

Association of American Universities

AAU FEDERAL RELATIONS AGENDA, 1979

The AAU adopted its first Federal Relations Agenda in February, 1978, to establish policy directions for the AAU staff and for the Council on Federal Relations. The 1979 Agenda, which was discussed by the Executive Committee on February 1, is intended to serve the same purposes.

The Federal Relations Agenda describes long-range objectives for each major subject of concern to the Association. In the light of those general objectives, it outlines specific objectives for the year ahead in the areas of federal authorizing legislation, appropriations, and federal regulatory activity.

Topics in the Agenda are grouped into three categories according to the degree to which the AAU has responsibility within higher education. Defining the scope of AAU's federal relations activity enables the staff and the CFR to concentrate on a few issues, and supports the "lead agency" concept that has been agreed upon by the various campus-based higher education associations. That division of responsibility promises that all important issues will receive their fair share of attention and reduces unnecessary duplication of effort.

I. The following federal issues are the principal responsibility of the AAU among the campus-based associations:
   A. Basic Research
   B. Health Education
   C. Graduate Education
   D. Research Library Resources
   E. Accountability in the Use of Federal Funds
   F. Patent Policy.

II. The following issues are important ones on AAU's agenda, but responsibility for them is shared with ACE and other associations:
   A. International Education and Alien Faculty Questions
   B. Department of Education
   C. Mandatory Retirement
   D. Accreditation.

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III. Finally, there are federal issues that AAU monitors and in which it participates when necessary or upon the request of other associations:

A. Tax Policy

B. Undergraduate Student Financial Assistance

C. Facilities Construction and Renovation

D. Labor Law Reform and Collective Bargaining

E. Lobby Law Reform

F. Other Issues.

I. PRINCIPAL AAU ISSUES

A. BASIC RESEARCH

The economic health of the United States and its national welfare are both tied to the health of academic science and the search for new knowledge that constitutes basic research. The continued vitality of academic science in the next decade will depend on three factors: stable and predictable financial support for basic research, a continued flow into scientific fields of the best young scientists (including women and minorities), and the upgrading of scientific instrumentation, equipment, and facilities in academic laboratories.

The AAU will continue to give high priority to fostering improved financial support for those federal research programs of primary significance to academic science. We will be working closely with other campus-based higher education associations, specialized science societies, and related groups to make our case before the Congress and the Executive Branch. We will consider the introduction of new legislation aimed at consolidating the links between universities and industry on basic research, in part to provide a forum for discussion of some of the most important issues of academic science.

Over twenty federal departments and agencies support research and development programs, most of which are related to the conduct of their missions. In 1979, the AAU will focus attention on six agencies that, together, provide most of the federal support for basic research:

1. Department of Health, Education, and Welfare
2. National Science Foundation
3. National Aeronautics and Space Administration
4. Department of Energy
5. Department of Defense
6. Department of Agriculture.

AAU witnesses will testify before Congressional authorization and appropriations committees to urge sustained support for the basic research programs of these agencies and to oppose imposition of imprudent or intrusive controls. (Last year, the Congress placed a limit on compensation for investigators funded by NSF. We will continue to oppose such controls.)

B. HEALTH EDUCATION

1. Hospital Cost Containment

Hospital cost containment legislation similar to that which narrowly missed passage in the closing days of the 95th Congress will be introduced in the 96th Congress, in keeping with the Administration's intention to cut federal spending and hold down the deficit. The success of such legislation will depend, at least in part, on the success of the voluntary efforts of the health care industry. A hospital cost containment bill would almost certainly involve more layers of federal regulation and paperwork as well as perhaps program curtailment in order to comply with restrictions in any increased costs. These probable negative effects must be weighed against the value of controlling costs in the health sector.

In the event that cost containment legislation is successful, it is important that any such legislation include recognition of the extraordinary costs of teaching hospitals by allowing either a "pass through" of such costs or establishing a special category for such facilities. Recognition of regional differences in costs is also important to the universities.

The issue of hospital cost containment is closely associated with issues of reimbursement of costs to hospitals. Negotiations on Section 227 (Medicare Reimbursement for Teaching Physicians) will begin in January, 1979. AAU staff are monitoring these negotiations, which have been the primary responsibility of the Association of American Medical Colleges (AAMC).

