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Faculty Senate Agendas and Minutes

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### 1987 March 30 - Faculty Senate Agenda and Minutes

Faculty Senate, East Tennessee State University

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East Tennessee State University  
Box 23534A • Johnson City, Tennessee 37614-0002

AGENDA

FACULTY SENATE MEETING

March 30, 1987

Forum Room, Culp Center, 3:30 p.m.

- I. CALL TO ORDER
- II. APPROVAL OF PREVIOUS MEETING MINUTES
- III. SUBJECT: ETSU TENURE POLICY\*\*
- IV. ADJOURNMENT

\*\*Please bring your 30 page draft copy of proposed changes in tenure and promotion (Logan document) to the meeting for information and review purposes.



East Tennessee State University  
Box 23534A • Johnson City, Tennessee 37614-0002

## MINUTES OF THE MARCH 30, 1987 FACULTY SENATE MEETING

### ANNOUNCEMENTS

President Fisher reported that Academic Council would meet again March 31 to continue work on tenure policy revisions. (See Attachment 1 - Tenure Revisions Required by New Board Policy (Sept. 1986) and Corresponding Suggested Revisions to Current ETSU Policy)

Fisher called attention to another hand-out (Attachment 2) - proposed changes drafted by the Faculty Senate Executive Committee.

Two other hand-outs dealt with retirement systems comparison (TIAA-CREF and TCRS) and faculty pensions/Tax Reform Act (Attachment 3 and 4).

Fisher announced that representatives from Environmental Health, Health Education and Industrial Technology departments are needed for the Safety Committee. Two representatives are needed for the ROTC Advisory Committee.

Several items from the SBR meeting were mentioned:

- 1) A department chairman from State Tech in Knoxville appealed the decision made by the leadership of that institution denying him the possibility of teaching less than 15 quarter hours. The appeal was denied. (John Taylor later added that the department chairman does receive a salary increase, if not a reduction in class load.
- 2) There will be a 7% fee increase for students in Fall 1987 and a possibility of a 4% salary increase.
- 3) Dr. Beller spoke on the major enrollment problems for 1989.
- 4) There are 40 candidates for the position of president of Tri-Cities Tech. A recommendation will be made in June.
- 5) The president of Tennessee State was appointed despite disapproval of the choice from various groups (Faculty Senate, Student Government and others).
- 6) A chair of Excellence in Business and Technology was approved for ETSU.

John Taylor added that a tenured professor at Cleveland State who was released for curricular reasons was given only 60 days' notice. There seems to be no policy (SBR) about how much notice should be given.

There may be an incentive retirement program, Dr. Fisher reported, but it will apply to general state employees, not faculty.

At 3:50 p.m. the meeting was officially begun when a quorum was met. Other announcements were meeting dates - April 20 (Nursing and Business will provide agenda) and May 4 ("annual meeting"). If necessary a meeting will be called for April 13. Monthly meetings will be held in June, July and August.

Anne LeCroy announced that the Concerns and Grievances Committee will meet Thursday, April 2, at the request of Dr. Monroe Morgan.

#### TENURE POLICY

(After Margaret Hougland attended the last Academic Council meeting, she gave members of the Executive Committee a copy of what has been called the "Alfonso draft" of revisions for the student evaluation role in tenure. The Executive Committee met March 20 to review that document and made several revisions. A larger version of the "Alfonso draft" and the Executive Committee revision of parts of the draft dealing with student evaluation are Attachments 1 and 2 to these minutes).

Margaret Hougland stated that Academic Council had many of the same problems which Faculty Senate had had and decided to zero in on only the changes necessary for SBR demands. She also stated that the last Faculty Senate proposal was not satisfactory according to the Vice President and Academic Council. They felt that it did not satisfy SBR demands.

Paul Monaco suggested that neither of the drafts seem to address the Medical School's particular teaching assignments. These problems should be addressed.

Several changes in wording for the "Alfonso draft" were suggested. Items number 7, 8, and 9 on pages 6-7 correspond to the Executive Committee items 1, 2, and 3. (See Attachments 1 and 2). It was especially noted that the Faculty Senate wants item #9 to appear as part of the peer evaluation process.

Carole Connolly asked about the provisions being made for exceptions such as the Library and University School. Dave Logan said that he had some proposed changes which would be presented to Academic Council.

It was decided that the Executive Committee's wording in the section dealing with peer assessment allowed for the Medical School's team teaching situations: "Conditions relating to the candidate's responsibilities should also be considered."

A motion was made to present the Executive Committee proposal to the Academic Council. The draft would replace items 7,8,9 and the "NOTE" of the Alfonso draft. The motion was carried with one abstention.

Gordon Ludolf questioned whether the wording of Section III,6,c of Attachment 1 was allowing for an appeal procedure for non-tenured faculty.

Anne LeCroy noted errors in language cases in which "his" rather than "his/her" had been used, "chairman" rather than "chair", and "verbally"

Faculty Senate Minutes  
March 30, 1987

rather than the correct "orally". (See Attachment 1 for corrections)

Dave Logan mentioned that in Section III,9,b on page 4 (attachment 1) the term "qualified privilege" needed some explanation. He was not sure that faculty would want this wording.

ADJOURNMENT

The meeting was adjourned at 4:40 p.m.

Respectfully Submitted,

*Carol B. Norris*

Carol B. Norris, Secretary

CBN/kja

Faculty Senate Meeting  
March 30, 1987  
Attendance Record

Senators Present

David Chi  
Carole Connolly  
Glenda DeJarnette  
Betty Edwards  
Don Ferguson  
William Fisher  
F. Steb Hipple  
Margaret Hougland  
Linda Kerley  
Anne LeCroy  
Al Lucero  
Gordon Ludolf  
Joseph Mattson  
Paul Monaco  
Carol Norris  
Carol Pullen  
Karen Renzaglia  
Mitch Robinson  
Etta Saltos  
John Stone  
John Taylor  
Gwen Thomas  
Paul Walwick  
Betsy Williams

Senators Absent

Mark Airhart  
Creg Bishop  
Peggy Cantrell  
David Close  
Katherine Dibble  
James Fields  
Pat Flaherty  
Lester Hartsell  
Don Jones  
Ruth Ketron (excused)  
James Pleasant  
Bob Samuels  
Bob Stout  
Richard Verhegge  
Frederick Waage  
Eduardo Zayas-Bazan

Guests


Dave Logan

Carol Norris  
P. O. Box 22450A

APR 10 1987

INTERDEPARTMENTAL COMMUNICATION

TO: • Members of Academic Council

FROM: •  Robert J. Alfonso, Vice President for Academic Affairs

SUBJECT: • SPECIALLY CALLED MEETING OF ACADEMIC COUNCIL

DATE: • March 26, 1987

I regret the necessity to interfere with other plans you may have, but it is necessary that we have a specially called meeting of the Academic Council in order to complete our work on the revision of our tenure policy. For this purpose, we will meet at 9:30 a.m. on Tuesday, March 31, in the President's Conference Room. The material to be discussed is attached.

