

UNIVERSITY OF WASHINGTON
FACULTY SENATE
FACULTY COUNCIL ON FACULTY AFFAIRS

The Faculty Council on Faculty Affairs met on **Friday, December 11, 1992** at 9:30 a.m. in the Faculty Club. Chair Thomas Andrews presided.

PRESENT: Professors Andrews (Chair), Brandt, Eberhardt, Ehreth, Fitzpatrick, Kaisse and Stewart; ex officio members Helleloid, Johnson, Lalime, McFeron, and Stein; guests: Professors John Bollard Gene Hunn and Bonnie Worthington-Roberts; Code Drafter Karen Boxx; Professional Staff Organization Representative Susan Geier.

ABSENT: Professors Ammerlahn* and Guntheroth; ex officio members Olswang,* Somani and Spratlen.*

* Excused.

Adjudication Procedures

13th Draft of the Procedures

Legal representation for faculty and nonparty participants

The Council discussed legal representation for faculty and non party participants and took the following decisions:

1. The Adjudication Procedures should include an attempt to continue the provisions contained in Section 28-53B that only if the faculty member who is party to an adjudication chooses to be represented by counsel may the administrative party be represented by counsel during hearings. (This provision should be "red flagged" in the draft calling attention to the need for the University's agreement to waive its right under the APA in this regard.)

Unanimously approved.

2. At a minimum, the mandatory nonparty participant should have the right to have a legal adviser at conferences and hearings who will advise the nonparty participant but not address the hearing.

Unanimously approved.

3. Both mandatory and discretionary nonparty participants should have the right to have a legal adviser present at conferences and hearings who will advise the nonparty participant but not address the hearing.

Rejected by 3 in favor, 5 against, 1 abstention

4. Should the decision as to whether discretionary nonparty participants should have the right to a legal adviser present at hearings and conferences be at the discretion of the hearing panel/officer?

Unanimously approved.

5. Should # 2 and 4 above be extended to situations even where the parties have waived right to counsel?

Accepted by 8 in favor, 2 against

6. Where the parties have preserved their right to counsel, should mandatory non party participants at a minimum have the right to legal representation [not just advice] at the discretion of the hearing panel?

Accepted by 9 in favor, 0 against.

7. Should mandatory nonparty participants have the right to be represented by counsel, regardless of the hearing panel's preference, where the parties have reserved the right to counsel?

Accepted by 8 yes, 1 against.

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8. Should # 6 above be extended to discretionary nonparty participants?

Accepted unanimously.

9. Should discretionary nonparty participants have the right to counsel regardless of the hearing panel's preference where the parties have rejected the right to counsel?

Rejected unanimously.

10. As to mandatory nonparty participants - Should the hearing panel have the discretion to allow mandatory non party participants the right to be represented by counsel even if the parties have waived right to counsel?

Accepted by 9 in favor, 1 against.

11. Should mandatory nonparty participants have the right to be represented by counsel even though the parties have waived the right to counsel and regardless of the panel's discretion?

1 yes, 5 no, 4 abstention.

12. Should the decision to give discretionary nonparty participants the right to be represented by counsel if the parties have waived right to counsel be at the discretion of the hearing panel?

No 9, 1 abstention

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ASUW Resolutions entitled "A Resolution Proposing Student Representation on the Adjudication Hearing Panel in Cases Involving Students Alleging Sexual Harassment" and "A Resolution Proposing Principles For Fair Treatment of Sexual Harassment Claims" were circulated.

The meeting was adjourned at 11:55 a.m.

Katie Murray
Recorder