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TWIN CITIES

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MEMORANDUM FOR FILE

FACULTY CONSULTATIVE COMMITTEE MEETING WITH THE REGENTS - November 12, 1981

The Faculty Consultative Committee and the Regents of the University held their fall quarter meeting on November 12, 1981 at the Campus Club. There were two topics on the agenda: (1) the University's consulting and service testing and whether any policy modifications are advisable, and (2) the 1978 proposed revised Tenure Code.

1. Service testing and consulting performed by University faculty.

(This topic was stimulated by the publicity over Professor Mirocha's tests in Plant Pathology, tests later discovered to have been requested, through an intermediary, by the State Department.)

Paul Quie, Health Sciences. Paul Quie referred to the great quantity and variety of testing and analyses performed at the University hospitals and the Center for Health Services Research within Public Health. The least restrictive policies are preferable for the best health and medical service.

Patricia Swan, Institute of Agriculture. Because there are many tests which many people use but use infrequently, it is cost-effective to have just one specialized laboratory for such tests.

Soil testing services are made available broadly--for farmers with crop lands, for horticulture and lawn care, for nurseries. Since the information is provided to county agents as well as to the individuals requesting it, it becomes available to the public. Soil Testing Services' data are summarized for state fertility studies. Typically the unit charges for all services, and internal University users get a price break. About 20% of the testing is for government agencies.

Food Science & Nutrition has many relationships with industry. Industry likes secrecy. Small contracts are far more common than are consultantships. The department's policy is that findings must be published when ready.

Bob Brasted, Institute of Technology. The Chemistry Department gets almost daily calls for independent analyses. While many are trivial, many are also significant calls work requiring special instrumentation. The faculty feel a responsibility to share their expertise and instrumentation with other universities and colleges, and with colleagues, and to be able to provide them at a lower cost than industry would. He sees no need for new regulations or controls.

Regent Schertler asked the faculty if they have found any policies which are hard to work within, or others which should be enforced. Brasted said he saw none, but added that reemphasis is needed. It is time to look into the licensing of University research by the corporate community, he said. He sees the need for a better-defined policy under corporate law as to how the University and the investigator can benefit from an adventitious discovery.

Vice President Keller said there is a strong inclination to sell time to outsiders on expensive equipment which the University needs for its own self-support. The result can be that the University competes for time for its own work. The University is about to establish new rules for selling computer time to external users. The University has the largest computer complex in the upper midwest, but it will set its prices high.

Some government grants, he noted, require that equipment or services be made available to the community. There are many reasons, he concluded, why no single policy on services will work.

Regent Lebedoff expressed his appreciation of Brasted's point about new relationships. He said the matter will represent a major decision for the nation's universities. The Regents will address it, and it would be worth the SCC's taking up. With American industries aiming at short-term profits, he said, they have abandoned basic research. Some of Minnesota's biggest agribusinesses have practically no research and development of their own. Universities perform the research and development, and in Minnesota such work is done almost exclusively by the University. He raised questions: Is it appropriate for the University to be doing the work? How can the University do it and preserve academic integrity? How can it get some compensation for this work?

The major reasons for our being in the vanguard, he said, are geographical--the huge research university and the agribusiness and computer industries are all located here in the midst of half the state's population.

Vice President Keller noted that a bio-technology conference about to be held at the University includes a panel specifically on new relationships and balances between the University and industry.

2. Tenure Code--the 1973 proposed revision.

SCC Chairman Douglas Pratt pointed out that following the collective bargaining election, should no agent be elected, the cease and desist order would be lifted. In addition, the state's and the University's current financial situations may make Section 15 of the proposed code, which describes procedures and appeals mechanisms should a financial emergency necessitate dismissing tenured faculty, particularly relevant. The faculty, he said, want to know the Regents' attitude toward the document. Do the Regents agree with the spirit of the document, which provides for consulting and safeguards?

Discussion focused on two points: (1) the faculty's desire for Regential assurance of a fair process with extensive consultation, and (2) the Regents' two-fold reservations--(a) that many details of the 1973

code appear unworkable, and (b) that focusing publicity on a Regents' study of the crucial section will raise an alarm that financial emergency is imminent.

Donald Spring sketched the history of Section 15. 1973, he said, was about the first time faculty confronted the possibility of circumstances which could require cutting tenured faculty. Faculty took an active part in shaping that section. He called the document one that involves compromises but faces squarely the possibility of losing tenured faculty.

