

TO: Dr. Anne Kugler
Chair, Compensation Committee

FROM: John T. Day, Provost and Academic Vice President *ATD*
Robert Kolesar, Chair, Faculty Handbook Committee *RK*

DATE: February 7, 2012

SUBJECT: Request for Interpretation

You asked for interpretations of two parts of the *Faculty Handbook*:

First, what is meant by "preserved" and by "group" in Part Four, Sec. V. A:

Certain benefits are also preserved by each retired member of the Faculty:

- 2. purchase of hospitalization and medical insurance at the University's group rate, but at the expense of the retiree.*

Specifically, does this passage mean the same group medical insurance as that offered to active faculty (that is to say, a primary plan, not a supplemental plan to Medicare)?

Second, what is meant by "booklet" and "written copies" in Part Four, Sec. VII. Fringe Benefits:

The Office of Human resources distributes a booklet describing Faculty fringe benefits to Faculty members at the time they enter into their first contracts with the University. The University is liable for at least the described level of Faculty fringe benefits or for those mutually agreed upon at a later date. Written copies of any changes in fringe benefits shall be distributed promptly to all Faculty member.

Specifically, does this passage require both the booklet and written copy of any changes to be on paper, as opposed to in electronic form?

We do not think that an interpretation is necessary. Rather we suggest ways to address the issues facing the Compensation Committee.

Background: As to the first question: The word "preserved" means "to maintain" or "to keep intact." No interpretation is needed here. Also, if one were in a group as an active Faculty member and this benefit is preserved, then one would remain in the same group when one's status changed to retired. This wording (in 2 above) dates back to the 1966 *Faculty Handbook* which also included descriptions of Faculty fringe benefits. The 1967 *Faculty Handbook* contained a list of fringe benefits, as the present *Faculty Handbook* does, but no longer gave a description of the fringe benefits. This was done in a

separate 1967 Fringe Benefit Handbook (possibly the first such handbook). This handbook refers to an annuitant group for retirees with substantially the same coverage but generally with lower premiums depending on certain factors (not spelled out) and paid wholly by the annuitant. There is no specific tie-in with Medicare. This 1967 Fringe Benefit Handbook description of health benefits for retirees is no longer present in Fringe Benefit Handbooks after 1972 and all subsequent fringe benefit handbooks have basically the same language as the 2000 Fringe Benefit Handbook (the most up-to date version) namely:

Retirees may remain on the group health care coverage by remitting the full premium to the University each month.

Again there is no tie-in with Medicare.

However our present health plan states as an exclusion:

...coverage is not provided for services and supplies...For which payment was made or would have been made under Medicare Parts A and B if benefits were claimed. This applies when you are eligible for Medicare even if you did not apply for or claim Medicare benefits. This does not apply, however, if in accordance with federal law, this coverage is primary and Medicare is the secondary payer of health care expenses.

Thus, depending on what federal law states, there is a possible conflict that may need to be remedied.

It has been and still is the understanding of Faculty members on the Faculty Handbook Committee as well as other Faculty members that the language in past and present Faculty Handbooks implies that the group plan mentioned is the same as the one a Faculty member had when on active status and that the premium is the same as the premium for Faculty members on active status but paid entirely by the retired Faculty member. But since the early 1990's and possibly much earlier the University has offered retired Faculty members only supplemental health insurance if they were eligible for Medicare and only if they opted for Medicare. It is not clear whether this constitutes a reduction in fringe benefits and, whether it is or not, there is no evidence that the Faculty were ever notified in writing of this change as required by the *Faculty Handbook*. Thus the only solution may be to put this change before the Faculty for a vote. We agree with your suggestion to ask the Faculty Council to put the change to a vote of the full Faculty and we encourage you to pursue this. Ultimately, as you realize, an amendment to the Faculty Handbook will be needed to make the proposed Faculty Fringe Benefit Handbook consistent with the Faculty Handbook on the matter of hospitalization and health care benefits. However, Faculty agreement to the change needs to be determined first.

As to the second question: The practice always has been for the booklet and written copies to be on paper. Due to the contractual nature of Faculty fringe benefits, the Faculty Fringe Benefit Handbook should continue to be printed on paper and distributed in hard copy to each new Faculty member along with her or his initial contract. This does not prevent the booklet from being made available in electronic form as well. Written copies of changes should also continue to be printed on paper and distributed to all Faculty members with the possibility of the same information being available in other forms as well.