



UNIVERSITY OF WASHINGTON

OFFICE OF THE FACULTY SENATE
David Lovell, Chair

OFFICE OF THE SECRETARY OF THE FACULTY
Marcia Killien

March 16, 2009

Mark A. Emmert, President
Office of the President
Box 351230

Dear President Emmert:

By now you have received or heard a broad range of comments about the proposed new Executive Order that partially suspends Executive Order 64 in response to the state's budget crisis. The Faculty Code requires review by Secretary of the Faculty and the Chair of the Faculty Senate, which we will here put into writing. As we are all aware, the significance of the proposed new order lies not only in what it says but in the consequences of taking this action, under the authority of the President, at this critical moment. Accordingly, we would like first to note some concerns about the policy and legal context for the proposed new Executive Order, then review the issues raised at the recent Senate meeting, and finally make suggestions about the text of the order.

Two concerns dominate the policy and legal context for this Executive Order: the apparently absolute character of the policies declared in Executive Order 64 and the relevant sections (24-70 and 71) of the Faculty Code, which was given some legal heft by the Storti decision; and questions about whether powers to set new rules or policies are most reasonably and fairly exercised by the legislature, the Regents, or the President and the faculty. It is our position that the President and the faculty, working together, are best equipped to establish policies that will respect both the seriousness of our financial predicament and the flexibility needed to cope with it in ways that preserve our educational, research, and public service mission. To this end, the new Executive Order should describe a position that can be defended legally and ethically with respect to the legislature, the Regents, and any other challenge to how the university proceeds.

If specific provisions of Executive Order 64 are suspended, do Sections 24-70 and 71 still require a general merit increase? Do they require that absolutely no offer of an increased salary may be made to a faculty member, even with non-state funds, in the face of a competitive offer that threatens a vital program? We believe a defensible case can be made for a negative answer to both questions; the challenge is to write and defend the Executive Order in a manner that justifies what the university needs to do without going beyond what an Executive Order can achieve. Meanwhile, we firmly recommend that the Regents leave Sections 24-70 and 71 alone.

At the March 12, 2009, meeting of the Faculty Senate, Senators expressed a number of principled concerns about the new Executive Order; few of them challenged the necessity of suspending the 2% merit raise provisions of Executive Order 64, while many were concerned about issues of timing, the long-term consequences of suspended increases, and clarity about the consequences of issuing the order. The argument was made that Senators haven't had enough time to review the issue and

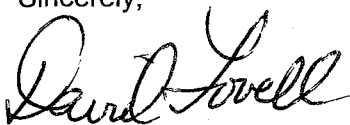
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discuss it in their Departments, and it was questioned why one needed to act now to suspend pay increases when no decision has been taken by the legislature on the university's budget. The long-term consequences of a temporary suspension of pay increases were noted, particularly for a junior faculty member, and it was suggested that perhaps general merit increases could be awarded but payment could be postponed until we emerge from the current financial crisis. Senators also challenged the need to suspend merit raises for the entire biennium rather than a single year in the order, since we budget on an annual basis. It was suggested that suspending a requirement was not the same as requiring a suspension, and that if the budget miraculously improved in a year the new order does not prevent the university, through the Provost, from ordering a general merit increase. Meanwhile, of course, it does prevent Departments from awarding a general merit increase, since this decision lies in the hands of the Provost. Finally, it was suggested that since the faculty's role is only to comment on proposed Executive Orders, not to formally approve or disapprove, a formal vote to endorse the suspension of the 2% merit increase policy is neither appropriate nor necessary. It was for these reasons, not a general rejection of the need for a suspension, that the Senate took no official action last week. These reasons need to be addressed in future explanations to the faculty of the new Executive Order.

The strongest argument for a one-year order, not made in the Senate meeting, is that after a year the faculty will have had a chance to observe how the current crisis was handled; for example, that the university didn't see suspension of the merit increase policy as a license to offer numerous retention increases or to go on a hiring binge, and instead acted to preserve the jobs of instructional and administrative staff. Specific descriptions of the university's rationale and intentions are the most effective way to address these and other arguments. To this end, we suggest that the new Executive Order itself be more detailed about what is being changed in Executive Order 64, what remains untouched, and what the university intends to do with whatever flexibility in hiring and compensation it may retain after negotiations with the legislature are complete.

