

Memorandum



UNIVERSITY FACULTY SENATE

July 25, 1991

TO: Linda S. Gottfredson, Educational Studies
Jan Blits, Educational Studies
Victor Martuza, Educational Studies

FROM: Gordon J. DiRenzo, Chairperson *[Signature]*
Committee on Faculty Welfare and Privileges

SUBJECT: Pending Hearing

Please be informed that the Committee on Faculty Welfare and Privileges has made the decision to suspend action on all current and future hearings.

This regrettable course of action is necessitated by the Committee's decision to request a review of its mandate and procedures in the light of a number of unfortunate experiences during the past year. The Committee will resume its function when the problems are satisfactorily resolved with a reasonable guarantee that due process and justice can be assured to all of the parties involved.

GJD/wc

cc: Members, Cte. on Faculty Welfare and Privileges
R. Byron Pipes, Provost
George Cicala, Chief Grievance Officer, A.A.U.P.

Memorandum



Enhanced Version

UNIVERSITY FACULTY SENATE

July 25, 1991

TO: Leslie F. Goldstein, President, University Faculty Senate
 Robert J. Taggart, President Elect, University Faculty Senate
 Jon Olson, Chairperson, Cte. on Ctes. and Nominations
 David P. Roselle, President
 R. Byron Pipes, Provost
 George Cicala, Chief Grievance Officer, A.A.U.P.

FROM: Committee on Faculty Welfare and Privileges

Gordon Bonner, Business Administration *Gordon R. Bonner*
 Robert Day, English *Robert Day*
 Gordon J. DiRenzo, Sociology *Gordon J. DiRenzo*
 David Haslett, Philosophy *David Haslett*
 David Sheppard, Life and Health Sciences *David Sheppard*
 Robert Stark, Mathematical Sciences *Robert Stark*

SUBJECT: Review of Committee Mandate and Procedures

The University Faculty Senate and the Collective Bargaining Agreement delegate certain responsibilities to the Committee on Faculty Welfare and Privileges concerning non-contractual grievances. This internal procedure is intended to provide an impartial fact-finding body that in turn makes recommendations to the University administration regarding complaints.

The experience of the past year indicates that the operation of this process has been impeded to the point that it is difficult for the Committee to render justice to all the parties involved. Accordingly, we request that a complete review of the grievance process be instituted by the Faculty Senate, and that the President of the Senate confer with the Executive Committee and other responsible parties in the University.

We mention the following as partial evidence of the breakdown in the current arrangements:

1. Regarding hearings, when a respondent is an administrative officer of the University, e.g. a department chair, that individual, apparently with administration approval, has no obligation to appear at a hearing or to provide information and documentation in a timely fashion, thus complicating the Committee's task of making a complete and informed finding for submission to the Provost.

2. Respondents refused to participate in the investigatory process and "went public" with a variety of procedural charges that in essence were unfounded and highly personalized with a particular attempt to unjustifiably vilify the Committee Chair. Such actions cannot be allowed to prevail for it is precisely the review of the facts that is specified in the Committee mandate, not the issuance of a predetermined and popular decision—as some might like.
3. The Executive Committee in its ill-fated and public attempts to interfere with a series of pending grievances before this Committee made it most difficult for the Committee to function, and in effect encouraged parties to disrupt the hearings and reporting process by a variety of means not related to the content or substance of the cases in question.
4. Administrative officers of the University and the Executive Committee of the University Faculty Senate attempted to undermine the function of this Committee by taking and disseminating positions on pending cases prior to any Committee hearing or finding.

If an internal review system is to function at this University, there needs to be a vehicle for examination that permits an objective consideration of the facts and substance of a case, with a respect for due process and integrity, rather than public game-playing. One must expect that when members of the University community lose faith in the internal process of review, an external alternative will be forthcoming.

Some segments of the University community, so it appears, are not willing to participate in the review system as it is presently established. A by-product of the situation is that the work of this Committee becomes a waste of time, energy, and expense--and the members of the Committee become subject to unwarranted personal abuse. It is for these reasons that a University-wide examination is in order.

It is the position of this Committee that it would not be productive to hold any further hearings until it can be assured that such a process can proceed in a manner acceptable to, and respected by, all segments of the University community. Accordingly, pending the review which has been requested, it is the decision of this Committee to suspend all current and future hearings.

