

UCCSN Board of Regents' Meeting Minutes September 9-10, 1954

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UNIVERSITY OF NEVADA REGENTS MEETING September 9, 1954

The Board of Regents met in regular session in the President's office at the University on Thursday, September 9, 1954. The meeting was called to order at 10:05 A.M. by Chairman Ross.

Present: Regents Hardy, Crumley, Grant, Lombardi, Ross, Comptroller Hayden and President Stout.

Reporters present to cover the meeting were Robert Laxalt, James Hulse and George Umberhauer.

1. Minutes of Previous Meetings

Motion by Dr. Lombardi carried unanimously that the minutes of the previous meetings be approved as follows:

- a) Regular meeting of August 2, 1954
- b) Special meeting of August 13, 1954

2. Comptroller's Claims

Claims which had been approved by the Executive Committee were presented for approval of the Board.

Motion by Dr. Lombardi carried unanimously that the claims, as follows, be approved:

Regents Checks, Nos. 45-20 to 45-36 inclusive for a total of \$190,472.70 for August.

State Claims, Nos. 45-13 to 45-25 inclusive for a total of \$93,177.41 for August.

3. Personnel Recommendations were presented by the President as follows:

- 1) Appointment of Anne H. Kenny as Sub-Professional

Assistant in the Library at a salary of \$225 per month, effective September 1, 1954, in the place of Mr. Smith, resigned.

- 2) Reappointment of Jay Jeffers as Assistant in Geology for the period June 10, 1954 to August 12, 1954 at a salary of \$337.50 for the period. (Las Vegas)
- 3) Reappointment of Jay Jeffers as Assistant in Geology for the period September 27, 1954 to November 5, 1954 at a salary of \$337.50 for the period. (Las Vegas)
- 4) Appointment of Emma Birkmaier as Assistant in Education for the period August 9, 1954 to August 27, 1954 at a salary of \$681.95 for the period. (Las Vegas)
- 5) Appointment of Duncan W. Cleaves as Lecturer in Chemistry for the period September 1, 1954 to June 30, 1955 at a salary of \$1000 for the period. (Las Vegas)
- 6) Appointment of Frank J. D'Amico as Assistant in Foreign Languages for the period September 1, 1954 to June 30, 1955 at a salary of \$1800 for the period. (Las Vegas)
- 7) Appointment of Warren W. Frank as Assistant in Art for the period September 27, 1954 to December 17, 1954 at a salary of \$500 for the period. (Las Vegas)
- 8) Appointment of Paul L. Gardner as Assistant in English for the period September 27, 1954 to December 17, 1954 at a salary of \$450 for the period. (Las Vegas)
- 9) Appointment of Donald R. O'Connor as Assistant in Psychology for the period September 1, 1954 to June 30, 1955 at a salary of \$900 for the period. (Las Vegas)
- 10) Appointment of Ethelind M. Steinheimer as Assistant in Mathematics for the period September 1, 1954 to June 30, 1955 at a salary of \$1575 for the period. (Las Vegas)
- 11) Appointment of John L. Carline as Graduate Assistant in Physical Education at a salary of \$375 for the Fall semester 1954.
- 12) Appointment of Evelyn Bibb as Assistant in English at a salary of \$1000 for the Fall semester 1954 to teach Freshman English, in the place of Mr. Houston, re-

signed.

- 13) Appointment of Betty J. Eilertsen as Assistant Professor of Foreign Languages at a salary of \$4500 for the academic year 1954-55 in the place of Dr. Paolozzi, resigned.
- 14) Appointment of Edward L. Randall as Commissioner of Food and Drugs, Petroleum Products Inspection, effective July 1, 1954 at a salary of \$7200 per year, to fill the vacancy caused by the death of Wayne Adams.
- 15) Salary increase for Stanley D. Johns, Chemist in the Department of Food and Drugs, to \$4557 per year, effective October 1, 1954 to compensate for increased responsibilities due to the promotion of Mr. Randall.
- 16) Appointment of Howard P. Cords as Assistant Professor of Agronomy and Assistant Agronomist, effective August 1, 1954 at a salary rate of \$5400 per year.