RJA:ps



TENURE REVISIONS REQUIRED BY NEW BOARD POLICY (SEPT 1986)  
CORRESPONDING SUGGESTED REVISIONS TO CURRENT ETSU POLICY

Section III, 3, e.-- This section offers some procedural guidelines which we have not previously incorporated. {The Logan draft does not include any of these additional requirements.} This section is permissive:

- e. Each institution may establish additional reasonable requirements for the eligibility of faculty for consideration for tenure. These may include but are not limited to the completion of the doctorate or other specified degree in the faculty member's discipline, a minimum rank of assistant professor or above, and prescribed research and publication achievements.

NO CHANGE IN CURRENT POLICY RECOMMENDED  
\*\*\*\*\*

Section III, 6, e.-- This section permits the provision of procedures for "discussion" of non-renewal decisions.

- e. The institution shall provide --through procedures or administrative offices--the opportunity for the non-renewed faculty member to discuss his case in an appropriate manner.

IN CURRENT POLICY, III, F., 5. and 6.

\*\*\*\*\*

Section III, 4, a. -- The addition of the following sentence to the SBR policy allows for an extension of temporary employment beyond the previous three (3) year limit:

- a. ...where the permanent and continued need for the position has not been established provided that such appointment NORMALLY should not be in excess of three academic years. ANY REQUEST FOR AN EXTENSION BEYOND THREE YEARS WILL REQUIRE THE APPROVAL OF THE CHANCELLOR.

{Note: New wording included in Logan draft.}

\*\*\*\*\* SUGGESTED RESPONSE \*\*\*\*\*

D. Types of Appointments

There are three types of appointments for a specific purpose for a time appropriate to that purpose or for an unspecified period, which appointments may be terminated according to the terms of the appointments.

1. Temporary appointments ordinarily should be used for lecturers, adjunct or part-time faculty, faculty employed to replace regular faculty on leave of absence, and faculty employed pursuant to grants or for projects funded in whole or in part by non-appropriated funds. In addition, temporary appointments may be used for faculty employed on the basis of state appropriated funds in departments, division, or academic units where the permanent and continued need for the position has not been established, provided that such appointments should not be in excess of three academic years. Any request for an extension beyond three years will require the approval of the Chancellor.

\*\*\*\*\*

Section III, 13 -- This prologue to Section 13 "Termination of Tenure for Curricular Reasons" DELETES one of the reasons previously given --(3) because staff reduction is warranted as a result of courses or curricula within a department or division being reorganized or consolidated--and adds requirement for presidential dialogue with the representative faculty body:

13. ...Before declaring that curricular reasons exist the president will ensure meaningful participation by the institution's representative faculty body in identifying the specific curricular reasons, evaluating the long-term effect on the institution's curriculum and its strategic planning goals, and the advisability of initiating further action. Prior to initiating the process described below, the president will present --either orally ~~verbally~~ or in writing--a description of curricular reasons that may warrant the termination of tenured faculty member(s). Each institutional policy will describe procedures whereby this presentation will be made to a representative faculty body, and that body will have the opportunity to respond in writing to the president before action described below is initiated....

{Note: incorporated into Logan draft.}

\*\*\*\*\* SUGGESTED RESPONSE \*\*\*\*\*

P. Termination for Curricular Reasons

*orally*  
The employment of a tenured faculty member may be terminated because (1) a program is deleted from the curriculum, or (2) because of substantial and continued reduction of student enrollment in a field. Before declaring that curricular reasons exist the President will ensure substantive participation by the Faculty Senate in identifying the specific curricular reasons, evaluating the long-term effect on the University's curriculum and its strategic planning goals, and the advisability of initiating further action. Prior to initiating the process described below, the President will present, either ~~verbally~~ or in writing, to the Executive Committee or the Faculty Senate--a description of curricular reasons that may warrant the termination of tenured faculty member(s). Each of the reasons for termination of tenure for curricular reasons must denote shifts in staffing needs that warrant greater reductions than those which are accommodated annually in light of shifting positions from one department to another or among colleges to handle changing enrollment patterns (see Definitions, Section P, 6).

1. The President, upon determining that curricular reasons may warrant the termination of tenured positions, shall so inform the Executive Committee of the Faculty Senate. At the earliest possible date after said notification, as agreed to by the president and the Executive Committee, the President or his/her designee shall appear before the Senate for the Purpose of presenting all relevant information. Senators shall have an opportunity to pose questions and seek further information. The Senate shall respond, in writing, within thirty (30) days of this meeting.
2. Upon determining that termination of one or more tenured faculty members is required for one or more of the two reasons cited above, the President shall furnish each faculty member to be terminated a written statement of the reasons for the termination. Those reasons shall address fully the curricular circumstances that warranted the termination and shall indicate the manner and the information upon which the decision of which faculty members were to be terminated was reached. The President's written statement shall also indicate that the faculty member has the opportunity to respond in writing stating and objections to the decision.

\*\*\*\*\*

Section III, 13, g. -- ADDS statement on institution's obligation for a "significant effort to relocate...including bearing of reasonable retraining costs":

- g. ...In instances where (in the opinion of the president) relocation within the institution is a viable alternative, the institution has an obligation to make significant effort to relocate the faculty member, including the bearing of reasonable retraining costs....

{Note: incorporated into Logan draft, p. 15, not capitalized.}

\*\*\*\*\* SUGGESTED RESPONSE \*\*\*\*\*

- 9. When a tenured faculty member is to be terminated for curricular reasons, the President will make every possible effort to relocate that faculty member in another existing vacant position for which s/he is qualified. In instances where, in the opinion of the President, relocation within the institution is a viable alternative, the institution has an obligation to make significant effort to relocate the faculty member, including the bearing of reasonable retraining costs. The final decision on relocation is within the discretion of the President.