Regent Goldfine said he thought this document, made under different times and circumstances, should be reviewed now. Regent Moore stated that since having to declare a financial emergency would be traumatic for the Regents, they would be glad to share responsibility. It would be a reversal of their practice to make policy decisions in isolation, she said. She questioned whether there would be time in an emergency to proceed through all the steps outlined in Section 15.

Marcia Eaton emphasized the faculty's two main concerns: (1) that there be consultation with the faculty before a financial emergency is declared, and (2) that if an emergency is declared, and if faculty were to be terminated, that they would have some safeguards and some recourse. It would comfort the faculty if the Regents could assure them immediately that they would abide by the spirit of Section 15.

Regent Lebedoff spoke in favor of divorcing Regential support for safeguards from this particular document, which calls attention to the prospect of financial emergency. President Magrath echoed this reservation. This is not the time to concede publicly that the University may be pushed into severe retrenchment. Central administration is on record as favoring intense consultation.

Vice President French said the Tenure Committee must look at the document under stable circumstances, and not in haste, because the action the University takes on a tenure policy might last 50 years.

Rick Purple recommended that when the cease and desist order is lifted, the Regents examine the whole document, not only the "scariest" section, Sec. 15. The new document was written, he said, more with litigation in mind than was the existing tenure code. It is intended to provide procedural safeguards for the administration and Regents as well as for faculty, regarding appointments, promotion, and tenure.

Donald Spring asked that the document be recognized as an effective compromise between the strength of the University and humane treatment of those who have devoted their careers to it.

John Howe said the faculty have waited a long time to have the opportunity for the Regents to address the document. He urged the Regents to study it if the situation after the election permits that.

Regent Moore said she thought it very appropriate for Faculty and Staff Affairs Committee to take on the study of the document. Regent Schertler, Chairwoman of that committee, recommended their all becoming aware of the contents of the document, in preparation for the time when then can take it up as business.

Regent Goldfine argued against haste. The Regents cannot address the document yet because the cease and desist order is still in effect. He also saw many impracticalities in the particulars of the document. Regent Lebedoff expressed his sympathy with the faculty wanting assurances for procedural safeguards. But he believed that a calamitous incorrect perception would result if the Regents in this volatile time were scrutinizing a section on the dismissal of tenured faculty under a financial emergency. The effect, he warned, could be frightening instead of reassuring.

Marcia Eaton recommended passing the document through from the Tenure Committee to the Consultative Committee to the Regents. The Regents and central administration meanwhile could restate their commitment to consultation with the faculty in these difficult times.

(Discussion continued in similar vein. The secretary was unable to stay until the end.)

Meredith Poppele, SCC secretary,
Recorder

Voted, that in adopting *Regulations Concerning Faculty Tenure*, it is understood that the Board of Regents, if faced with the necessity of drastic reduction in the University budget, unquestionably has, and does reserve, the power to suspend or abolish positions, or even entire departments, divisions, or other administrative units.

It is further understood that if confronted by such adverse contingency, the President will, before presenting his recommendations to the Board of Regents, consult with, and secure the advice of, the Administrative Committee and the Consultative Committee of the University Senate on the educational policy involved and the financial necessity, and that the recommendations of both these committees will be presented by the President to the Regents, along with any independent recommendations of his own.

It is further understood that in effecting retrenchment because of financial necessity, the Regents will make reductions in faculty positions only to the extent that, in their judgment, is necessary after exploring various alternative methods of achieving savings; and that the Regents fully intend that the tenure system as a whole and the tenure rights of each individual faculty member be protected in every feasible manner during periods of such retrenchment.

RESOLUTION

The Board of Regents of the University of Minnesota hereby reaffirms the policy concerning academic freedom and tenure announced in its resolution of January 28, 1938 (as set forth in the Appendix to these Regulations), and adopts the following Regulations Concerning Faculty Tenure:

REGULATIONS CONCERNING FACULTY TENURE

SECTION 1. APPLICATION OF REGULATIONS.

These regulations apply to the faculty in all parts and campuses of the University.

SECTION 2. REGENTS APPROVAL REQUIRED.

No appointment at this University, or special agreement or understanding involving conditions of appointment made by a dean or any other administrative officer, is effective until approved by the Board of Regents.

SECTION 3. CLASSES OF FACULTY POSITIONS.

(a) There are four classes of regular faculty positions: Professor, Associate Professor, Assistant Professor (including Research Associate), and Instructor (including Research Fellow).