Motion by Mr. Grant carried unanimously that the above recommendations 1 through 16 be approved.

- 17) Appointment of Lt. Col. Robert L. Bereuter as Professor of Military Science and Tactics, effective August 9, 1954 in the place of Lt. Col. Loewus, transferred.

Motion by Dr. Lombardi carried unanimously that recommendation, item 17, be approved.

- 18) Resignation of D. F. Abell as Instructor in Physics, effective July 1, 1954 in order that he may give full time to complete his doctorate.

Motion by Dr. Lombardi carried unanimously that the recommendation, item 18, be approved.

The Board recessed as a Board of Regents and convened as a Board of Control for the Agricultural Experiment Station to consider the following personnel recommendations.

- 19) Appointment of Howard P. Cords as Assistant Professor of Agronomy and Assistant Agronomist in the Agricultural Experiment Station, effective August 1, 1954 at a salary rate of \$5400 per year, 1/2 from Resident Teaching and 1/2 from Experiment Station funds.

20) Appointment of John F. Griffiths as Laborer at Knoll Creek Field Station, Contact, Nevada, effective July 1, 1954 at a salary of \$2700 per year, plus house.

Motion by Mr. Hardy carried unanimously that the recommendations, items 19 and 20, be approved.

The Board adjourned as a Board of Control for the Agricultural Experiment Station and reconvened as a Board of Regents.

4. Policy Recommendations

The President presented the following recommendations:

- 1) That the fee for "non-matriculated" or "part-time" students registered for fewer than 12 credits in Evening Division, Saturday and Extension programs be increased from \$7.50 per credit to \$10 per credit, plus laboratory fees, if any, and that the fee for "auditors" or "non-credit" enrollees be kept at the present rate of \$5 per credit, plus laboratory fees, if any, effective with the Fall semester, 1954.
- 2) That a refund policy be established for "non-matriculated" or "part-time" enrollments as follows, effective with the Fall semester 1954:
 - a) In case of withdrawal before the end of 1/4 the total scheduled number of sessions of the class, a refund of 3/4 the total fees for the course paid by the student will be made.
 - b) In case of withdrawal thereafter, no refund of fees will be made.

Motion by Mr. Hardy carried unanimously that the above recommendations, items 1 and 2, be approved.

5. Needs of the University in Budget Form

Budget summary reports showing cuts since last Regents meeting had been prepared by the Comptroller and were distributed to the Regents for consideration. President Stout explained that after the last meeting of the Board of Regents, he had taken the suggestions of the Regents to the Deans who, in turn, took them up with their Department Chairmen. The budget cuts herewith presented are the result of these conferences and also of conferences between the President

and the Comptroller.

The Board recessed at 11:35 for luncheon.

The recessed meeting of the Board of Regents was called to order by the Chairman at 2:25 P.M. in the President's office. All Regents, the President and the Comptroller were present.

Reporters covering the afternoon session were Robert Laxalt, Bryn Armstrong, James Hulse and George Umberhauer.

6. Fleischmann Foundation

President Stout reported on the meeting of the Board of Regents and himself with representatives of the Trustees of the Max C. Fleischmann Foundation of Nevada, as follows:

At a joint meeting of the Trustees of the Max C. Fleischmann Foundation and the Board of Regents of the University of Nevada, it was determined that the \$800,000 already granted to the University by the Foundation shall be used to construct a College of Agriculture building on the Campus which will include Life Sciences and Home Economics. Additional necessary funds to complete the project will be granted by the Fleischmann Trustees when accurate costs have been determined by the Regents.

