



President of the
Faculty Senate

TO : Zulma Toro, Provost, University of Arkansas at Little Rock
FROM: Andrew Wright, President of the UALR Assembly and Faculty Senate *Andrew B Wright*
SUBJECT: Interpretation of Legislation: Second Language Requirement
DATE: February 20, 2015
Cc: Faculty Senate, K. Wheeler

As we move into the implementation phase of the curriculum changes made in 2013, the status of UALR's Foreign Language Requirement (AKA the Second Language Requirement) has become an issue. This memo outlines the history of the requirement and establishes a plan for moving forward.

1. In 4/30/1990, the Faculty Senate passed the Foreign Language Requirement:

- I. *Students seeking a BA, BM, or BSE degree are required to complete a 2000 level foreign language course or demonstrate equivalent proficiency as demonstrated by a competency assessment test.*
- II. *Foreign language course waivers may be granted to students with verified disabilities after examination by a special committee.*

This Policy is to be effective for all students entering UALR beginning Fall 1994 and will be required of all students graduating after May 1998.

2. The Foreign Language Requirement was originally a degree requirement, meaning it applied to *all* programs in one of the three specified degrees, BA, BM, or BSE. Because of state laws designed to facilitate student transfer between institutions, it became inappropriate for UALR to have lower-division, degree-specific requirements. Specifically, current law (ACA-6-61-231) states that:

- (B) (i)** *A four-year public institution of higher education receiving a transfer student shall not require additional lower-division credits for the transfer student if the additional course is considered a general education lower-division course.*
- (ii)** *The receiving four-year public institution of higher education only may require the additional lower-division course if the additional lower division course is:*
 - (a)** *A prerequisite for courses in the transfer student's baccalaureate degree program;*
 - (b)** *A discipline-specific course that is required by the transfer student's baccalaureate degree program and the student has not completed a course at the two-year public institution of higher education that is comparable to the discipline-specific course at the four-year public institution of higher education in the Arkansas Course Transfer System; or*

(c) A requirement of an independent licensing or accrediting body.
(C) This subsection does not remove the requirement that a transfer student must meet total baccalaureate degree program credit-hour and course requirements in order to be eligible for a baccalaureate degree.

Although this law covers transfer between institutions, it creates the situation where the requirements for a student who started at UALR would be significantly different from the requirements for a student who transfers to UALR under certain circumstances.

The changes in law occurred as a result of Act 182 (2009), colloquially referred to as “The Rogers Phillips Transfer Policy Act,” and Act 747 (2011). Act 182 was brought up for the first time in the 1/30/2009 Faculty Senate meeting, and discussed over a number of subsequent meetings.

The discussion in the 2/20/2009 Faculty Senate meeting (see Appendix: Provost Belcher’s report) demonstrates the Faculty Senate’s concern with the Foreign Language requirement.

The matter was further discussed in the 4/10/2009 Faculty Senate meeting (see Appendix: Provost Belcher’s Report), where it is clear that the interpretation was moving towards making the Foreign Language Requirement invalid for transfer students.

Further discussion occurred in the 5/8/2009 Faculty Senate meeting (see Appendix: Provost Belcher’s Report), where it is clear, despite assurances to the contrary, that ADHE had interpreted the law consistently with the fears of the Senate.

3. According to Daryl Rice, the Provost’s Office rewrote the undergraduate catalog to insert the Second Language Requirement into each program that was affected by the university degree requirement. This action moved the Second Language Requirement from a university degree requirement to a program requirement in order to comply with the new ADHE regulations. Although no legislation of the Faculty Senate or the individual programs was made to effect this change, it has been interpreted as a procedural matter from circa 2009 to 2015.

This can be seen in the transition from the 2008-2009 Undergraduate Catalog description to the 2009-2010 Undergraduate Catalog description. Here is an example for the BA in English, although the other BA degrees are treated similarly.

2008-2009 UG catalog for BA in English

Major in English

A major in English literature for students pursuing the bachelor of arts degree consists of 33 hours in upper-level courses. All majors must include ENGL 3331 and 3332 Major British Writers I and II, either ENGL 3311 History of the English Language or ENGL 3312 Grammatical Analysis of Modern English, a choice of ENGL 3321, 3322, or 3323 American Literature I, II, or

III, ENGL 3330 Perspectives on Literary Study, and 4199 Seminar in Career Perspectives. Up to six hours may be applied to the major from ENGL 4100, 4200, and 4390.