\*\*\*\*\*

Section III, 9, b.-- New sentence added to this section regarding "qualified privilege of academic confidentiality":

- b. ...Institutional procedures shall insure that peer committees have qualified privilege of academic confidentiality against disclosure of individual tenure votes unless there is evidence that casts doubt upon the integrity of the peer committee....

\*\*\*\*\* SUGGESTED RESPONSE \*\*\*\*\*

See addition to Section III, L., 5 which follows

\*\*\*\*\*

Section III, 9, c. -- New requirement related to role of student evaluations ( first half of this item discusses need for a process section that discusses procedures for each level of review--included in previous policies):

c. ...Each institutional process section must address (1) types and frequency of student evaluation of instruction by probationary faculty members and (2) uses of student evaluations in the review process leading to tenure. Finally, each policy should (3) describe provisions for ensuring a student advisory role in defining those uses of student evaluation.

\*\*\*\*\* SUGGESTED RESPONSE \*\*\*\*\*

See addition to Section III, L. 4, d. which follows

\*\*\*\*\*

REVISIONS TO SECTION III, L. INITIATION AND PROCESSING OF TENURE RECOMMENDATIONS

(Based on new SBR requirements, Logan draft, and suggestions given by Academic Deans, and Faculty Senate as of 3/19/87)

\*\*\*\*\* SUGGESTED RESPONSE \*\*\*\*\*

L. Initiation and Processing of Tenure Recommendations

The formulation of recommendations concerning the tenure of a faculty member is a cumulative process occurring at three levels: departmental/divisional; collegial; and executive or presidential. The faculty member eligible for consideration also has a significant role by assuming responsibility for timely submission of pertinent materials to the department chair for review at each level.

1. The Director of Personnel, by September 15 of each year, shall provide department chairs, deans, the vice president, and the president with lists of faculty members eligible for tenure through length of service. The action by the Director of Personnel does not relieve the department chairs of the responsibility of determining eligibility for tenure.

2. Department chairs, during the succeeding 15 days will verify the lists through departmental and other administrative offices.
3. October 1, each faculty member eligible for tenure shall be so notified by the chair.
4. Tenure applications (dossiers) will be completed by each faculty member applying for tenure. These applications will be submitted to the Departmental Chair no later than November 1. All tenure applications must be complete at that time. No additional documentation may be added after November 1, except at the request of the reviewers and with the permission of the applicant.
5. Tenure applications will receive an independent review at each level of the review process. At each stage in the process, the cumulative recommendations and statements of rationale reached by committees will be forwarded as integral parts of each candidate's dossier. All peer committees have qualified privilege of academic confidentiality against disclosure of individual tenure votes unless there is evidence that casts doubts upon the integrity of the peer committee.
6. Department chairs will call formal meeting(s) of all tenured faculty within their respective departments to discuss pending tenure applications. Tenure applicants must be given at least one week's notice of such meetings and shall have the opportunity to bring to the participants' notice any material which may be helpful in determining his/her fitness for tenured status.
7. In addition to any evidence that the candidate might choose to provide, the candidate must furnish student assessments of instruction drawn from at least two classes, for each fall and spring semester of the preceding two years. These student assessments should be representative of a variety of classes that an instructor might teach, rather than being from one course assignment only. A University approved assessment instrument will be used for this purpose.
8. Student assessments must be included with all applications for tenure, and will be considered as one important source of information concerning effective teaching, although not the only one. It is expected that a peer assessment of teaching will also take place, and the judgments of peers, which may or may not verify student perceptions, are to be used in combination with student assessments in order to obtain a comprehensive view of a candidate's teaching effectiveness.

NOTE: The ETSU Student Government Association will on a regular basis review the evaluation process and will bring their questions, concerns, and suggestions to the President of the Faculty Senate or to the appropriate Vice President for ~~appropriate~~ consideration and action. Changes in the process for student evaluation of instruction will be submitted to the Student Government Association and to

*Leave out*

*P  
and*

the Faculty Senate for consideration and reaction.

9. In addition to these evaluations, candidates ~~may~~ <sup>should</sup> include other items such as course syllabi, study materials, information on assessment and grading practices, assignments, assessments made by peers based on classroom observations or viewing video tapes of class sessions.
10. Likewise, complete and accurate documentation of all research activities, including complete bibliographic listings of publications, status of journals (refereed and non-refereed), role in jointly authored articles and papers, and complete descriptions of professional service activities as outlined in the Criteria section should be included in each application to provide evidence of and support for these activities. Copies of published items and other reported research/creative activity must be available for perusal by reviewers, upon request.
11. The departmental review by the committee of tenured faculty will be completed using the appropriate criteria, as established by the department and consistent with University criteria, in reaching its decision. In some cases, such as small departments or unique fields of study, outside expertise may also be helpful in the evaluation process. Either the chair or the candidate, with the concurrence of the other, may seek the professional judgment of individuals from departments or institutions other than the candidate's own.
12. After due discussion, the committee of tenured faculty within the department will vote to recommend, or not to recommend, each candidate within the department. A written rationale signed by each reviewing faculty member explaining the recommendation shall be forwarded to the chair. Included in that rationale will be an explicit evaluation in each of the areas of teaching, research, and service.
13. The departmental chair, by December 1, will forward to the school or college dean, and to the candidate his/her own decision to recommend or not recommend the candidate for tenure. Included in that recommendation will be written rationale explaining the recommendation, with an explicit evaluation in each of the areas of teaching, research, and service.
14. The chair will inform the dean of the tenured faculty members' vote. Should the chair elect to act contrary to the vote of the tenured faculty, the dean or other appropriate administrative officer should call a meeting of the tenured faculty of the department in question and should meet with the chair of that department to discuss the matter prior to making a recommendation.
15. All recommendations reached at the departmental level shall be forwarded to the school or college on appropriate forms provided by the Office of Academic Affairs. Only the faculty member has a right to withdraw an application that has been filed. Withdrawal of an application in the sixth year of probationary employment ini-

tiates an automatic one year terminal contract issued at the end of the sixth year of employment.

