SHARED GOVERNANCE SUBCOMMITTEE REPORT

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A shared governance subcommittee was formed on 12/6/2010 to investigate allegations raised in Faculty Senate resolution entitled “Resolution to Investigate Potential Violation of Faculty Primacy”.

RESOLUTION ALLEGATIONS

The resolution asserts that degree programs associated with Higher Education Holdings, LLC (HEH), currently known as Academic Partnerships (AP) represent “a fundamental shift in the nature of faculty roles and relationships, manner of instruction and the nature of the institution itself.” The resolution further alleges that the HEH/AP online delivery program was initially implemented with “minimum faculty notification, involvement, input and oversight, potentially in conflict with the spirit of shared governance and faculty primacy on curriculum development, instruction, instructional delivery, and other matters.”

RESOLUTION RECOMMENDATIONS

The resolution recommends “a moratorium on the development, delivery, and approval of any new HEH/AP-related programs beyond ones already required by contractual agreement until after the Best Practices Distance Education committee and the Faculty Senate Quality Committee make their reports.”

The resolution also recommends that the Faculty Senate Quality Committee “be charged with a review of current HEH/AP programs to ensure faculty primacy in the decision-making process and to ensure that no new partnerships be approved until after this committee makes its report.”

RESULTS OF INVESTIGATIONS OF THE SHARED GOVERNANCE SUBCOMMITTEE

The shared governance subcommittee reviewed shared governance principles including those of academic shared governance, the minutes of the Graduate Council and the Education and Technology Committee, minutes of the Board of Trustees, various Graduate Bulletins, a folder containing the chronology of events and relevant information from the Department of Educational Leadership, Curriculum, and Special Education (ELCSE), and the contracts between ASU and HEH. The subcommittee also solicited feedback from the ELCSE faculty and the College of Education team that visited HEH and Lamar University.

1. **Chronology of Events Relevant to the Resolution**

3/27/2008: ASU Team visits HEH in Dallas

3/30/2008: ASU Team raises 64 questions to HEH (referred to in the report as “Arkansas State University Questions for Higher Ed Holdings”)

4/14/2008: ASU Team visits Lamar University (which offers degrees through HEH). Chancellor Potts asks John Beineke, Mitch Holifield, and Don Maness whether ASU should pursue a partnership with HEH and is given a “green light” subject to “faculty buy-in”

4/18/2008: A seven-year contract is signed with HEH

5/27/2008: The ASU Board of Trustees approves the HEH contract

5/28/2008: John Beineke meets with the Professional Education faculty to answer questions regarding HEH

6/17/2008: The Arkansas Department of Higher Education (ADHE) approves the Masters in Educational Theory and Practice (METP) for distance learning via HEH

7/25/2008: ADHE approves the Masters in Educational Leadership and Masters in Curriculum and Instruction for distance learning delivery via HEH

9/2008: The METP program offered through HEH/AP becomes operational

3/11/2009: The Educational Leadership, Curriculum and Special Education (ELCSE) faculty vote to support delivery of the Masters in Educational Leadership and Masters in Curriculum and Instruction for distance learning delivery via HEH/AP

4/9/2009: The Graduate Council approves a reduction in the number of hours required for the METP degree (both traditional and online) from 36 to 30 hours

7/8/2009: Special education faculty meets to discuss moving the MSE in Special Education P-4 and the MSE in Special Education to be delivered through HEH/ AP

2/18/2010: ASU signs a new seven-year contract with HEH/AP that supersedes the previous agreement

10/27/2010: The Ed.D faculty vote not to support the delivery of the Ed.D and PhD in Educational Leadership via HEH/AP

1. HEH Contracts

The contract with HEH was signed on April 18, 2008. A subsequent extension of the contract was signed on February 18, 2010. According to section N (Entire Agreement) of the 2010 contract, “This Agreement and any Exhibits and Addenda hereto constitute the complete agreement between the Parties and supersede all previous and contemporaneous agreements, proposals, or representation, written or oral, concerning the subject matter of this Agreement.” Thus, the 2010 contract is the binding contract and runs until February 18, 2017 unless both parties mutually agree in writing to terminate the agreement, or if one party breaches the agreement, represents the current contractual agreement between ASU and HEH.