2. Health Manpower

Health manpower legislation expires at the end of 1980. Hearings will probably begin early in the 96th Congress. The major issue

for health schools continues to be capitation--grants to medical schools on a per capita student basis. Tuition rarely covers the full costs of advanced health education, so universities must seek other funds. At this time, Senate staff continue to favor some form of capitation or institutional aid in exchange for the offering of certain programs by medical schools. AAU presidents, while concerned that support of medical education not result in further, perhaps intolerable, federal incursion into academic programs, are also concerned about the erosion of support for health education. Appropriations for capitation have decreased steadily over the last few years. The President's 1980 budget includes no funds for capitation.

The Nurses Training Act, recently vetoed by the President, will be reintroduced in the 96th Congress. AAU will work with the American Nurses Association to achieve successful passage of this legislation.

The AAU/NASULGC Joint Health Policy Committee is developing a statement of principles to guide the partnership between the Federal government and the university in health education. Health manpower legislation for all the health professions should consist of programs of broad-based support, guided by certain principles of academic integrity, and should include a major component of student aid.

The AAU staff will work for health manpower legislation that will provide long-range predictable support. That support, whether directed to institutions or to students, should be based on the principles of providing access to the most qualified students without regard for their ability to pay, and to the extent possible without saddling these students with unreasonably heavy debts. It should also provide a realistic number of trained health professionals to meet the health manpower needs of the 1980's and 1990's.

3. Biomedical Research

NIH received a simple two-year extension in the 95th Congress because there was insufficient time to consider full authorization.

Senator Kennedy will conduct hearings on biomedical research this winter, while the Administration continues to develop its multi-year strategy for the allocation of resources in biomedical research. Secretary Califano's apparent intention is to cut spending. In the next Congress, AAU will work to:

-- educate members of Congress and staff about the role of the universities and the Federal government in biomedical research;
-- prevent erosion of the biomedical research budget; and
-- work with the Office of Science and Technology Policy (OSTP) and Senator Kennedy's Health and Scientific Research Subcommittee to identify and solve problems caused by regulations in biomedical research.

Two specific areas, recombinant DNA research and human subject research, continue to be the subject of changing regulations affecting AAU universities.

Recent DNA regulations address most of the concerns both of scientists and environmentalists. Secretary Califano's intention to expand the scope of these regulations to industrial research may forestall any further attempts at legislation.

HEW has been considering for several years vehicles for compensation for human research subjects for injuries not due to negligence. While all parties have agreed that such compensation is both necessary and appropriate, it is difficult to develop the method for compensation, primarily because the insurance industry, due to the lack of data about the extent of such injuries, is not anxious to provide such coverage.

Recent HEW regulations that require information about compensation on consent forms appear to have complicated the deliberations

on finding adequate methods of compensation. AAU has objected to the regulations on those grounds, and has offered to continue to work with HEW to develop mechanisms for compensation for injured research subjects.

C. GRADUATE EDUCATION

Universities must attract the finest minds from all backgrounds to their graduate schools despite demographic changes and financial stringencies. We need a steady intellectual core to ensure the preservation and progress of study and research in the multitude of disciplines which make up this country's cultural and technological strength.

The AAU is seeking to collect data--either directly or through outside studies--to determine, with greater precision than heretofore, the nature of the difficulties which graduate education is likely to face in the period ahead. A clarification of the problem will enable us to respond with specific legislative and perhaps regulatory proposals.

AAU staff will work to coordinate the efforts of the AAU Committee on Graduate Education and those of the AGS, and will cooperate with CGS and ACE on graduate education issues.

1. Title IX

Title IX of the Higher Education Act, in particular Part A, currently emphasizes development and expansion of graduate programs. Priorities should be shifted from expansion to maintenance of critical strengths in order to protect precious national intellectual capacities as well as to allow for development and innovation. It should be drafted so as to stimulate competitive applications for a variety of programs to maintain academic vitality in the absence of growth.

2. Title IV

AAU will work for legislative and regulatory provisions on financial aid which recognize the distinctive needs of graduate students with regard to tolerable debt limits, repayment obligations, needs analysis, college work opportunities, and the like.

