

**The University of New Mexico**

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**MEMORANDUM**

**TO:** LAW FACULTY  
**FROM:** ROBERT J. DESIDERIO, DEAN *RJD*  
**DATE:** APRIL 17, 1998  
**SUBJECT:** FACULTY MEETING

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**Faculty Meeting Agenda  
Monday, April 20, 1998  
Dean's Conference Room  
3:00 p.m.**

1. Dean's Report
2. Report of Salary Structure Committee
3. Navy Judge Advocate General's Letter
4. New Business

**NOTE: MEETING STARTS AT 3:00 P.M.**

RJD:mb

April 20, 1998

Faculty Meeting Minutes  
School of Law  
Dean's Conference Room, 3:00 p.m.

Present: Baum, Bergman, Browde, Desiderio, DuMars, Ellis, Fritz, Godfrey, Gonzales, Hall, Hart, Kelly, Land, MacPherson, Martinez, Mathewson, Montoya, Moore, Norwood, Rapaport, Scales, Utton, Valencia-Weber, Wolf

Absent: Bobroff, Fort, Lopez, Schwartz, Winograd

Dean Robert Desiderio called the meeting to order at 3:15 p.m.

Dean's Report:

Dean Desiderio announced that there would be a special faculty meeting on Monday, April 27, at 4:00 p.m. to discuss the Legal Writing Director position and other matters.

Desiderio reported that the Memorandum of Understanding regarding the Hatch Professorship between the Law School and the School of Public Administration has been signed and will be awarded as soon as possible.

Two first-year, dual-degree students, Julie Skidmore and Alberto Kraai, have been awarded Title VI grants for two-year, full-tuition scholarships plus \$20,000 each for their law school studies. The fellowships were targeted to students enrolled in Latin American Studies and professional disciplines, based on previous academic achievement and overall academic ability.

Report of Salary Structure Committee:

Dean Desiderio asked for discussion on the comprehensive salary report packet which had been distributed to the faculty several days before the meeting. He stressed the importance of discussing the proposal and coming to some consensus, not only because of the budget deadline, but in order to establish the direction the faculty wishes to go in the future.

Dean Desiderio then summarized the report's six points: (1) Salaries will continue to be based on year J.D. received, (2) Credit can be given for pre-J.D. degrees and pre-J.D. activities, e.g. teaching, (3) Annual cost-of-living and step increases, (4) Professorships be granted on a merit (productivity) basis, (5) Summer Research Grants funded at 2/9 of the faculty member's current salary and prioritized to assist newer faculty members in meeting publication requirements of the tenure and promotion policy, (6) Non-monetary awards--any member of the faculty should be allowed to take on special projects from time to time which benefit them as well as the Law School.

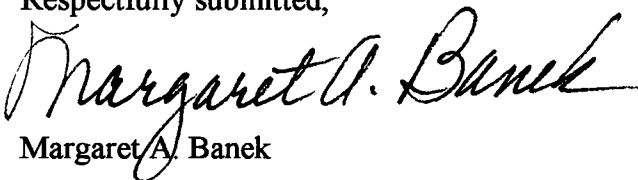
After extensive discussion, Dean Desiderio recommended that, in order to give the report full consideration, the report be discussed at some future time. He recommended that decanal discretion continue, and for 1998-99, that adjustments be made to accomplish vertical equity with 60% of the available funds, and the remaining money go for increases of a fixed amount for each faculty member. It was the consensus of the faculty to have a full faculty discussion of the report at some future time and that for 1998-99, Dean Desiderio's recommendation be followed.

Navy Judge Advocate General's Letter:

Dean Desiderio reported that he had faxed a letter to the Judge Advocate General's office requesting the deadline be extended for a review of our policy regarding military recruiting at the Law School. Dean Desiderio has also faxed a copy of Lt. Commander Price's letter to Senator Jeff Bingaman.

The meeting adjourned at 4:15 p.m.

Respectfully submitted,



Margaret A. Banek

:mb

**To:** Desi  
**From:** Dylan  
**Date:** April 20, 1998  
**Re:** Law Review Case notes and the writing requirement

Desi,

Several students have asked me to represent to the faculty their desire for changing the writing requirement policy regarding case notes written for the Law Review. Since I am unable to attend today's meeting, I'd like to explain the student position.

First, there is no doubt that being on Law Review is an honor with great rewards. Like most extracurricular activities, a student on the Law Review stands to gain a greater understanding of the law, improved writing ability, and greater job opportunities.

Second, the Law Review is something that also benefits the School of Law – a prestigious and well-written Law Review can help draw student applicants, increase yield, and so forth. Additionally, it enhances UNM's image among peer institutions and helps serve the needs of faculty who desire (or must) publish.

Third, because of its high visibility, the Law Review should represent the best of the school. The most able student writers should be a part of the law review.

Fourth, the students at UNM School of Law do not generally fit within the traditional law student image. The class composition is such that many students have familial or other obligations, all of which require a great deal of time and/or money to support. In order to provide that support, our students must apportion their time between school, family, work and extracurricular activities.

Fifth, with tuition increasing as it has (10% each year for the last 2 years) and with financial aid not increasing proportionally, students are feeling an even greater financial pinch. Many students already obtain the maximum borrow-able amount, and rather than incur more debt, many students are choosing to seek part time employment to help meet their needs.

Sixth, many students are unable to work on Law Review on top of their classes, studies, families, and employment and writing requirement. The Law Review, therefore, loses some potentially outstanding applicants, and the community suffers as a result.

Seventh, the writing requirement should not be removed, it is something that all students must be able to complete. It is a necessary goal of this law school that all graduates prove themselves to be able writers.

Imposing the additional burden of the writing requirement on top of the already excellent writing required for case notes lessens the Law Review's ability to recruit the best and most able writers that the school has to offer. Students who write case notes for the Law Review do prove themselves to be able writers; and it is unlikely that those Law Review students are the same ones whose writing is of great concern to the Law School.

Therefore, the students have asked for, and I support, the request to allow Law Review case notes to meet the writing requirement.

# REPORT

To: Dean Desiderio

From: The Ad-Hoc Salary Structure Committee

(Suede Kelly Chair; Michael Browde, Jim Ellis, Antoinette Sedillo Lopez, Gloria Valencia-Weber, members; and Dean Alfred Mathewson, ex-officio)

Date: April 16, 1998

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## Your Charge to the Committee

By memo dated December 26, 1997, you appointed us as an ad hoc committee to examine the current faculty salary structure. You directed us to “consider and assess feasible options . . . on which to base [that] structure,” and asked us to make a written report to you concerning our conclusions and recommendations. (*See Appendix A.*) In addition to traditional salary structure matters, you asked that we also “consider professorships, faculty awards, and summer [research] grants.” *Id.* Please accept this memorandum as our best effort to comply with that charge.

## The Committee's Methodology

The committee began its work in early January, 1998, and spent the first two weeks gathering data. In addition to the information provided by you from other relevant departments in the University and from other comparable law schools (*see Appendix B*), the committee sought and received comments and recommendations from among the faculty. (*See Appendix C*). We were also fortunate to have the volunteer services of Professor Joseph Champoux, from the Anderson School, who spoke with us about some of the general theories of creating and altering professional salary structures.

After gathering the data, the Chair provided us with an initial memo outlining the potential areas of study, including: 1) Setting the Base Salary; 2) Creating a System for Regular and Periodic Increases to the Base; 3) Consideration of Merit Increases; and 4) Summer Research Grants and 5) Non-Monetary Benefits. Individual members of the committee took primary responsibility for each of the topics, with the understanding that the assigned individual would synthesize the available data, present some initial proposals and lead the committee discussion of that topic.

After the initial organizational meeting, and the presentation from Prof. Champoux, the committee met weekly from the end of January up until Spring Break. The time

period between Spring Break and submission of this report has been spent debating and drafting the substance of this report. The report is organized by the four primary areas of concern studied by the committee—Base Salaries; Merit Increases; Regular and Period Salary Increments; Summer Research Grants; and Non-Monetary Rewards. Each topic begins with a Summary of the Committee’s Discussion on the topic, followed by the Committee’s Recommendation, and a Discussion of the Recommendation.

## **I. Setting the Base Salary**

### **A. Summary of Committee Discussion**

The committee engaged in considerable discussion about the appropriateness of our current practice of pegging the starting salary to the number of years out of law school. It is clear that the practice developed years ago when most new hires were from among recent graduates with a few years of experience as lawyers and who attended law school right after college. Even today, we tend to hire from among relatively recent law graduates, although our most recent hires have had more experience than those who were hired ten or fifteen years ago.

