

University of Washington
Faculty Council on Faculty Affairs
December 10, 1999

The Faculty Council on Faculty Affairs met on November 23, 1999 at 9:00 a.m. in 36 Gerberding. Chair Robert Holzworth presided.

PRESENT: *Professors* Alexandro, Luchtel, Holt, Roberts, Kushmerick, Hunn, Holzworth;
Ex officio members *Adman, Olswang; *Special Guests* Lea Vaughn, Míceál Vaughan.

ABSENT: *Professors* Carr; *Ex officio members* Fabien, *Rickerson, Taricani.

*Denotes Ex officio member with vote.

Council agreed that minutes from Nov. 9 meeting would be approved at December 14 meeting.

Action Items

- 1) Council approved amendment to **Sec. 28-61 to add subsections A through C** as written in pages 27-30 of Míceál Vaughan's proposed amendments.
- 2) Council approved amendment to **Sec. 28-61 to add subsection F** as written on page 31 of Míceál Vaughan's proposed amendments.
- 3) Council approved amendment to **Sec. 28-52 to replace all of D.1. and D.2. with a new Subsection D** to read as follows: "If the answering party or the panel preliminarily concludes that the petition does not present a controversy under section 28-32 that entitles the petitioner to a full hearing when all the factual allegations are viewed in the light most favorable to the petitioner, the panel shall give notice to the parties and any nonparty participants that the question of summary disposition shall be heard at the outset of the pre-hearing conference. The panel shall issue a decision to grant or deny summary disposition no later than 5 days after the pre-hearing conference concludes. If summary disposition is granted in whole or in part, the panel shall issue a decision on that matter pursuant to Section 28-54."
- 4) Council approved amendment to **Sec. 28. 33. D to add new Subsection D consisting of parts of old D and E** as written:

D. All comprehensive adjudications involving a nonparty participant of right who is either a student or staff member shall be heard by one hearing officer and (except by unanimous consent of the parties to be heard by the hearing officer without a hearing panel) a hearing panel composed of:

1. Two student members of the adjudication panel (in a case involving allegations by a student) or two staff members of the adjudication panel (in a case involving allegations by a staff member).
2. Five faculty members or, with the unanimous consent of the parties, three faculty members of the adjudication panel.

(New E consisting of part of D)

E. All other adjudications shall be heard by one hearing officer and (except by unanimous consent of the parties to be heard by the hearing officer without a hearing panel) a

hearing panel composed of five faculty members or, with the unanimous consent of the parties, three faculty members of the adjudication panel.

(New F consisting of the remaining part of old E)

F. In selecting members of a particular Hearing Panel, the Chair shall attempt to achieve the highest degree of diversity and impartiality and make every possible effort to select panel members with gender, backgrounds, cultural heritage, or other factors that Chair deems relevant to the issues at hand and the persons involved. This requirement is especially important to observe in cases where unlawful discrimination is alleged. The purposes of this provision are to broaden the perspective of the panel, increase the panel's ability to understand the motivations of the persons involved and reduce or balance the potential for any cultural, racial or other bias that may affect the decision-making process.

(New G relating to Míceál's clarifications of when the panel must meet)

G. Hearing panels may, but are not required to, meet during the period of June 16 through September 15 and, except for the time limitations specified in Section 28-35 for initiating adjudications, any time limitations are suspended during this period.

H. Old F.

I. Old G.

Review of Ch. 28 Subcommittee Suggestions

The Ch. 28 subcommittee met on November 16 to resolve the issues surrounding Míceál Vaughan's suggested amendments. Suggested **amendment to add subsections A through C to Sec. 28-61** was described by Prof. Holt as one that would make clearer the definition of when the adjudication process is over so that the matter can either be taken up with an outside legal entity or end altogether. The subcommittee agreed with Míceál's suggestions. The Chair added that the reason for this amendment was to eliminate the possibility of other internal forces insinuating themselves into a matter that was effectively finished. i.e. Either take the matter up with the courts or accept the decision of the adjudication panel.

Suggested **amendment to add subsection F to Sec. 28-61** is, the Subcommittee agreed, to clarify that a decision of the President to affirm or remand the decision of the adjudication panel is the final decision of the University. There is similar wording for part C that says a decision by the Board to affirm or reverse is the final decision of the University. Part F, again, is clarification that a petitioner can ask the President, if he has ruled one way, to reconsider, and sets a timeline for the President to respond, which is 20 days before any outside legal action can be taken.

The Council voted unanimously to approve the above two amendments.

