

SPECIAL SCC MEETING
May 15, 1979, 3:30-5:30
625 Campus Club

AGENDA

1. Recommendations of the SCC's Subcommittee on the Watson Committee Report -- Professor Spring
2. Early retirement options -- memo of May 2, 1979 from Dean Crawford to Wendell Glick
3. ✓ President Magrath's letter of May 7, 1979, outlining procedures for creation of the President's Student Behavior Review Panel
4. Old Business
5. New Business

MINUTES OF THE SENATE CONSULTATIVE COMMITTEE

Meeting of May 15, 1979

Approved
5/31/79
(corrected)

The All-University Senate Consultative Committee convened its seventeenth meeting of the academic year 1978-79 in Room 625 of the Campus Club on May 15, 1979.

Members present were Professor Mahmood Zaidi (Chair), Professors George Blake, Robert Brasted, Wendell Glick, Marcia Eaton, Fred Morrison, Richard Purple, Betty Robinett, Vera Schletzer, W. Donald Spring, Messrs. Steve Carlson, Dick Cooke, Pat Eckman, Jim Gelbmann, Richard Kottke, and Ms. Elizabeth Sands.

The meeting was called to order by Professor Zaidi at 3:30 p.m.

1. Recommendations of Subcommittee on Watson Committee Report. Professor Spring's Subcommittee responded to its 3-fold task, that is, to make recommendations as to the committee system, the Senate structure, and the primacy of Academic Affairs. Included were recommendations for a new division of committees, new procedures for appointments to committees, new consulting relationships between certain committees and vice presidents, continuation of some overlapping of membership on SCRAP and the Planning Council, expansion of the role of the Business and Rules Committee as a subcommittee of SCC, minor changes in the Biennial Request & Budget Review Committee (UCBRBR) membership, inclusion of the Tenure Committee as a subcommittee of the Faculty Affairs Committee, modification of the Council on Liberal Education into a committee on undergraduate education (tentative), use of the Minnesota Daily to improve communication concerning committee business, and subdivision of large college voting units into departments or clusters of small departments for the purpose of electing senators.

Included in the new division of committees would be 6 Senate Committees, 7 Educational Policy Committees, and 9 Academic System Committees. The Senate would control the appointment of members to the Senate and Educational Policy Committees; faculty senators in the year following their election would be expected to accept appointment to one of them. Membership of Academic System Committees would be determined by college units. The goal is for a Senate better informed on its committee business and more committee members chosen ultimately by their colleagues.

Professors Morrison and Purple maintained that the Judicial Committee, as a major Senate committee, should report directly to the Senate, explaining that its jurisdiction is much broader than the Committee now sees it. Professor Morrison suggested that election of Committee on Committee members University-wide might not be the best way to proceed; he favored using the Senate for that purpose. It is intended that the Committee on Committees would be the focal point for assembling interests and expertise of senators to achieve the best possible appointments to committees and it would also monitor the performance of the new structure. It was recommended that senators should serve on no more than two committees. Coordinate campus representation on committees would continue as it is in the current structure; that should be clarified in the document. Eligibility of administrators to serve would depend on whether they were appointed as administrators by the administration or elected by their faculties. The goal is to make senators more responsive to their constituencies. Professor Eaton indicated that when she served in the Senate she interpreted her role primarily as representing the faculty at large -- that the association with a specific unit was less important. Professor Spring said the Subcommittee had been persuaded by opinions it had received that the opposite was more desirable,

because it would improve accountability to constituencies. Also, chances of knowing the candidates for election would be improved if smaller constituencies are used. Plans for division of the larger units would be presented to the Senate.

Professor Spring anticipated that the proposals would not be implemented for at least a year if the document is approved by the Senate. Professor Zaidi suggested that a separate category called "Faculty Senate" be shown in the structure, which would include the Faculty Affairs, Judicial, Tenure, and Academic Freedom Committees.