At the faculty meeting last fall when salary issues were discussed, an argument was made that years out of law school is only a surrogate for age, and that age, standing alone, is really an irrational basis for setting a starting salary. Of course there must be some starting point, and so the committee discussed other benchmarks—years out of college, years out of high school, and years of service to the law school—as well as non-absolute notions like “relevant experience,” and/or market-driven individualized negotiation.

Ultimately, the committee concluded that market-driven, individualized negotiation would not work because the disparate treatment of faculty members would cause too much difficulty over time. On the other hand, such an approach might be important if the goal of this institution were to recruit established national “stars” to the faculty. But the committee does not believe that such a change in the system of recruitment should be implemented because it is inconsistent with the egalitarian ethic of this institution.

Furthermore, setting relevant teaching, research and service related activities as the base criteria would be inordinately difficult. In addition, the enterprise might not be worth the effort, because our current system of recruitment looks to such talents and experiences in deciding whom to hire. Third, formal establishment of such criteria, would likely work to discriminate against recent graduates who, by definition, would have a difficult time competing against more experienced applicants.

Thus the committee returned to law school graduation as perhaps the best available *initial* benchmark. The committee concluded that law school graduation, while imperfect, is not an irrational benchmark, and years out of law school serves as a surrogate for more

than age—it generally correlates with some *law related experience* which is relevant to the mission of this institution. Of course, law school graduation and years out of law school are, in a given instance, imperfect surrogates for the kind of training and experience which is most valuable for law faculty, but generally the fit is quite good.

## **B. Recommendation**

*The committee recommends that the Law School retain graduation from law school and years out of law school as the norm for determining the base salary of new hires. That base should be subject to adjustment in individual cases, based on other pre-law school graduation experience which is especially relevant and material to excellence in law teaching and scholarship as discussed below.*

## **C. Discussion of Recommendation**

[1] This recommendation seeks to make explicit the informal policy which deans have used in the past to adjust base salaries from the years-out-of-law-school formula and which we understand drove the recent adjustments to base salaries which you made in a few individualized cases.

[2] The committee believes that the policy should be an explicit policy, which is made clear to all, including future candidates. The goal is to insure that there is a mirror-image understanding between the person hired and the faculty, to avoid post-hiring adjustments which undermine that understanding after the fact. Furthermore, candidates who are extended offers of employment should be given the opportunity to make their case for adjustment pursuant to the policy.

[3] Under the proposed policy, pre-law school graduation credit should be given to advanced degrees, full-time college teaching, and work especially relevant to law teaching and scholarship, provided however that such credit shall not be afforded on a year-for-year basis with years after graduation from law school, because post law school legal work should be valued more than pre-law school work.

[4] The committee, therefore, suggests that for pre-JD activities, a masters degree should account for an additional year of credit, a doctorate degree (or equivalent) should count for two additional years of credit, and the time spent in full-time college teaching or work especially relevant to law teaching and scholarship should be individually evaluated and awarded at 50 – 75% of that afforded to post-law school experience. Credit should be given, however, for only one pre-JD advanced degree.

[5] The committee also suggests that the Dean should make requisite adjustments to place existing faculty members on the pay scale in accordance with this policy, provided that any existing faculty member who is deemed to be placed higher on the pay scale than warranted under this policy, should not suffer any diminution in pay, but

should be readjusted through lesser awards of pay increases over a two or three year period. This adjustment is deemed necessary to assure fairness among existing faculty and between existing and prospective faculty.

[6] With respect to new hires, discretion should be left with the Dean to make decisions on the requisite credit afforded to the new faculty member, although the Dean should discuss his or her views on the matter and seek the advice of the faculty before engaging in negotiations with the candidate.

[7] This policy should not apply to the hiring of a non-lawyer faculty member. Rather any such hire should be subject to individualized negotiation by the Dean after full discussion with the faculty.

[8] It appears to the committee that the Law School has been relatively competitive with comparable law schools in its entry level hiring—i.e., the hiring of recent law school graduates with a modicum of experience. The committee believes that it is essential for the Law School to remain in that position, and we understand that requires some regular inflation-sensitive or market-sensitive increases to the base which recent deans have achieved. Most of our competitive difficulties come with respect to the salary levels of more senior faculty members, and that issue is the subject of the next two sections dealing with Merit Increases and Regular and Periodic Salary Increments.

[9] In the process of agreeing on the foregoing recommendation, the committee discussed and rejected two other ideas which have either been discussed in faculty meetings or were raised by individual faculty members—1) significant cannibalization of vacant faculty positions to provide substantial, across the board, pay raises to existing faculty; and 2) some method of pay calculation which would consider the particular financial needs of individual faculty members.

[10] With respect to the former, the committee rejects that notion for a number of reasons. First, it is the view of the committee that there is not substantial support for the idea in the faculty as a whole, because a substantial majority of the faculty believes that our current faculty-student ratio is a value which allows us to give more faculty attention to students than would otherwise exist. In this regard, the committee believes that retention of the current ratio will allow us to do better in the future with respect to our at-risk students, as well as other students. Second, the committee is concerned that reduction of faculty lines would preclude some of the non-monetary rewards which are discussed in Section V, *infra*, and which could considerably assist in improving faculty satisfaction in substantial and meaningful ways.

[11] Third, the committee believes that there are real external constraints in this area. Some of those constraints, which were discussed in a prior faculty meeting discussion of this issue include the fact that this is a relatively poor state; that it would not do for us to engage in the self-serving act of drastically increasing law faculty salaries.



The committee believes cannibalizing would send the wrong message to the UNM central administration that it can disregard our justified complaints about salaries because the law school has the means to take care of the problem itself. Finally, it sends absolutely the wrong message to the legislature on our pleas for resources.

[12] With respect to life style-based or life cycle-based considerations (like consideration of non-working spouses, children, college-expense, caring for aging parents, and the like), the committee found a number of those factors most compelling, but very hard to accommodate without creating other possible inequities for deserving faculty members who are not confronted by those situations, or who might have other particularized needs or requirements. Indeed, the individual circumstances are extraordinarily diverse, and include one pay-check couples, single parents, responsibilities to more than one group of children, and having children at different stages of life, just to mention a few.

[13] In the end, the committee concluded that the best way to deal with such matters is to try to structure a fair and equitable faculty pay scale, which provides reasonable, and fairly predictable compensation over the life of a career at this Law School, so that we can recruit and retain the kind of faculty members we think best serve the interests of this institution. Of course, no matter what we reasonably do, not all possible candidates will find our pay scale satisfactory to begin a career here, and some who are willing to start with us, may for any number of reasons, (including changes in their economic situation), decide not to stay with us.

## **II. Consideration of Merit Increases**

### **A. Summary of Committee Discussion**

The concept of merit pay raises permeated many of the other topics considered by the committee, and was given focused attention as well because it is clearly a matter which concerns many of the faculty. Furthermore, it has some currency in the general University community, and reflects meritocratic values which we all support to some degree. While our discussions of this topic were nowhere near as linear as the following may suggest, perhaps those discussions can best be summarized by consideration of the values served by merit pay, followed by a consideration of the problems and difficulties which such a system might create.

#### **1. The Values Served by Merit Pay**

To some it is intuitively obvious that the post-hiring accomplishments and activities of individual faculty members should be evaluated and the results of that evaluation should be factored into the process of determining both salaries and raises. Indeed, at

some law schools that is the pervasive ethic, although the law schools from our region which responded to your request for information, do not use merit as the pervasive means of determining raises. (See Appendix B). In any event, there are a number of policy, utilitarian, and “just-deserts” arguments for doing so.

The first reason for including merit is to create a system of incentives to get faculty members to do things that the law school wants to get done, *and that we fear will not be done (at least in sufficient quantity) if the activities are not separately rewarded.* For example, our Law School might conclude that we are not generating sufficient scholarship and that more scholarship will be conducted and published if faculty members are directly rewarded with heftier paychecks for doing so.

Second, a law school might determine that its faculty is not working hard enough on the essential work of the law school—either devoting essential time and energy to enterprises outside the law school, or just not being sufficiently productive. The use of merit pay would be used to lure faculty energy back to the Law School under the promise that pay will rise commensurate with the effort given to the institution.

Third, a law school might determine that it is important that faculty members who devote their efforts (in significant quantities) to the essential work of the law school must be compensated accordingly so that they don’t feel “cheated,” as they might if the work went unrecognized by a reward system. The concern is that such feelings can lead people to leave, to stay and become a negative influence in the community, or to stay but drop out of the community except for minimal performance of required activities.

The committee discussed those concerns—noting that the former problem (people leaving over pay issues) has not existed in our recent past, but that there may be serious issues involving the other two concerns. Some of that discussion led the committee to consider other non-monetary benefits (discussed in Part V, *infra*), but the committee also understood that a salary system could be structured to recognize (1) that some faculty members do more valued work than others, and (2) that a particular faculty member is one of them.