16. A chair may initiate a tenure recommendation at some time other than the annual review; but unless there is special need for earlier processing, subsequent steps will be taken according to the established schedule during the annual review.
17. The dean of each college or school will implement procedures to establish a college promotion and tenure committee. The details of selection, membership and term of office are to be determined by the faculty of the school or college. This committee shall take its membership from professorial ranks of the school or college with equal numbers appointed by the dean and elected by the faculty. Departmental chairs of faculty being considered should not serve as members of the school/college committee. The size of the committee should not exceed fourteen (14). The committee shall function generally in the role of advisor to the dean from December 1 to February 15 of each year. More specifically, this committee will perform the functions of review as follows.
18. Receive and review promotion and tenure recommendations of the chairs and departmental committees for transmittal to the dean. In formulating its recommendations, the committee should concentrate on the broad perspective of college-wide staffing plans, the departments' enrollment trends, and the philosophy and objectives of the school or college.
19. Review all dossiers with the objective of assuring that criteria for promotion and tenure are being correctly and uniformly applied to all members of the school or college.
20. Review the completeness of the information presented and question any omission in criteria or variations in procedure. Where discrepancies or misapplication of criteria are noted, the committee will attempt to correct the errors through direct consultation with those involved.
21. The school/college review committee will, by February 1, forward its recommendations and a written rationale for each faculty member reviewed. These written statements will be signed by each reviewing committee member and will include an explicit evaluation in each of the areas of teaching, research and service.
22. The dean's recommendations, together with written rationales, shall be forwarded to the appropriate vice president by February 15. This report must also include an explicit evaluation of each candidate's record in the areas of teaching, research, and service.
23. The dean, at the time the candidate's application is forwarded to the vice president, will also notify the candidate of his/her decision to recommend or not to recommend.
24. If the Vice President, in the face of earlier approvals, favors disapproval of an application s/he will should a meeting with the



department chair and dean concerned prior to a final decision.

Those involved in the meeting will be advised regarding that decision.

25. Upon reaching a decision regarding each application for tenure or promotion, the vice president will forward the dossier, together with all recommendations relevant to it, to the president by March 15.
26. All tenure applications which are initiated will be forwarded to the President regardless of the recommendation made by any intervening administrative officer; unless the candidate chooses to withdraw his/her application.
27. Final action on each tenure recommendation will be taken by the President. When a recommendation is approved by the President and subsequently by the Chancellor and the Board of Regents, the President will notify the faculty member by letter of the award of tenure. When a recommendation is disapproved by the President, he/she will inform the department chairman of the faculty member involved, stating reasons for disapproval, and the chairman will advise the faculty member that the recommendation has been disapproved. At the same time, appropriate administrative officers will be advised by the President of the action taken on all tenure recommendations--denial or recommendation.
28. A list of faculty members who are recommended for tenure status in any one year will be forwarded to the Chancellor and the Board of Regents. No faculty member shall be entitled to, or acquire any interest in a tenure appointment in the University without a recommendation for tenure by the President and an affirmative award of tenure by the Board of Regents. No other person shall have any authority to make any representation concerning tenure to any faculty member and failure to give timely notice of non-renewal of a contract shall not result in the acquisition of a tenure appointment, but shall result in the right of the faculty member to another year of service at East Tennessee State University.
29. Upon final action taken by the Board of Regents, recommendations forms will be filed in the Personnel Office.

ETSU Faculty Senate Proposal

In addition to any evidence that the candidate might choose to provide, the candidate must furnish student assessments of instruction drawn from at least two classes for each fall and spring semester of the preceding two years. These student assessments should be representative of a variety of classes that the candidate has taught rather than being from one course only. A university approved assessment instrument will be used for this purpose.

1.

These student assessments must be included with all applications for tenure and will be considered as one important source of information concerning effective teaching, although not the only one. A separate peer assessment of teaching effectiveness will also take place. This will include a review of student evaluations with consideration given to the type of courses involved. For purposes

2.

of this review candidates should include additional items such as course syllabi, study materials, assignments, information on assessment and grading practices, classroom observation by peers and any other relevant information. Conditions relating to the candidate's responsibilities should also be considered. All of these factors will be used in order to obtain a comprehensive view of the candidate's teaching effectiveness.

Proposed changes in the process for student evaluation of instruction will be submitted to the ETSU Student Government Association for consideration and reaction.

3.

The Student Government Association will review the evaluation process on a regular basis and will bring their questions, concerns and suggestions to the Faculty Senate and the Academic Council.

March 30, 1987

## PROPOSED TENURE POLICY CHANGE

### Student Evaluation of Instruction

An amendment to the SBR Policy 5:02:03:00 was approved by the State Board in a meeting at Memphis State Tech on September 19, 1986, to be effective as of the 1987 - 88 academic year. That action requires all institutions in the SBR system to include a section involving the tenuring of faculty members which specifies the following three aspects relating to the student evaluation segment in that process.

1. types and frequency of student evaluation
2. the uses of student evaluation in the tenure review process
3. a description of the provisions which are made for insuring a student advisory role in defining the uses of such student evaluations

Such an institutional policy statement is scheduled to be in the hands of the Vice Chancellor of Academic Affairs, Dr. Bert Bach, by no later than Friday, May 15, 1987. These then may be reviewed and considered at the Presidents' Council meeting on Tuesday, May 19, 1987, prior to being presented at the SBR meeting on Friday, June 26, 1987.

ETSU RETIREMENT SYSTEMS COMPARISON REPORT

RELEVANT FACTORS	(TCRS) TENNESSEE CONSOLIDATED RETIREMENT SYSTEM	(TIAA - CREF) TEACHERS INSURANCE ANNUITY ASSOCIATION COLLEGE RETIREMENT EQUITY FUNDS
1. Vesting Provisions	Any individual hired before July 1, 1979 five years for full vesting. Since the above date ten years for vesting	Immediate vesting when the money is entered for you or by you.
2. Interest Rate Payment	5% by year by virtue of a Tennessee law only on your personal contributions	10% dividend credited on your policy including the 5% personal contribution plus the 5% state contribution from March 1, 1986 to February 28, 1987 but no less than 9.5%
3. Portability Privileges	Practically none unless new employer will accept any such time and credit	Very great because of wide coverage in the higher education community
4. Ownership Relationship	Individual to a State Government	Individual to a Private Business
5. Contribution Rate	Contributory before July 1, 1981. Since that time non-contributory	Same conditions here as in the state program
6. Sick Leave Credit	1 month of additional service time credit for each twenty days of unused sick leave	Sick leave time here has no value whatever for retirement time credit
7. ETSU Membership 1,438 Percentage Number	1,053  73.2%	385  26.7%
8. Investment Fund Management	State Treasurer's Office with an appropriate staff under his direction	Private investment company

COMPARISON OF PROVISIONS OF TIAA-CREF AND  
THE TENNESSEE CONSOLIDATED RETIREMENT SYSTEM (TCRS)

TIAA-CREF

TCRS

Contributions

No contributions are paid by the member. The University pays 10% of gross salary covered by Social Security and 11% of salary in excess of that covered by Social Security.