The College of Agriculture will be developed as a memorial to Major Max C. Fleischmann who, during his lifetime, gave the University its fully equipped dairy farm, a registered herd and a maintenance endowment fund. Many thousands of dollars of scholarships to aid worthy students who were wholly or partially self-supporting were also given by Major Fleischmann. Before his death he expressed a desire to further aid the Nevada College of Agriculture, expressing a belief that it was of great importance to the State.

Mr. Crumley presented the following resolution:

WHEREAS, during his lifetime Major Max C. Fleischmann demonstrated a great and sincere interest in the University of Nevada, and

WHEREAS, during his lifetime Major Fleischmann indicated a particular interest in the University of Nevada College of Agriculture, and

WHEREAS, since the demise of Major Fleischmann, the executors of his estate have carried out his wishes by granting substantial sums of money from the Fleischmann Foundation to the University of Nevada to be used specifically for improvement of the Agricultural College,

NOW, THEREFORE, BE IT RESOLVED that the University of Nevada Board of Regents does hereby unanimously name the University of Nevada College of Agriculture the "Max C. Fleischmann College of Agriculture".

Motion by Mr. Hardy carried unanimously that it be adopted and a copy forwarded to the Chairman of the Trustees of the Fleischmann Foundation.

7. Richardson Case

At 2:30 P.M. Mr. Barrett, representing the Office of the Attorney General, met with the Regents to discuss the following letter regarding the claim of Frank Richardson:

We submit the following principles of law and citations relative to the expenses incurred by Dr. Frank Richardson in securing employment after his discharge from his employment at the University of Nevada.

The Supreme Court of Nevada in the case of *State ex rel Richardson v. Board of Regents of the University of Nevada*, case No. 3759, decided April 20, 1954, held that the record presents no substantial support of either the finding of insubordination or the finding of lack of cooperation and presents no cause for removal. The order of June 3, 1953 removing petitioner as a member of the faculty of the University of Nevada was vacated.

The relationship between the State Board of Education and State University Professor was that of employer and employee.

State ex rel Phillips v. Ford, 151 P(2) 171.

A Professor in a State University, appointed for a fixed term with a fixed salary is generally held not a public officer in such a sense as to prevent his employment from creating a contractual relationship between himself and the Regents. 55 Am. Jr. page 10.

Discharge before performance of contract.

The parties to a contract which is wholly executory have a right to the maintenance of the contractual relations up to the time of performance as well as a performance of the contract when due.

Rochin v. Hoist, 178 U. S. 1.

General rule as to amount recovered for breach of contract of employment.

The amount to be deducted is the net amount received by the teacher from outside sources after reducing the entire amount received by the amount of added expenses incurred in securing and retaining the new employment, unless an offer of other employment was made and refused without justification. 56 C. J. Page 414.

It is the duty of the employee to reduce the damage by accepting similar employment. While that is true it is also true that a man has the right to select his own profession or calling or line of work, and is not required to leave his chosen calling and seek employment in another line of work in order to reduce the damage that may accrue to him by his employer's breach of contract.

Taylor v. Pope, 259 S. W. 527.

If he was compelled to leave the State to find it (employment) that act cannot inure to the benefit of the agency that made this necessary.

Smith v. Board of Education, 23 F. Supp. 328.

Damages for wrongful discharge included salary lost until employment was secured, plus reimbursement for necessary and reasonable expenses in hunting other employment.

Reuch v. Hayes Equipment Mfg. Co., 8 P(2) 346.

A teacher who has been wrongfully discharged before termination of his contract is not required to seek work in some other line, nor is he bound to seek or accept employment as a teacher of an inferior kind in

order to mitigate damages.

State ex rel Freeman v. Sierra County Board of Education 157 P(2) 234.

Generally a person is entitled to recover all reasonable and necessary expenses to which he may have been put by reason of a breach of contract, and if special damages are natural consequences of breach they may be recovered.

Walpole v. Prefab Mfg. Co., 230 p(2)36.

