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MINORITY DISSENT FROM FCFA REVISION OF CHAPTER 28

The proposed changes in the **Adjudicative Proceedings** are radical and untried; they remove processes that have worked well since 1956, when faculty first became involved in the governance of the university, and have added processes that are foreign to academe.

THE PUTATIVE BASIS FOR CHANGING THE CODE.

Stated reasons for the revisions were 1) perceived unfairness 2) assertions that the present code was inconsistent with the State Administrative Procedures Act, and 3) that the system was cumbersome.

1) Perceived unfairness. With the present system, there have been 14 faculty on this campus investigated for sexual harassment since 1986; 12 allegations were sustained, resulting in dismissal or other sanctions, and in only two was "insufficient evidence" concluded. Some critics refer to a recent case where the adjudicative committee found the student to be less credible than the professor. The professor spent \$282,000 in attorney fees, in order to remain a professor at the UW. The woman was given \$347,500 of public monies by the administration (not the professor) to settle a civil suit against the University. The question of who is the victim is a serious question. The revisions have failed to make a credible attempt to prevent victimizing an innocent professor.

The revisions require that 40% of the jury be students or staff, depending upon the status of the plaintiff, an obvious rejection of a jury of peers. In 1966 the American Council on Education, the Association of Governing Boards of Universities and Colleges, and the American Association of University Professors jointly recommended that faculty committees should judge their colleagues accused of improper conduct, based on the principle that the judgement of faculty is "central to general educational policy." This principle has been observed on this campus for an even longer period. It is not unreasonable that the faculty, who make the original recommendation for tenure (Section 13-24), should decide on termination of tenure. President Gerberding, who opposes student regents, promised the students he would veto the entire Code revision if students are not included on adjudication panels.

Given the political climate on campus, adding students or staff to the adjudicative committee is tantamount to adding advocates to the jury, an inappropriate role for advocacy. There is only one major university in the country that has tried this experiment, and we know nothing of its successes or problems, whereas we have actual data on outcomes with our present system, and the evidence is that it has worked well, unless one assumes that everyone accused of sexual harassment is guilty.

For allegations of sexual harassment or discrimination, the plaintiff is scarcely powerless, having access to seven

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