## **2. Problems/Difficulties with Merit Pay**

The central difficulty with merit raises arises from the fact that there are social and institutional costs in recognizing some activities as more meritorious than others, which in turn involves drawing distinctions among our colleagues. Those costs derive in part from the anticipatable reactions of those who are left unrewarded, and thus implicitly deemed less meritorious. The committee recognized that these are not trivial costs, although they may be ones that we might, as a community, decide to incur, at least to some limited degree. Any real evaluative system (that is any system other than “we will reward anyone who asks”) will carry this burden, as well as the considerable cost of

creating a fair and equitable evaluation system. Of course, a system which rewards all who ask is, in essence, not a merit system because it does not draw the essential relative distinctions which are at the heart of such a system. Another way to conceptualize this basic problem is that we probably all concluded, at least in our heart of hearts, that there is some variation on how hard faculty members work and how much their work contributes to the institution, but it also true that pretty much without exception, we all identify ourselves as individuals at the top end of that scale.

Furthermore, the committee appreciates the special value that this faculty places on its essential collegiality even though that commitment may have been sorely tested in the recent past. The committee is concerned that we do not further undermine that essential community value which has been so important to our well-being and our success as a special community.

An additional problem with any merit system is figuring out what to reward, which is a two-fold problem: 1) figuring out what categories of activities to reward, and 2) figuring out what activities within those categories merit reward.

With respect to the categories that merit reward, if, for example, we were to choose to reward scholarship alone, we would implicitly have created a system that values scholarship over teaching, in violation of our established institutional norms. If we countered this by also providing for equivalent merit rewards for people who do an extraordinary teaching job, we incur measuring problems and the potential for dysfunctional adaptations of teaching approaches to work ourselves into the merit system—i.e., avoiding innovative experiments which might fail on whatever system of success measurement is used to determine merit, or encouraging teaching which merely registers loudest on the applause meter. Furthermore, if we were to reward only teaching and scholarship, the committee is concerned that such a system would lead us as a faculty to abandon the important service and pro bono work we do, which many of us believe are of extraordinary value to the particular community which this Law School serves.

The second part of this inquiry lies in the difficulty of determining what should get rewarded within any given category. In scholarship, for example, if we treat everything as the same, we fail to really reward those who make extraordinary efforts and contributions, *i.e.* equating a brief law review commentary with a seminal or ovular work. Objective standards tend to devolve into a “count the footnotes” approach. But such a system is likely to be arbitrary and to be imprecise in identifying the most truly valuable contributions. Authorizing the Dean or a committee to make subjective evaluations of merit, which could then be reduced to dollar terms creates further problems. The potential for hard feelings here is obvious, and the threat to relationships with the Dean and/or committee members are relatively apparent perils.

The committee also discussed individually negotiated performance plans. Implementing such an approach would require substantial time and raise a number of additional issues, including: 1) who would negotiate those plans; 2) how would they be formulated to achieve personalization while also assuring achievement of institutional goals; and 3) how could they be done to insure consistency and equity among the various members of the faculty.

In addition to the social and institutional costs suggested above, such a method for distributing pay increases would have two additional consequences—one intended and one not—which may also carry with them troublesome costs to the institution. First, it is obvious that such a system, on its face, is inconsistent with a progressive, stepped system under which a new faculty member can project the reasonable progression of earnings for a career spent at this Law School—a particular value expressed by some faculty members (and dealt with in more detail in the next section). Second, and not so obvious at first blush, is the fact that if “merit pay” increases are added to the base salary, and the base also includes a non-merit factor (as most do), then early merit pay adjustments could skew the non-merit scale as people advance in their years of service.

Furthermore, the committee is concerned that evaluating the costs and benefits of a merit pay system must be done against the backdrop of the reality of what reasonably can be expected in terms of annualized increases in the Law School budget. Using the last ten years, as an example, the average budget increase allocable to faculty salaries has been 5.0% per year. If half of that were to go to non-merit pay increases, the issue would normally reduce itself to the allocation of only 2.5% of the budget allocation to faculty salaries. Administrative and institutional struggles which would be required to implement a merit plan over 2.5% of the faculty salary budget may not be worth the costs.

Finally, the committee concluded that the considerable individual contributions of this faculty are so diverse, and so valued by us as a community, that it would be wrong to place increased monetary value on some but not on others. Some of our colleagues work to save people’s lives. Some of our colleagues have reached out to the community and coupled service with education in especially creative ways. Some of our colleagues have dramatically made a difference in students’ lives in quiet and almost invisible ways, while others have provided similar help to faculty and staff as well. Some of our colleagues successfully teach huge classes to rave reviews and without any complaint concerning the burden. Some, on the other hand, are masters in special seminars, and in clinical settings. Some of our colleagues quietly and without fanfare create programs that have a national and international impact. Some of our colleagues are so respected in their fields that they are constantly being asked to speak locally, regionally, nationally and internationally. Some of our colleagues work hard on curricular changes and innovations, while others work tirelessly on local, national, and even international task forces and committees. Some of our colleagues work with Legal Aid and other related groups on the problems of poverty, hunger, and homelessness, while others have brought substantial

sums of money to the institution, thereby helping a number of the special missions of this institution. And this litany presents only a partial list of the important values served in so many ways by our faculty. Against this reality, the committee is fearful that any merit pay system that only rewards some of these cherished values would ill serve the institution and would erode collegiality.

### **3. Law School Professorships**

The committee's deliberation concerning the Law School Professorships, which you specifically included as part of your charge to us, (*see* Appendix A), was often discussed in conjunction with our other conversations concerning merit pay. There are several features of those professorships which the committee found particularly relevant in this context:

It has been the institutional practice to award those professorships on a rotating basis rather than as permanent "Chairs." The committee agrees with that practice, as being consistent with the egalitarian ethic of this Law School. We do not have "super stars" on this faculty, and we take it to be the general sentiment that we do not want to foster such a system in the future.

Given the rotational nature of the professorships, such an award does not carry with it an increase to the base salary of the recipient. Rather, it represents a "salary supplement" for the designated year or two duration of the professorship. Thus, those professorships could be granted with consideration of merit, without skewing the fairness of a stepped based salary scale.

There is considerable confusion about how the professorships have been awarded in the past. We all know that the decisions have been made by a committee, but the criteria are unclear, may have shifted from year-to-year, and have led to a good degree of misinformation and some hard feelings on the part of some faculty. Thus, on whatever basis those professorships are awarded, the criteria and system needs to be clarified and adhered to.

#### **B. Recommendation**

*The committee recommends that the Law School not allocate the regular and periodic increases for faculty salaries which come from the University budget on an evaluative, merit-based system, although the allocation of the rotational Law School Professorships should be made, at least in part, as a reward for excellence in teaching, scholarship and service.*

#### **C. Discussion of Recommendation**

[1] The committee is concerned that, generally speaking, the costs to our Law School of a merit pay system outweigh the potential benefits. We are concerned about

creating a system which requires faculty to compete self-consciously against one another. We are also concerned that such a system would undermine our essential collegiality; build resentments; and foster a feeling of unfairness and favoritism. Third, we believe it is imperative that we build an environment where we value each other as colleagues and value each others work. We are concerned that a merit-based pay scale will undermine that important institutional goal.

[2] The committee does believe, however, that there is one area of faculty compensation where, perhaps, the calculus might weigh more in favor of a merit component. That area is the allocation of the special professorships. The committee recommends that the professorships continue to rotate, irrespective of seniority, but that *reward for excellence in teaching, scholarship, and service* be a major component of the decision.

[3] The committee recommends that the Dean institute a system of annual faculty reports in which each faculty member will detail his or her research, teaching, and service work. (A copy of Utah's faculty report form is attached as Appendix D) Such reports—which would be useful for a number of other institutional purposes—should be part of the evaluative process in the award of professorships. Selections should be made in large part as a reward for excellence among those eligible for consideration. We should, however, continue to avoid permanent professorships, or de facto permanent professors who move directly from one professorship to another.

### **III. A System for Regular and Periodic Salary Increases**

#### **A. Summary of Committee Discussion**

After its discussions about base salary determinations, the committee took up the subject of regular and periodic increases to base salary. As the foregoing section makes clear, that discussion was coupled somewhat with committee consideration of merit pay increases, but once the committee decided not to recommend merit pay as the general method of distributing regular and periodic salary increases, the focus of committee consideration shifted to other methods of distributing available annual increases in our faculty salary budget.