As to the consultation function, Professor Spring explained that expansion of the consulting relationship would be achieved by formalizing that function between SCEP, SCRAP, and UCRRBR and a specific vice president in each case.

Professor Blake was concerned that the Educational Policy Committee would be unable to handle all of the matters that come under "educational policy" of the University, since it would be expected to coordinate the activities of seven important committees related to educational policies. Professor Purple said the various committees could set policy and SCEP could monitor them. Professor Blake thought there might be a danger of concentration of power in too small a group on the Educational Policy Committee. Professor Spring said that SCC would also be a controlling committee.

Mr. Carlson said there should be some provision for student affairs in the Senate committee structure, as well as an institutional relations committee. Professor Zaidi said there should be some guidelines for membership of UCRRBR. Professor Blake emphasized the great demands on the members of that committee, most of whom served on the other Senate committees which they represented. Professor Brasted will draft a paper on his concerns regarding the Council of Liberal Education and the proposal to change it to a committee on undergraduate education.

On improving communication through use of newsletters or the Daily, it would be useful to know relative costs; the committee seemed divided on the effectiveness of each.

Mr. Carlson suggested that, when it came to student representation, the College of Liberal Arts should be allotted more positions.

On affirming the primacy of Academic Affairs, Professor Spring said the Subcommittee wanted to await the President's response to the Watson Report on May 31. The Subcommittee suggested that SCC may want to review operational procedures in order to demonstrate to the University community how the Academic Affairs Office relates to the rest of the administrative structure.

It was decided that the Report should be presented to the University Senate at the May 31 meeting and SCC members would be free to comment further at that time. Professor Zaidi moved a vote of thanks to Professor Spring and his Subcommittee members, Professor Robinett and Mr. Kottke. Motion approved.

2. Early Retirement Options. A memo from Professor Dean Crawford to Professor Wendell Glick requesting that SCC urge central administration to make early retirement more attractive was forwarded to the Faculty Affairs Committee with the request that it respond.

3. President's Student Behavior Review Panel. President Magrath's letter of May 7 outlining procedures for creation of the President's Student Behavior Review Panel was presented for information and Professor Zaidi asked Mr. Eckman to give him his recommendation; the matter would be taken up at the next meeting.

4. Next meeting. Also on the next agenda will be action on the April 19 and May 3 minutes and the matter of minority student representation in the Senate.

The meeting was adjourned at 5:40 p.m.

Marilee Ward



UNIVERSITY OF MINNESOTA

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May 7, 1979

Professor Mahmood Zaidi
Chair, Senate Consultative Committee
537 Business Administration

Dear Professor Zaidi:

As I am sure you are aware, the Regents recently approved a new policy for appeals of student disciplinary matters. This policy mandates each campus to develop procedures to govern the appeals process. Such procedures have been approved by the Twin Cities Campus Assembly (November, 1978) and were favorably reviewed by the Regents in March.

A significant change in these new procedures requires the creation of a new faculty/student committee, the President's Student Behavior Review Panel, which will function as a body to review and recommend to me appropriate actions to take regarding those instances of student misconduct which are appealed beyond the collegiate level or from the Campus Committee on Student Behavior. The Committee is to be appointed by the Assembly and will report periodically to the President's Office and annually to the Assembly. This new system is designed to improve and streamline our current system which currently includes some unnecessary duplication of effort. The new Regents Policy and the Assembly's Procedures are scheduled to take effect on the first day of Fall Quarter, 1979.

Since the President's Student Behavior Review Panel is not within the regular Assembly Committee's structure, the task of appointing the Committee falls to the Assembly Steering Committee (the Twin Cities members of the Senate Consultative Committee). The Assembly has already approved the makeup of the Committee: four (4) students and three (3) faculty members with neither students nor faculty being current members of either the Campus Committee on Student Behavior or the Assembly Committee on Student Affairs. Beyond this skeletal outline, no other decisions about the Committee (terms of office, training, operational procedures, etc.) have been made. Any suggestions your Committee might have in these areas would, of course, be helpful.