(b) All other positions concerned with teaching, research, and other academic services are non-regular. These include (i) the position of lecturer, professorial lecturer, visiting lecturer, visiting or substitute professor, county extension agent in the Agricultural Extension Service, as well as any position coded "T" or "X" or denominated as "clinical," regardless of rank; (ii) the position of assistant, teaching assistant, research assistant, and others of a like nature, which are primarily for students.

Part-time positions are ordinarily non-regular, whatever the title may be; but a person does not lose any rights already acquired under these regulations if he goes on a part-time basis. No number of appointments to any non-regular position creates any presumption of a right to reappointment or to indefinite tenure. The President shall give

1. In the case of appeal, the President's decision shall be final, but the
2. President may not take action contrary to the reconsidered recommendation of the
3. academic unit concerned, or of any other faculty body which was requested to
4. review the matter in place of such academic unit, unless for compelling reasons
5. which are stated in writing to the academic unit or other faculty body concerned
6. and the Board of Regents.

7. If the President affirms the decision in the case of a non-regular faculty
8. member, the faculty member's employment shall end in accordance with the terms
9. of his non-regular appointment; in other cases, the application for employment
10. shall be deemed to be officially denied. If the President decides that the
11. individual should be given a new appointment, he shall take the steps necessary
12. to effectuate it in accordance with section 5.

13. SECTION 15. TERMINATION OR SUSPENSION OF ANY APPOINTMENT WITH CONTINUOUS
14. TENURE, OR OF ANY OTHER APPOINTMENT BEFORE THE END OF ITS
15. SPECIFIED TERM, BECAUSE OF DEMONSTRABLY BONA FIDE FINANCIAL EXIGENCY
16. CAUSED BY A DRASTIC REDUCTION IN THE UNIVERSITY BUDGET

17. 15.1 Premature termination or suspension of appointments because of bona
18. fide financial exigency.

19. Other than as provided in section 16, no appointment with continuous
20. tenure shall be terminated or suspended, and no other appointment shall be
21. terminated or suspended before the end of its term except in the case of a
22. demonstrably bona fide financial emergency caused by a drastic reduction in
23. the instructional budget of the University, consisting of the general state
24. legislative appropriation, including tuition, and any other funds which have
25. actually been relied upon to support regular faculty positions. This situation
26. shall hereinafter be referred to as a "state of fiscal emergency," to be invoked
27. only in accordance with the procedures prescribed in section 15.

1. 15.2 Procedures for declaring a state of fiscal emergency.

2. 15.21 The Board of Regents shall have sole authority to declare a state
3. of fiscal emergency. Before determining that such a state exists, the Board
4. of Regents shall ask for recommendations of the President regarding the
5. necessity therefor and the educational policies and the short-range and long-
6. range priorities that should be pursued in effecting the retrenchment. Unless
7. renewed by repeating the procedures prescribed in this section, a state of
8. fiscal emergency shall last no longer than one year.

9. 15.22 Before presenting his recommendations to the Board of Regents, the
10. President shall consult with, and secure the advice of, the Administrative Com-
11. mittee and the Consultative Committee. These Committees shall be afforded
12. access to all the information they may require to perform their tasks effectively.

13. 15.23 In performing its duties, the Consultative Committee shall request
14. the views and general assistance of the Committee on Educational Policy and the
15. Committee on Resources and Planning. The Consultative Committee may also require
16. the assistance of other University or Senate committees in studying all or
17. particular aspects of the educational policies and short and long-range prior-
18. ities that should govern the retrenchment.

19. 15.24 The Consultative Committee shall report to the President its find-
20. ings and recommendations, including an assessment of the financial necessity for
21. the retrenchment. Before doing so, it shall make available its tentative find-
22. ings and recommendations, including an assessment of the financial necessity for
23. the retrenchment. Before doing so, it shall make available its tentative find-
24. ings and recommendations, together with those of the Senate or University Com-
25. mittees which assisted it, for comment by the University community at large. It
26. shall then obtain the concurrence of the University Senate to its findings and
27. recommendations.

1. 15.25 After considering the reports of the Consultative Committee as
2. approved by the University Senate and the Administrative Committee, the President
3. shall formulate his recommendations and report them, together with those of the
4. Administrative Committee, to the University Senate. Thereafter, the President
5. shall formulate his final recommendations and submit them to the Board of Regents,
6. together with the recommendations of the Administrative Committee, the Consulta-
7. tive Committee and the University Senate. Neither the President nor the Board
8. of Regents shall take action contrary to the Consultative Committee's recommen-
9. dations, approved by the University Senate regarding the educational policies
10. and the short-range and long-range priorities that should be pursued in effecting
11. the retrenchment, unless for compelling reasons stated in writing to the Consulta-
12. tive Committee and the University Senate. The Consultative Committee and an
13. ad hoc committee of the University Senate shall be given an opportunity to consult
14. with the President and the Board of Regents before such action becomes final.