D. UNIVERSITY LIBRARY RESOURCES

Our long-range goal is to insure maintenance of the services of research libraries, both to university users and to the scholarly and research community in general.

1. National Library Agency

In accordance with the resolution adopted by the AAU Committee on Research Libraries and the AAU Executive Committee endorsing the "Statement of Principles for Congressional Action to Establish a National Library Agency," we will seek to have legislation introduced this spring for a national library agency. The first task of such an agency would be to establish a national periodicals center whose collection might later be expanded to include other materials. The agency would also be authorized to coordinate bibliographic control for significant scholarly and research literature, to promote the development, dissemination and acceptance of national and international standards for bibliographic description and communications, and to assure a national program for the preservation of published materials.

If establishment of this broad agency proves to be politically unfeasible, we will probably work instead for legislation establishing only a national periodicals center or national lending library. While funding is unlikely for FY '80, we hope for the passage of authorizing legislation this year and funding for FY '81.

We are working on this with groups which have endorsed the proposal (i.e., the Association of Research Libraries (ARL), the Center for Research Libraries) and other interested groups (e.g., the American Library Association (ALA), the National Commission on Libraries and Information Science (NCLIS), the Library of Congress, the Council on Library Resources (CLR)).

2. Title II C

We will work in cooperation with other associations (American Council on Education (ACE), Association of Research Libraries (ARL)) to

increase the level of appropriations for research libraries under Title II C to $15 million in FY 1980. (Authorized level is $20 million; appropriations FY '78: $5 million, FY '79: $6 million; OMB Budget FY '80: $6 million.)

The program also will be reconsidered by the Congress during the reauthorization of the Higher Education Amendments. We will support the continuation and extension of Title II C.

E. ACCOUNTABILITY

"Accountability" and its companion term "fraud and abuse" are high on the agenda of the 96th Congress. Inflation, the taxpayers' revolt, and the general election results sent a clear message to returning lawmakers: barring a serious surge in unemployment, members of Congress must show special concern for federal spending and the size of the federal deficit. It will be difficult for Congress to reduce the budget, even for those programs over which it still exercises control; it is not so difficult to demand that appropriated funds be spent efficiently.

Among AAU's principal concerns--basic research, health education, and graduate education--Congress will look most carefully at federal spending for research. Grants and contracts for basic research will continue to concern the Congress as its members ask federal granting agencies and the universities to account for the proper use of federal funds.

1. OMB Circular A-21

The revision of OMB Circular A-21 will be completed early in 1979. OMB officials have expressed an interest in bringing about a meeting of minds between government auditors and university business officers; AAU staff will support these efforts.

2. Federal and University Accounting Practices

Congress and federal agencies want to know precisely what federal funds are spent for and what records are kept. It is not enough to demonstrate that the product or service was the result of the federal expenditure; the government wants proof that each federal dollar was spent exactly as proposed.

AAU is currently engaged in an experiment with NSF to simplify the grant accounting process. If the experiment succeeds, it will demonstrate one method by which using flexible accounting standards can deliver results at a lower cost. On another front, AAU intends to participate, with the help of university faculty and staff, in the OMB study under the Federal Grant and Cooperative Agreements Act of 1977. That study holds out the promise of recasting federal spending practices by differentiating between federal procurement and federal assistance, and within federal assistance, between grants and cooperative agreements.

Finally, other groups--the National Commission on Research, the HEW Inspector General, and the Secretary of HEW--are seeking ways to maintain federal accounting standards while retaining an intellectual environment on our campuses that is conducive to excellence in research. The AAU office will maintain communication with those groups and encourage constructive efforts.

4. Congressional Hearings

The House Committee on Government Operations tentatively plans hearings on grant and contract procedures in 1979. If hearings are held, the Subcommittee on Intergovernmental Relations and Human Resources chaired by Congressman Fountain will consider first the grant and contract practices of the National Institutes of Health. AAU staff will work with the Committee staff and, if indicated, with officials of HEW to develop a positive direction for the hearings. We will encourage the Committee to deal with such questions as: what is the government supporting when it seeks to stimulate basic research? how effective are universities as the focus of our national research effort? what is the relationship between federal spending practices and the university research environment? how can we insure a distinction between "fraud-and-abuse" and reasonable differences between government and university accountants?