I have discussed this Committee's future role in the student disciplinary process with Vice President Wilderson. He has volunteered assistance and support from his office in any way you and/or the future Chair of the Committee deem appropriate. The Special Counseling Office staff within the Office for Student Affairs has experience in working in the area of student discipline and due process and could help in the development of procedures, training, and even ongoing clerical support, if you would wish to consider their involvement. Presently, the Special Counseling Office serves as the Secretariat for the Campus Committee on Student Behavior.

Professor Mahmood Zaidi

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I am sure you will want to appoint this important new Committee as quickly as possible so the designated Chair might begin working with the Special Counseling Office, the University Attorney's Office, and/or others in the development of sound procedures and the planning for comprehensive training in late Summer or early Fall Quarter. If my Office or Vice President Wilderson's Office can be of any help to you prior to the appointment of the Committee, please don't hesitate to contact either of us. In this regard, I suggest that you contact Vice President Wilderson to discuss in greater detail the nature of the proposed changes. A copy of the Regents Policy and the Assembly Procedures are enclosed for your easy reference.

Thank you for your assistance in this matter.

Cordially,

A handwritten signature in cursive script that reads "C. Peter Magrath".

C. Peter Magrath
President

CPM:kb

cc: Vice President Frank Wilderson, Jr., Student Affairs



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Regents Appeals Policy: Student Discipline

The Board of Regents of the University of Minnesota believes that any student or student organization charged with violation of a University rule or standard must have the opportunity to receive a fundamentally fair hearing and access to at least one campus-wide appeal. In order to safeguard the rights of students and student organizations, each campus must have developed and approved an appeals procedure to govern those cases of individual scholastic, non-scholastic, and student organization, misconduct heard in original campus jurisdictions. The procedure must reflect the University's concern for both substantive and procedural fairness for the accused student or student organization, including both the student's/student organization's and institution's right to the resolution of a case within a reasonable period of time. The procedure must specifically include sections stating:

- 1.) the grounds for an appeal;
- 2.) the procedures for filing an appeal; and
- 3.) the nature of an appellate review.

When the procedures have been accepted by an appropriate campus body, a copy (and future revisions) will be forwarded to the Secretary, Board of Regents.

This policy supercedes existing disciplinary appeals policies in contradiction and specifically repeals the Appeals Policy approved by the Board of Regents, January 11, 1963.

Approved
Board of Regents
February, 1979

I. INTENT

The Board of Regents has delegated the authority for student discipline to the President. The President has authorized the Vice President for Student Affairs (and through the Vice President, other staff/student administrative agents) and the Campus Committee on Student Behavior to handle original individual and student organization complaints. Such complaints arise from alleged violations of (1) "A Statement of Standards of Student Conduct Enforceable by University Agencies" or (2) "Policies Affecting Registered Student Organizations."

Complaints of alleged scholastic dishonesty involving a student enrolled in the same college in which the disputed behavior originated is a disciplinary matter within the jurisdiction of that college. As described in the University Senate Constitution and some college constitutions, each institute, college, or school of collegiate rank controls the internal affairs and policies of its own institute, college, or school, including the specific academic disciplinary matter of scholastic dishonesty. This policy applies to appeals in the area of student conduct arising from the decisions of collegiate disciplinary bodies, administrative disciplinary hearing units, or the Campus Committee on Student Behavior.

A hearing body will instruct a student when the hearing is being conducted under the guidelines of a full due process hearing as cited in footnote (1) below. That hearing body will then be responsible for following those guidelines. It is the responsibility of the hearing body to provide a copy of this appeals procedure to the student.