As discussed in Part I, *supra*, the committee believes that under the current system, the Law School is reasonably competitive at the entry level, which has allowed us to successfully compete for the kind of people we want to add to our faculty. We have remained reasonably competitive at the entry level, however, because our Deans have been able to move the base of new hires upward on some informal basis to keep pace with inflation. That dynamic, coupled with the fact that pay increases (other than the modest step increases at time of promotion) have been characterized as cost-of-living

increases computed as a percentage increase on the established base salary, have led to the following:

- Entry level faculty have generally been paid on a reasonably competitive level;
- As faculty progress to mid and senior levels in our salary scale, the scale becomes compressed, leading to mid- and senior-level salaries which are much less competitive than our entry level salaries; and
- In the last few years, larger amounts of salary increase dollars are paid to the most senior people with the highest base salaries.

It is against this backdrop, and the understanding that annual budget increases from University sources presents a finite, modest source of revenue, (*see* discussion of this subject in Part I, *supra*), that the committee took up the way in which increments to base pay should be distributed. The committee began with the realization that raises impact not only the new amount of pay at the time of the raise, but they also set the base for future raises (if they are determined by reference to the base), and for senior faculty in the state retirement system, such increases also have a direct impact on retirement pay (which is controlled, of course, by University and not Law School policies).

The committee noted that virtually every suggestion sent to us starts with the premise that there should be some annual “cost-of-living” increase for all faculty, although, as mentioned above, most recently larger amounts of salary increase dollars have been paid to the most senior people with the highest base salaries. Also, there may be some unfairness to those at lower levels in that system during years of low inflation where the percent paid is larger than the actual increases in true cost of living. On the other hand in times of high inflation perhaps it would be unfair to the higher paid faculty members if they did not receive cost of living increases which keep pace with the true cost of living.

Furthermore, the committee became aware that a system which computes pay raises on a given percentage of an existing base when that percentage changes from year to year, invariably distorts the regularity of the incremental steps between faculty based on years out of law school. Indeed, it is that dynamic, coupled with the periodic inflationary boost in entry level pay, which has led to the compression in the pay scale that you have proposed to correct with a one-time adjustment in levels of pay.

The committee understands that irregularities exist in the current pay scale, that those irregularities need to be corrected, and that a system must be implemented to insure that they do not recur. The committee received a number of recommendations for the establishment of a step system of pay increases, as a means of providing some measure of predictability for faculty, and as a way to ameliorate the compression factor and irregularities in the current scale.

The committee focused on two principles for future pay increases: 1) that step increases should ameliorate the compression factor described above so that mid-level and senior faculty members are treated more fairly in reference to other law schools; 2) that the salary scale be fair when compared across generations—i.e., that a new faculty member can be assured that his or her career at the Law School will be compensated (in real dollars) over the life of that career comparably with someone who is just ending his or her career.

The committee also discussed a proposal concerning compensation for senior faculty who perform additional institutional duties, or should be recognized for extraordinary accomplishments. The committee concluded that such goals should be not be accomplished by altering a progressively stepped pay scale, but instead should be addressed through other monetary and non-monetary mechanisms. (*See, e.g.*, the discussions of professorships in Part II, summer research in Part IV, and non-monetary benefits in Part V.

## **B. Recommendation**

*The committee recommends that, after initial base pay is established for a faculty member, annualized pay raises be provided for using some combination of cost-of-living and step increases. Those increases should be distributed under a formula which both ameliorates the compression of the current salary scale, while at the same time assuring that career compensation remains reasonably predictable and fair across generations.*

## **C. Discussion of Recommendation**

[1] There are both external and internal forces which likely will operate to constrain faculty salaries within certain limits. Nonetheless, we do recommend changes which will assure a more progressive salary scale as faculty members proceed through their careers at the Law School. The committee believes that our faculty salary scale should be competitive with other comparable public law schools in this region as a fair measure of worth.

[2] While the committee has not formulated the scale for the apportionment of increases, if this proposal is accepted, we would recommend the retention of an expert in the field to help us to devise the appropriate steps in the scale.

[3] Pay issues involving deans and other faculty members with administrative contracts for greater than 9 months were raised in the Committee. There was not sufficient time to explore these issues in depth, although the Committee believes that the principles articulated in comment [5] in Part I with respect to adjustments to conform existing faculty salaries to the pay scale, might well apply when faculty leave



administrative positions. In any event, the Committee recommends that the subject be a matter for further study, after decisions about the pay scale for regular faculty have been made.

#### **IV. Summer Research Grants**

You specifically asked the committee to consider the role of summer research grants as part of the Law School salary scale, and we have given the subject considerable attention.

The committee well understands that pursuing academic research is one of our main institutional goals. In addition, the committee was impressed with the discussion of this subject at prior faculty meetings, and the supplemental submissions it received suggesting that we devote more resources to summer research grants, both to increase the scholarly output of the Law School and to support and assist new faculty members who are faced with specific scholarly output requirements to meet promotion and tenure requirements.

The committee is also concerned that prior summer research grants have been inadequate, and that there have not been sufficient qualifying standards for such grants. The committee viewed this subject more as a device to increase our scholarly production and curriculum innovations, than as a salary supplement, although the committee also recognizes its salutary impact on a general salary scale which is less than adequate and is likely to remain so.

The committee discussed both the amount of summer research grants, the method of calculation, and whether such grants should be available to all, or whether they should be allocated on some competitive basis. The committee also recognizes that there should be some correlation between summer research grants, and the summer salaries for Instituto, the Summer Clinic, and other summer teaching responsibilities (i.e., the summer Ethics course).

Finally, although it did not result in any formal recommendation, the committee discussed the possibility of increasing the number of summer course offerings, including evening law student/practitioner courses, which might provide additional salary supplement opportunities, especially for those faculty members who are more interested in additional teaching experiences.

#### **B. Recommendation**

*The committee recommends that a permanent Summer Research Grant program be established which is available to all faculty who: 1) submit meaningful research or curriculum development projects; 2) who commit a substantial portion of the summer to*

*the project; and 3) who commit to submission of a written product by the end of the following academic year. The goal of the program should be to fund summer scholarship at the rate of 2/9 of the faculty member's current annual salary. It should be a high priority of the program to assist newer faculty members seeking to meet publication requirements of the tenure and promotion policy, and persons who have a past history of quality scholarship.*

### **C. Discussion of the Recommendation**

[1] The goal of this program should be to foster more scholarly production, and thus, it should be open to all, with a special priority to assist those newer faculty members who are faced with the pressures of publication for tenure and promotion.

[2] The focus should be on the quality of the proposals; the commitment of the applicant to a single-minded devotion to the project; and an institutional insistence that the project be completed within a reasonable time. It should be understood, however, that large multi-year projects should be encouraged, and that completion requirements should be adjusted accordingly—i.e., completion of chapters or sections of larger works should suffice.

[3] With respect to compensation, the committee believes that on balance, it is fairer to compute the grant as a percentage of salary, because that will ameliorate the compression problem, and, although the committee rejected market-equity for determining the base salary for mid-level and senior faculty, using the salary level for allocation of research grants helps ameliorate the market equity problem as well. In addition, it should be made clear that such grants are not, for example, one month's salary for one month's work. Rather, it is the obligation of the faculty member-grantee singularly to devote a substantial portion of the summer to the project.

[4] Ideally, the committee would like to see the program develop to where two full months of pay could be allocated to a grant, although it was understood that initially funding for this program may be more limited. In addition, there must be some correlation between summer research grants and compensation for summer teaching responsibilities, such that one does not overwhelm the other.

[5] Also, the committee sees great merit in the "community of scholars" notion suggested to us, and believes that some component of communication among the summer researchers should be developed, as well as expecting that the summer research would provide topics for an expanded faculty colloquia program.

[5] Finally, those involved in full-time teaching during the summer should not be eligible for summer research grants, although perhaps those involved in limited teaching, such as Instituto, should be eligible for partial research grants.

## V. Non-Monetary Benefits

The committee's discussion of salary as an incentive to encourage activities which foster the mission of this institution inevitably dovetailed with discussions about non-monetary rewards. In addition, one of the primary reasons why the committee rejected large scale cannibalization of vacant faculty positions was because of the collateral flexibility a relatively large faculty provides to devise a system which rewards faculty in non-salary ways to aid in their growth and development.