Neither the current contract nor the 2008 agreement mandate that ASU offer degree programs through HEH/AP. Rather, the contracts stipulate the rights and responsibilities of ASU and HEH/AP for any degree program that utilizes HEH/AP services. Moreover, the contract(s) do not require HEH-related courses to be delivered within a fixed time frame, establish either a minimum or maximum number of persons to be enrolled in a course or program, or require the use of academic coaches/teaching assistants. In fact, under ASU Obligations, ASU and HEH “expressly acknowledge that nothing in this agreement is intended to impair the authority of ASU respecting the academic attributes of the Programs, including the admission of students to the Programs, the delivery of the Programs, the evaluation of student performance and the decision to award course credit and academic credentials and to exercise customary oversight respecting Faculty engaged in its offering.”

Nonetheless, the subcommittee notes the estimated HEH/AP breakeven point of 1,000-1,500 students per year in each program (“Arkansas State University Questions for Higher Ed Holdings”). Thus, although the language of the contract appears to give faculty freedom to design a program that meets its own quality standards, the contract also permits HEH/AP to move to terminate the agreement. Implicitly, therefore, the financial requirements of HEH/AP for large enrollments place constraints on the ability of faculty to design an online degree program that utilizes HEH/AP.

The subcommittee wishes to note three provisions of the original 2008 contract that no longer appear in the current 2010 contract. First, under HEH Obligations (II.C) regarding faculty, the original agreement stated that “to the extent ASU is unable to assign members of its regular faculty for any course of the Programs, …HEH will identify persons it believes to be qualified to teach in the Programs, and upon ASU’s determination that such persons are so qualified, such persons shall be appointed by ASU as adjunct faculty.” This entire section C has been removed in its entirety and does not appear in the 2010 contract.

Second, under II.D. of the 2008 agreement, “subject to the approval of ASU, HEH will identify individuals to serve as Coaches who will support students enrolled in the Programs under the close supervision of the instructors of record.” This entire section D has been removed and does not appear in the 2010 contract. Moreover, under ASU Obligations (III.C.), the subheading has been changed from “Faculty and Coaches” to “Faculty and Teaching Assistants”, with the following sentence added: “ASU shall secure the services of and exercise overall academic supervision of all Teaching Assistants engaged in the Programs.”

Third, under ASU Obligations regarding Curriculum and Oversight (III.D.), the 2008 contract stated: “ASU will review the Curriculum in accordance with its customary academic procedures and shall, at its sole discretion, adopt the Curriculum for use in the Programs. ASU may require HEH to make adjustments to the Curriculum to meet its academic standards prior to such adoption. Once adopted, ASU shall not amend the Curriculum except with the consent of HEH.” This provision has been eliminated in its entirety and does not appear in the 2010 contract.

1. Academic Shared Governance

Academic shared governance is defined in the Faculty Handbook (I.c.3) as “the vehicle by which the faculty influences decisions and courses of action in areas of faculty responsibility by being informed of, expressing views on, and making recommendations about academic issues affecting the institution. Academic shared governance committees address those areas of activity central to the interests of the faculty and academic programs of the University.”

There are two academic shared governance committees that are directly relevant to the resolution: the Education and Technology Committee and the Graduate Council. (Note: if undergraduate degrees were also offered via HEH/AP, the Undergraduate Curriculum Committee would be relevant to the resolution as well).

1. Education and Technology Committee

The purpose of the Education and Technology Committee is “to address issues concerning technology assisted education e.g. IPTV, CVN, and web-based, including the implementation of courses and/or degrees at distant sites.” Minutes from the committee meetings are incomplete. They include meetings that took place on February 22, 2008, January 22, 2010, February 26, 2010, and April 16, 2010. The subcommittee could not locate the minutes from 2009 or the fall of 2010.

HEH/AP degree programs are not mentioned in any of the minutes. However, relevant to the resolution, the minutes of the January 22, 2010 meeting list under “New Business” the proposal to create “guidelines for the entire ASUJ campus directed to Quality Web-Assisted and Online Teaching.” Henry Torres, a member of the committee, advocated the proposal to “provide for minimum “standards” (for the lack of words) that must be met across any web-assisted/online course as well as more directed and individualized college guidelines that should be met.” Both the minutes of the February 26, 2010 and April 16, 2010 meetings referred to the Faculty Senate Quality Programming Committee as a vehicle to discuss quality online education.