No contributions are paid by the member. The University pays 11.05%.

Portability

Each member has a personal contract and may continue contributing at other educational institutions. Individuals may also contribute extra payments whether employed by a participating institution or not.

TCRS has no portability except with State government.

Vesting

Both employer and employee contributions are 100% vested from the date of contribution.

For members who joined before July 1, 1979, there is a graduated scale of vesting with 10% vested benefits after 4 years which increases to 100% after 10 years. For new members on or after July 1, 1979, there is no vesting until the member has accrued 10 or more years' creditable service.

Formula Benefits

No formula benefits are available. TIAA-CREF annuities provide total retirement income.

A formula using average salary and creditable service is used to compute all retirement allowances.

Disability

There is no provision for disability retirement. However, the employee may request an annuity settlement and receive whatever amount is payable as an annuity at that age.

After 5 years' creditable service, the member is eligible for disability retirement computed with the formula. Accidental disability retirement is also available if the person is disabled on the job.

Refund

No refunds are provided for members who join after July 1, 1981.

No refunds are provided for members who join after July 1, 1981.

Variable Retirement Income

CREF is a variable annuity which may decrease or increase retirement income in accordance with investment earnings. Its primary investments are in common stock. Although TIAA is a fixed annuity, income payments may vary due to interest and dividends. Amount of income payable at retirement is based on the value of the accumulation and the person's age.

TCRS is a defined benefit plan. Since income is computed with a formula and not based on the value of an accumulation, the income is fixed except for legislative changes in the formula and cost-of-living increases.

Cost-of-Living Increases

There are no cost-of-living increases as such. Instead there may be variances in annuity income as stated in the preceding item.

Adjustments in income to reflect increases or decreases in the CPI may be made. Such adjustments may not exceed 3%. Or, the retiree may elect a lesser retirement allowance under an option which provides 6% cost-of-living adjustments.

Death Benefits before Retirement

The value of the total accumulation is payable to the named beneficiary or estate. If the value of the accumulation is sufficiently large, the beneficiary may have other options including annuity payments.

If the member dies before becoming eligible to retire and within 120 days of active service, the beneficiary or estate receives a lump sum payment which amounts to twice the value of the member's accumulation. For members who join July 1, 1981, or later and have no prior service, there is no lump sum death benefit.

If the member is age 60 or has at least 30 years of service, the member may execute an Option 1 which upon the member's death before retirement provides a 100%-to-survivor annuity. Also, if the member has at least 10 years' creditable service and dies, there is a 100%-to-survivor annuity automatically payable to the spouse, if any, if the spouse has been named as beneficiary.



**Teachers Insurance and Annuity Association  
College Retirement Equities Fund**

730 Third Avenue/New York, NY 10017 (212) 490-9000

**DONALD S. WILLARD**  
*Executive Vice President*

December 31, 1986

TO ALL PARTICIPANTS:

During congressional consideration of the Tax Reform Act of 1986, we asked you to contact your senators and congressman to seek their support in retaining certain favorable provisions of law pertaining to employer-sponsored pension plans and other retirement arrangements. You responded with an outpouring of letters and telephone calls that had a positive effect on the outcome of this legislation. Thanks to all of you who helped in this effort, the outcome is generally favorable to participants, participating institutions, and to TIAA-CREF, although not entirely satisfactory to all concerned.

The enclosed issue of The Participant describes in more detail the outcome of Congressional deliberation on various aspects of the law that most directly affect participation in TIAA-CREF pension and Tax-Deferred Annuity plans for the vast majority of TIAA-CREF participants. Included is a discussion of contribution limits, one of the subjects we wrote to you about. As for the other aspects of the new law on which we asked for your help,

- o TIAA-CREF's tax exemption has been retained on all employer-sponsored pension operations -- thus preserving these TIAA-CREF pension reserves for pay-out as retirement income to participants and affirming long-standing national policy not to tax employer pension plans at the plan level. (As with all pension plans, that portion of TIAA-CREF participants' annuity income resulting from employer and employee before-tax contributions and earnings will continue to be subject to federal income tax when it's received, as it was before the Tax Act became law.) The Tax Act also treats TIAA's insurance operations consistently with those of other insurers by making them taxable, as of 1987. However, taxation of these operations, which include life, health, and disability coverage, isn't expected to have a significant impact on insurance premiums, dividends, or benefits.
- o Colleges, universities, and other nonprofit organizations (except for churches) will be required, after 1988, to meet benefit plan design requirements similar to those required for plans in business and industry. We noted in our letters to you that these requirements may be burdensome for educational institutions. In a House-Senate Conference Agreement -- a document that expresses Congressional intent in the drafting of a law -- the Secretary of the Treasury is directed to issue regulations that take into account the special circumstances of educational and tax-exempt organizations in applying these rules.

In closing this chapter of our joint effort to preserve the integrity of your retirement arrangements, we thank you again for all your good help.