F. PATENT POLICY

Since the introduction of the Thornton Bill in the 95th Congress, AAU has supported legislation that provides for title-in-the-contractor under government-sponsored research. The Thornton Bill failed because Representative Thornton lost interest and the Administration was unable to agree on its position. The following is the status of the various patent initiatives as the 96th Congress begins:

1. Senators Dole and Bayh have introduced legislation that gives patent rights to university and small business contractors. Representative Rodino, Chairman of the House Judiciary Committee, will introduce the Dole-Bayh Bill in the House. Both House and Senate committees anticipate hearings in the spring.

2. Senator Schmitt who is sympathetic to the university interests introduced legislation last year that provided for title-in-the-government with some small consideration for universities. Schmitt plans to revise his bill more properly to serve contractors' interests.

3. The Administration is attempting to reach a government-wide position and in the process the Department of Justice (which traditionally has held out for title-in-the-government) has begun to liberalize its approach. Reports of a recent meeting indicate that the Administration is far from reaching a common position. In its absence, a consortium of a few agencies may float a bill--probably one supporting the universities--or the Administration may limit its role to comments on Congressional initiatives.

4. Opposition to Dole-Bayh will come from the traditional supporters of title-in-the-government: Senators Long, Ribicoff and Admiral Rickover.

It is recommended that AAU support Dole-Bayh, but that support should not preclude help for Senator Schmitt and support for other initiatives that provide title-in-the-contractor. More specifically, AAU should be concerned about university contractors; it would not enter arguments about other non-profit or for-profit contractors.

II. ISSUES ON WHICH AAU SHARES RESPONSIBILITY WITH OTHER HIGHER EDUCATION ASSOCIATIONS

A. INTERNATIONAL EDUCATION AND ALIEN FACULTY QUESTIONS

1. Foundation for International Technological Cooperation (FITC)

President Carter, in April, 1978, announced a U.S. commitment to the establishment of the FITC as part of the reorganization of U.S. development assistance efforts. The proposed FITC would provide American assistance to less developed countries to improve their scientific and technological capabilities. This commitment is also part of the U.S. National Paper for the UN Conference on Science and Technology for Development. Legislation to establish FITC may be introduced this year. AAU has an interest in the success of this legislation because of FITC's commitment "to strengthen the capabilities of U.S. scientific and technical institutions so that they may be engaged more productively with a range of developing countries in research training and cooperative efforts aimed at accelerating development abroad." We will work directly with the staffs of the Agency for International Development (AID) and FITC and with other educational associations to express our strong support.

2. NDEA Title VI (foreign studies and language development)

Again this year, we will work with ACE to increase appropriations for Title VI. The request is for an increase from $17 million for FY '79 to $25 million for FY '80. (The budget estimate is $17 million.) This would include support of 90 language and area and international centers; 1,100 foreign language and area studies fellowships; 50 graduate and undergraduate programs; and 40 research projects. It also includes $5 million for Section 603 on citizen education to support activities at the elementary and secondary levels, as well as adult and continuing education.

We also will seek reauthorization of NDEA Title VI at the current level of $75 million. In addition, we will seek continued funding for the nationally competitive system of graduate fellowships for foreign language and area studies and an extension of the program

to cover post-doctoral work and research and travel costs.

3. President's Commission on Foreign Language and International Studies

We will work with the Commission in its development of recommendations for legislation. The Commission's report is due next fall.

4. International Health

We will investigate the usefulness of AAU participation along with the National Association of State Universities and Land-Grant Colleges (NASULGC) and others, in efforts to obtain authorization and funding for the Javits International Health Bill, which would increase opportunities for university participation in research and training on international health issues. The legislation might be parallel to that which now provides for university participation in the development of agriculture in less developed countries.

5. Alien Faculty

We will continue to work with the Department of Labor in an effort to develop new DOL guidelines on the hiring of foreign faculty members. We are particularly concerned with the rigidity of the present guidelines on the question of certification of "exceptional ability" and with requirements for search procedures which are incompatible with normal university practice.

