

Senate Summary
Academic Senate meeting of May 20, 1996

Senate Debates Faculty Code,
Defers Final Vote to June 3

In a special meeting, the Academic Senate worked on a significant rewrite and reorganization of the "Code of Faculty Responsibility" that appears in University Policies and Procedures. The draft rewrite was submitted by the Academic Freedom and Tenure Committee, which has been working on it for three years. Current committee chair Bruce Landesman introduced the draft. He said the 1983 document needs modification to make both the language and the procedures less complicated, so that it will be used rather than circumvented, and to address issues that have arisen since 1983. At the beginning of the debate, the Senate changed the name of the code to "Code of Faculty Rights and Responsibilities."

The debate considered numerous suggested amendments, some of which address the key issues contained in the draft. A quorum call ended the meeting with some of the amendments unresolved. The remaining issues and a vote on the code as a whole will be left to the June 3 meeting.

Below is a summary of the proposed code as it now stands, and an account of the debate on the primary issues at the Monday meeting.

Summary of the Draft Proposal
Code Covers Obligations, Due Process Procedures

The code enumerates rights and obligations of faculty members, and defines due-process by which terminations or other sanctions may be imposed for violations. (The document deals with possible misconduct by faculty, not dismissals that could occur for medical reasons, financial exigency of the University, or program discontinuation, which are covered by other policies.)

The section on rights takes note of the protection accorded by academic freedom, due process, and the right to an academic environment free from violence and disruption. The rights section is a statement by the faculty and contains no enforcement provisions within the code itself.

A new passage provides that faculty have the right to legal defense by the University "in professional activities inside and outside the classroom, both on and off campus." Inclusion in the code would formally make this measure a part of University policies, Landesman says.

The proposed code defines "for cause" in termination cases this way: "Adequate cause is incompetence in the performance of his/her duties as a teacher and faculty member, or conduct which demonstrates that the faculty member lacks the ability or willingness to meet his/her responsibilities." The draft goes on to say that personal conduct is relevant only as it pertains to faculty responsibilities, and that mere expression of controversial opinions does not constitute misconduct.

Much debated but still part of the draft code is a passage that says, "Faculty members must comply with reasonable and appropriate instructions of their chair, dean, cognizant vice president, president, or other authorized university officer." The duties section also lists general requirements for class responsibilities, course preparation, non-exploitation of students, and discharge of obligations in research and service.

The new code refines the language regarding possible research misconduct, such as falsifying data or plagiarism. It makes specific the faculty obligation to obtain proper reviews before conducting research on human or animal subjects, or using hazardous substances.

The section on sanctions for violations of the code allows for reprimand,

fine, probation, suspension, or dismissal. An interim suspension may be imposed only by the president and only when necessary to prevent substantial harm to the University or some member of the University community, the draft says. The suspension would last only until the Faculty Hearing Committee has concluded its deliberations.

Still under consideration by the Senate is a provision that would allow the president to use a suspension without pay in cases where a faculty member refuses to continue working. The draft version requires payment of back pay if the accused faculty member is not eventually terminated. An amendment to drop this provision, and another to merely modify it, were debated but not voted on before the quorum call ended the Monday meeting.

Also still to be debated are the sections dealing with procedures to be followed in case of a complaint. As the draft currently reads, anyone can file a complaint, but more limiting substitute language has been proposed. Another provision that may be questioned is the recommendation to drop student membership on the committee. Landesman said this recommendation is because the code is seen as something that the faculty "institutes, follows, and applies," with rulings on violations to be made by one's peers.

As they now stand, the procedures specified in the proposed code provide numerous opportunities for informal dispute resolution, but also guarantee faculty members the right to a formal hearing with the Faculty Hearing Committee if informal resolution is not successful. Deadlines, representation, appeals, and the like are covered in detail. The hearing committee's decision may be appealed to the president, but the decision stands unless the president asks for further proceedings or determines that the decision is contrary to the evidence.

Debate Centers on Proposed Amendments,
Responsibility vs. Exercise of Power

The Senate rejected an attempt to remove this passage from the rights section of the draft: "Faculty members have a right to fair and equitable financial remuneration commensurate with their rank, duties, performance, and professional stature." Opposition was based on the possibility of legal problems this could cause, depending on how it is interpreted, in a real world where market forces create salary differences from one discipline to another. The prevailing view was that the passage, like the other rights, represents a statement of what the University ought to be trying to do.

The Senate also deleted language regarded as too subject to varying interpretations, which called for "fairness" and "civility" and cited examples of inappropriate behavior that included "threats", "name-calling", or "public humiliation." Cliff McIntosh, who chaired the Academic Freedom and Tenure Committee in 1993-'94, and Landesman pointed out that the code is full of such general statements that will require the wisdom of the Faculty Hearing Committee as a protection against frivolous complaints. However, several senators said the passage smacked of "political correctness," and suggested that telling a student he might fail a course if he doesn't do the work could be seen as a threat or intimidation.

Hotly debated but allowed to stand on a close vote was the provision that faculty must comply with reasonable and appropriate instructions of administrators. Critics said the passage is an attack upon faculty professionalism and unnecessary because the University has done fine for many years without it. Others said the provision sets the stage for arbitrary use of power, it could create confusion with orders from multiple bosses, and it leaves only a faculty committee a protection from frivolous accusations. As McIntosh put it, "Nobody is against us doing our jobs, but we would rather see it as performance of duties, rather than following orders."

Landesman pointed out that with the new code, the protection of academic freedom will still be firmly in place. University General Counsel John Morris said the passage is necessary because the rest of the code and other policies do not have an enforceable provision for administration of the University that allows for disciplining a faculty member who refuses to perform normal work duties. Actual cases are rare, as they should be, but there are times when such a provision is needed, Morris said.

Graduate School Dean Ann Hart said administrators need some prerogatives if they are to respond to calls from the public and legislators for accountability. "We (faculty) have a custom here of telling the department chair what we will and will not teach," she said. "This causes real problems, and it comes up surprisingly frequently. Meeting the needs of students sometimes means asking faculty to teach a class they would rather not."

The unresolved debate over the possibility of imposing an interim suspension without pay revolved around the same issue-need for responsibility vs. fear of arbitrary use of power. The draft allows only the president to impose such a suspension, and requires that back pay be restored if the accused faculty member is not terminated as a result of Faculty Hearing Committee deliberations. Morris explained that this provision would be used only when the person refuses to perform his or her essential duties. "It would be hard to explain to the public or the Legislature how we can keep paying someone who will not work," Morris said.

Members of the Senate have copies of the materials, and have been asked to discuss the issues with their constituents.

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