2009-2010 UG catalog for BA in English

Major in English

Core Requirements (44 hours – see page 27)

Second Language Proficiency (see page 27)

A major in English literature for students pursuing the bachelor of arts degree consists of 33 hours in upper-level courses. All majors must include ENGL 3331 and 3332 Major British Writers I and II, either ENGL 3311 History of the English Language or ENGL 3312 Grammatical Analysis of Modern English, a choice of ENGL 3321, 3322, or 3323 American Literature I, II, or III, ENGL 3330 Perspectives on Literary Study, and 4199 Seminar in Career Perspectives. Up to six hours may be applied to the major from ENGL 4100, 4200, and 4390.

So, although the original legislation from 1990 was never changed, the language requirement was implemented in the Undergraduate Catalog from 2009-10 onward as an individual program requirement.

4. Additionally, Faculty Senate minutes from 2012-13 indicate that the general view about the requirement was that it was a program requirement. In the 11/02/2012 Faculty Senate meeting, as part of the General Education revision (FS_2012-13_2), Senator Jovanovic moved and Senator Tschumi seconded the deletion of the Second Language Requirement from degree requirements (section I.B.3 in the proposal). Senator Cheatham read into the minutes that “existing program requirements will not be affected by FS_2012_13_2.” In the 2/15/2013 Faculty Senate meeting, the question was divided, splitting the second language piece (among other items) out of the overall legislation. In the 3/15/2015 meeting, this piece was approved and is documented on the AY12-13 Legislative Transmittal Form as “Baccalaureate Degree Requirements.”

It is clear from the record that the Faculty Senate, when it deleted the Second Language Requirement as a degree requirement, intended the interpretation that had been executed by the Provost’s Office, that the degree requirement had been converted to a program requirement and that authority over initiating changes to that part of the curriculum had been transferred to the program faculty.

5. The Faculty Senate Executive Committee met on 2/20/2015 to interpret Faculty Senate legislation since this situation creates interesting constitutional problems.

The legislative authority to convert a university degree requirement to an individual program requirement or interpret a requirement differently did not lie with Provost Belcher’s office, so the change and reporting of the change in response to ADHE’s interpretation of the law represents a clear usurpation of authority. However, ADHE did not give UALR time to react, since the change in law and ADHE’s interpretation of the law did not occur until the Faculty Senate had adjourned for the summer, and the Undergraduate Catalog was due for printing.

Since neither the Faculty Senate nor the programs affected by the change asserted their authority over the matter in the years between 2009 and 2013, the Foreign Language requirement has to be viewed as a *de facto* program requirement. Further, the fact that the Faculty Senate voted on the matter in 2013 with the clear understanding that the Foreign Language requirement had been converted to a program requirement validates the Faculty Senate's legislative intentions. So, the act in 2013, while not as well-articulated as could be desired, can be viewed as the change in the requirement from a university requirement to a program requirement.

6. The second constitutional question regards the ability of the Faculty Senate to impose a program requirement. Article IV of the Constitution of the Assembly of the University of Arkansas at Little Rock delegates the definition of the undergraduate curricular process to Undergraduate Council. In Article III of the Constitution of the Assembly of the University of Arkansas at Little Rock, legislative authority over curriculum is delegated from the Assembly to the Faculty Senate and thence to the Undergraduate Council. The Undergraduate Council further delegates to colleges, schools, departments, and programs.

Historically, the Faculty Senate has retained authority over university requirements, while Undergraduate Council has retained authority over course and curricular proposals. The question has arisen in a number of ways, such as the General Education requirements and the minor requirement,

Does the Faculty Senate have the authority to create program changes?"

For the minor and general education, the interpretation has been that it does not. This is especially important for matters of national accrediting bodies (such as ABET and AACSB), where the program faculty must have authority over curriculum.

The constitution itself and the historical legislative practice leave room for interpretation. In the case of the Foreign Language Requirement, the Faculty Senate acted to convert a university requirement to a program requirement, and this action was not challenged at the time of the change.

7. The Faculty Senate Executive Committee therefore interprets the legislative action of FS_2012-13_2 to have changed the university foreign language requirement to a program requirement. **Programs that already had the requirement will retain it until they choose to modify or delete it.**

The Faculty Senate Executive Committee asserts that this action was legitimate in this specific case, although future cases involving college or university-level bodies initiating changes to individual programs should be discouraged.

The text in Policy 503.3. General Education Requirements for Baccalaureate and Associate Degrees regarding the Second Language Requirement should be deleted from that policy, effective with the starting date of this legislation (1/1/2015).

Appendix: Minutes from Provost Belcher's Report in AY08-09 Regarding "Rogers Phillips Act"

2/20/2009: When Walker asked him to talk about the transfer-of-credit bill, he thought it might be better to have Rep. Mike Burris (Mark Burris of STaR is his brother), who sponsored and shepherded the bill. Rep. Burris has been open to improving the bill so that it's workable for those of us in four-year institutions, so much so that Nickels wound up signing on as a cosponsor.