The Council discussed the proposed **amendment to Sec. 28-52.D.** which deals with summary disposition and under what circumstances a petition may be dismissed by the Hearing Panel. The Subcommittee felt that it could not allow the panel to rule on a request for summary disposition via e-mail or other informal gathering. What has been happening, de facto, is that the issue of summary disposition has been addressed at the Pre-Hearing meeting. What the subcommittee has proposed is to make this procedure a part of the *Faculty Code*. Prof. Olswang offered suggestions

for the wording of the amendment. The main reason for amending this section is to avoid the need for a separate Pre-Hearing meeting to address the issue of summary disposition and to include this action in a single Pre-Hearing meeting.

There was some discussion of whether this amendment precludes a petitioner from requesting a summary disposition further along in the process (after the Hearing Panel has agreed that the adjudication should move forward). Prof. Holzworth suggested adding a clause to the amendment that states that a party must raise any objections to the adjudication at the pre-hearing meeting and will not be permitted to make any further requests for summary disposition once the adjudication has proceeded. Prof. Olswang suggested adding language to the amendment that specifies that the answering party has to address any objections to the adjudication " **in the response.**" The Chair agreed this was a good idea.

The timeline proposed would be as follows: petition is served on the respondent and they have 30 days to answer; a Hearing Officer is appointed within the first 30 days; the Hearing Panel is formed after the response to the petition is received; after the panel is comprised, the Pre-Hearing Conference gets scheduled; at this point all parties will know if there is going to be a summary disposition, since the answer to the response will already have been given.

The Council voted on and approved unanimously the above amendment.

The Council addressed the proposed amendment to **Sec.28-33.D**. The issue here was that the Committee felt that reducing the Hearing Panel to three members was not in the petitioner's best interest. What they propose is that it must consist of five members, except in specific cases addressed in the amendment. (See above section, "**Action Items**," which quotes the amendment verbatim). The subcommittee also felt that when a petitioner files an adjudication, the Secretary of the Faculty will explain the difficulties of having a five-member panel to them-- that this will produce scheduling difficulties and will draw the process out unnecessarily. This amendment leaves the choice of reducing the size of the Hearing Panel to the petitioner.

There was some discussion concerning the makeup of the Hearing Panel that was explained as follows: if the adjudication involves faculty (voting or non-voting) only, then the panel will consist of voting faculty only (no Research faculty); if the adjudication involves a student, then ASUW will elect a representative to serve on the panel; if the procedure involves staff, then a PSO representative will serve on the panel. The Chair and several other members objected to the fact that Research faculty are not allowed to serve on the panel while students and staff can. Prof. Olswang responded that language in the *Code* could be interpreted to include Research faculty on the panel since the language specifically states "faculty" and not "voting faculty." **The Chair recommended having Lea review this language and submit her interpretation.**

Prof. Adman commented that she would be interested in pursuing the larger issue of granting Research faculty voting rights as opposed to doing a "patchwork" job of fixing every area where inequities exist.

The Council voted on and approved the amendment unanimously.

WOT Subcommittee Recommendations

Prof. Kushmerick stated that the history of the Subcommittee is that it has primarily dealt with two points: one was that the University needs to clarify who WOT faculty are and what their

duties are and, secondly, that there is some unfairness in how these faculty are treated vis-à-vis appointment and salary. The subcommittee proposed the following:

- To add language to the *Code* that describes the WOT appointment and reaffirms their status as full-fledged members of the faculty, except for tenure.
- To add provisions to ensure that WOT are treated fairly and equitably in matters of appointment and salary.
- To add provisions that create a reasonable expectation of continuing appointment if WOT fulfill their faculty obligations.
- To clearly articulate the University's responsibility to fund the percentage of each appointment to see that it is dedicated to teaching and service.
- To provide a grace period -- not unlike that provided for faculty who are denied tenure -- that permits WOT faculty to secure additional funding or to seek other employment should funding sources be insufficient to meet their salary.

The Chair suggested that the Council focus on sections A through D and move them forward for vote by the Council, then return to sections E and F after the Subcommittee has had time to rework them. Sections A - D concern the definition of what WOT is and is a clarification that is sorely needed (and has been needed for quite awhile). Prof. Kushmerick agreed to this suggestion; the subcommittee would meet again and work out the details of subsections E and F. The subcommittee scheduled a meeting for Dec. 8 from 8:00 to 9:00. It was decided that a vote on all of the proposed amendments above would be held off until the next FCFA meeting, scheduled for Dec. 14, 1999.

Meeting adjourned at 10:30.

Minutes by Todd Reid, Recorder.