B. DEPARTMENT OF EDUCATION

AAU opposes the creation of a Department of Education. A separate Department would increase significantly the likelihood of more federal regulations and centralization of national education policies. Conversations with Congressional staffers and others indicate that passage of legislation to create the Department is not a certainty.

AAU will join in a coalition of education interests to encourage Congressional representatives to examine the many negative implications of the proposal. We will also encourage the examination of alternative proposals for reorganizing the Office of Education in HEW. Finally, we will deal directly with legislation authorizing the Department so that if it does come into being, its potential for damage will be reduced. To that end we

will continue to oppose the inclusion of the National Science Foundation or the Arts and Humanities Endowments.

C. MANDATORY RETIREMENT

Last year the Congress raised the mandatory retirement age to 70 and provided an extension through July, 1982, for tenured employees of colleges and universities. Congressman Claude D. Pepper (D-Fla.) may reintroduce broader legislation which would prohibit mandatory retirement because of age. The Department of Labor will do a study of the effects of such legislation in states where it already exists, as well as of the potential effects on the federal level. The Department of Labor will publish an additional set of regulations on the prohibition of involuntary retirement before age 70. AAU staff, in cooperation with the inter-association group on mandatory retirement, will continue to monitor this question, including the question of the possible "decoupling" of tenure from continued employment after age 65, assuming that the exemption period for tenured employees ends in July, 1982.

D. ACCREDITATION

Increasing concern over problems related to accreditation has led to the creation of a "Presidents' Committee on Accreditation," comprised of institutional representatives to the Board of the Council on Postsecondary Accreditation (COPA) and the executive officers of the major institution-based associations. The Committee will meet periodically to discuss positions, and to take action on problems of concern to institutions and their associations in accreditation and related matters.

The AAU is committed to voluntary, non-governmental accreditation. The major federal relations issue is the intrusion of government--both federal and state, present and potential--into the internal affairs of institutions. The Office of Education goes beyond Congressional intent when it recognizes accrediting agencies in areas unrelated to eligibility for federal funds and when it reviews questions about accrediting agencies which have nothing to do with the agencies' reliability as authorities on quality of teaching.

Some agencies have been put on the Office of Education list or written into state licensure statutes without receiving recognition from the Council on Postsecondary Accreditation. The AAU supports COPA in its function of recognizing and monitoring accrediting agencies.

III. MONITORING ISSUES

A. TAX POLICY

The Ad Hoc Tax Committee alerts us to federal tax policy changes that will affect AAU institutions. Legislation and regulations affecting charitable giving are the most significant tax issues, and they will be monitored closely. Congressional tax-writing committees this year also may examine existing policy on taxation of scholarships with an eye to possible revisions. Proposals to consider tuition remission as ordinary income will be followed closely.

B. STUDENT FINANCIAL ASSISTANCE

The Higher Education Act of 1965 will be reauthorized during the 96th Congress; final action probably will come during the second session in 1980. We will work closely with ACE as the Council coordinates institutional proposals for change of student aid and other programs.

C. FACILITIES CONSTRUCTION AND RENOVATION

Facilities renovation ranks second only to student aid among higher education's program priorities. In its 1976 education amendments, Congress authorized aid for "renovation that would remove barriers to access by the handicapped and provide for energy conservation." AAU will support efforts to fund those authorizations.

D. LABOR LAW REFORM AND COLLECTIVE BARGAINING

AAU and other higher education associations will be alert to new proposals for federal legislation that would extend provisions of the National Labor Relations Act to state and local employees, including employees of public colleges and universities. Legislation permitting unionization of house staff in teaching hospitals should also be anticipated.

E. LOBBY LAW REFORM

If Congress renews its efforts to monitor those who lobby it, AAU will support efforts to exclude from reporting requirements home state contacts with members of the state's Congressional delegation. During the 95th Congress this was termed "the home state exemption."

F. OTHER ISSUES

The 96th Congress will present opportunities and problems for AAU institutions. With the help of the CFR and other higher education and related associations, we will attempt to keep up with all Congressional and Administration activities. The short list of issues in AAU's Federal Relations Agenda undoubtedly will change as some activities are dropped and others are added. Phone calls and letters from member presidents alerting us to needed federal initiatives are appreciated as essential parts of the process.