In an action by a teacher to recover damages for wrongful discharge, it was held by the court that a teacher wrongfully discharged before termination of contract who thereafter obtained similar employment in a distant town but at a reduced salary, was held entitled in her action for damages for wrongful discharge to have amount of expenses necessary incurred in securing the new employment, before subtracting the latter from the salary she would have earned under the broken contract.

The measure of damages for the breach of contract of employment is prima facie the sum stipulated to be paid for the services and the burden of reducing the damages by proof that the servant has, or might with reasonable diligence, have obtained other remunerative employment after his discharge, rests on the employer.

Plaintiff would be entitled to show in rebuttal the expense in securing new employment and additional costs to her in performing the duties of such new employment.

School District v. Nash, 140 P 473.

The question as to whether or not one suing for a breach of contract based upon a wrongful discharge before the expiration of the term of employment may charge the defendant with expenses incurred in obtaining new employment for the unexpired term, and for additional and necessary expenditures and outlays caused by the change from the old to the new place of employment, seems to be settled in the affirmative by the general trend of authority. School District v. Nash, supra.

The facts in each particular case determine the principle of law to be applied. In the case of Dr. Richardson

the question of reimbursement for transportation expense is one of fact to be determined by the Board of Regents in the light of the above cited law on the subject, with consideration being given to a possible doubt as to whether reimbursement for transportation of Dr. Richardson's family is justified.

Very truly yours,

W. T. Mathews, Attorney General
By /s/ George P. Annand
Deputy Attorney General

President Stout read the claim of Dr. Richardson (Regents minutes of June 5, 1954) and Chairman Ross asked for clarification, specifically whether or not the University is obligated to pay the claim for transportation of Dr. Richardson and his family.

In his discussion, Mr. Barrett stated that if it is proven that the University is legally obligated to pay the claim, his opinion is that the University is authorized to pay it; that the breach of contractual relations was pretty well established by the Supreme Court; that it is the opinion of the Attorney General that if payment is not made, a suit will likely follow, and that it would be difficult for the Attorney General's office to defend the University, in light of cases already decided and quoted in above letter from Mr. Annand. He stated that the letter was worded as it was because there is a possibility that the court decision, if such should occur, would be in favor of the University, although the Attorney General thought there is a good chance that it would not.

Motion by Mr. Hardy carried unanimously that the claim of Dr. Frank Richardson for travel expenses for himself and his family be paid, upon the advice of the Attorney General as expressed through Mr. Barrett.

Upon suggestion of Mr. Hayden, Mr. Barrett agreed to prepare a release for signature of Dr. Richardson.

8. Needs of the University (Continuation of Item 5)

Motion by Dr. Lombardi carried unanimously that the operating budget be approved as presented.

Classroom Facilities

President Stout discussed the need for providing additional classroom space so that some of the temporary buildings might be discarded and in order to prepare for the expected increase in enrollment. In conference with the architect and Mr. Mackenzie, Secretary to the State Planning Board, it had been determined, that approximately 6500 square feet of space would be needed.

At 3:20 P.M. Mr. Edward Parsons, architect, came into the meeting to discuss further the classroom needs of the University, as determined in conference with Mr. Mackenzie.

It was agreed that additional and more specific information be presented to the Regents at their next meeting concerning present buildings which might be remodeled and the contemplated new building program.

Housing Units

President Stout discussed the need for housing facilities for married students, pointing out that the present buildings are in such poor condition that they need to be replaced. He discussed a federal loan, and the provision of the State Constitution that such loan would have to be repaid in 20 years.

The President recommended that the University request the Legislature for authorization to construct a housing project of 100 units at a cost of \$750,000, \$375,000 to come from self-liquidating bonds and \$375,000 from general obligation bonds.

Motion by Dr. Lombardi carried unanimously that the recommendation be approved.

9. Las Vegas Bank Depository

The President pointed out the need for a place in Las Vegas where money collected might be deposited.