1. Graduate Council

The Graduate Council “provides guidance and direction for the university’s graduate programs. The Council considers and recommends graduate curriculum changes and new programs; policies on graduate admission, academic standards, and graduation requirements; policies on graduate faculty status; policies regarding graduate assistants; and policies on graduate stipends and assistantships and their distribution to programs.”

At the current time, ASU offers five master’s degrees through HEH: Masters of Science in Educational Leadership, Masters of Science in Curriculum and Instruction, Masters of Science in Educational Theory and Practice, Masters of Science in Special Education-Instructional Specialist 4-12, and Masters of Science in Special Education-P-4.

A review of the minutes of the Graduate Council show that of the five HEH-related master’s degree programs, only the METP degree was routed through the Graduate Council. This occurred at the April 9, 2009 meeting. Moreover, on the ASU website, two separate links exist under “Graduate Bulletin” for 2010-2011: one links to the “standard” Graduate Bulletin, and describes graduate degrees available at ASUJ. This bulletin includes descriptions for both METP programs offered at ASU. The second link is entitled “Graduate Bulletin 2010-2011 Academic Partnership Supplement” and details the graduate programs available through HEH/AP. The Graduate Council was not involved in preparing the AP supplement (confirmed in email from Andy Sustich, Dean of the Graduate College).

According to some of the persons involved in these decisions, the four masters programs using HEH/AP were not routed through the Graduate Council because they were existing programs using the same curriculum. Thus, they were operating under the belief that only curriculum changes and new programs needed to go through the academic shared governance process. Consistent with that belief, the METP went through the Graduate Council due to its request to reduce the number of degree program hours from 36 to 30 (which occurred for both the traditional and online METP degree), and not to obtain approval for delivery under the HEH/AP format. In fact, the METP program delivered via HEH/AP which was already operational when the request was made.

1. Faculty involvement in the development of the HEH/AP contract and the masters programs offered via HEH/AP

On March 27, 2008, an ASU Team that included three representatives from the College of Education, but no non-administrative faculty, visited Higher Education Holdings in Dallas, TX. Three days later, HEH/AP responded to 64 questions posed by the ASU Team. The questions related to items such as faculty and institutional control over course content, faculty, academic coaches, admissions requirements, and other issues. The intent of HEH/AP to deliver large-enrollment programs in classes with relatively short durations is evident in its responses to these questions. HEH/AP states that “the typical duration of an academic class is five weeks” (question #40), “Faculty members have successfully served up to 2,000 students at this point. Full-time Academic Coaches are allowed a maximum of 250 students” (question #42), and “We estimate 1,000 to 1,500 students per program annually to break even” (question #43).

The questions also imply a timetable for the adoption of the first program. In response to the question “If a contract was executed by May 1, 2008, would it be possible to have the first cohort enrolled by August 15, 2008?”, HEH/AP said “Yes.”

The same team visited Lamar University on April 14 2008 because Lamar offers degrees via HEH/AP. After the visit was concluded, ASU Team representatives from the College of Education, John Beineke, Mitch Holifield, and Don Maness spoke with Robert Potts in a phone conversation and gave a “green light” for ASU to pursue a partnership with HEH subject to “faculty buy-in”. In a conversation between Mitch Holifield, Don Maness, and Dan Howard at the Houston airport, the need for faculty buy-in prior to moving forward with HEH was emphasized.

Four days later, on April 18, 2008, ASU signed a seven-year agreement with HEH/AP. The correspondence does not indicate any faculty involvement prior to the signing of the contract. None of the ASU team representatives from the College of Education were aware that a contract had been signed with HEH/AP until after-the-fact, nor did any of the ELCSE faculty who provided feedback to the subcommittee. Although Mitch Holifield began to meet with ELCSE faculty after the return from Lamar, he informed the subcommittee that he did not believe he had achieved “faculty buy-in” by April 18. This point is echoed by John Beineke, who informed the subcommittee that faculty approval to deliver the METP degree via HEH did not occur prior to April 18.

