Reauthorization: S. 2724 (1990): Correspondence 12

Jacob Neusner

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U S Senator Claiborne Pell
U S Senate
D C 20510

Dear Claiborne,

In your and Sandy’s study of the Council discussion on reauthorization, you may find it useful if I summarize my own notes on important points that were made.

These are my personal recommendations for the reauthorization document’s consideration of the council:

1. All meetings of the Council are to be held in public, with staff and press welcome, except for discussions of individual applications; these are to be conducted without public access. Right now the Council is meeting in private, Thursday nights prior to the regular sessions. As you know, on principle I do not attend private meetings of public bodies, discussing public policy. The argument that these private meetings are necessary for discussion of issues concerning personnel is invalid, simply because we can have discussions of personnel at the same meetings at which we discuss individual applications (in this case, with staff asked to leave). I know as fact, on the basis of reports of other Council members, that policy discussions do take place, e.g., at the last meeting, the rumpus about a grant insulting to Christianity, a minor instance. I have generally raised in public issues I knew were discussed in private. These private meetings must stop, and only in reauthorization can they be stopped. William Bennett cancelled all private sessions when he took over at NEH.

2. The language “Council recommendation, advised by panel,” should be inserted, to underline that the Council’s decisions are reached in consideration of panel recommendations, but autonomously of them. Right now the attitude is that what the panel says the Council cannot contradict.

3. Council members outside of NY and Illinois take the view that geographical distribution should be a consideration. There are presently 7 members from NYC and 4 from Illinois (Chicago), 11 out of 26. This is disproportionate. Language should be inserted saying that, so far as is feasible, geographical distribution should be a consideration, though not necessarily a principal one, in choosing Council members.

4. Many Council members are concerned that the Chairman’s power is finally complete, with the result that even when the Council unanimously or nearly unanimously recommends for a grant, the chairman can withhold it, or against, and he can make it. Some of us think that there should be a two-thirds rule, which holds that if the Council by a vote of two-thirds recommends a grant, it must be made;
recommends against, it must not be made. As you recall, Hodson made grants to arts critics programs over the nearly unanimous opposition, based on solid and good reasons having to do with public policy, of the Council.

5. Chairman's grants must be reported and explained to the Council at the next regularly scheduled meeting. As you recall, Hodson told me, when I asked him why he made a particular chairman's grant, "If you don't like it, complain to the Hill," which I did. I think the Chairman's grant rule is a useful one, but it should be very limited, since it sets aside the entire panel process and favors a given applicant over all others who might have applied.

6. I am not sure whether the legislation now says that no agency may receive more than a given percentage of the NEA (or NEH) budget, but I think there should be a rule that no single agency may receive more than 1% of the program funds of the Endowments. I do not think that is presently a problem, but it can be.

7. Many of the Council members are concerned that people accept appointment, are investigated and confirmed, then come once or twice and never reappear; or they come once a year. They are not useful in the Council deliberations and occupy seats that others would like to have and will be glad to fill. I am not sure what language will help, but there should be some provision that a Council member who misses a certain number of meetings will be asked to resign; or will be dropped. I am not sure precisely the best way to accomplish the goal of filling all or most of the seats at all or most of the meetings; at the last meeting there are perhaps sixteen of twenty-six. A few absences were epidemic, but some people just never come and should not be included beyond a year or a year and a half (unless there is some extenuating circumstance, such as illness or a sequence of unanticipated problems).

There was complaint among Council members about poor briefing of new members, but I don't think that is a legislative concern.

I think of all of these points for your consideration, the one that concerns me most deeply is the private discussion of public policy, which was stopped at NEH by Bennett (I assume Dr. Cheney follows his excellent model) but which goes on and on. I had the impression, for instance, that the NEA staff does not want reauthorization extensively discussed at all; they gave the matter not 45 minutes, though it was clear that the Council members had many ideas they wished to air. In addition, I have the impression that at the private meeting Thursday night it was "suggested" that we aim at reauthorization with no changes at all, and I shall be surprised if the administration bill that will emerge from NEA suggests any of the changes I have listed for you here. Douglas Dillon's remarks on the 2/3rds rule, for example, should be carefully noted by yourself and Sandy; if you do not insert such a rule, it will not be inserted by the Administration. Here there is a conflict of interest between Congress and its agency, the Council, and the administration.

I have written to you separately on the very substantial problem of the slovenly review of panel recommendations by the NEA Council in giving its advice to the chairman. I have never believed that NEA does a proper job at the Council level of reviewing applications that are to be funded. I recognize that there are problems in doing so, since the volume is enormous; I also take the view that the Council's most useful rule is in scrutinizing the process, rather than necessarily looking at every application all the time; but right now there is no routine Council participation in the on-going process, and I think there can be a useful and on-going mechanism framed for accomplishing the goals of the Congress in this regard. I do not claim to know precisely how to do it, but once the Congress says that the Council has to improve its work of advising on grants (which is point 2 of its task, — I think point 1 is pretty well accomplished — in the existing legislation), the staff will do it. And if you don't say so, they won't.

None of these observations seems to me pertinent to NEH.

You have in your file my comparison of NEA and NEH and my suggestions on how NEH should be reorganized in such a way as to connect more directly and immediately with its fields of humanistic learning. In this regard I think NEA does a far better job. My basic point has been and now is that NEA needs to do a better job on review of applications and must keep its discussions accessible to the public, and NEH needs to do a better job in relating to its constituency, which is philosophy, or history, or literature in
the way in which ours is music or visual arts or opera and musical theater; our organization is far better than theirs.

We can get an argument on all these points, and I do not claim to be right, only to be interested in raising issues that seem to me best discussed in public and in a serious way. Whether or not I am needed to testify at the Senate hearings depends on your judgment. I shall be happy to make my contribution in public, if you want, though in my view it suffices to lay out my ideas in letters and articles, as I have done in the past. I remain at your disposal.

Warm regards,

J

cc:
Sandy Crary, Senate Committee on Labor and Education
Dr. Lynne Cheney, Chair, National Endowment for the Humanities
Mr. Hugh Southern, Acting Chair, National Endowment for the Arts
Congressman Sidney Yates, U S House of Representatives