The central premise of our discussions on this topic is that our faculty is a large enough community to allow *any member of our faculty* to receive accommodations from time to time in order to take on special projects which have meaning to them and to the institution. Thus, we should be able to adjust as a faculty to allow individual faculty members, among other things:

- To take unpaid leaves of absence to undertake things like temporary public service jobs, special study programs, or pro bono activities;
- To be given special light loads when they begin teaching and in particular semesters when they are facing other obligations important to advancement and tenure;
- To be given occasional adjustments in teaching loads or administrative duties for special research projects;
- To be given occasional adjustments in teaching loads or administrative duties for special curricular development activities;
- To be allowed heavier teaching loads in one semester, to compensate for a lighter load in a subsequent semester to further of some other important project in that later semester;
- To allow reduced teaching loads for senior faculty members who we might wish to assign to particular administrative tasks or mentoring responsibilities; and
- To be provided special administrative assistance to carry out institutional programs of special merit and importance.

## **B. Recommendation**

*The committee recommends that the Law School articulate a policy to provide reasonable accommodation to any member of our faculty from time to time in order to take on or complete special projects which have meaning to them and to the institution. The policy must be implemented fairly, under generally acceptable guidelines, and in a way that the faculty are fully informed of individual decisions made pursuant to the policy.*

## **C. Discussion of Recommendation**

[1] While we have in the past allowed some faculty accommodations to take place, a system for doing so has been lacking, which means that there has been a lack of understanding by all concerning particular decisions, resulting in some perception that faculty accommodation requests have not been dealt with evenhandedly.

[2] The committee did not explore in detail what the contents of such a policy should be, or how such institutional decisions should be made. The committee, however, concluded that it is one of our great strengths that we have sufficient faculty resources to make reasonable work-load accommodations to foster professional growth and specialized institutional interests, while at the same time meeting our normal institutional work requirements.

[3] The committee is also mindful of the enormous diversity of worthwhile activities undertaken by our faculty, some of which are specifically enumerated in the section dealing with Merit Pay, *infra*. Given our individual and collective commitment to those activities, the committee believes that an articulated and well administered non-monetary benefits policy may enhance faculty job satisfaction, and, at the same time, serve the larger interests of the institution—thus, furthering the same goals as a fair and equitable system of financial rewards.

**Date:** 12/26/97

**To:** Sudeen Kelly, Chair, Jim Ellis, Antionette Sedillo Lopez and Michael Browde *Kloster's Committee*

**From:** Desi *Di*

**RE:** Salary Structure Committee

---

Thank you for agreeing to serve on the salary structure committee. I appreciate your willingness to give you time, especially during the intersession, to this difficult, but important, task.

I have sent e-mail messages to over a dozen deans around the country, asking them for their schools' policies and practices. We have received some responses. I will put responses in your mail boxes as we receive them.

The committee should consider and assess feasible options, including our present system, on which to base our structure. I would like the committee to present to me a written report describing each option and the arguments for and against each option, including our present structure. In your deliberations, you should also consider professorships, faculty awards and summer grants. I would welcome any recommendations.

The law school awards the following professorships:

Regents' Professor: one year award of \$8,300, to be used as a salary supplement, research support, or a combination of both;

Regents' Lecturer: one year award of \$2,900, to be used as a salary supplement, research support, or a combination of both;

Keleher & McLeod Professor: two year award of \$5,000 annual salary supplement and \$2,500, each year, in discretionary funds to support academic efforts; and

Henry Weihofen Professor: two year award of \$5,000 annual salary supplement and \$2,500, each year, in discretionary funds to support academic efforts.

It is also possible that we will have an additional professorship, the Hatch Professor, for next year, or the following year. At this time we do not know the

Interoffice Memo

amount that the Hatch Professor will pay, but I am assuming that it will be the same as the Keleher and Weihofen professors.

The law school also makes two annual faculty awards:

Susan and Ronald Friedman Faculty Excellence Award: \$1,500 for teaching, scholarship and public service; and

Alumniæ Award for Faculty Excellence: \$1,500 for excellence in teaching.

During the summer, faculty can teach in the clinic or in Instituto or receive a grant. Next summer, clinic will pay \$12,000 for ten weeks of teaching. Instituto pays \$4,000 for four weeks of teaching. Summer grants, which have been awarded on the basis of a research proposal submitted to the dean, have been \$4,000.

I have scheduled the organizational meeting of the committee for Monday, January 5, in the Dean's conference room. Please let me know immediately if you cannot make the meeting.

*meeting rescheduled to January 12 @ 2 pm.*

Return-path: <desiderior@libra.unm.edu>  
Date: Sat, 17 Jan 1998 12:41:44 -0700  
From: desiderior@libra.unm.edu  
Subject:  
X-Sender: desiderior@law.unm.edu  
To: kelly@libra.unm.edu, ellisj@libra.unm.edu, lopez@libra.unm.edu,  
browde@libra.unm.edu, valenciawe@libra.unm.edu  
Cc: Mathewson@libra.unm.edu

I have spoken to Dean Paul Fleury, Engineering, and Dean Howard Smith, Anderson Schools of Management. Dean Paul Roth, Medicine, and I have been playing phone tag.

Paul has been dean for two years and thus has little experience with salary issues. He told me, however, that assuming salary increases for next year, he will award raises, using two tiers: a cost of living increase which everyone will receive, and a performance increase. He anticipates three levels of salary increases: average, above average and below average. I assume that the below average increase will include at least a cost of living increase.

Howard indicated that all increases in the business school are based on performance; business does not grant a cost of living increase. Howard indicated that because of the relatively low raises in the last few years, there has been little differentiation in salary increase.

Howard also told me that the business school has not converted faculty positions into salary money, except that business has not filled positions to that it could hire part-time teachers. Business has 100 part-time teachers.

I also asked both deans about consulting. Both answered the same; that is, faculty can engage in outside consulting according to university rules - one day a week on the average. Consulting is not taken into account at all; faculty raises in no way are affected about outside consulting.

I have sent e-mails to the other law schools but not heard from them

desiderior@libra.un, 12:41 PM 1/17/98 , No Subject

as of  
yet. When will let you know when I hear from them.

Desi



Return-path: <rstrickland@law.uoregon.edu>  
Date: Mon, 22 Dec 1997 15:57:03 +0000  
From: Rennard Strickland <rstrickland@law.uoregon.edu>  
Subject: Re: Request from Dean Robert Desiderio, UNM School of Law  
To: Margaret Banek <banekma@libra.unm.edu>

Dear Desi:

Good questions. I am not sure I know. yet. I will try to  
get  
a memo  
off to you after the first of the year. We are without our financial  
officer and  
Associate Dean until then. And how would a dean know without them.  
Best  
wishes  
for the New Year. RENNARD

Return-path: <richard.collins@colorado.edu>  
Date: Tue, 23 Dec 1997 07:22:22 -0700 (MST)  
From: Richard Collins <richard.collins@colorado.edu>  
Subject: Your inquiry about setting of salaries, etc  
X-Sender: collinrb@spot.colorado.edu  
To: desiderior@libra.unm.edu  
Cc: robin.skelton@colorado.edu

Dear Desi,

This University has a formal policy to set salaries, grant tenure and promotion, and award raises based on a 40-40-20 formula, 40% for research, 40% for teaching, and 20% for service. Inevitably research often counts for more, but the formal policy is stated in all official pronouncements on the subject.

The traditional policy of the Law School is for the dean to set salaries and to award raises, adjustments, summer grants, and professorships. Of course, when a professorship or chair involves an external search, the usual faculty committee conducts the search and thus narrows the dean's options. Otherwise, the dean asks each faculty member to provide a current statement of relevant activities and makes his decisions. For raises, he then has a personal conference with each of us.

This practice also reflects the general policy of the University, to hold the dean accountable for managing the Law School. At the same time, the University devolves substantial authority to the faculty. At times, some faculty members have advocated having a faculty committee with authority over professorships or raises or summer grants, but the faculty have voted down these proposals.

Several years ago, the University imposed on all units a centralized system of review for all faculty of color and all female faculty. Salary adjustments awarded by that review, which did not depend on any initiative by those affected, were then added to the budgets of affected units.

Recently, the University imposed on all units a requirement to have a process for salary grievances. The Law School chose what amounts to an arbitration model. This new system creates an alternative way to set salaries. It remains to be seen how it will work in practice.

Best wishes,

**Richard Collins, 07:22 AM 12/23/97, Your inquiry about setting of**

Rick Collins, Associate Dean

Return-path: <hansenr@lawgate.byu.edu>  
Date: Tue, 23 Dec 1997 06:59:35 -0700  
From: Reese Hansen <hansenr@lawgate.byu.edu>  
Subject: Re: Request from Dean Robert Desiderio, UNM School of Law  
To: banekma@libra.unm.edu  
Content-disposition: inline

Faculty salaries at the BYU Law School are set by the Dean. Faculty performance is evaluated annually based in substantial part upon a formal report made to the Dean by each faculty member in January of each calendar year. Salary increases are based upon the Dean's evaluation of the faculty member's overall performance in the areas of teaching quality, published scholarship, and citizenship within the law school and university community. The basic salary structure is also based upon years of experience in the profession. Summer contracts are available for up to \$9,000 for each faculty member based upon the submission of a research project leading to publication. Virtually all faculty members submit research proposals which are approved for the full amount of summer compensation.