The ASU/HEH contract was approved by the ASU Board of Trustees on May 27, 2008. According to a chronology of events prepared by Dan Howard, on the following date, John Beineke met with the Professional Education faculty to discuss HEH. The chronology states that 30-35 persons attended the meeting; however, the subcommittee was unable to obtain minutes to show who attended the meeting, what was discussed, and if any proposals regarding HEH were put to a vote. One ELCSE faculty member who attended the meeting recalled that three faculty from ELCSE (including Mitch Holifield) were present and that most of the faculty in attendance were from the Department of Teacher Education and the Department of Psychology and Counseling. Indeed, three ELCSE faculty indicated to the subcommittee that they were not at this meeting.

A few faculty members indicated to the subcommittee that they were left with the impression that HEH/AP programs or the format of HEH/AP programs (such as courses with a five-week duration) were mandated by the HEH/AP contract, leading them to believe they had no alternative but to approve the METP program for HEH/AP delivery. Several had been told that “the train had already left the station”. Others indicated that they believed the METP program delivered via HEH/AP was only an experiment, and that a thorough review would occur before the program were to expand or if other masters programs would be approved for HEH/AP delivery.

The subcommittee wishes to note that the comments received from faculty are not necessarily representative of the Professional Education faculty. Most respondents to our request for feedback were those who indicated opposition or reservations regarding HEH/AP delivery. One ELCSE faculty member indicated support for the HEH/AP programs, but refused to otherwise participate in our investigation of the facts. Consequently, the subcommittee can only assert that roughly of the ELCSE faculty did not believe they had sufficient involvement in the decision to offer the METP program through HEH/AP. This may or may not represent the majority perspective.

In June and July of 2008, the Arkansas Department of Higher Education approved the METP, the Masters in Educational Leadership, and the Masters in Curriculum and Instruction for HEH/AP delivery. At that time, the ELCSE faculty had only decided to move forward with the METP program because it was a non-licensure program. The faculty agreed to look into the Educational Leadership and Curriculum and Instruction programs, which are licensure programs, at a later date. The licensure programs were eventually approved by a 10-6 faculty vote on March 11, 2009. On July 8, 2009, the special education faculty approved delivery of the Masters of Science in in Education in Special Education-Instructional Specialist 4-12, and Masters of Science in in Education in Special Education-P-4.

CONCLUSIONS OF THE SHARED GOVERNANCE SUBCOMMITTEE REGARDING ALLEGED PAST VIOLATIONS OF SHARED GOVERNANCE PRINCIPLES AND PROCEDURES.

1. Violation of Actual Shared Governance Practices

The subcommittee does not believe that shared governance principles and procedures were ***intentionally*** violated when the HEH/AP programs were not routed through academic shared governance committees. Shared governance procedures were still being developed at the time the HEH contract was signed and four of the masters programs were existing degree programs that were being converted into HEH-related online programs. Online delivery was also relatively new to the university. Historically and in current practice, a course that transitions from the traditional lecture format into an online course does not require approval from the Graduate Council or Undergraduate Curriculum Committee. Consequently, the subcommittee acknowledges that the relevant parties may have acted under the belief that only new programs or those programs requesting a change in curriculum needed to go through the Graduate Council (or any other academic shared governance committee).

1. Violation of the Spirit of Academic Shared Governance

Nonetheless, the subcommittee concludes that, as alleged in the resolution, the ***spirit*** of academic shared governance, as defined in I.c.3, was violated. Although the HEH contract did not require ASU to offer HEH/AP programs, the financial breakeven requirements of HEH/AP place significant constraints on the types of online degree programs faculty can design through HEH/AP (substantially larger enrollments, the use of academic coaches, potential changes in graduate faculty status, etc.). Thus, as alleged in the Faculty Senate resolution, the subcommittee concurs that degree programs via HEH/AP constitute “a fundamental shift in the nature of faculty roles and relationships, manner of instruction and the nature of the institution itself.”

 As noted earlier, academic shared governance is defined as “the vehicle by which the faculty influences decisions and courses of action in areas of faculty responsibility by being informed of, expressing views on, and making recommendations about academic issues affecting the institution.” The subcommittee concludes that the significant changes necessitated by large-scale HEH-related programs fall within the parameters of academic shared governance and require faculty input and involvement.