I. CHANNELS FOR APPEALS

It is anticipated that most alleged disciplinary violations can be handled on a person-to-person basis without the necessity of a formal hearing. However, within the systems covered by this policy, any student or student organization charged with a disciplinary violation is entitled to one hearing at the collegiate or administrative unit level that assures fundamental fairness in its procedures.¹ Attempts at person-to-person resolution of complaints by academic or administrative staff will not be considered formal

¹What constitutes minimal fundamental fairness in a University hearing depends on a number of factors, not the least of which is the seriousness of the potential maximum penalty. However, a fundamentally fair hearing usually allows for at least a person(s) or group to present their case including witnesses; to hear all evidence against them; to question adverse testimony; to be confronted by their accusers; to be accompanied or represented by an advisor of his/her choice; and to be notified in writing of the following (a) the complaint or facts that constitute the charge, (b) the time, date, place of the hearing, (c) the range of sanctions available to the hearing body, (d) the decision of the hearing body, and (e) the procedure for an appeal if guilt was determined. There is the presumption of innocence until guilt is proven, as well as a commitment to a promptly scheduled hearing. Finally, a formal record, a tape recording, or a verbatim transcript of the initial full due process hearing, must be kept for appellate purposes.

hearings for purposes of this policy and complaints unable to be resolved at those levels will be forwarded to the appropriate formal hearing body.

Although any college or administrative unit may, if they so choose, provide more than one hearing, it is from the first full due process hearing that a decision can be appealed outside the collegiate or administrative unit structure. From that first full hearing provided to the student or student organization, a single appeal is permitted to an all-campus appellate body. The recommendations of an all-campus appellate body shall be reported to the President of the University for action.

There are two designated all-campus appellate bodies, the Campus Committee on Student Behavior (which can also hear original complaints) and the President's Student Behavior Review Panel (a standing presidential advisory committee that functions only as an appellate body). If a complaint is heard by an administrative unit in the first instance, one all-campus appeal is permitted to the Campus Committee on Student Behavior. If a complaint is heard by a collegiate body or the Campus Committee on Student Behavior in the first instance, one all-campus appeal is permitted to the President's Student Behavior Review Panel. In those instances where a case has been returned to an original hearing body for reconsideration or a rehearing, more than one appeal request to the all-campus appellate body will be permitted.

III. PROCEDURES FOR FILING AN APPEAL

A request for an all-campus appeal to the President's Student Behavior Review Panel or the Campus Committee on Student Behavior must be filed with the University's Conduct Code Coordinator. The request for an appeal must be filed in writing within ten weekdays (excluding University-observed holidays) of receipt of the decision of the original hearing body. The request should state the grounds on which the person or group believes the original hearing body clearly erred and offer preliminary argumentation as to the support of their claims according to the criteria specified below. In matters involving requests for appeals, the Conduct Code Coordinator's sole function is to forward the request for appeal to the secretary or chairperson of the appropriate appellate body. The Conduct Code Coordinator will forward a request for appeal immediately upon receipt of the written request.

Under extreme circumstances, an extension of time may be requested, but the request for extension must be presented to the Conduct Code Coordinator within the ten weekday time limit (excluding University-observed holidays). The chairperson of the appellate body will decide on the merits of the request whether to grant or reject the extension and, if granted, what new time limit will be imposed.

IV. GROUND FOR APPEAL

Appellate bodies are concerned with reviewing and deciding only those matters raised in the written appeal. Under no circumstances will an appellate body become involved in rehearing an original complaint. The following will be recognized as grounds for appeal within the University's disciplinary system:

1. The decision was made without benefit of relevant evidence not reasonably available at the time of the initial hearing. (If this ground is favorably reviewed, the case will be returned to the original body for presentation of the new evidence.)

2. The hearing was procedurally unfair, in that:
 - a. The original hearing deviated in a substantial way from the body's established hearing procedures.
 - b. During the first full hearing of the original complaint, a student right established under University policy was violated.
3. The sanction was clearly inconsistent with the severity of the alleged violation of rules or policy.
4. The decision was made contrary to the weight of the evidence.
5. The interests of the residents, group, college, or the University were not adequately or sufficiently weighed and considered.