I will appreciate receiving a copy of your findings. Thanks.

Return-path: <alan.matheson@law.asu.edu>  
Content-return: allowed  
Date: Mon, 29 Dec 1997 10:22:13 -0700  
From: "Matheson, Alan" <alan.matheson@law.asu.edu>  
Subject: Salary Structure  
To: "'desiderior@libra.unm.edu'" <desiderior@libra.unm.edu>

Salary Structure: With date of receiving the J.D. degree as base, we thereafter award increases on a merit basis, giving equivalent weight to scholarship and teaching and a lesser consideration for service. Sometimes, the state legislature mandates an across-the-board increase or places other restrictions upon the additions to salary, and, of course, we must comply. For example, for the current year some of our faculty members received a "bonus" under a legislative program to reward teaching (a badly flawed design), and all were considered for merit increases. In awarding merit and other salary adjustments, we consider comparative salaries from other law schools and attempt to keep abreast of the market, at least in our peer range.

Summer Grants are available to all who apply and have meritorious proposals. In some past years, preference was given to the untenured members of the faculty, but we have had enough resources to satisfy demand for all. Of course, there is an accounting by recipients with respect to progress on scholarship. Lately, we have made awards in the range of \$7,000.

Professorships. Unfortunately, we have only one named professorship. The holder of the title was selected by the Dean and the Dean's Advisory Committee of the faculty.

(Bob, we should know better than to return to the respective deanships but we don't seem to learn! Warm regards to you, and best wishes for the new year. Alan

Return-path: <sherri@hawaii.edu>  
Date: Mon, 12 Jan 1998 03:30:56 -1000  
From: Sherri Burr <sherri@hawaii.edu>  
Subject: Re: Salary Structure Committee  
X-Sender: sherri@pop-server.hawaii.edu  
To: Suedeem Kelly <kelly@libra.unm.edu>  
Cc: lopez@libra.unm.edu, mathewson@libra.unm.edu,  
browde@libra.unm.edu,  
ellis@libra.unm.edu, valencwe@libra.unm.edu

Dear Suedeem,

Thanks for your message. Hope you had a happy new year.

I would like see the law school adopt a bona fide seniority system, whose basic structure is based on years in law teaching.

Beyond that, I think that extra consideration can be given for scholarly productivity (both for articles and books), for teaching excellence, and for significant contributions to the law school, university, and academic communities. If extra credit is to be given for advance degrees, it should apply across the board to all individuals holding advance degrees and not just to a few.

I wish you luck in dealing with this matter. Please keep me informed either by e-mail (burr@libra.unm.edu or sherri@hawaii.edu) or by phone (808-956-6403). Thanks.

--Sherri

At 12:18 PM 1/12/98 -1000, you wrote:

> As you know, Desi has asked the salary structure committee to  
> evaluate the pros and cons of alternative approaches to setting  
faculty  
> salaries. The committee is now at the stage of identifying all the  
possible  
> options to be studied. We would appreciate all interested faculty  
members  
> providing us with options you know about/would like included in the  
> evaluation. We need your info by NEXT WEDNESDAY, JANUARY 21.

>  
> (You can give any material to me, and I'll get copies to all

the  
>committee members (i.e., Alfred (ex officio), Antoinette, Gloria,  
Jim,  
>Michael)).

>

> Thanks a lot for all your help.

>

>

<b>Yrs since JD</b>	<b>Base Salary</b>
1	50
2	51.5
3	53
4	54.5
5	56
6	57.5
7	59
8	60.5
9	62
10	63.5
11	65
12	66.5
13	68
14	69.5
15	71
16	72.5
17	74
18	75.5
19	77
20	78.5
21	80
22	81.5
23	83
24	84.5
25	86
26	87.5
27	89
28	90.5
29	92
30	93.5
31	95
32	96.5
33	98
34	99.5
35	101
36	102.5
37	104
38	105.5
39	107
40	108.5

et. seq.

**Adjustments to Base**

Rank: Assoc Prof. . . .2,000  
 Prof. . . . . .3,000

**Advanced Degrees:**

Masters. . . . . 500  
 PhD. . . . . 1,000  
 LL.M. . . . . 1,000  
 SJD. . . . . 500

**Pre-JD experience:**

Full-time college  
 teaching. . . . \$200/yr  
 Law-related  
 work\* . . . . . \$200/yr

**Post-JD, non law-related**

experience\*..(-\$200/yr)

\*Subject to negotiation to be  
 fixed at time of hiring.

**Merit Adjustments:**

Professorships; scholarships;  
 research grants; reduced teaching  
 loads, etc. to be made on basis of  
 merit.

R. GONZALES



Return-path: <fortde@libra.unm.edu>  
Date: Tue, 13 Jan 1998 16:00:33 -0700  
From: fortde@libra.unm.edu  
Subject: Re: Salary Structure Committee  
X-Sender: fortde@law.unm.edu  
To: Suedeem Kelly <kelly@libra.unm.edu>

Hi, Suedeem. I think that this subject should be somewhat influenced by reality, that is, whether there is any money that is likely to be available for salary adjustments (I assume that we'll follow the lead of other institutions and only consider upward adjustments). If there isn't, or if the amount is as slight as it has been in the last few years (i.e., 2% raises), then I regard the alternatives such as merit based systems as not worth the costs. The costs are those that comparisons inflict on groups such as our's in terms of maintaining relationships.

Recognizing that we are embarked on evaluating options, let me suggest a period of experimentation. We have a merit system, of sorts, in the various awards and positions that are distributed each year (Lecturer, Professorships). I'm not clear about the role that the faculty currently plays in these, but we might experiment with a system with clear statements of criteria, and with feedback to the applicants on how well they met the criteria (like grades). If we can agree on criteria in any setting, and feel comfortable with the application of these criteria, we would be on the road to a broader system. The next application might be in providing compensated faculty release time for projects. (From what I've heard, we would simply be bringing our teaching loads in line with those of other law schools by doing so. We would want to note supervision of indep. study, writing reqs, etc. as part of our loads.) Again, this would be an experiment in agreeing on and applying criteria as a faculty. Summer research monies could also be

handled in this fashion. After working with applying "merit" in these settings, we could, if there were money available, tackle the salary question head on.

Good luck, Denise

P.S. I usually change my mind about faculty questions about 10 times and probably will on this one too. It's strange, given that I normally don't lack strongly held opinions.

At 03:18 PM 1/12/98 -0700, you wrote:

> As you know, Desi has asked the salary structure committee to  
>evaluate the pros and cons of alternative approaches to setting  
faculty  
>salaries. The committee is now at the stage of identifying all the  
possible  
>options to be studied. We would appreciate all interested faculty  
members  
>providing us with options you know about/would like included in the  
>evaluation. We need your info by NEXT WEDNESDAY, JANUARY 21.

>  
> (You can give any material to me, and I'll get copies to all  
the  
>committee members (i.e., Alfred (ex officio), Antoinette, Gloria,  
Jim,  
>Michael)).

>  
> Thanks a lot for all your help.

>  
>

Denise D. Fort  
UNM School of Law  
1117 Stanford, N.E.  
Albuquerque, NM 87131  
Telephone 505-277-1094  
FAX 277-1037

Return-path: <rapaportel@libra.unm.edu>  
Date: Tue, 13 Jan 1998 16:17:49 -0700  
From: Elizabeth Rapaport <rapaportel@libra.unm.edu>  
Subject: Salary SStructure  
X-Sender: rapaportel@libra.unm.edu  
To: kelly@libra.unm.edu

Suedeem,

1. I would like to call your attention to, if you have not already got it in mind, the Berkeley or Cal system, adopted by many states universities: it has a cost of living component and a merit component. Each year all faculty get a certain percentage COL, and every so many years-- 3 early in a career, maybe 4 later -- faculty may apply to advance in a "step" system for which meritorious achievement is needed. This system may offer a compromise model if one is wanted or needed.

2. This may be outside the charge of your committee, but to the extent relevant, I hope we will adopt a balanced approach to the trade-offs between replacing/recruiting faculty and salary increases. I think we should have both as explicit priorities, that we should identify and fund real curricular needs, but also, as a priority, use money made available by retirements to fund salary increases rather than simply hire to the limits of available money. Since retirements may be the only significant source of increases, I hope your committee will consider this issue.