/wc

Memorandum



original but hard-to-read version

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/wc

Memorandum



August 9, 1991

TO: Leslie Goldstein, President, University Faculty Senate
FROM: Jan Elits and Linda Gottfredson, Educational Studies
RE: Welfare and Privileges Committee Hearings

We write to urge the Executive Committee to act quickly and decisively on the issues raised by the Faculty Welfare and Privileges Committee in its July 25th memo to you and others. The breakdown of the university's internal procedure for resolving non-contractual grievances is an extremely serious matter, which affects us directly. We currently have a complaint before the Committee. It concerns our chair's continued harassment of us for bringing previous complaints of bias and unfairness in our Department. While the administration's interference in the Committee's procedures was aimed at our previous complaints, the Committee's forced suspension of activity now denies us an impartial hearing on our current case.

The Committee, in its memo, gives a partial list of evidence of the breakdown in the university's procedures. We would like to add the following.

1. The respondents in our cases, including our chair, while refusing to answer our charges in an appropriate forum, have repeatedly sent copies of their memos concerning our complaints up the administrative line (as well as to the Executive Committee), but not to us. Their sending them up the line prejudices administrators who may have to make a decision in our complaints (as the Provost recently did), while their failure to send copies to us prevents us from responding to their charges. (E.g., is it merely accidental that the Provost's rejection of the FW&P unanimous recommendation in our original cases paraphrases part of a memo which four of the respondents improperly copied to him (as well as to President Roselle, Vice President Colm, and you?)

2. Just as the administration has repeatedly attempted to vilify the FW&P Committee Chair, so too it continues to smear us and those who have come to our support, including a highly distinguished journal editor, rather than answer our charges. Rather than allow an impartial review of the facts, it seeks to discredit those who present the facts, those who are responsible for judging the facts, and those who corroborate the facts.

3. The Administration has loudly complained about our use of a lawyer at the FW&P hearing, but at the same time it ignores the fact that it was the administration itself which first introduced lawyers in the related and preceding Pioneer case (both in the Senate Research Committee's hearings and in drafting its proposed ban). It not only has permitted lawyers when convenient, but it has also seized upon the issue of our using a lawyer as a pretext to avoid our getting a fair hearing or to discredit the results if we get one.

4. In our informal attempts to resolve our complaints, the administration has repeatedly ignored the very evidence that it had previously said we would need to support our charges, and it repeatedly invokes standards of proof which are inappropriate in administrative decisions (and indeed even in civil suits) and which it applies only in our cases. It has also failed to investigate our charge of a cover-up in a related sexual harassment case in the Department.

5. Our newest complaints, whose processing has now been suspended by the FW&P Committee, are an example of the breakdown of fairness within the university grievance system. While our chair will not answer our complaints in a proper forum, among other things he punishes us for ever having brought them--by reclassifying our politically controversial public policy research as non-research, forcing a change in the long-standing teaching load of one of us, and downgrading the annual evaluation of the other, without explanation.

We hope you and the Executive Committee will take these matters with the seriousness they deserve. Our original complaints concerned the integrity of the promotion process within our Department. Things, unfortunately, have been allowed to get out of hand. Now the issue is the integrity of the grievance process within the university. It is important to everyone that that integrity be restored.

cc: Robert Taggart, President Elect, University Faculty Senate
Jon Olson, Chair, Committee on Committees
David Roselle, President
R. Byron Pipes, Provost
George Cicala, AAUP
Frank Murray, Dean, College of Education
Vic Martuza, Chair, Educational Studies

MemorandumUNIVERSITY FACULTY SENATE

August 23, 1991

TO: Professor Jan Blits, Educational Studies
Professor Linda Gottfredson, Educational Studies

FROM: Leslie F. Goldstein, President *L.F.G.*
University Faculty Senate

SUBJECT: Faculty Welfare and Privileges Committee Hearings

Unfortunately, I did not receive your August 9 memo until today. I apologize for not replying sooner. I agree that it is important that the Executive Committee act quickly and decisively in response to the July 25 memo from the Committee on Faculty Welfare and Privileges wherein the Committee announced a unilateral suspension of its hearings activities. I am sympathetic to your view that "the breakdown of the University's internal procedures for resolving non-contractual grievances is an extremely serious matter" and that "the Committee's forced suspension of activity now denies [you] an impartial hearing on [y]our current case." The matter is indeed most serious and the Executive Committee will be (a) meeting to discuss it on Monday, August 26, (b) attempting to speak with signers of the July 25 memo to see if we can loosen the logjam they have put into place, (c) considering the possibility of an interim, temporary replacement of those members of the Faculty Welfare and Privileges Committee who have gone "on strike" with regard to holding hearings, (d) considering various reforms of hearings procedures.