Following the visit to Lamar University, the representatives from the College of Education emphasized the need for faculty buy-in prior to moving forward with HEH/AP. Yet a seven-year contract was completed only four days later, without the knowledge of either the faculty or the representatives of the College of Education, and before any meaningful input from faculty could take place. The subcommittee also notes that, whereas the initial intent of the HEH visit was to develop online master’s degrees through the ELCSE department, the provisions of the contract apply to *any* ASU program that adopts the HEH/AP platform.

The subcommittee wishes to point to the three (now deleted) provisions of the 2008 contract that necessitate academic shared governance. If the 2008 contract were still binding, “to the extent ASU is unable to assign members of its regular faculty for any course of the Programs, …HEH will identify persons it believes to be qualified to teach in the Programs, and upon ASU’s determination that such persons are so qualified, such persons shall be appointed by ASU as adjunct faculty.” These provisions, which would have been binding for seven years, are not consistent with II.d of the Faculty Handbook (Selection of Faculty).

Similar potential circumventions existed under II.D. of the 2008 agreement: “subject to the approval of ASU, HEH will identify individuals to serve as Coaches who will support students enrolled in the Programs under the close supervision of the instructors of record”. This provision grants HEH, rather than ASU faculty, the contractual right to hire persons who function as graduate assistants. Although the provisions allowed for ASU to dismiss academic coaches from their duties, the contract did not require faculty approval for hiring. Instead, the contract states “if at any time ASU determines, in its sole discretion, that a person appointed as a Coach under this provision is unsuited to continue in that role, it shall so advise HEH and HEH will cause the removal of such person from his or her instructional duties.”

Given these provisions, the subcommittee wishes to emphasize the importance of routing the online HEH/AP programs through shared governance. The Graduate Council’s role is not limited to approving new programs or changes in existing programs. In addition to program approval, the Council “considers and recommends…policies on graduate faculty status [and] policies regarding graduate assistants.” The five HEH master’s degree programs required the extensive use of academic coaches who function as graduate assistants (and in fact are now referred to as “teaching assistants”). Under the 2008 contract, they would have been selected by HEH rather than ASU. Moreover, as ELCSE faculty are not required to teach HEH courses (and, in fact, several refuse to), the potential existed for HEH to identify “adjunct faculty” subject to ASU approval to assure students enrolled in the programs could complete their degrees. Thus, the programs potentially affected the Graduate Council’s primacy regarding graduate faculty status. Consistent with the spirit of academic shared governance, therefore, any program that potentially affected graduate faculty or graduate assistant status should have gone through the Graduate Council for approval.

In addition, under ASU Obligations regarding Curriculum and Oversight (III.D.), the 2008 contract stated: “ASU will review the Curriculum in accordance with its customary academic procedures and shall, at its sole discretion, adopt the Curriculum for use in the Programs. ASU may require HEH to make adjustments to the Curriculum to meet its academic standards prior to such adoption. Once adopted, ASU shall not amend the Curriculum except with the consent of HEH.”

This provision would potentially have subverted III.n. of the Faculty Handbook (Curriculum Changes), which reads: “Academic program curriculum changes originate in the departments and colleges. Undergraduate program curriculum changes require approval by the department curriculum committee, department chair/program director, college curriculum committee, college dean and the Undergraduate Curriculum Council (UCC) and the Executive Vice Chancellor and Provost grants final approval. Curriculum changes for graduate programs require approval of the department graduate committee, department chair, college graduate committee, dean of the college, the Graduate Council, and the Executive Vice Chancellor and Provost.” Under the provisions of the 2008 contract, however, ASU would not be able to amend the curriculum without HEH’s consent.

Although these provisions have been removed and are no longer part of the current HEH contract, the subcommittee emphasizes that the university entered into a binding contract with an outside party that *potentially* circumvented faculty primacy regarding curriculum or faculty qualifications. The critical point is that, unless, the spirit of academic shared governance is respected and followed, future binding contractual agreements that circumvent faculty primacy regarding faculty selection or curriculum are possible.