Motion by Mr. Crumley carried unanimously that the Comptroller be authorized to establish an account in a Las Vegas bank to take care of this need.

10. College of Agriculture - Fleischmann Foundation (Continuation of Item 6)

The matter of an architect for an Agricultural building to be erected as a memorial to Major Fleischmann was discussed. Mr. Parsons, who had drawn previous plans and who had worked with Dean Hutchison and his staff, declared the plans already drawn as now being obsolete. Mr. Parsons discussed the established architect's fee, 6% of construction, which includes supervision to the extent of avoiding difficulties and seeing that each sub-contractor knows his responsibilities.

Motion by Mr. Lombardi carried unanimously that Mr. Parsons be employed as architect on the Max C. Fleischmann College of Agriculture building, to work with the Board of Regents and with the Trustees of the Max C. Fleischmann Foundation of Nevada, at a fee of 6% of cost of construction.

Motion by Mr. Grant carried unanimously that Mr. Parsons be instructed to keep in touch with the President and to begin immediately to prepare estimates of cost to be submitted to the Trustees of the Max C. Fleischmann Foundation of Nevada.

Mr. Parsons in accepting thanked the Board for its consideration of him as architect for the new building.

Motion by Mr. Grant carried unanimously that the Agricultural building be named the "Max C. Fleischmann Memorial Building".

It was agreed that, as previously set forth in projected planning of the Campus, the building be placed facing the intersection of Evans Avenue and Ninth Street in the lower Campus.

The President was requested to look into the situation of the spur track in that area to determine the obligation of the University, if any, concerning it, and to report to the Board at its next meeting.

11. Coppermines Foundation, Inc.

A letter dated September 2, 1954 from the Consolidated Coppermines Corporation, Kimberly, Nevada, was read as follows:

Recently Consolidated Coppermines Corporation formed what is now known as Coppermines Foundation, Inc. One

of the purposes of this Foundation is to establish and maintain a fund that can be used to defray the expenses of a College scholarship in the amount of \$500 per year. The Foundation will award this scholarship to some deserving student starting with the present College year. Time does not permit us to work out a detailed and formal set of conditions governing the establishment of such a scholarship, particularly as it is to be effective for the present College year. However, it has been decided to award the first annual scholarship to Nick Reyes, a graduate of the White Pine County High School in the class of 1954. Mr. Reyes plans to attend the University of Nevada and to enroll in the School of Engineering for the coming semester and will continue in College, finances permitting.

In order to comply with the customary rules of the Treasury Department in matters of this kind, we therefore would like to set up a scholarship in the amount of \$500 at the University of Nevada with the understanding that the money will be given to a graduate of the White Pine County High School. A committee consisting of a representative of Consolidated Coppermines Corporation of Kimberly, a member of the White Pine County High School faculty and one representative of the community at large will recommend each year the student who in their estimation best meets the standards expected by the Foundation.

It is my understanding that in matters of this kind it is customary to have the University Admission Officer or some other designated member of the faculty disburse this fund to the recipient at regular intervals throughout the College year, providing satisfactory progress is being maintained by the student. My tentative thought is that this amount should be made in 4 quarterly payments spread throughout the academic year.

If the arrangements as set forth above are satisfactory to you and the University authorities, please advise me as to how the check should be made out so that I can have it forwarded promptly.

Any suggestions that you or your College committee on scholarships have to offer will be greatly appreciated by me, I assure you.

Yours very truly,

/s/ Arthur J. O'Connor
Vice President
Coppermines Foundation, Inc.

Motion by Mr. Grant carried unanimously that the scholarship be accepted and that the Secretary write a note of thanks to the Consolidated Coppermines Corporation on behalf of the Board of Regents.

12. Las Vegas Meeting

The meeting to be held in Las Vegas, Nevada, was set for Thursday, October 7, 1954 in the Administration building of the Las Vegas School System.

The meeting adjourned at 4:45 P.M.

The next regular meeting was set at the call of the Chair.