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## Board of Trustees Personnel and Employee Relations Committee November 10, 1987

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UNIVERSITY OF MAINE SYSTEM  
Board of Trustees

November 10, 1987  
107 Maine Avenue  
Bangor, Maine

Personnel and Employee Relations Committee

PRESENT: Chairman Stanley Evans; Patricia Collins, Richard Marshall and Harrison Richardson, ex officio. Other Trustees: Teresa Moore, George Wood. Staff: Chancellor Robert Woodbury, Samuel D'Amico, William Sullivan, Richard Bowers, Mary Ann Haas, George Connick, Frederic Reynolds, Patricia Plante, James Roach, Barbara Leondar, Norman Crawford. Press and public.

Chairman Stanley Evans convened the meeting which was scheduled for discussion of a proposed revision to the University's Equal Employment Opportunity Policy that was referred by the Board at its meeting on September 28, 1987, on motion of Dr. George Wood. The proposed revisions to the language of the policy were intended to state specifically the University's commitment not to discriminate nor to tolerate discrimination on the basis of sexual orientation, and to extend the provisions of the policy, in its entirety, to most educational and administrative areas as well as the employment area per se. To initiate discussion, Dr. Evans invited Dr. Wood to share with the Committee his concerns about the proposed revisions. Dr. Wood indicated that the Bylaws provide for review of personnel matters by the Personnel and Employee Relations Committee and he thought that the committee procedure should be observed to provide an opportunity for discussion of the proposed change. He listed three aspects of the recommendation that should be addressed:

1. the need for change should be documented;
2. prospective legal implications if the changes are adopted;
3. precedents for like policies in other Universities, local and national, and in the nation itself.

Need. Mr. Samuel D'Amico, Associate Vice Chancellor for Employee Relations, reported on the initial impetus for the change which he said came from the campuses through the Presidents Council in response to concerns about the need to protect the rights of all members of the campus communities. The belief was that in the absence of formal policy, individuals who have experienced discrimination have been reluctant to make complaints. Dr. Wood inquired about the scope and frequency of the problem. While Mr. D'Amico said he did not have the details of specific cases, he and Ms. Sue Estler, EEO Director at the Orono Campus who was present in the audience, provided additional information about the University's experience with discriminatory behavior. Referring to the University's current policy, Mr. Richardson took note of existing prohibitions against discrimination which he said would constitute de facto policy of nondiscrimination, and questioned whether this would not provide sufficient protection for all contingencies. Mr. D'Amico indicated that the language of the current policy does leave the question of sexual orientation open to interpretation, and the lack of specific language was the motivation for the proposed change.

Legal Implications. Mr. D'Amico reported that the fear of potential legal problems had been raised when the sexual harassment policy was drafted originally, and these had proven groundless. He said he didn't believe the proposed changes would generate more lawsuits, and thought it likely that the University's liability might be decreased observing that if the change becomes part of the policy those who tend to harass may change their behavior. In response to a question from Dr. Wood, Mr. D'Amico said the policy carried no implications for affirmative action quotas on behalf of this minority group. Dr. Wood suggested that University counsel be asked to respond to the issue of legal implications.

Procedure. Dr. Wood said he had reviewed a great deal of background material provided by the staff and additional material he had obtained himself. He said that the list of colleges which had adopted a specific statement numbered about 100 out of a possible 3200 institutions, and he thought those figures reflected the importance accorded to the issue. He reported that the issue of gay rights has been defeated in every session of the Legislature for the last 10 years and the record of legislative debate on the subject reflects the strong feelings that exist on both sides of the issue. He reiterated that his purpose in requesting committee discussion of the policy change was wholly in the interest of making available to the Board all of the facts that could be gathered.

Mrs. Collins said she shared Dr. Wood's concerns and that from a political perspective the proposed change should not be implemented at this time. Given the Legislature's rejection of the issue and the need for the University to present and defend its requests for funds, this was the wrong time for the proposed policy change. Miss Moore said the University should show its support for this minority and observed that timing is rarely right for social issues. Mr. Marshall also spoke briefly in favor of the proposed policy. There was further discussion of actions that could be taken under existing policy to deal with harassment and Dwight Rideout, Assistant Vice President and Dean of Student Services, UM spoke from the audience in support of the recommendation.

The members of the Committee considered what action should be taken and after discussion, concurred with Mr. Richardson's suggestion that rather than a formal vote on the issue, a report of the meeting and a response from University counsel on the legal question should be made available to the full Board prior to its meeting on November 16th.

The Chairman announced a five minute recess after which the Committee, on motion made and seconded, adjourned to executive session for discussion of a collective bargaining matter. Following the executive session, the meeting was adjourned.

JoAnne R. Magill  
Clerk