

January 10, 2013

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Associate Professor, University Libraries  
648G John C. Hodges Library  
Campus

Vincent A. Anfara, Jr.  
Professor and Department Head  
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325 Bailey Education Complex  
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David A. Golden  
Professor, Food Microbiology  
104 Food Safety & Processing Building  
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Re: Faculty Senate Resolution on Support for Benefit Equality

Dear Steve, Vince and David:

As we committed to you during the Faculty Senate's meeting on October 22, this letter provides further explanation of the position we have taken in response to the Faculty Senate Resolution on Support for Benefit Equality. We want to assure you that we have taken that position only after consideration of the very complex political, fiscal, and legal issues presented by the issue of domestic partner benefits.

Under state law, Tennessee Code Annotated § 8-27-201, various insurance plans for University employees are provided through the state group insurance plan administered by the State Insurance Committee. The state group insurance plan includes health insurance, dental insurance, vision insurance, pharmacy benefits, long-term care insurance, life insurance, and the Employee Assistance Program. Extending these benefits to a broader class of persons is not a viable option for the University because Tennessee Code Annotated § 8-27-201(c) expressly provides that "the group insurance plan [approved by the State Insurance Committee] shall be the only such approved plan for state employees." Therefore, the University does not have authority to extend coverage provided by the state group insurance plan or to establish a separate insurance plan for University employees.

With respect to other benefits, we assumed the Faculty Senate's awareness of the issues presented by Tennessee Code Annotated § 36-3-113, which states:

- (a) Tennessee's marriage licensing laws reinforce, carry forward, and make explicit the long-standing public policy of this state to recognize the family as essential to social and economic order and the common good and as the fundamental building block of our society. To that end, it is further the public policy of this state that the historical institution and legal contract solemnizing the relationship of one (1) man and one (1) woman shall be the only legally recognized marital contract in this state in order to provide the unique and exclusive rights and privileges to marriage.
- (b) The legal union in matrimony of only one (1) man and one (1) woman shall be the only recognized marriage in this state.
- (c) Any policy, law or judicial interpretation that purports to define marriage as anything other than the historical institution and legal contract between one (1) man and one (1) woman is contrary to the public policy of Tennessee.
- (d) If another state or foreign jurisdiction issues a license for persons to marry, which marriages are prohibited in this state, any such marriage shall be void and unenforceable in this state.

The statute was adopted by the Tennessee General Assembly in 1996. Ten years later, in the general election of November 2006, Article XI, Section 18, of the Tennessee Constitution was adopted, which states:

The historical institution and legal contract solemnizing the relationship of one (1) man and one (1) woman shall be the only legally recognized marital contract in this state. Any policy or law or judicial interpretation, purporting to define marriage as anything other than the historical institution and legal contract between one (1) man and one (1) woman, is contrary to the public policy of this state and shall be void and unenforceable in Tennessee. If another state or foreign jurisdiction issues a license for persons to marry and if such marriage is prohibited in this state by the provisions of this section, then the marriage shall be void and unenforceable in this state.

These statutory and constitutional provisions are the basis of our conclusion that the operative clauses of the Faculty Senate resolution are inconsistent with the public policy of Tennessee.

Beyond the issues presented by these statutory and constitutional provisions, expanding the class of employees eligible for certain benefits would have significant political implications and in some cases might also have significant fiscal implications.

As we have expressed to you in person, the political issues are the most challenging. As leaders of a publicly funded institution, we are responsible for acting in the best interests of the entire

institution. For this reason, we ultimately concluded that the University is not in a position to pursue the Faculty Senate's resolution.

We have also discussed all the issues at length with President DiPietro. He has authorized us to inform you that in light of these issues, and considering his responsibility as President to act in the best interest of the University as a whole, he has concluded that UT is not in a position to pursue domestic partner benefits.

We respect the Senate's position and appreciate the professionalism of our dialogue about this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry", written in a cursive style.

Larry R. Arrington  
Chancellor, UT Institute of Agriculture

A handwritten signature in blue ink, appearing to read "Jimmy", written in a cursive style.

Jimmy G. Cheek  
Chancellor