The grounds for appeal as specified will not preclude the filing of an appeal in other instances that can be documented or supported as a valid claim for review. If a new ground is to be proposed by the appellant, the ground should be clearly stated and documented in the written request for the appeal.

Voting member bias will not be an acceptable ground for appeal as long as either party to the complaint is given the right to challenge, with cause, seated members. The Chair will rule on the merits of the challenge and decide whether or not the challenged member(s) should be excused.

In any written requests and initial hearings on appeals, the mere assertion of any of the stated or created grounds for appeals alone will not constitute sufficient reason for an appellate body to accept the appeal for review. The statement of grounds must be supported in writing and at the initial hearing with reasoned argumentation and, if possible, with specific references to testimony, procedures, or rulings that support the assertions.

V. NATURE OF APPELLATE REVIEW

In the hearing of a disciplinary appeal at any level of adjudication within the University, the appellate body will focus on the central question: Has the previous adjudicative agency clearly erred?

The appellate body will initially meet to determine whether the grounds for appeal are sufficient as presented to warrant a formal review. This hearing is based on the written request for an appellate review transmitted to the secretary or chairperson of the review board and whatever argument is necessary to support the written request. Only in unusual cases will a ground for appeal not cited in the written request be allowed to be added at the time of this first hearing. This initial hearing will not involve the substance of the appeal, only the merits of the grounds as presented.

If the appellate body finds the grounds as established sufficient and convincing to warrant a formal review, they will commence such a review within one month and conclude within a reasonable amount of time thereafter. In

addition, the appellate body will review the record of the proceedings of the previous adjudicative agency prior to the actual appellate hearing. If no formal record of the previous hearing was made, the appellate body may dismiss the case or return the matter to the original body for a rehearing. Both the initial pre-appeal hearing and the appellate hearing are open public hearings unless either party to the original complaint requests the Chair to close the hearing(s). The Chair will approve all such requests.

If, as part of the appeal, new evidence that is demonstrated not to have been reasonably available at the time of the original hearing and that is also demonstrated as potentially having a substantial impact on the outcome of the original hearing is introduced, the complaint will be returned to the previous adjudicative agency for a hearing of the new evidence. The appellate body will, in other cases, accept the factual determinations of the previous agency if it determines that the agency had a reasonable basis for its findings. This is done with the understanding that a choice between one of two or more permissible interpretations of evidence or testimony is not clearly erroneous. An appellate body will also accept the determinations of the previous agency regarding policy interpretations and sanction dispositions if such determinations cannot be shown to be clearly erroneous in light of the record.

If the appellate body determines that the previous agency did not sufficiently weigh or consider the interests of the University college or group or clearly lacked a reasonable basis for making its findings, applying or interpreting a policy, or determining its sanctions, the appellate body will proceed in a manner to amend or reverse the previous agency's decision. If the appellate body decides that the previous agency clearly erred in a matter involving substantial procedural unfairness, they may dismiss the case, amend or reverse the previous decision, or return the case for a rehearing. If an appellate body determines that in a procedurally based appeal a rehearing at the original hearing level is appropriate, attention should be given to the possibility that the original body has become incapable of rendering a fair hearing and, dependent on the nature of the alleged procedural unfairness, the appellate body may consider the possibility of mandating alternate panel membership.

If the determination of the original agency regarding the appropriateness of sanctions or the application of policy is overruled on the basis of disagreement rather than clear error, the original hearing body will be informed in writing of the basis for the decision so that guidelines for the application of future sanctions or policy interpretations can be made. In all cases, the previous adjudicative agency will be notified of the disposition of any appeal.

Approved by the Twin Cities Campus Assembly November, 1978
Reviewed by Board of Regents March, 1979.