during the period.

Reason: It is completely unrealistic to believe a faculty member will be able to return to his regular faculty position without some special consideration. Variation in performance of some duties at some point in time will no doubt occur until the faculty member completely or satisfactorily recovers.

Such a period of transition will reduce the pressure of immediate recovery and the fear of failure for the faculty member.

In addition, a period of transition is consistent with the present rehabilitation orientation of TIAA. "Part time" work as part of a program of rehabilitation orientation is encouraged by TIAA. They will pay benefits on the lost portion of the income. Medical and work progress is reviewed by TIAA in such programs (6/22/78), phone conversation with M. Byrne, TIAA, summarized in Appendix I).

- 8) In addition to rights of students, right of departmental colleagues must be considered, both during the transition period and when the disabled faculty member returns to regular employment status. Any replacement of a disabled faculty member must be considered temporary unless the university is prepared to grant permanent tenure to the replacement, with the understanding that the disabled faculty member may return to full time active status.

Reason: Mental health problems are probably associated more with faculty classroom responsibilities than with research or service. Student opportunity for competent teaching must not be compromised by therapeutic imperatives.

Faculty colleagues should not be unduly burdened by the situation created by the disability of the faculty member. Obviously, some inconveniences can be expected and should be accepted by colleagues.

- 9) Faculty colleagues should be supportive of a faculty member on disability or in a transition period. This supportive and facilitative faculty posture should be encouraged and shared by the administration.

Reason: Supportive colleagues are a most important resource of a psychologically disabled faculty member. Recovery can probably be hastened by the support of interested colleagues who involve the disabled faculty member (to the extent considered therapeutic) in the affairs of the department.

- 10) Financial hardships of the disabled faculty member should be minimized by the University. Some increase in the disabled faculty member's disability pay should be incorporated into the disability program, as long as we are in an inflationary period.

Reason: Over one-half the current TIAA disability programs have a 3% benefit increase provision. A disabled faculty member has an extra financial burden; he or she not only has a reduced salary, but may also have increased medical expenses. Financial burdens are probably responsible for faculty applying to return to regular employment status prematurely. Some of the financial strain can be reduced by the University through increased insurance coverage.

- 11) Faculty colleagues and administrators should be as candid and open as possible when communicating with faculty members on disability leave or in a period of transition. Such faculty should be equally communicative with their colleagues and administrators.

Reason: Misunderstandings can easily occur when disability becomes a possibility. Misunderstandings about psychiatric disorders become even more problematic since often associates are unsure how to interact with the disabled faculty member. Embarrassment and deception often are associated with the interactions between those with psychiatric disorders and their associates. Such conditions are dysfunctional to both the achievement of University goals and to the recovery of the disabled faculty member.

- 12) Policies and procedures for the termination of faculty for medical reasons should be developed. Such policies should be consistent with the recommendations of AAUP and the principles for disability presented above.

Reason: Termination for medical reasons is one possible outcome following a period of total disability and unsuccessful rehabilitation. Faculty rights and privileges must be protected if a faculty member cannot for medical reasons fulfill the terms of his/her appointment. (See: pp. 184-191, AAUP Bulletin (Summer 1976), section 4(e) for recommended procedures).

- 13) The principles presented above should guide the formulation of policies and procedures for disability leave and termination for non-faculty employees.

Neither of the next two motions met the ten-day circulation rule and in both cases motion was seconded and passed to suspend that rule.