The resolution further alleges that the HEH/AP online delivery program was initially implemented with “minimum faculty notification, involvement, input and oversight, potentially in conflict with the spirit of shared governance and faculty primacy on curriculum development, instruction, instructional delivery, and other matters.” Although the subcommittee cannot authoritatively concur with this assessment, the evidence reviewed by the subcommittee suggests that it may be an accurate assessment of the METP degree. The evidence examined by the subcommittee suggests that the Professional Education faculty did not meet as a group to discuss the implementation of the METP degree via HEH/AP until May 28, 2008 (nearly four weeks after the end of the spring 2008 semester) with the apparent intent to operationalize the program by the Fall 2008 semester. Some faculty members believed that implementing the METP via HEH/AP was a mandate and that the faculty had no flexibility regarding the basic structure regarding the HEH/AP classes. Some faculty members were under the impression that the METP program offered via HEH/AP was merely an experiment that would be subsequently evaluated before allowing the number of enrolled students to expand. This perspective was confirmed in John Beineke’s letter to the Faculty Senate, faculty, and ASU administration (October 17, 2008).

Absent the minutes from the May 28 meeting or feedback from a larger number (or more representative percentage) of relevant faculty, the subcommittee cannot claim that such misunderstandings were widespread. However, the correspondence reviewed by the subcommittee includes a firestorm of controversy in the fall of 2008 regarding the implementation of the METP degree via HEH. John Beineke’s October 17 letter acknowledges some of the problems that accompanied making the METP degree operational:

“Admittedly, the process moved very quickly. The dean and the ELCSE department worked to get the appropriate course and program approvals through the process before the first course was offered. While the dean and chair had every expectation and intention that the various curricular steps would be met before the offering of the first course, this did not happen.”

“Due to an ambitious time schedule for implementation set by the University, not the department, these professors were under extraordinary time pressure to have their courses ready. To help relieve this pressure as much as possible, HEH facilitators provided assistance beyond their “call of duty” and in some cases helped to compose some documents. In each and every case, the professors reviewed and approved these documents.”

In contrast to the METP degree, the other four master’s degrees were not approved for delivery via HEH/AP by the ELCSE department until March 2009 and July 2009. Although some faculty reiterated the belief that no further HEH/AP programs would be approved until the METP program was evaluated, the minutes reveal that a curriculum committee was convened on March 11, 2009, issues related to these degrees were discussed, and that the Masters in Educational Leadership and the Masters in Curriculum and Instruction programs were approved for HEH/AP delivery by a 10-6 vote. The subcommittee sees no evidence that the latter four masters programs were implemented with minimum faculty notification, involvement, or input.

The subcommittee’s investigation reveals that HEH/AP has become a divisive issue within the ELCSE department. The subcommittee believes that at least some of the divisiveness emanates from inadequate faculty involvement at the front end of the association with HEH and the rush to implement the METP degree by fall 2008.

RECOMMENDATIONS OF THE SHARED GOVERNANCE SUBCOMMITTEE

1. Academic shared governance committees “are the vehicle by which the faculty influences decisions and courses of action in areas of faculty responsibility by being informed of, expressing views on, and making recommendations about academic issues affecting the institution” In keeping with the spirit of academic shared governance, the subcommittee recommends that ASU not enter into agreements with external parties that potentially affect “course of action in areas of faculty responsibility” without the input or involvement of the Shared Governance Oversight Committee. This would include, but is not limited to, contracts with online delivery providers.
2. In addition to the current practice of requiring new degree plans or changes in existing degree plans to be approved by the appropriate academic shared governance committee(s), all proposals to convert existing degree plans into online delivery programs should be routed through the appropriate academic shared governance committee(s). Proposals to convert existing programs into online programs must be approved by the Graduate Council or the Undergraduate Curriculum Committee. The subcommittee recommends that an “online program” should be defined as a program in which at least 50% of the total credits will be offered through distance technology. This is the standard used by the ADHE to determine whether an existing program requires ADHE approval.
3. Changes in existing online degree programs for which such changes may fall under the purview of academic shared governance should be routed through the corresponding academic shared governance committee for approval. As an example, if an existing approved online program has course lengths, enrollment size, graduate faculty and graduate assistant usage, etc. that reflect the traditional classroom-based programs, but wishes to change its online delivery in such a manner that significantly changes these dynamics (i.e. significantly larger enrollments, the extensive use of teaching assistants, etc.), the proposed program should be routed through the corresponding academic shared governance committee for approval.