

Minutes: Meeting of the Faculty Senate Benefits and Professional Development Committee
9/28/17

In attendance: Gregory Kaplan (Committee Chair), Celeste Carruthers, Pedro Tomás

The meeting was called to order at 3.30 PM

1. Parental leave

Discussion took place concerning the current UT FMLA policy (document HR0338) in light of the policies at other U.S. institutions as described on the Parental Benefits Excel spreadsheet distributed prior to the meeting (and attached again to the “minutes” email). Some of these institutions have policies for paid leave in addition to the FMLA. The committee has been asked to look at these policies prior to the next meeting so that discussion can focus on reaching a consensus concerning whether UT should be encouraged to adopt such a policy.

2. Extending the probationary period for reasons of childbirth, adoption, or commencement of foster care

C. Carruthers focused the discussion on the topic of extending the probationary period (i.e. pausing the tenure clock) for for reasons of childbirth, adoption, or commencement of foster care. The committee has asked to look at the attached document (to the “minutes” email) from July 31, 2013 that describes such a policy in the UT Department of Economics, as well as to the following Iowa State website, where a similar university wide policy is described (on p. 55 of the ISU faculty handbook): <http://www.provost.iastate.edu/sites/default/files/uploads/faculty%20resources/policies/Faculty%20Handbook%20-%20January%202017%20-%20final.pdf>. Thank you to C. Carruthers for providing the document and the link!

3. TIAA issue

The final topic discussed concerned information that came to the chair’s attention too late to be included in the agenda. Please see the email below, which responds to questions that I and Beauvais raised after receiving an initial email from the same individual (whose name I have removed). The individual is a retired professor from the U of Memphis and has raised an issue with his retirement plan with TIAA. At the meeting I made the committee aware of this information, and for the next meeting the committee is asked to share opinions regarding the content. This is an issue that could potentially affect all of us. The first thing I am wondering is if this issue is a result of something that happened after CREF disappeared. Please cc to all with comments prior to the next meeting:

Dear Professors Lyons and Kaplan,

Thanks for your replies and questions.

First to Professor Lyons.

You are quite right to suppose you have complete control over your TIAA (formerly TIAA-CREF) investments *so long as you remain employed at UT*. You can switch back and forth from stocks to bonds to money market to TIAA traditional to real estate as you wish (with only a few technical limitations that are reasonable, unobjectionable, and not at issue here). Fees are low. When one continues to work as a State employee, it's a good deal.

The serious problem occurs only *after retirement when the retiree needs to draw upon his or her TIAA pension for living expenses*. At that time you will find that you are prohibited by Tennessee law from gaining access to more than 50% of your TIAA pension. That prohibition is not only unique in the United States and offensive, but potentially quite harmful to one's finances.

Permit me to quote again the relevant passage: "Upon retiring or otherwise terminating employment, an employee participating in an optional retirement program may elect to receive a cash withdrawal of up to fifty percent (50%) of such employee's accumulated account or accounts if permitted by the relevant optional retirement company, and **if the employee applies for and begins receiving a lifetime distribution of the remaining portion of such employee's accumulated account or accounts** [boldface added]." So the retiree can withdraw up to 50% of the pension, but only upon agreeing to an annuity (a lifetime distribution) for the other 50%.

Unfortunately, annuities have earned such a bad reputation as (non)investments because the sellers of annuities see them as cash cows for the sellers. But even if annuities were fine investments, the restriction would be offensive and potentially harmful. The faculty retiree might have a family emergency or some other legitimate need for **the retiree's own money**. (These faculty retirees from State universities are not teenagers, and most of us have earned doctorates and established reputations as researchers.) The State of Tennessee should not be blocking faculty retirees' access to any part of our pensions.

It does not at all surprise me that you were never properly informed of the real situation. I was not told about this bizarre restriction on my TIAA pension until I had already retired, after a university career of forty years and a 38-year career at the University of Memphis. It was quite an unpleasant shock. I then discovered that the President of the University, the President and the Executive Committee of the Faculty Senate, and every senior administrator and faculty member with whom I spoke knew absolutely nothing about the 50% pension-withdrawal limit before I made them aware of it. I find the systematic failure to inform faculty highly problematical, and that is one reason why I took the liberty of writing you. Evidently you have the same problem at UT.

Clearly the most important thing now is to get the statute repealed. We at the University of Memphis very much hope your Faculty Senate will soon pass a similar resolution to ours, and that your faculty and administrators will ask our representatives to change the law.

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Now to Professor Kaplan. Again, thanks for your comments and questions.

First, my attorney is an experienced litigator and the founder of his own successful law firm. He has degrees from Stanford, Columbia, and the University of Chicago. (I, too, have taken many law courses and taught public law for four or five years at the University of Memphis back in the 1980s.) He assures me that with the force of law the Tennessee Legislature did indeed bar me from withdrawing even the first 50% of my pension unless I agreed to an annuity with the other 50%. So I am fairly sure I have informed you correctly.

Permit me to quote the most relevant passage of the statute once more:

"Upon retiring or otherwise terminating employment, an employee participating in an optional retirement program may elect to receive a cash withdrawal of up to fifty percent (50%) of such employee's accumulated account or accounts if permitted by the relevant optional retirement company, and **if the employee applies for and begins receiving a lifetime distribution of the remaining portion of such employee's accumulated account or accounts** [boldface added]."

The retiree can withdraw up to 50% of the pension, *but only upon agreeing to an annuity (a lifetime distribution) for the other 50%.*

By the way, notwithstanding my attorney's reading of the law, which exactly corresponds to the wording, I did ask TIAA to refrain from applying these restrictions to me. As expected, they flatly refused to make any exceptions. They again made it crystal clear: if I wanted to meet living expenses with pension withdrawals from TIAA, I was forced by Tennessee law to take out an annuity (lifetime distribution).

At the University of Memphis, passage of our Senate's unanimous resolution sailed through without controversy. Many university faculty and administrators are being harmed by the statute, and no one gains any benefit. Professor Thomas Banning, our Senate President, will shortly make a presentation before the University's Board of Trustees. We hope your Faculty Senate will take action relatively soon, for once you have taken a vote we need to begin reaching out to key legislators before the Tennessee Legislature meets in the spring. Action by your UT Faculty Senate could make all the difference toward success.

4. The committee chair will be in touch soon with the committee to plan a late October/early November committee meeting.

The meeting was adjourned at 4.15 pm
Respectfully submitted,
Gregory Kaplan, 10/1/17