



University of Washington Office of the President, AH-30

March 8, 1994

Professor R.J.H. Bollard
Secretary of the Faculty
AD-20

Dear John:

I have received your request for comments on the proposed amendments to Chapter 28 of the Faculty Code, Adjudicative Proceedings for the Resolution of Differences, and am pleased to approve this draft legislation in the form submitted to me.

There still remains Professor Junker's proposal regarding the burden of proof in cases where a decision of a hearing panel may result in dismissal of a faculty member. Although this provision has not been incorporated into the revised procedures as submitted, it is appropriate to inform you of my concern should it be adopted.

Under the revision as currently drafted, a consistent standard of proof, preponderance of the evidence, is applied in all cases. This standard applies regardless of whether the case is initiated by the Provost or by a member of the faculty. This is the standard currently used under the existing Chapter 28. It is also the standard in most administrative proceedings and, equally important, in courts of law in civil cases. It should be applied in adjudication procedures.

The new revisions of Chapter 28 ought to encourage faculty, students, or staff to utilize internal procedures for redress of grievances. Incorporating a higher standard into the adjudication process, at the expense of complainants, could cause individuals to believe that they are likely to receive fairer treatment in a court of law.

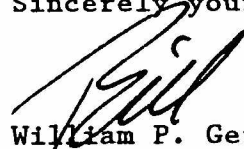
The proposed Section 28-54 reads that "the decision shall be made by a majority vote of all panel members excluding the hearing officer provided that any decision to suspend or dismiss a faculty member shall require an affirmative vote of at least two faculty members of the panel." This provision ensures that a majority of the faculty members on the panel must agree in cases involving dismissal of faculty.

*UW Faculty Senate Records
Accession No. 44-92
Box 8*

March 8, 1994

I approve the draft of Chapter 28 as proposed, but should the Senate Executive Committee accept Professor Junker's amendment, I would have to reconsider my position.

Sincerely yours,



William P. Gerberding
President

cc: Provost G. Wayne Clough
Associate Professor Ronald Dear
Professor Arther Ferrill
Professor John Junker
Vice Provost Steven G. Olswang
Executive Vice President Tallman Trask III