3. I personally am strongly in favor of some version of the summer salary proposal put forward at a recent meeting. The funding of research is woefully lacking at UNM. This proposal offers an avenue for research oriented faculty to develop themselves and enhance the law school's depth and prestige, while leaving others free to pursue remuneration for other kinds of work. I would very much like to see funding summer salary at the level set forth in the Schwartz proposal become a priority of the dean and

the faculty.

Good Luck,

Liz

G. Emlen Hall, 05:46 AM 1/14/98 , salary proposal

Return-path: <hall@llibra.unm.edu>  
Date: Wed, 14 Jan 1998 05:46:37 -0700  
From: "G. Emlen Hall" <hall@llibra.unm.edu>  
Subject: salary proposal  
To: kelly@libra.unm.edu  
Reply-to: hall@libra.unm.edu  
Organization: UNM School of Law

January 14, 1998

Suedeem, I put in your box a copy of a proposal for a new salary and job structure that I previously had sent to Alfred and Rob. I couldn't figure out how to re-direct it to you via e-mail. I don't think salary inequities are as real a problem as perceived job differences and my proposal addresses what I see as the more fundamental problem. Em

To: mathewson, schwartz  
From: hall@law.unm.edu  
Subject: faculty salary structure  
Cc:  
Bcc:  
X-Attachments:

January 7,

1998

To: Alfred, Rob  
From: Em Hall  
Re: Salary Structure

Please consider dividing the faculty into three job tracks with commensurate, different salary structures. Track I would include those faculty members who would like to teach and engage in substantial outside money making activities from whatever extra-University source derived. (Law firms, consulting, NITA, the State Legislature, the State Engineer etc.) Track I faculty would work under nine-month contracts.

Track II faculty members would carry on law school teaching and administrative functions for twelve months but would not be expected to publish. Summer clinics, Instituto, Guanajuato would fill out the Track II contract obligations.

Track III faculty members would teach but only for nine months (or less) and would be expected to publish significant scholarly work. Assignment to different tracks would be up to the dean who would make the assignment in consultation with particular faculty members. Track II and Track III faculty salaries would be on a parity; Track I faculty salaries would be on a reduced schedule.

1-13-98

Sueleen - Here's my suggestion. It's radical but it addresses some of the perceived problems.

Em

Return-path: <lmr@rwulaw.rwu.edu>  
Date: Thu, 15 Jan 1998 10:20:05 -0800 (PST)  
From: "Prof. Leo Romero" <lmr@rwulaw.rwu.edu>  
Subject: FW: Returned mail: Host unknown  
To: kelly@libra.unm.edu

--- On Wed, 14 Jan 1998 18:40:14 -0500 Mail Delivery  
Subsystem <MAILER-DAEMON> wrote:

----- Transcript of session follows -----  
550 unm.law.edu (smtp)... 550 Host unknown  
554 <kelly@unm.law.edu>... 550 Host unknown (Authoritative  
answer from name server)

----- Unsent message follows -----

Received: from [206.102.250.52] by alpha.rwu.edu;  
(5.65/1.1.8.2/08Nov95-1223PM)  
id AA26394; Wed, 14 Jan 1998 18:40:14 -0500  
Date: Wed, 14 Jan 98 18:13:26 PST  
From: "Prof. Leo Romero" <lmr@rwulaw.rwu.edu>  
Subject: Sarlary Structure Option  
To: kelly@unm.law.edu  
X-Priority: 3 (Normal)  
X-Mailer: Chameleon 4.6, TCP/IP for Windows, NetManage Inc.  
Message-Id: <Chameleon.980114184627.lmr@lck.rwu.edu>  
Mime-Version: 1.0  
Content-Type: TEXT/PLAIN; charset=US-ASCII

Suedeem: Congratulations on your appointment as chair of the  
Salary Structure Committee. I'm sure that it is just what  
you wanted.

The committee should consider the salary plan used at  
Oberlin College. I am not familiar with the details but I  
believe that the initial salary is based on market  
conditions. Annual salary increases are based in part on  
cost of living adjustments and in part on merit. Everyone  
gets the basic raise (last year, it was about 2% or 3%) and  
then additional merit increases are given on top of the basic  
raise. As I understand the merit part, the College has three  
merit points, with each merit point worth an additional  
percentage or two above the basic raise (last year, I recall  
that the individuals with three merit points received about 4  
or 5 percent increases above the basic raise, with two merit  
points about 3 percent, and with one merit point, about 1.5  
percent). Merit determinations are based on written requests  
submitted by individual faculty members. If a faculty member  
does not submit a merit request, she will receive the basic  
raise. If a faculty submits a merit request, she may receive  
merit increases of one, two, or three merit points, or the

request may be denied. If you want me to get more detail about how the plan operates, please let me know and I will call the College.

Best wishes to you and the committee in coming up with a structure and plan that meets everyone's expectations.

LEO

PS: It was good to see you and John in San Francisco.

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Name: Prof. Leo Romero  
E-mail: Prof. Leo Romero <lmr@rwulaw.rwu.edu>  
Date: 1/14/98  
Time: 6:13:26 PM

This message was sent by Chameleon  
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-----End of Original Message-----

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Name: Prof. Leo Romero  
E-mail: Prof. Leo Romero <lmr@rwulaw.rwu.edu>  
Date: 1/15/98  
Time: 10:20:05 AM

This message was sent by Chameleon  
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Return-path: <schwartz@libra.unm.edu>  
Date: Sun, 15 Feb 1998 19:57:11 -0600 (MDT)  
Date-warning: Date header was inserted by libra.unm.edu  
From: Rob Schwartz <schwartz@libra.unm.edu>  
Subject: Salary Proposals  
X-Sender: schwartz@libra.unm.edu  
To: lopez@libra.unm.edu, kelly@libra.unm.edu, browde@libra.unm.edu,  
mathewson@libra.unm.edu

Dear Committee,

I am pleased to hear that you are investigating the propriety of a summer research program as part of your salary structure study. While I understand that you are seeking advice from many other schools with summer research programs, I wanted to mention that any meaningful summer research program really should meet two basic requirements:

(1) the amount paid to each summer researcher should equal or exceed the faculty member's one month salary (i.e., be equal to at least 1/9 of the annual salary -- ideally, it would be 2/9 of that salary because that is the amount of time the law school would be buying), and,

(2) the existence of the program must be certain and predictable every year, and available to all faculty who meet the requirements.

The first is important to demonstrate the law school's genuine commitment to the endeavor, and to indicate that summer research is not something available just to those faculty members who can't find some summer consulting. The second is important because it allows faculty members to count on that source of income, and it permits them not to seek outside consulting or teaching work if they want to do research.

If this program is too expensive in the short run, I suggest that you pay for it (1) by limiting the program to faculty who do no outside consulting over the summer, or (2) by limiting the program to faculty who do no outside consulting at any time during the year, or (3) by imposing a law

school tax  
(10%? 25%? 50%?) on all faculty members' outside earnings during the school year and summer. This last alternative will also have the consequence of making it more likely that faculty members accept outside consulting only when it really does serve some educational value.

I can't remember who else is on this Committee; please send it on to the members I missed. Thanks for all of your hard work on the salary structure issues, and good luck to all of us!

Rob

Return-path: <schwartz@libra.unm.edu>  
Date: Mon, 16 Feb 1998 16:18:33 -0700  
From: schwartz@libra.unm.edu  
Subject: Compensation Committee  
X-Sender: schwartz@law.unm.edu  
To: lopez@libra.unm.edu, kelly@libra.unm.edu, mathewson@libra.unm.edu,  
browde@libra.unm.edu, ellisj@libra.unm.edu, valenciawe@libra.unm.edu

I am pleased to hear that the Committee is open minded about considering ways to take account of faculty members' outside financial resources (and needs) in setting compensation policy. It is difficult to pay according to need, of course, but there is one device that has been successfully implemented at other schools: a college scholarship plan for faculty members' children.

Under an appropriate plan, funds allocated for faculty compensation would be placed in an account to pay scholarships. Faculty members' children could apply for this money under conditions to be established (there would be a maximum amount paid per year and length of eligibility, I presume), and these resources would be available as scholarship money (untaxed, I believe, but you will have to ask Scott) to the most needy to apply in any given year. In fact, the level of the scholarship aid should be established at such a level that most faculty children would be eligible, and I suspect those children from families with substantial outside resources would not apply.

This plan would disadvantage our senior faculty whose children have finished college -- but, then, those faculty have always received higher real dollar salaries than the younger faculty ever will. The plan would advantage those faculty with no substantial outside income and lots of children -- those who need it most. As I mentioned, there may also be a tax advantage to seeing this money in scholarship aid rather than income. In the end, though,

this

would be a net transfer of some resources from faculty salaries to the college education of our less wealthy law school faculty colleagues. If the committee thinks it appropriate, the use of these resources could be expanded to include private school tuition, medical expenses, or other expenses generally borne by individual faculty members.