Sincerely,

ETSU Tax Deferred Annuity Programs  
(December, 1986)

1. Aetna Life	1
2. Delta Life	41
3. Equitable Life	2
4. Fidelity Union Life	7
5. Franklin Life	2
6. Great American Life	1
7. Great West Life	26
8. Horace Mann Life	8
9. IDS (Investors Diversified Services)	15
10. John Hancock Insurance	1
11. Kemper Insurance Company	23
12. Lincoln National Life	1
13. Massachusetts Mutual	1
14. Metropolitan Life	2
15. Modern Woodmen of American	2
16. Mutual of Omaha (United Benefit)	12
17. Nationwide Life	6
18. St. Paul's Insurance (AMEV Investors)	6
19. Shareholders Services (Oppenheimer & Co.)	8
20. Southwestern Life	3
21. Teachers Insurance Annuity Association (TIAA-CREF)	83
22. Travelers Insurance	2
23. Variable Annuity (VALIC)	150
24. Volunteer State	9
	<hr/>
Total	412

# Faculty Pensions under the Tax Reform Act

ALFRED D. SUMBERG

For colleges and universities, the Tax Reform Act of 1986 reflects a philosophy that differs sharply from previous tax legislation. The 1954 Code protected the tax-exempt status of colleges and universities, stimulated generous tax-deductible contributions of money and property, encouraged the awarding of tax-free scholarships and fellowships to students, and provided employees with opportunities for tax-sheltered pensions and other fringe benefits. The 1986 Act, however, equates the non-profit and profit-making sectors and converts the flexibility permitted to the nonprofit sector into the rigidity imposed on the profit-making sector. Now, viewed as a major American industry, colleges and universities are losing many hard-won advantages of the past several decades.

For faculty, the most visible change is reflected in the pension provisions of the 1986 Act. With respect to pensions, as with other aspects of the 1986 Act, faculty lose several special privileges which they have previously enjoyed. Congress has revised pension provisions for nonprofit and for profit-making employees alike, seeking to further three purposes. First, it wants to tighten restrictions on the exploding private pension system that has emerged since the enactment of the 1954 Code. With private pension plans holding an estimated \$1.4 trillion in assets in 1985, Congress wants contributions to all tax-sheltered pension plans, including 403(b) plans, to be used solely for pensions rather than for temporary tax-sheltered savings. Second, it wants to assure that tax-sheltered pension plans are "nondiscriminatory" in the sense that they benefit lowly and moderately compensated employees on an equal footing with highly compensated employees. To eliminate alleged abuses, Congress has moved to toughen the restrictions on all pension plans and to create uniform nondiscrimination requirements. Third, as part of a larger effort to discourage early retirement prior to the normal retirement age of sixty-five, it wants to discourage the use of the tax law as an incentive for early retirement.

Of special importance for faculty pension plans is the institution of nondiscrimination requirements, designed to prevent preferen-

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tial treatment of highly compensated employees. The potential impact of these requirements may be clarified by a brief look at the history of faculty pension arrangements. In 1942, when the nation's employers found they had to offer new or expanded fringe benefits rather than salary increases to employees as a result of wartime wage controls, Congress approved tax legislation that regulated the type of employee pension, profit-sharing, and stock-bonus plans that qualified for favorable tax treatment. The 1942 law imposed rigid requirements in order to prohibit discrimination under the plans in favor of officers, stockholders, and highly compensated employees. Under the 1954 Code, the 401(k) plans (cash or deferred arrangements) became the most popular qualified plan. (Qualified plans are those that are required to meet all the tests provided under Section 401(a) of the Internal Revenue Code.) In 1958, as the number of faculty in higher education increased, Congress approved tax legislation that established minimal rules for the tax-deferred status of pension programs for employees of the nonprofit sector, specifically the employees of school districts, independent schools, colleges and universities. These nonqualified plans became known as Section 403(b) tax-sheltered annuities. (Nonqualified plans are not required to meet all of the tests applied under Section 401[a].) The great majority of faculty pension plans, including TIAA-CREF and SRA plans, fall into this category. The 1958 law encouraged flexibility in the development of pension plans for educational employees. As a result, it did not include the restrictive nondiscrimination provision of the 1942 law. Now in the 1986 Act the 401(k) and 403(b) plans will be subject to the same nondiscrimination requirements. A heavily augmented nondiscrimination provision, based on the experiences of the profit-making sector since 1942, has been imposed on the nonprofit sector in the belief that flexibility over the past three decades has permitted discrimination in favor of "highly compensated" K-12 teachers and college and university faculty. Implementation of the new requirements may require major restructuring of institutional pension and retirement plans.

The potential impact of the new nondiscrimination requirements is devastating for faculty. The faculty's pension program is central to institutional vitality, and its ability to survive in a form that serves the mutual interests of both faculty and institution is now in question. At the rare institution



*“With respect to pensions . . . faculty lose several special privileges that they have previously enjoyed.”*

where all employees—including faculty and staff alike—participate in a single plan equally, there should be minimal problems. But most institutions have complex pension programs involving different plans for different categories of employees. Each plan may have its own requirements and each may have a different impact on the individual's decision to retire. The starkest scenario that looms on the horizon involves the large public university at which faculty and academic administrators have a TIAA-CREF option and the remainder of the university's employees participate in a state retirement system that has a defined benefit (or a Section 457) plan. The TIAA-CREF retirement plan includes a salary reduction agreement and permits maximum tax-deferred contributions currently permitted for 403(b) annuities and defined contribution plans. It also permits “catch-up” contributions for those who contributed less when they earned much less. Faculty are vested immediately. They may contribute under the salary reduction agreement to a supplementary retirement account, from which they are permitted to withdraw funds without penalty. If they take a sabbatical or accept a visiting professorship they may continue to contribute to their TIAA-CREF account. If they leave the university their TIAA-CREF plan accompanies them intact. If they decide to retire early their annuity is available to them in several options. The state retirement plan, on the other hand, is likely to deny these options to all other nonfaculty employees of the university.

As of January 1, 1989, the central question will no longer be whether the faculty plan provides adequate retirement benefits. The new question is whether or not it discriminates in favor of highly compensated employees. The answer will depend upon application of the new nondiscrimination tests for coverage, vesting, contributions, benefits, and perhaps Social Security integration to all of the employees of the institution. Does the faculty plan meet *all* of the tests? Then it will be necessary to apply the new aggregation and comparability rules to both types of plans: Again, does the faculty plan discriminate in favor of highly compensated employees? Given the inevitability within our institutions that faculty members and administrators will make up the highly paid group, can we avoid the conclusion that a given plan is constituted in a form designed to protect the particular interests of faculty and administrators? Based upon test results, a board of regents may determine that the

institutional pension program is either currently discriminatory or potentially discriminatory, and may require that faculty abandon the TIAA-CREF option and join the state retirement system. Similar changes may occur in other types of institutions, both public and private.

As we review the new law, we will see that virtually all aspects of faculty pension plans are affected. The transition period begins on January 1, 1987, when new restrictions are applied to the level of contributions, to early withdrawals, to access to IRAs and 401(k) plans, and to forward income averaging. On January 1, 1989, early withdrawals will be prohibited and a mandatory minimum distribution requirement will go into effect. Nondiscrimination requirements will be applied to Section 403(b) plans and a set of procedures will be in place to test the comparability of multiple plans.