15. 15.26 Before the President recommends to the Board of Regents that a state
16. of fiscal emergency be declared, the Consultative Committee and the Administrative
17. Committee shall explore very carefully the whole range of possible alternative
18. methods of achieving savings, with appreciation of the facts that teaching and
19. research constitute the essential reasons for the existence of the University
20. and that a regular probationary or regular tenure appointment that is secure
21. is fundamental to a faculty member's commitment to his or her students, academic
22. unit, University and community. It will be necessary to declare a state of
23. fiscal emergency in order to effect savings by a plan of fiscal emergency in
24. order to effect savings by a plan of mandatory leaves of absence. Priority
25. consideration should be given to suspensions before any terminations, and short
26. term suspension methods should be thoroughly explored before any long term
27. suspensions are used. The choices of persons whose appointments are suspended

1. or terminated under the provisions of section 15 will be based on objective
2. criteria announced before the choices have been made.

3. 15.3 Procedures for terminating or suspending appointments of particular
4. faculty members.

5. 15.31 Once it is determined, in accordance with section 15.2, that a
6. state of fiscal emergency exists, the portion of savings that must be effected
7. shall be allocated to each collegiate and campus unit in accordance with the
8. consultative process described in section 15.2. The collegiate or campus unit
9. shall in turn, utilizing its usual decision procedures, adopt a plan which
10. allocates such reductions among its academic units and sets forth a method for
11. selecting those individuals whose appointments will be affected which does not
12. involve the individual re-evaluation of members of the faculty with continuous
13. tenure. Each such plan shall be submitted to the Vice President for Academic
14. Administration and the Faculty Consultative Committee for approval and shall
15. not become operative without the approval of both. If there is provision for
16. the termination of any appointments, to the extent consistent with the edu-
17. cational objectives in view, persons holding non-regular appointments shall
18. be displaced before persons holding regular appointments and persons holding
19. regular probationary appointments shall be displaced before persons holding
20. regular appointments with continuous tenure.

21. 15.32 No faculty member displaced under section 15.31 shall have his
22. appointment terminated or suspended unless the Board of Regents can demonstrate,
23. by clear and convincing evidence, that there is no other position open in the
24. University for which his education, special training, experience and abilities
25. will qualify him.

26. In the transfer of faculty members displaced under section 15.31 to other
27. suitable positions in the University, those holding appointments with continuo
28. tenure shall be preferred over those holding regular probationary or non-regular

1. appointments and those holding regular probationary appointments shall be pre-
2. ferred over those holding non-regular appointments.

3. 15.4 Notice, Severance Pay and Re-Employment Rights

4. 15.41 In every case in which the Board of Regents terminates an appoint-
5. ment pursuant to section 15, or suspends an appointment for more than a full
6. academic quarter, the President shall give the faculty member affected written
7. notice of such action not later than March 1 of the academic year prior to the
8. academic year at the end of which the suspension or termination is to take
9. place. If such notice is not given, the faculty member shall be paid a sum as
10. severance pay equivalent to his current salary for nine months or 12 months,
11. depending on whether his appointment is for an academic year or a calendar
12. year. The Board of Regents may give an additional sum in severance pay to
13. faculty members with continuous tenure, depending on the length and quality of
14. their service. Suspension or any other form of curtailment of an appointment
15. for one academic quarter or less shall require nine months notice and shall in
16. no circumstances be effective without such notice.

17. 15.42 If the appointment of a faculty member with continuous tenure has
18. been terminated or suspended under the provisions of section 15, a position
19. for which he is suitable shall not be filled within a period of four years
20. after the effective date of his termination or suspension, unless he has been
21. offered the position and a reasonable time within which to accept or decline
22. it and has declined it. A faculty member whose appointment has been suspended
23. or terminated under the provisions of section 15 shall continue to enjoy
24. full library use privileges.

25. 15.5 Review of Judicial Committee; grounds and procedures for review.

26. 15.51 After being given written notice of the termination or suspension

1. of his appointment pursuant to section 15, the faculty member affected may
2. request the Judicial Committee to review his case.

