

Faculty Senate

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Faculty Grievance Committee

Annual Report 2000-01

To: Henry Sayre, President, Faculty Senate
From: Jennifer Cornell and Philippe Rossignol, Co-Chairs, Faculty Grievance Committee
Cc: Faculty Senate Executive Committee; Vickie Nunnemaker
Subject: Faculty Grievance Committee, Annual Report 2000-01

As Co-Chairs of the Faculty Grievance Committee, Dr. Rossignol and I met with Faculty Senate President Henry Sayre on November 10th, 2000 to discuss the activities and concerns of the FGC. Among them were proposed changes to the Standing Rules which govern the Committee, and to OAR 580-021-0055, which governs the grievance procedure.

The FGC met subsequently with representatives of the AAUP (13 February 01) and the Faculty Mediation Committee (12 March 01) for further discussion of these and related matters. Informed by these discussions, we proposed (in an memo sent on 6 April 01) to meet again with Dr. Sayre and, if convenient, the full EC.

Specifically, we asked:

* to be notified of and involved in future discussions of the proposed changes to the grievance procedure (OAR 580-021-0055) prior to the final vote on the issue then scheduled for April 16th 2001 in order to:

* express our view that the Faculty Grievance Committee should be the final arbiter of grievances in much the same way as the Student Conduct and Mediation Committee is now the final arbiter of alleged violations of the Student Conduct Code;

* reiterate our opinion that, in the absence of a FGC with the power to decide cases, all but eliminating the possibility of appeal to the Board removes an important degree of accountability from the process currently in use;

* revise our suggestion that the proposed "Grievance Officer" be appointed by the Faculty Senate. Instead, we suggest that a pool of Grievance Officers be elected from among tenured teaching and research faculty, ideally with prior FGC experience, by democratic vote of all eligible faculty;

* urge that Grievance Officers so elected serve for a maximum of six years;

* recommend amending OAR 580-021-0050(8) as follows: "If the grievance officer rejects or modifies the recommendations of the faculty hearing

committee, the reasons shall be stated in writing, and a copy provided to the grievant and to the Faculty Grievance Committee.";

* recommend amending OAR 580-021-0050(9) as follows: "The grievant may appeal the decision of the grievance officer to the president pursuant to OAR 580-021-0055. If no appeal is filed, the decision of the grievance officer shall be final."

We also requested the opportunity to:

* remind the FSEC that "the right to representation for each party" referred to in OAR 580-021-0050(5)(c) is nominal, given the unequal resources available to institutions and individuals;

* seek the Faculty Senate's support for a proposal by the AAUP to establish a "legal defense fund" based on an annual contribution of \$12 from all faculty, which would generate sufficient resources to pay for an Ombudsman or equivalent legal resource within five years;

* respond to Gordon Matzke's October 13th 2000 memo to Susan Tonquist, Chair of the Graduate Council, and to reiterate our recommendation that the Dean of the appropriate College review and approve all decisions by Chairs to remove a tenure-track faculty member's graduate status for reasons other than termination or retirement;

* develop with the FSEC a mechanism through which to encourage greater use of the Faculty Mediation Committee so that the need for a formal grievance procedure may be reduced; and

* suggest that faculty with a primarily supervisory administrative position (and who are, as such, potentially the subject of a grievance), not be appointed to the Committee in order to avoid the appearance of a conflict of interest, or of favoring an administrative perspective. With these concerns in mind we proposed to make changes to the Standing Rules which govern the FGC (attached).

We received no response from Henry Sayre to our memo, however, nor were we able to schedule a meeting with the Faculty Senate Executive Committee prior to the April 16th deadline. As a consequence the FGC was excluded from a discussion of issues essential to its mission, and vital to the welfare of faculty on this campus.