Effective January 1, 1987

1. Section 403(b) plans become *de facto* qualified plans subject to most of the restrictions applied under Section 401(a). Some restrictions will be applied to 403(b) plans immediately while others, particularly the new nondiscrimination requirements, will become effective on January 1, 1989. Fewer changes will be required for Section 457 plans, which are nonqualified plans, currently established by some state and local governments, but rules currently applied to Section 457 plans will now be applied to all tax-exempt employers.

2. Maximum employee contributions to Section 403(b) plans will be immediately reduced, but new limits on employee and employer contributions will be tied to the Consumer Price Index (CPI). Currently, three factors determine contributions to tax sheltered plans: (1) the calculation of the employee's contribution by using current compensation, the number of years in the current plan, and previous contributions by the employer; (2) because 403(b) plans are normally defined contribution plans the overall contributions of employees and employers are limited to the lesser of \$30,000 or 25 percent of compensation; (3) Section 403(b) employees are entitled to make “catch-up” contributions beyond current limits to make up for low contributions made earlier in their careers. Under the 1986 Act the employee's contribution under a salary reduction agreement will be limited temporarily to \$9,500. The new limit will be tied

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directly to the new \$7,000 limit for 401(k) plans. When the latter rises, as a result of increases in the CPI, to \$9,500, the limit for 403(b) plans will thereafter be tied to increases in the CPI. A similar situation will affect the limit on overall contributions to defined contribution plans. The \$30,000 limit will be tied to the current limit on defined benefit plans (\$90,000). When the latter rises to \$120,000, the \$30,000 limit will be tied thereafter to increases in the CPI. Furthermore, a new “catch-up” contribution plan will permit an increase beyond the \$9,500 limit.

3. The Individual Retirement Account (IRA) will remain available, though with its applicability considerably curtailed. Faculty who are covered by a pension plan will determine whether or not they are eligible to deduct their contribution to an IRA on the basis of their Adjusted Gross Income (AGI). Married taxpayers with AGI of \$40,000 or less who are covered by a pension plan would be eligible for a maximum \$2,000 IRA deduction. The deduction would be phased out as income rises to \$50,000. A single taxpayer with AGI of \$25,000 or less who is covered by a pension plan would also be eligible for the maximum IRA deduction. The deduction would be phased out as income rises to \$35,000. There is no coordination between monies contributed to a 403(b) plan and monies contributed to an IRA. Employees covered by Section 457 plans will remain eligible for the maximum IRA deduction.

4. A new 10 percent surtax will be imposed on early withdrawals from tax-sheltered annuities. Currently, funds invested in tax-sheltered annuities are not subject to any withdrawal restrictions. Withdrawals are taxed at the same rate as other gross income. The surtax will not be imposed if: (1) the withdrawals are part of a scheduled series of periodic payments for the life or the life expectancy of the participant (or the joint lives or the joint life expectancies of the participant and the participant's beneficiary); (2) the withdrawals are distributed to an employee who has attained age fifty-five, has separated from service, and has met the requirements for early retirement under a plan that provides for early retirement at age fifty-five; (3) the withdrawals are for medical expenses that exceed the tax-deductible limits (i.e. 7.5 percent of AGI); (4) the withdrawals are made after the death of the employee; (5) the participant has attained the age of fifty-nine and one-half; or (6) the participant becomes disabled. The 10 percent surtax does not apply to amounts withdrawn from Section 457

plans. Other limited exceptions may apply in individual cases.

5. A fourth alternative catch-up contribution plan will be available to employees of teaching institutions who participate in 403(b) plans. For the current three plans, which appear to be relatively unknown to most faculty, the procedure utilized to determine the additional amounts that may be contributed will not change. The new plan, which will be available only to an employee of a teaching institution who has completed fifteen years of service and participates in a 403(b) plan with a salary reduction agreement, will permit a maximum contribution of \$3,000 above the new maximum limit of \$9,500. The procedure should be done with the assistance of the plan administrator.

6. Tax-exempt organizations and state and local governments will not be able to establish new 401(k) plans. However, the 401(k) plans established by tax-exempt organizations before July 2, 1986, or by state and local governments before May 6, 1986, may continue. These plans will be subject to the revised restrictions for 401(k) plans.

7. Ten-year forward income averaging, currently available to recipients of lump-sum distributions (i.e. payment of the entire balance), will be reduced to five years, and capital gains treatment of the taxable portion of the lump sum will be eliminated. Capital gains treatment of pre-1974 benefits (i.e., the employee's participation in the pension plan prior to 1974) will phase out over a five-year period beginning on January 1, 1987, and concluding on December 31, 1991. However, an employee who was fifty years old as of January 1, 1986, may elect to use the capital gains treatment of pre-1974 benefits, subject to a maximum tax rate of 20 percent, and disregard the five-year phase-out limitation. The new five-year forward income averaging will apply to only one lump-sum distribution that is made after the recipient has attained age fifty-nine and one-half.

#### Effective January 1, 1989

1. Withdrawals from 403(b) plans involving salary reduction contributions will be prohibited prior to age fifty-nine and one-half except for separation from service, death, disability, or financial hardship. The 1986 Act also amends the current prohibition on withdrawals from Section 403(b)(7) custodial accounts, from which the above excep-

*"The potential impact of the new non-discrimination requirements is devastating for faculty."*

tions are taken. Therefore, the exception permitting withdrawals based on financial hardship may allow for the withdrawal of salary reduction contributions only but not the earnings on those contributions.

2. A uniform minimum distribution requirement will go into effect. It will require that all pension plans, including Section 403(b) plans, provide for a minimum distribution of benefits not later than April 1 of the calendar year following the calendar year in which the employee attains age seventy and one-half without regard to the actual date of retirement or termination of employment. The Secretary of the Treasury will issue regulations establishing the minimum amount required. If the amount distributed is less than the minimum amount required, then the employee is subject to a 50 percent surtax on the difference.