3. 15.511 Review by the Judicial Committee may be sought solely on the
4. ground that the decision to terminate or suspend the appointment of the faculty
5. member seeking review was based in significant degree upon one or more of the
6. following factors:

7. (a) conduct, expressions, or beliefs on his part which are protected by
8. the Constitution of the United States or the State of Minnesota or by the
9. principles of academic freedom;

10. (b) factors proscribed by any applicable federal or state law regarding
11. fair employment practices;

12. (c) improper consideration was given to his individual case, as defined
13. in section 15.512; or

14. (d) failure to comply with the provisions of section 15.3 regarding
15. priority of faculty members.

16. The faculty member may also seek review on the ground of failure to
17. comply with the provisions of section 15.4 regarding notice or severance pay.

18. 15.512 For the purposes of section 15.511(c), "improper consideration"
19. shall be deemed to have been given to the faculty member in question if he was
20. materially prejudiced because:

21. (a) the procedures prescribed in section 15 were not followed;

22. (b) the decision was based upon an individual re-evaluation of the
23. fitness of a faculty member on continuous tenure without following the
24. procedures prescribed in section 16;

25. (c) immaterial or improper factors, other than those specified in
26. sections 15.511(a) and (b) entered into the decision; or

1. (d) it was not demonstrated that there was no other position open
2. in the University for which his education, special training, experience and
3. abilities qualified him.

4. 15.52 A request for review shall be filed with the Chairman of the
5. Judicial Committee within 30 days of receipt of the written notice of the
6. termination or suspension of an appointment pursuant to section 15. The
7. Chairman of the Judicial Committee shall send copies of the request to the head
8. of the academic unit concerned and to the Vice President for Academic
9. Administration. If the faculty member in question fails to file a request for
10. review within such 30 day period, he shall be deemed to have waived any rights
11. he may otherwise have under section 15.5 and his employment shall end as of the
12. date specified in the written notice of termination or suspension. The
13. Judicial Committee, however, may extend the time for filing a request for
14. review for reasons that seem compelling to it, such as mental or physical
15. illness or serious personal or family problems.

16. 15.53 The faculty member seeking review shall bear the burden of proving,
17. by the preponderance of the evidence, that the decision to terminate or suspend
18. his appointment, rather than that of some other faculty member, was based in
19. significant degree upon one or more of the factors specified in section 15.511.
20. However, if review is sought on the ground specified in section 15.512(d), the
21. University shall bear the burden of proving, by the preponderance of the evi-
22. dence, that there was no other position open in the University for which the
23. faculty member's education, special training, experience and abilities qualified
24. him.

25. 15.54 The proceedings before the Informal Mediation Panel and the Judicial
26. Committee shall be conducted in accordance with the provisions of section 18.

1. If the case goes to hearing before a Hearing Panel of the Judicial Committee,
2. the Panel shall accept as valid the determination that financial exigency re-
3. quired the premature termination or suspension of faculty appointments. The
4. Judicial Committee shall not re-examine the wisdom of the educational policies
5. and the short-range and long-range priorities pursued in effecting the retrench-
6. ment. Nor shall it substitute its own comparative judgment for the comparative
7. judgments of the academic unit concerned and the reviewing Academic Administra-
8. tors as to which faculty members should be displaced and which should have their
9. appointments terminated or suspended. It shall determine only whether the
10. faculty member seeking review has discharged his burden of proving that the
11. decision to terminate or suspend his appointment, rather than that of some
12. other faculty member, was based in significant degree upon one or more of the
13. factors specified in section 15.511.

14. If review is sought on the ground specified in section 15.512(d), the
15. Judicial Committee shall determine whether the Board of Regents has discharged
16. its burden of proving that there was no other position open in the University
17. for which the faculty member's education, special training, experience and
18. abilities qualified him.

19. The burden of coming forward with evidence to support his contentions
20. shall also be upon the faculty member seeking review, unless the Hearing Officer
21. directs otherwise. If review is sought on the ground specified in section
22. 15.512(d), the University shall carry the burden of coming forward with evi-
23. dence, unless the Hearing Officer directs otherwise.

24. 15.55 If the Hearing Panel of the Judicial Committee finds that the
25. faculty member has failed to prove that the decision to terminate or suspend
26. his appointment was based in significant degree upon one or more of the factors

1. specified in section 15.511, or that there was a failure to comply with the
2. provisions of section 15.3 or 15.4 regarding priority, notice or severance pay,
3. it shall report its findings and conclusions to the President. If review was
4. sought on the ground specified in section 15.512(d), and the Hearing Panel finds
5. that the University has proven that there was no other position open in the
6. University for which the faculty member was qualified, it shall also report its
7. findings and conclusions on this issue to the President. In such case, the
8. employment of the faculty member in question shall end as of the date specified
9. in the written notice of termination or suspension.

