

Students' Counterproposal to Casteen

Regarding the process of this discussion, we recommend:

- 1) That you identify points on which we can agree and disagree;
- 2) That we discuss your response in private and respond with a synthesis proposal 5 hours after we receive your thoughts on this proposal;
- 3) We will go to sleep at midnight. All time before then and after 9am Sunday is open for continued dialogue and proposals/counterproposals;
- 4) We will meet with President Casteen, his lawyers, and our lawyers on Monday morning to hopefully come to a legally-binding agreement.

We will compromise on:

- 1) Methodology (including taking benefits into account, the double counting you address in your first proposal, as well as combining market rates/market basket costs);
- 2) Timeline for implementing a form of wage parity within a year.

Our proposal is:

- 1) A one-year timeline for implementation of minimum wage parity
 - a. non-flexible
 - b. flexible;
- 2) That the common minimum wage will be indexed to Washington/Baltimore CPI;
- 3) Oversight committee for implementation of minimum wage parity, monitoring of outsourcing, and affirmative action procedures for contractual arrangements;
- 4) We'll go with you to the GA, contingent on passage of U.Va. living wage, in order to codify (at a statewide level) the right of "public bodies" to pay a living wage to contracted employees;
- 5) Contract disclosure;
- 6) Prioritization;
- 7) The proportion of outsourced workers, as a percentage of total UVa staff, will not increase.

Agreement on a final proposal will come after consultation with workers and fellow U.Va. students and faculty outside.

There are at least two ways to reach wage parity:

- 1) One method setting some kind of minimum wage as a condition of contracts. We want to explain the minimal risk involved in exploring this legal option.

Therefore, we attempt to address your concerns about the potential for lawsuits by looking at the historical record, specifically the debate and implementation of living wage ordinances for contractors implemented by localities. This is a logical antecedent to which to refer because, under the provisions of the Public Procurement Act, "public bodies" include both state agencies and localities. The Dillon Rule, as the AG points out, conflicts with the language in the PPA. We suggest that the PPA has primacy because it is written law and the Dillon Rule is not.

According to David Brown and Kevin Lynch, not a single lawsuit has been brought against the Charlottesville living wage ordinance for contracted employees since the ordinance was passed in 2001. Five years is plenty of time in which contractors could have sued and AG Kilgore/McDonnell could have acted to negate Charlottesville's ordinance. Additionally, Lynch and Brown said that they are not aware of any challenges brought against either Arlington or Alexandria's living wage ordinances for contracted employees.

Today, Attorney General McDonnell states that a living wage ordinance for contracted staff would be challenged and found invalid under current law. It is worth noting that Attorney General Kilgore said precisely the same thing when Charlottesville and Arlington were proposing passing living wage ordinances for contracted employees. Attorney General Kilgore's prediction that those ordinances would be challenged or found illegal has not come to pass.

That said, obviously a contractor could bring a suit against the University if we passed a living wage ordinance for contracted employees. Over the long run, we would prefer to ensure maximum legal certainty regarding the legality of living wages for contracted employees. Therefore, contingent on the BOV's implementation of a living wage for contracted employees (which will only occur with your endorsement of the living wage), we will not only go with you to Richmond to lobby legislators to implement legislation codifying "public bodies" authority to pay a living wage to contracted employees, but we will also travel across the state generating grassroots support for such a law. We are happy to go the General Assembly. We cannot wait for the GA's action, however, to implement the living wage here at UVa.

2) We could also reach wage parity flexibly. The minimum wages of contracted employees would be subsidized directly by privately-raised University money to the point at which total compensation of contracted and classified staff is equal.

After January 2007, the wage floor and compensation packages for flexible wage parity will be adjusted annually to inflation and the cost of living in the City of Charlottesville according to the CPI for Urban Wage Earners and Clerical Workers in the Washington/Baltimore CPI after January 2007. In addition to wage parity, we suggest the formation of a committee comprised of equal representation of members of the administration, faculty, staff (including classified and contracted employees), and students which will monitor the implementation of the living wage. The Living Wage Campaign will appoint all members of this committee. This committee will work to ensure that the proportion of U.Va. contracts going to minority and women-

owned businesses increases on a yearly basis. This committee can also be a political vehicle to achieve long term legal change in Richmond, contingent on the passage of the living wage at U.Va.

We ask for prioritization, which means that current workers won't be systematically fired and replaced upon implementation of the living wage. The prioritization will be monitored by the committee.

The proportion of outsourced employees will not increase, as a percentage of the total U.Va. employees. The committee overseeing implementation of the wage parity will also monitor the proportion of outsourced contracts and look for ways increasing the proportion of classified relative to contracted staff.