On April 27th the Board of Higher Education amended OAR 580-021-0055. As of June 8th, however, no Grievance Officer had been appointed at OSU. Dr. Rossignol and I then sought a meeting with the FSEC to outline our concerns and recommendations while the subject was still under discussion. Coincidentally, our meeting on the 13th corresponded with the release on June 11th of a letter from President Risser summarizing his review of and response to the amendments. Our presentation to the FSEC therefore focussed on the following:

* the President's view that the grievance officer is an "optional" step in the process. The amended OAR 580-021-005(3)(b) states unequivocally that "[The institutions' grievance procedures shall:] include both formal and informal steps. The formal steps shall include an appropriate administrator, a faculty committee (at the option of the grievant) and the grievance officer." In other words, appointment of this position is mandatory, not optional;

* the President's view that "the addition of a grievance officer step" would not "add anything that is not already present in the current process." The amendments adopted by the BHE all but eliminated the opportunity to appeal a President's decision to the Board. The addition of a grievance

officer whose decisions may be appealed restores that lost step, albeit at a less influential point in the process. Its implementation is therefore essential;

* the President's desire to retain his power to modify or overturn the recommendations of the FGC. The amendments to the OAR specify that the Grievance Officer would review and rule on the recommendations of the FGC. Should the grievant be satisfied with that ruling, the grievance would proceed no further. In other words, the President would not be not be involved in the process unless the grievant chose to appeal the Grievance Officer's decision to him. While we understand the basis for the President's objection to this arrangement, we believe that it is in the best interests of faculty. It is for this reason that the FGC objects so strenuously to the appointment of grievance officers by the President, and advocates filling the position by democratic vote of all eligible faculty;

* the FSEC's recommendation, made verbally to the President by Henry Sayre without consultation with or notification of the FGC, that a pool of grievance officers be appointed by the President from among past Presidents of the Faculty Senate. Past Presidents are former elected representatives of the faculty, and suspicion of their relationship with the administration may be unwarranted; nevertheless, their ability to objectively represent faculty interests is widely perceived to be compromised. For this reason we disapprove of the FSEC's recommendation, and reiterate our own (see above).

President Risser has described the peer review of grievances by faculty committee as "key" to the process. We agree. With this in mind, we encourage the Committee on Committees, to whom a copy of the proposed changes has been forwarded, and the Faculty Senate to approve changes to the Standing Rules which govern the FGC (attached). It is our view that these amendments, if adopted, will help to ensure the independence and objectivity of the FGC within the current process.

That said, we stress that our preference is for a fully independent Faculty Grievance Committee with decision-making powers, whose rulings could be appealed to the President only if the grievant so wished. We also support the FSEC's recommendation to appoint a Grievance Officer to the Board of Higher Education who could be solely responsible for hearing appeals to decisions made by institutional presidents.

Submitted 22nd June 2001.

Jennifer C Cornell, Co-Chair, Faculty Grievance Committee

Philippe Rossignol, Co-Chair, Faculty Grievance Committee

Proposed changes to Standing Rules (submitted on 9 April 2001; resubmitted 18 June 2001):

FACULTY GRIEVANCE COMMITTEE

The Faculty Grievance Committee, as an instrument of the "Faculty Grievance Procedure," shall meet with University faculty members to consider grievances that are not resolved through informal processes. The role, activities, and responsibilities of the committee are defined in the "O.S.U. Faculty Grievance Procedure," referenced in the Oregon Administrative Rules. The Committee consists of five academic employees, at least one of whom shall be female, chosen by the Faculty Senate Executive Committee. The Faculty Grievance Committee shall include one member with professional title, one with a fixed-term appointment, and, whenever possible, one minority. As much as possible, members should be selected from different colleges. In order to avoid apparent conflicts of interest, faculty with a primarily supervisory administrative appointment (and who therefore are

potentially subjects of a grievance) should not be appointed to the Committee. Any academic employee with Faculty rank or professional title may submit nominations to the Executive Committee for consideration. The Chair of the Committee shall be selected at the end of each academic year by the current membership of the Committee from among its continuing members. Three members of the Faculty Grievance Committee shall constitute a quorum.

(It is recommended that at least one member of the Committee has legal training.)

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