The Chairman again recognized Professor Reedy, who on behalf of the Senate Council recommended approval of a proposal to change the Senate Rules to extend the term of the Senate Council Chairman if necessary to fill out an academic year. The Chairman explained the rationale for the proposal and the floor was opened for questions and discussion. Professor Lienhard called attention to an inaccuracy in the background statement of the proposal, and motion was made and seconded to amend that statement to read, that "Senators are elected to the Senate Council for calendar years." The motion passed even though neither the Chairman nor any member of the Senate noticed that no change had actually been made. The motion on the proposal then passed unanimously. It reads as follows:

Proposal:

Last February, the Senate Council voted to allow a member of the Council elected as Chairman to continue on the Council for an additional semester to fill out the academic year. This was done in recognition of facts that Senators are elected to the Senate Council for calendar years and that the tenure of the Chairman of the Senate Council extends through an academic year. The reason



is that frequently persons who are eminently suited to serve as Chairman cannot legitimately do so because they do not have a full term remaining. The Council, therefore, would seek an amendment to the Rules (Section I, 2.2.1 a ).

Note: The change will be forwarded to the Senate Rules Committee for codification.

The Chairman again recognized Professor Reedy, who on behalf of the Senate Council, recommended approval of the proposal to extend the eligibility of the Sergeant-At-Arms to allow members of the staff to serve in this capacity. The floor was opened for questions and discussion. There being no discussion, the motion passed. This proposal reads as follows:

Proposal:

The Senate Council approved the recommendation that the eligibility of the Senate Officer, Sergeant-At-Arms, be extended to allow any member of the staff to serve in this capacity, and recommends this change in the Senate Rules (Section I, 2.4.4) to the University Senate.

Note: The change will be forwarded to the Senate Rules Committee for codification.

The Senate adjourned at 3:50 p.m.

Martha M. Ferguson  
Recording Secretary

Claire McCann            00391  
Special Collections Dept.  
4 King Library            1

UNIVERSITY OF KENTUCKY  
LEXINGTON, KENTUCKY 40506

UNIVERSITY SENATE COUNCIL  
10 ADMINISTRATION BUILDING

November 3, 1978

TO: Members, University Senate

FROM: University Senate Council

RE: AGENDA ITEM: University Senate Meeting  
Monday, November 13, 1978. Proposal to establish  
a policy on Medical Disability; a recommendation  
from the University Senate to the Administration for  
implementation.

Background:

For a long time the University has had Regulations governing the granting of disability leave to faculty members who for one reason or another cannot perform their duties. Until recently, no problems with these Regulations had become apparent. In fact, the majority of faculty members who had gone on disability leave had not subsequently returned to full active duty. Within recent months, however, it developed that the University has no clear policy regarding the return of disabled members to duty, and thus the possibility exists that University actions in this area may be arbitrary and unequal. The Senate Council, therefore, asked the Committee on Academic Organization and Structure to appoint a subcommittee to study the matter. This committee, composed of Andrew Grimes, Chairman, Ellen Baxter and Jesse Weil studied it at considerable length, considered the policies at other institutions, and consulted the views of the AAUP. On August 30 of this year, they presented their report to the Senate Council, which made suggestions for a few minor revisions and additions and voted to forward the report to members of the University Senate for discussion as a recommendation to the Administration.

90 > 60 over  
primary time  
revised 3/90 for  
inflation

Medical Disability Committee Report:

The policies and procedures in the University's regulations which govern the process and decision-making involved in changing a faculty member's status from "regular faculty appointment" to "disability leave" are quite clear. The faculty member applies for

disability leave and with the recommendation of his physician, it is granted.

However, a considerable amount of uncertainty and misinformation exists at all levels of the University concerning the reverse process. It is not clear how a faculty member changes his status from disability leave back to regular faculty appointment. The question becomes considerably more difficult when the disability results from psychiatric disorders.

The absence of clear policies presently requires each faculty member's case to be considered in an ad hoc, sometimes informal and at times arbitrary manner. Faculty subject to the reality of declining health now have to endure the additional hardships created by uncertainty in the administration of the program, since administrators have few guidelines for dealing with the issues.

This report offers a statement of principles that should guide the formulation of policies and procedures necessary to permit faculty and employees to return to regular status should their health permit. Reasons and rationale supporting the principles are offered.