I believe that the use of creative compensation schemes like this one and a true, fully funded summer research plan, would go a long way to ameliorate the irrational system now in place. Further, I think that many faculty members would give up base salary, if necessary, to implement these plans.

Thanks for all of your efforts on this issue,

Rob Schwartz  
UNM Law School  
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schwartz@law.unm.edu

Return-path: <schwartz@libra.unm.edu>  
Date: Tue, 03 Mar 1998 11:49:03 -0600 (MDT)  
Date-warning: Date header was inserted by libra.unm.edu  
From: Rob Schwartz <schwartz@libra.unm.edu>  
Subject: Salary Structure Commttee --another suggestion from Schwartz  
X-Sender: schwartz@libra.unm.edu  
To: kelly@libra.unm.edu, lopez@libra.unm.edu, browde@libra.unm.edu,  
mathewson@libra.unm.edu

I hope that you find my regular salary restructuring suggestions appropriate. I know that you are trying to be as creative as possible, and this is an area that I have given some thought. By this note, I want to suggest that you consider giving a serious base salary increase (maybe \$5,000 or \$10,000) to those faculty selected as "Senior Professors." Any faculty member who has been on the UNM faculty for some substantial period (20 years? 25 years?) could be placed forward for promotion to Senior Professor. The tenure and promotions committee would do a full report on the candidate, and the faculty could decide on the promotion. Because this is a rank recognized only at the law school, it would not be necessary for there to be any main campus review.

One of the problems with the current law school tenure and promotion system is that once a faculty member is six years into a career, there is no career path. The problem is made worse by our current system of awarding named professorships on the basis of arbitrary and unannounced criteria -- in the words of our current dean and chair of the professorship committee last year, on the basis of "whose time has come." This proposed system would provide a career path for those faculty members who take their positions seriously and continue to expend great energy on teaching, scholarship, or whatever we believe merits this position, during the next decade or two of teaching. Further, we wouldn't have to limit it to a few faculty

members --

any member who worked hard enough long enough would be eligible. In addition, this would have the effect of increasing salaries substantially during the five years before retirement, and thus substantially increasing retirement income of law school faculty members (with no additional cost to the law school). Finally, this system would give some credit to true seniority -- years laboring in UNM's vineyards -- something the current system does only indirectly and by proxy.

Because of the resources that might be available this year for this kind of salary change, and the large number of recent retirements, this might be a particularly good year to begin this program.

Please let me know if you want to talk about this any further.

Rob

Return-path: <schwartz@libra.unm.edu>  
Date: Tue, 24 Mar 1998 11:06:18 -0700  
From: schwartz@libra.unm.edu  
Subject: Faculty Salary Proposal Modification  
X-Sender: schwartz@law.unm.edu  
To: kelly@libra.unm.edu, mathewson@libra.unm.edu,  
browde@libra.unm.edu,  
valenciawe@libra.unm.edu, lopez@libra.unm.edu  
Cc: fritz@libra.unm.edu

I wrote to you some weeks ago to suggest that the Faculty Compensation Committee seriously consider developing a system that would pay faculty, in part, on the basis of need, by providing faculty more compensation during their periods of greatest financial need. At the time I suggested that this be done through the establishment of a scholarship system for children of faculty, which would help some faculty during some periods of financial need. In fact, that was a very narrow (not to say self-serving) proposal. There are many different kinds of needs that ought to allow faculty members to tap into any faculty salary money segregated into a pay-by-need pool. Perhaps first priority should be to reimburse faculty who are responsible for exceptional medical expenses -- for themselves, their families, or anyone else for whom they have taken any financial responsibility. We should also help faculty meet the potentially very burdensome costs of long term care (or home help) for those for whom they have taken responsibility. We may want to use the fund to compensate those who suffer other substantial financial losses -- casualty losses, for example. Of course, any funds distributed from the pay-by-need pool would be distributed on the basis of need, which would be determined on the basis of the available family resources and the amount and nature of the special expense. This is not administratively difficult, and I would be happy to provide you with more details if that would help your committee's deliberations.

Thanks for your continuing consideration of my ideas on faculty compensation.

Rob



**ANNUAL FACULTY REPORT**

**NAME** \_\_\_\_\_

**(January 1, 1997, through December 31, 1997)**

**I. TEACHING**

**A. Courses taught during the calendar year**

1. Name of course/seminar \_\_\_\_\_

Number of credit hours \_\_\_\_\_ Number of students \_\_\_\_\_

Were student evaluations taken for the course? \_\_\_\_\_

2. Name of course/seminar \_\_\_\_\_

Number of credit hours \_\_\_\_\_ Number of students \_\_\_\_\_

Were student evaluations taken for the course? \_\_\_\_\_

3. Name of course/seminar \_\_\_\_\_

Number of credit hours \_\_\_\_\_ Number of students \_\_\_\_\_

Were student evaluations taken for the course? \_\_\_\_\_

4. Name of course/seminar \_\_\_\_\_

Number of credit hours \_\_\_\_\_ Number of students \_\_\_\_\_

Were student evaluations taken for the course? \_\_\_\_\_

5. Name of course/seminar \_\_\_\_\_

Number of credit hours \_\_\_\_\_ Number of students \_\_\_\_\_

Were student evaluations taken for the course? \_\_\_\_\_

6. Name of course/seminar \_\_\_\_\_

Number of credit hours \_\_\_\_\_ Number of students \_\_\_\_\_

Were student evaluations taken for the course? \_\_\_\_\_

Other information regarding your courses/seminars (e.g., were any of these a new course for you, did you use a new book, or did you prepare new material. etc?)

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7. Were any of your courses used by students to satisfy the substantial writing requirement?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, how many students' substantial writing requirement did you supervise? \_\_\_\_\_

8. Did you serve as faculty advisor for a journal, moot-court team, or other student activity? (Please indicate which ones, if any.)

9. Did you judge any student competitions (e.g., 1st, 2nd, or 3rd year appellate moot court, international moot court, trial, negotiations, or other competitions, client counseling. etc.)? (Please indicate which ones, if any.)

10. Did you work with a student on a student note or other journal piece? If so, what was the extent of your assistance?
  
11. Indicate any other teaching (e.g., directed readings, guest lectures) in the Law School, in another department (include any Continuing Education courses), or Bar Review Courses.

## **II. RESEARCH**

1. List all publications during the past year.
  
2. List any work completed but not yet published.
  
3. List works in progress.
  
4. List any lectures you delivered or any panel discussions in which you participated, including the topic, the group involved, and the location.

5. If you received summer 1997 funding, what was your summer project? How much of the project did you complete during the summer? What is the present status of the project?
6. Did you apply for any grants? If so, were you successful?
7. List any other scholarly work (e.g., serving as referee for a journal).
9. Describe any Intellectual Property (i.e. computer software, etc) and Creative Works (textbooks, etc) you worked on.

**III. SERVICE**

1. List all Law School committees on which you served; if you chaired the committee, so indicate.
  
  
  
  
  
  
  
  
  
  
2. List all university committees on which you served; if you chaired the committee, so indicate.
  
  
  
  
  
  
  
  
  
  
3. List all non-university professional law-related organizations with which you have worked during the past year and describe your involvement.

**IV. PLEASE ESTIMATE THE TOTAL AVERAGE HOURS PER WEEK SPENT ON LAW SCHOOL, PROFESSIONAL, AND UNIVERSITY-RELATED ACTIVITIES DURING WINTER AND FALL SEMESTERS.**

\_\_\_\_\_

How many of these hours were spent in the Law Building?

\_\_\_\_\_

What percentage of this total number of hours involved. . .

- A. Teaching (including preparation) \_\_\_\_\_
  
- B. Work with individual students \_\_\_\_\_

C. Research, scholarship and writing \_\_\_\_\_

D. Law School administration and committees \_\_\_\_\_  
\_\_\_\_\_

E. University administration and committees \_\_\_\_\_  
\_\_\_\_\_

F. Work with outside organizations \_\_\_\_\_

G. Other \_\_\_\_\_

**V. OUTSIDE ACTIVITIES**

1. Describe any legal consulting (or other "outside work" such as government service or business activities) you did, whether or not compensated. (Please estimate the average number of hours per week spent on such activities. If you have a formal relationship with a law firm, please indicate the nature of the formal relationship).
2. List any other significant community, church, or charitable service.

**VI. DESCRIBE YOUR SHORT- AND LONG-TERM OBJECTIVES AND  
EVALUATE YOUR PROGRESS TOWARD THEM.**