3. Nondiscrimination requirements will be applied to Section 403(b) plans. The objective is to prevent discrimination in favor of highly compensated employees. The 1986 Act applies current nondiscrimination requirements for Section 401(k) plans to Section 403(b) plans, creates new and tighter requirements for both plans, and revises Section 403(b) in order to make it conform to the new requirements. The major provisions of the new nondiscrimination requirements for Section 403(b) plans relate to coverage, participation, vesting, contributions, and benefits.

A. *Coverage.* Section 403(b) plans must satisfy at least one of the following coverage requirements:

1. the plan must benefit at least 70 percent of employees who are not highly compensated employees (a percentage test);
2. the percentage of non-highly-compensated employees who benefit from the plan must be at least 70 percent of the highly compensated employees who benefit from the plan (a ratio test);
3. the plan must meet both a classification test and an average benefits test. Under the classification test the plan must benefit such employees as qualify under a classification set up by the employer and found by the Secretary of the Treasury not to be discriminatory in favor of highly compensated employees. The average benefits test provides that under the plan the non-highly-compensated employees must have an average benefit percentage (i.e. the average of the benefit calculated separately for each employee in the group) that is at least 70 percent of the average benefit percentage of highly compensated employees.

Certain employees may be excluded from some or all of the tests.

The 1986 Act provides a new definition of a highly compensated employee, which will affect 403(b) plans on January 1, 1989. For our purposes, a highly compensated employee is one who during the current or preceding year received either: (1) compensation in excess of \$75,000, or (2) compensation in excess of \$50,000 and is in the top paid group (i.e. the group consisting of the top 20 percent of the employees when ranked on the basis of compensation paid during such year). In the case of a Section 403(b) plan with a salary reduction agreement, compensation does not include employer contributions.

B. *Participation.* Section 403(b) plans will be required to meet the new standard for minimum participation in tax-deferred plans. In order to maintain its tax-deferred status, a plan must have on each day the plan is in effect the participation of the lesser of (1) fifty employees of the employer or (2) 40 percent or more of all employees of the employer. In addition, under a Section 403(b) plan with a salary reduction agreement, all employees may elect to participate in the salary reduction agreement if any employee participates in such an agreement. The minimum amount contributed under the salary reduction agreement must be \$200.

C. *Vesting.* The minimum vesting standard will be revised from ten years to five years. Thus, an employee who has completed at least five years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

D. *Contributions.* The 1986 Act creates a new non-discrimination test for employer matching contributions and employee contributions under both defined contribution plans and defined benefit plans. It is the same test that will be applied to Section 401(k) plans. The test relates the contributions for highly compensated employees to the contributions for all other eligible employees. The penalty for excess contributions to highly compensated employees will be a 10 percent tax paid by the employer.

E. *Benefits.* The 1986 Act exempts state and local governments and tax-exempt organizations from a significant change in the maximum annual benefit available under a defined benefit plan. They will retain the previous maximum benefit of \$90,000 at age sixty-two and the benefit of \$75,000 available

*“Perhaps not surprisingly, Congress has managed once again to evade its goal of simplification of the law.”*

for those who retire at age fifty-five. The change for all other employers requires that the \$90,000 maximum benefit be available at age sixty-five instead of age sixty-two and that benefits provided below age sixty-five be actuarially reduced.

Defined contribution plans and defined benefit plans that are integrated with Social Security will be required to meet new nondiscrimination tests.

### New Rules to Determine Nondiscrimination

Besides the tests listed above, institutions will have an alternative procedure to determine whether or not their plans discriminate. New rules permitting the aggregation of multiple plans have been incorporated into the 1986 Act. In order to determine the comparability of two or more plans established by an employer, the Internal Revenue Service has interpreted those sections of the 1954 Code that required nondiscriminatory coverage, contributions, or benefits. The IRS issued Revenue Ruling 81-202 in 1981, and it has permitted the aggregation of plans and the determination of comparability among those plans. The 1986 Act modifies the formulae of Revenue Ruling 81-202 in order that it may be used under the several nondiscrimination tests and then incorporates it into the new law. As a result, it will be necessary for institutions with multiple plans to compute periodically the formulae provided under the former Revenue Ruling 81-202, as modified, and to determine the comparability of their plans.

The major provisions outlined here represent only a small portion of the new complex law that will govern faculty pension plans. Perhaps not surprisingly, Congress has managed once again to evade its goal of simplification of the law. But the complexity of the new law should not deter faculty members and appropriate faculty bodies from assuming responsibility for making the law work constructively within the academic community. Faculty, who historically have vigorously supported the creation and growth of institutional pension and retirement programs and have contributed the bulk of funds held under institutional pension programs, will play the most crucial role on the campus in determining the validity of the new law. As a result, they have a responsibility to require that plan administrators in private companies and public systems provide adequate, clear,

and objective appraisals of the impact of the new law on pension plans currently in effect on their campuses. They should insist that TIAA-CREF, as the largest private pension system in higher education, undertake an immediate and comprehensive program of orientation and consultation directly with faculty. Faculty can no longer rely solely on the judgments of others about the soundness of their pension plans. Not only must they determine the current status of such plans but they must also be responsible for making recommendations about their future status. The new law could affect early retirement plans and may force the elimination of phased retirement plans. Each retirement plan should provide specifically for retirement at age fifty-five. It may turn out that minimal changes are required, but faculty should make that decision on the basis of a clear understanding of how their plans are structured and how they operate. Furthermore, the move to change should not be made hastily. The Secretary of the Treasury is required to issue regulations that will interpret the law by February 1, 1988. If it turns out that the new law works to the disadvantage of faculty, they have a collective responsibility to encourage Congress to change the law.

If the past two years of discussion about tax reform are any indication, the time has long since passed when faculty can remain indifferent or passive toward the details of their pension plans. Plan administrators and institutional benefit officers have an obligation to provide adequate orientation to new faculty and hold regular discussions with continuing faculty. An increase in orientation activities needs to be matched by an increase in pre-retirement counselling. While there is debate over the source of such counselling, the need is immediate for faculty who either are close to retirement or must plan their pension contributions carefully in order to obtain maximum benefits at the time of retirement. Undoubtedly, there will be those who will recommend major shifts among pension plans. But the faculty ought not to be rushed into such changes without adequate discussion and consultation. The stimulus for change could originate from two sources: administrators determined to reduce the costs of current plans and the ubiquitous salespeople for alternative plans. But faculty should consider the advantages of their current plans and determine how they may be utilized to carry out the goals of institutional retirement and pension policies.