Principles:

- 1) Tenured and non-tenured faculty on total disability have the right to regular employment status when the condition of their health improves to the point where they are able to meet the customary requirements of performance. Total disability is considered as a leave of absence without pay.

Reason: Total disability is not to be confused with (1) retirement for medical reasons, or (2) termination for medical reasons (see Figure 1). The former is possible only at the request of the faculty member (p. 10, Board of Trustees Minutes, April 5, 1977), the latter should occur only after prescribed procedures (pp. 184-191, AAUP Bulletin [Summer, 1976], see 4 (e)). In these two events, procedures must be followed which are designed to protect the rights and privileges of the faculty member.

These two procedures include safeguards to tenure and academic freedom which would be violated if faculty did not have the right to return to their regular faculty status when their health is improved.

It may be that the assumptions under which the disability program was designed or implemented were unrealistic. In particular, returning to regular faculty status seems not to have been considered a likely alternative after total disability. Customarily, faculty either elected early retirement for medical reasons or passed away; both situations avoid the issue of returning to full-time faculty status.

- 2) The University has an obligation to facilitate the restoration to health (particularly in the case of psychiatric disorders) of previously capable and productive faculty.

Reasons: Widely held beliefs about equity and reward for long and loyal service obviously support the principle. In addition, the University has an interest in healthy, capable faculty.

From a pragmatic perspective, such a supportive posture by the University will have a positive effect on the morale of all those in the academic community. Maintaining some part of one's faculty role, even if on disability leave, may be therapeutic. The work routine and interactions associated with a faculty position are probably useful for rehabilitation.

- 3) University and departmental administrators should cooperate with medical experts and authorities in developing a rehabilitation program that both meets the needs of the faculty member and does not compromise the primary mission of the University.

Reason: The University milieu may be appropriate to meet the therapy requirements of particular faculty members. The work environment of faculty is the arena in which they must function successfully if they are to remain in academia.

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Reason: Department manpower and economic resources are limited and allotted to specific programs and activities. Ordinarily, slack in these resources does not exist at the department level to support a rehabilitation program for a disabled faculty member. These resources can only be committed to the rehabilitation effort by higher levels of administration.

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In addition, a period of transition is consistent with the present rehabilitation orientation of TIAA. "Part time" work as part of a program of rehabilitation orientation is encouraged by TIAA. They will pay benefits on the lost portion of the income. Medical and work progress is reviewed by TIAA in such programs (6/22/78), phone conversation with M. Byrne, TIAA, summarized in Appendix I).

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Reason: Misunderstandings can easily occur when disability becomes a possibility. Misunderstandings about psychiatric disorders become even more problematic since often asso-

ciates are unsure how to interact with the disabled faculty member. Embarrassment and deception often are associated with the interactions between those with psychiatric disorders and their associates. Such conditions are dysfunctional to both the achievement of University goals and to the recovery of the disabled faculty member.

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Reason: Termination for medical reasons is one possible outcome following a period of total disability and unsuccessful rehabilitation. Faculty rights and privileges must be protected if a faculty member cannot for medical reasons fulfill the terms of his/her appointment. (See: pp. 184-191, AAUP Bulletin (Summer 1976), section 4(e) for recommended procedures).

- 13) The principles presented above should guide the formulation of policies and procedures for disability leave and termination for non-faculty employees.