Nickels pointed out that what's driving this and lots of other legislation is the concern about getting more students to graduation.

Burris thanked the faculty for their work in helping men and women of Arkansas realize their dreams of what they wish to become. He noted his own history as a college instructor. The bill, he noted, is named for his good friend who was an adviser at National Park Community College.

He believes higher education has a serious responsibility in developing the future of our state. We must raise the educational achievement of our students in order to raise per capita income in this state as a whole. The year 2010 will likely mark the turning point from an increasing to a declining birth rate. We are, he says, going to have to change our methods of marketing higher education. He asked if senators had seen the Kaplan commercial, which he called "pretty impressive." We have to change our ways of creating and delivering education so that it is accessible to more of the kinds of students we're going to have.

He said the intention of the bill was in no way to do harm to universities. He noted that he is not our enemy, though there are those at the capitol who are. Rep. Burris thanked the provost for his help, and said he thought David wouldn't mind if he told a story about having given Belcher an early draft, which Belcher returned with recommendations. Burris said he'd take it back to the lawyers. He did, which set up the opportunity for Burris to call the provost back and tell him he'd failed the test. "If I did what you told me, there'd be no point in running the bill!"

The provost then asked, "Will you give us another chance?" to which Burris replied, "You can't take a final exam over." Burris enjoyed the tables-turned jest, but did believe the help of the provost and others in higher ed made the bill better.

There is bill, he said, still a work in progress, that would call for common course numbering.

Q from Eshleman: Does the Transfer Policy Act mean we can't ask transfer students to meet our requirements for foreign languages? *A:* There are exceptions to not requiring lower-level courses, and one of those is if the lower-level courses are a requirement of the degree program the student has chosen. Burris said what we're trying to eliminate are the unnecessary obstacles to transfer of credit.

Q from Cheatham: What if there's been a gap of 5 or 10 years between the completion of an associate degree and coming to a four-year school? *A:* We both know it's going to be hard for those students, but they should be given a chance to succeed.

Q from Rice: The Act gives ADHE the right to decide what the core will be. How does this relate to the state minimum core? *A:* The degrees that are specified in the bill have already been set up by ADHE under the existing minimum core standards.

Q from Tschumi, following up on Rice's question: Do you foresee that the core for these degrees should become more like the 35-hour state minimum core for four-year degrees. *A:* Yes.

Q from Mathis: Will this act be in line with the 2010 deadline for articulation agreements that work also across state lines? *A:* Yes.

4/10/2009: Act 182 (which we sometimes call "the transfer bill," or "the Burris bill") provides that if transfer students come to us with AA, AS, or AAT degrees, we're not supposed to make them take any more lower-level courses, with a few exceptions such as having not met particular degree requirements. Some concerns have emerged about the Act.

The language was changed to "discipline-specific courses," which appears to mean that our nine-hour foreign language requirement would not comply with the law. This is a concern of provost and chancellor, and they intend to engage this issue. They clearly believe it is our right to determine that this is a degree requirement, in spite of the courses not being "discipline-specific." He wanted faculty to be aware of the problem, and to let us know we're pursuing resolution.

One of the things Act 182 requires is that all four-year institutions have an articulation agreement with two-year institutions in a 50-mile radius. Two-thirds to three-quarters of our students bring transfer credit, so we intend to have those even with schools well beyond the prescribed 50-mile radius.

We are establishing an Office of Transfer Student Support Services intended to be a one-stop-shop to make the transfer process and articulation of credit as easy as possible for arriving students.

The provost acknowledged that a number of senators were involved when we worked with Pulaski Technical College to support a study of both campuses that could help us improve our relationship. One recommendation of the study was to institute periodic meetings of all the deans. We've been doing this once a year. In some ways, they are symbolic, but seem to be producing some useful increases in cooperation and coordination.

...

Tschumi reminded the provost that Rep. Burris, chief sponsor of what became Act 182, had assured us when he addressed the Faculty Senate he had no intention of interfering with degree requirements such as our nine hours of foreign language. He made the offer to do whatever is required to correct unanticipated consequences of the legislation. The provost thanked Tschumi for the reminder.

5/8/2009: *“About Act 182: Giammo had contact with Sen. Burris about the effect of the act on our foreign-language core-curriculum requirement. He reiterated that it was not his intent to affect such requirements, and said he'd be in touch with ADHE about it. We got final regulations, though, which reflected no progress on the issue. ADHE says undergraduate foreign language requirements will not hold water under the act. The chancellor and the provost intend to go and beard Jim Purcell on this issue. The provost thanked Giammo and Nickels, and saluted Sen. Burris.”*