10. 15.56 If the Hearing Panel of the Judicial Committee finds that the
11. faculty member has proved that the decision to terminate or suspend his appoint-
12. ment was based in significant degree upon one or more of the factors specified
13. in section 15.511, or that there was a failure to comply with the provisions of
14. section 15.3 or 15.4 regarding priority, notice or severance pay, it shall
15. report its findings, conclusions and recommendations to the President.

16. In such case, the Hearing Panel shall specify the respects in which it
17. finds the decision to have been affected by any such prohibited factor or
18. factors and shall recommend that the comparative judgments of the academic unit
19. concerned and the reviewing Academic Administrators be reconsidered in a manner
20. suggested by it and unaffected by any such factor or factors.

21. If review was sought on the ground specified in section 15.512(d) and the
22. Hearing Panel finds that the University has not proved that there was no other
23. position open in the University for which the faculty member was qualified, it
24. shall also report its findings, conclusions and recommendations on this issue
25. to the President.

26. 15.6 Action by President; action upon reconsideration

1. 15.61 If the Hearing Panel of the Judicial Committee recommends that the
2. decision should be reconsidered, the President shall take the necessary steps
3. to insure proper reconsideration.

4. 15.62 If, after such reconsideration by the academic units concerned and
5. the reviewing Academic Administrators, the decision is reached that the faculty
6. member in question shall be retained, the Vice President for Academic Adminis-
7. tration shall inform him of this decision.

8. 15.63 If, after such reconsideration, the decision remains unfavorable
9. to the faculty member seeking review, the Vice President for Academic Adminis-
10. tration shall give him written notice thereof. There shall be no further re-
11. view by the Judicial Committee.

12. 15.64 Within 10 days after receiving written notice of the decision to
13. terminate or suspend his appointment, the faculty member may appeal to the
14. President and, if he wishes, request the President to permit him to argue his
15. case orally. The President may grant such a request and fix the procedures for
16. considering the appeal.

17. If the faculty member fails to appeal to the President within such time,
18. he shall be deemed to have waived any rights he may otherwise have under this
19. section and his employment shall end or be suspended as of the date specified
20. in the written notice he received.

21. In the case of appeal, the President's decision shall be final, but the
22. President may not take action contrary to that recommended, after reconsidera-
23. tion, by the faculties of the academic units concerned, unless for compelling
24. reasons stated to in writing to these faculties and the Board of Regents. If
25. the President affirms the decision, the faculty member's employment shall
26. terminate or be suspended as of the date specified in the written notice he

1. received. If the President decides that the faculty member shall be retained,
2. the President shall inform him of this decision.

3. SECTION 16. TERMINATION OR SUSPENSION OF ANY APPOINTMENT WITH CONTINUOUS
4. TENURE, OR OF ANY OTHER APPOINTMENT BEFORE THE END OF ITS SPECIFIED
5. TERM, FOR CAUSES RELATED TO THE FITNESS OF THE FACULTY MEMBER
6. AS A TEACHER, SCHOLAR AND COLLEAGUE

7. 16.1 The termination or suspension of an appointment with continuous
8. tenure, or of any other appointment before the end of its specified term, may
9. be effected for either of the following causes: (a) sustained incapacity,
10. refusal or failure to perform reasonably assigned duties adequately; or (b)
11. repeated unreasonable conduct destructive of the academic freedom or
12. individual rights of other members of the academic community. No appointment
13. shall be terminated on the grounds of conduct destructive of individual rights
14. of other members of the academic community unless the faculty member holding
15. the appointment has been found guilty of such conduct in a court of law.

16. The termination or suspension of such an appointment for such causes may
17. be effected only in accordance with the procedures set forth in section 16.

18. 16.2 Initiation of Proceedings

19. 16.21 The Provost of a Campus, or the Dean or Director of an Institute,
20. College or School, after consultation with the Vice President for Academic
21. Administration, may initiate a proceeding to terminate or suspend an appoint-
22. ment with continuous tenure, or any other appointment before the end of its
23. specified term, for one or more of the causes specified in section 16.1. The
24. Vice President for Academic Administration, or any other Academic Administra-
25. tor designated by him, may also initiate such a proceeding.

26. 16.22 If it is practicable before instituting the proceeding, the