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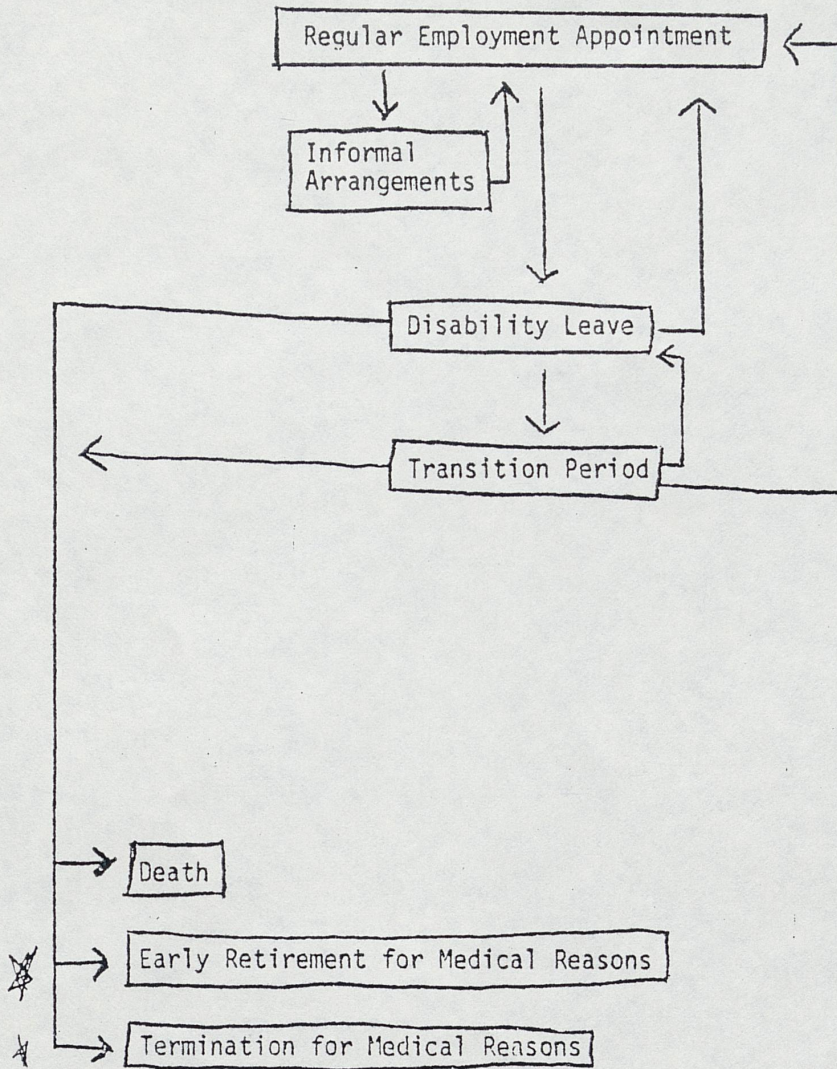


Figure 1

Flow Diagram of Faculty Member's Status when Health Problems occur with Proposed Transition Period Shown

UNIVERSITY OF KENTUCKY  
LEXINGTON, KENTUCKY 40506

COLLEGE OF BUSINESS AND ECONOMICS  
DEPARTMENT OF BUSINESS ADMINISTRATION

June 22, 1978

Margret Byrne  
Acting Supervisor  
Group Benefits  
TIAA  
730 Third Avenue  
New York, New York 10017

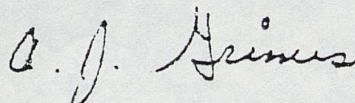
Dear Margret:

My understanding of our phone conversation today is as follows:

1. The rehabilitation orientation of TIAA permits a program of "part time" work for disabled faculty members with TIAA and Social Security benefits based on only the lost portion of the income.
2. This program is not one of partial disability but is quite flexible and designed to facilitate a return to full time status.
3. The University and the disabled faculty member and his physician would establish the percentage of work (and pay) that would be reasonable from their point of view.
4. TIAA and its medical advisors will suggest a rehabilitation program "tailored" to the needs of the faculty member.
5. If the rehabilitation program is not successful, full benefits (TIAA and Social Security) will be restored.
6. If return to total disability occurs within one year, waiting periods are waived.
7. You will send me printed descriptions of your "part time work" program.
8. Your experiences are that this program is very successful.

Thank you for your help!

Sincerely,



Andrew J. Grimes  
Associate Professor of