

To: University Faculty Council
From: Faculty Affairs Committee
Date: April 6, 1996
Subject: Feb. 23, 1996 Draft of the Student Code: Concerns and Motions

The Student Affairs Committee and the Dean of Students have produced a new draft of the Indiana University Code of Student Rights, Responsibilities, and Conduct. Discussions this spring between the Student Affairs Committee and the Bloomington Faculty Affairs Committee and the BFC Dispute Resolution Working Group have been very useful and have led to several agreed-upon changes in the sections of the February 23, 1996 draft Student Code dealing with student complaints against faculty members and administrators.

To begin with, we present two motions which state two additional agreed-upon changes which we believe to be non-controversial. (The line numbers below refer to the draft of the *IU Code of Student Rights, Responsibilities, and Conduct* dated February 23, 1996).

MOTION A:

CHANGE LINES 829-836 TO READ:

ALL MEMBERS OF THE GRIEVANCE COMMISSION MUST BE PRESENT FOR A HEARING TO BE HELD, UNLESS THE COMPLAINING STUDENT, THE FACULTY MEMBER RESPONDING TO THE COMPLAINT, AND THE PRESENT MEMBERS OF THE COMMISSION ALL AGREE TO HOLD A HEARING WITH FEWER MEMBERS.

MOTION B:

CHANGE LINES 685-686 TO READ:

THE DEAN OF FACULTIES APPOINTS THE PRESIDING OFFICER OF THE GRIEVANCE COMMISSION, WHO MUST BE A TENURED MEMBER OF THE FACULTY.

However, two serious concerns still remain about the adequacy of due process protections. We outline our concerns below, following each with a motion to address that concern. We ask the UFC to approve these motions.

Concern #1 deals with the composition of the commission that hears a student grievance against a faculty member. The national AAUP's 1982 *Recommended Institutional Regulations on Academic Freedom and Tenure* call for an "elected faculty hearing committee" (Regulations 5 and 7). There are several reasons for this guideline:

1. A hearing on a grievance against a faculty member should be conducted by those who are protected by tenure from pressure from politicians, administrators, or any other source. This protection should result in more thoughtful, unbiased decisions.
2. Such a hearing should be conducted by people who are thoroughly familiar with the nature of faculty work, including experience of what teaching involves and of the variety of ways in which its ends can be achieved.
3. Such a hearing should be heard by members who have a long-term responsibility to the University, those whose future careers lie with the University.
4. Since complaints of misconduct may implicate academic freedom issues, "the responsibility for safeguarding academic freedom in a disciplinary hearing--when a professor's career is likely to be at stake and academic freedom acutely tested--must rest with the members of the faculty themselves..." (*Academe*, September-October, 1995, p. 57).

Our motion, below, departs from the AAUP guidelines by allowing for student representation on the hearing commission, but limited to one student. This motion was endorsed by the Bloomington Faculty Council, voting 25-19, on April 2, 1996 as advice to the UFC.

MOTION C:

ADD A SENTENCE TO II A 3 b (AFTER LINE 648):

HOWEVER, WHEN HEARING GRIEVANCES AGAINST A FACULTY MEMBER, THE CAMPUS GRIEVANCE COMMISSION SHALL CONSIST OF FOUR TENURED FACULTY MEMBERS AND ONE STUDENT FROM THE CAMPUS INVOLVED.

Concern #2 deals with Lines 1288-1299, which allow for charges of sexual or racial harassment or discrimination to be handled by "procedures that the university has established...". These procedures are evidently different from the hearing procedures carefully spelled out earlier in the Code. This raises three questions:

1. Why are these other procedures necessary? Might not such charges be adequately and legally handled by the detailed Student Code procedures spelled out in the preceding sections?
2. What is the nature of these other procedures? There is no citation to any document that states these other procedures.
3. Has any faculty governance body approved these other procedures?

In a statement published in the September-October 1991 issue of *Academe*, the AAUP's Committee A on Academic Freedom and Tenure stated:

Committee A has been informed by the Association's staff of a disturbing number of recent cases in which a severe sanction has been imposed on a faculty member accused of sexual harassment with no opportunity having been afforded for a hearing before faculty peers.

A 1995 article in *Academe* reports that "the Association has continued to receive reports of serious departures from standards of academic due process in sexual harassment cases...".

To address these concerns, we propose that if procedures implied in this section of the Code are to be used in handling complaints against faculty members, those procedures must be approved by faculty governance. The 1997 deadline has been requested by the Affirmative Action Officer to allow time to gain approval of these

procedures from the appropriate campus governance bodies. This motion (without the deadline) was endorsed by the Bloomington Faculty Council, 33-9, on April 2, 1996 as advice to the UFC.

MOTION D: THAT SECTION F. 6 BE ADDED TO READ:

AFTER JUNE 1, 1997, COMPLAINTS AGAINST FACULTY MAY NOT BE HANDLED UNDER THE PROCEDURES MENTIONED IN THIS SECTION UNTIL THESE PROCEDURES HAVE BEEN APPROVED BY THE APPROPRIATE FACULTY GOVERNANCE BODY.