We believe the revisions suggested by the Committee to Re-Evaluate Executive Order 64 are an improvement over the draft issued February 18th; we have attached here another version, more extensively revised to specify just what the university intends to do. We do so, recognizing that sometimes there are reasons to avoid being pinned down, but in the hopes that consideration of the suggested specifications will help us achieve our shared objective of retaining control of salary policy in the hands of the President and the faculty.

Sincerely,



David Lovell, Chair
Faculty Senate



Marcia Killilen
Secretary of the Faculty

Enclosure

cc: Phyllis Wise, Provost
Carol Niccolls, Special Counsel to the President
Bruce Balick, Vice Chair, Faculty Senate

DRAFT EXECUTIVE ORDER NO. _____

(Partial Suspension of Executive Order No. 64)

Purpose. The purpose of this Executive Order is to address the immediate financial circumstances facing the University by temporarily controlling faculty salary levels while reaffirming the University's commitment to ensuring the quality of the University through a competitively compensated faculty dedicated to academic excellence.

Need for Temporary Reevaluation of Faculty Salary Policy. Executive Order No. 64 recognized that in the event of decreased State support, the Faculty Salary Policy would need to be reevaluated. Unfortunately, we face that contingency to a degree that could not have been predicted even a year ago. The nation and the State of Washington are experiencing the effects of a global financial crisis of historic proportions. One consequence of this financial crisis is a drastic reduction in the State budget, which is virtually certain to result in significant reductions in State support for the University. The expected reductions in State support, combined with other economic forces, will result in cuts to programs, increased tuition and reduced access for students, lay-offs and non-renewal of personnel, as well as limitations on the University's ability to increase salaries for broad classes of its employees. The cost of maintaining regular merit increases for the 2009-11 biennium would be even more damaging in the midst of broad and dramatic budget cuts across the institution.

Partial Suspension of Executive Order No. 64. In light of the economic circumstances facing the University, the following portions of Executive Order No. 64 must be and are immediately suspended: the phrase "regular merit" in the first sentence of the subsection entitled *Allocation Categories*; the sentence that reads, "A faculty member who is deemed to be meritorious in performance shall be awarded a regular 2% merit salary increase at the beginning of the following academic year"; and the sentence that reads, "If deemed meritorious in the next year's review, the faculty member shall receive a regular 2% merit increase at the beginning of the following academic year." ~~which provide for a regular 2% merit salary increase for all faculty members deemed meritorious must be and are immediately suspended.~~

All other portions of Executive Order #64 remain in force. This suspension shall expire at the conclusion of the 2009-11 biennium.

Reaffirmation of Principles and Commitment. Although the suspension of merit salary increases is a temporary imperative, it remains equally evident that ~~the regular merit increases, promotions, hiring, retention, and competitive compensation of talented faculty is of~~ are critical importance to the long-term success of the University. For these reasons, the following steps will be taken to respect the principles of the salary policy in Sections 24-70 and 24-71 of the Faculty Code and the untouched portions of Executive Order #64:

1. Regular merit increases will resume first priority for allocation of salary funds after this order expires;

2. Promotion increases will continue during the 2009-2011 biennium;
3. If a Department, following procedures consistent with 24-71B.3 of the Faculty Code, has determined that offering a retention salary increase is required to sustain a vital academic program, the individual unit will be allowed to allocate to this purpose some of the funds remaining to it after undertaking budget cuts negotiated with the Provost;
4. To observe the priorities of Sections 24-70 and 24-71 of the Faculty Code, no pool of funds will be set aside centrally by the Provost or the President for the purposes of recruitment or retention;
5. Vacancies in faculty ranks will only be filled to the extent necessary to sustain vital academic programs;
6. During the 2009-11 biennium, the Provost will provide the Senate Committee on Planning and Budgeting quarterly reports to review the status of faculty recruitment and retention across the institution.

University leadership remains steadfastly committed to the fundamental elements of Executive Order 64, and its principles and priorities are reaffirmed. The principles and priorities set out in Executive Order No. 64 are reaffirmed because they are as sound today as they were when that order was issued nine years ago. While the Administration and Faculty should continue to collaborate to refine the details of the Faculty Salary Policy to best achieve both, predictability for individual faculty members and flexibility to respond to changing circumstances, University leadership remains steadfastly committed to its fundamental elements.

Executive Order No. ____ of the President, March ____, 2009

March 16⁵February 18, 2009