In addition to treating the Faculty Welfare and Privilege's "forced suspension of activity" your memo alludes to several other matters. My thoughts on them (for what it's worth during my last week in office) are as follows:

Items

1. & 2. in your list complain of respondents' sending memos and their efforts to "smear" people [orally]. In my view there is no proper remedy for this behavior—universities do not impose gag orders. To my personal knowledge you both have discussed aspects of your case with colleagues, including me, and I have never felt it was inappropriate, whether you or the respondents did so. We do still have freedom of speech around here.
3. As for the matter of an attorney—sorry, but I disagree. There's a big difference between the University hiring a lawyer to deal with a large foundation (the Pioneer Fund) which has its own counsel, on the one hand, and the Faculty Welfare and Privileges Committee allowing—in what is supposed to be an

informal hearing dealing with an internal departmental peer-review of research—the complaining faculty member to have an outside, professional attorney when the charged faculty member has none and objects to the attorney's presence. To me such a situation could NEVER, procedurally, be viewed as "impartial." As I understand it, it was NOT the administration that objected to attorneys in Faculty Welfare and Privileges' hearings—it was your own colleagues, who feared your attorney would be noting their every word (offered without legal counsel) in order to build a later legal case against them. Insisting on a lawyer for only one side in this situation simply does not strike me as fair play.

4. This item mixes together two points:
 - a. You substantively disagree with the administration's resolution of your case. That is your right, but neither the Senate as a whole nor the Executive Committee is currently authorized to override the Provost. Because the administration found certain evidence unpersuasive (or whatever) you say they "ignored" it and you say they followed incorrect "standards of proof." I don't know of any university document that states standards of proof for your complaint or that forces decision-makers to be swayed by certain evidence. Thus, it seems your disagreement is substantive not procedural.
 - b. You say the administration "failed to investigate . . . a cover-up in a . . . sexual harassment case in [your] Department." This is an extremely serious charge. As your lawyer must have advised you, your employers are legally liable for acting to prevent and correct sexual harassment among employees. If any employer knowingly tolerates such behavior substantial payment of damages can be ordered. I hope that Maxine Colm notes this comment of mine, because she, not the Senate Executive Committee, has the authority to correct this matter. I urge you every possible success in achieving justice against the perpetrator and I am appalled at the thought that your charge may be accurate.
5. If your chair is punishing you for using the Senate Complaints Procedure, that punishment itself is grievable. As I noted above the Senate Executive Committee is acting speedily to correct the breakdown in the hearings process.

rg

cc: Maxine Colm, Vice President, Employee Relations
Members, Committee on Committee & Nominations

Memorandum



August 28, 1991

TO: Leslie Goldstein, President
University Faculty Senate

FROM: Jan Blits, EDS *JB*

Thank you for your August 23rd memo. I appreciate your comments about the sexual harassment charge. The administration has now been warned several times about its possible culpability in the matter. I hope that the university will begin to settle all of our complaints, including this one, now that it has lost the Pioneer case.

I'd like to correct a misstatement of fact in your memo. I don't know whether the Pioneer Fund has its own counsel--contrary to what you say, it is a small foundation which doesn't even have a paid staff--but I do know that it did not use any counsel during the University's investigation of the Fund or after the University banned it. Linda and I--not the Fund--have fought the University.

I think it's also incorrect to say that the University hired its lawyer "to deal with [the Pioneer Fund]." It hired its lawyer because it feared being sued by us, who, unlike the Pioneer Fund, have a contract right to academic freedom. If there is any doubt about this, you might remember that the University came armed with three lawyers to fight us (not the Pioneer Fund) at the arbitration hearing.

It's also misleading to say that we have "[i]nsist[ed] on a lawyer for only one side." We have insisted on no such thing. We have insisted only upon fair play and have done nothing to prevent the other side in our complaints from having lawyers of their own.

I think your memo gives the wrong impression. The University has spared no expense to fight us, while we have had to rely entirely on the generosity of pro-bono lawyers. This has hardly been a fair fight for us from the start.

cc: Maxine Colm, Vice President, Employee Relations
Members, Committee on Committees and Nominations