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Supplementary Procedures for Faculty Dismissal

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Approved by the Senate: Sent back to Faculty Welfare Committee 9/16/2004
Not Approved by the Senate:
Approved by the President:
Not Approved by the President:

Supplementary Procedures for Faculty Dismissal

Submitted by Don Fausett

8/31/2004

Motion:

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1. That a faculty member have the right to know the issues of a meeting with administrators when summoned to such a meeting. Upon request, the individual be presented with a written agenda of issues to be discussed so as to allow him/her an opportunity to prepare for said meeting.
 2. That prior to such meeting, the individual be apprised whether or not the university is to be represented by an attorney.
 3. That the faculty member have the right to have legal counsel present at any meeting in which the university will have legal counsel present. In meetings where the university does not have legal counsel present, the faculty member has the right to bring a faculty colleague to act as an academic advisor.
 4. That a written record of the meeting be preserved. That the faculty member be entitled to a copy of that record and able to contest the version of events as stated in the written record of the meeting.
 5. That any administrator who violates established methods of procedure should be accountable for failure to adhere to university procedures.

6. That grievance procedures be allowed for faculty even if termination or forced resignation was the outcome of discussions with the administration. In short, people who have been terminated or who have been forced to resign should still be able to appeal their termination of employment according to established "procedures."

Rationale:

An important consideration in Dismissal for Cause for the 8 categories listed in the Faculty Handbook, 2004-05, page 33, section 210.02 is that: "The institution has complied with procedural due process requirements."

The Handbook also indicates that: "Each institution, as part of its statutes, may supplement Regents' policies governing causes for dismissal and procedures for dismissal."

It appears that Georgia Southern University has not, in fact, supplemented these policies.

Note: Additional Material Sent by Email

Response:

11/19/2004:Rice Jenkins stated that there were two Requests for Information (RFI) both of which were submitted by Debra Sabia (CLASS). The first was submitted on October 4, 2004 and requested information on why the minutes of the September Senate meeting were not yet available. Her rationale for the request was that the Faculty Welfare Committee was unable to begin its charge to process Don Fausett's (COST) motion from the September Senate meeting entitled "Supplementary Procedures for Faculty Dismissal." Rice Jenkins stated that the SEC response to this request was to point out that the Bylaws of the Faculty Senate provide that the minutes must be posted no later than ten working days prior to the next Senate meeting. Ten working days prior to October 19, 2004 would be October 5, 2004 so that the time allotted had not yet expired. Rice Jenkins commended the work done by the team involved in the process of producing the minutes: Robbie Thompson and crew for recording the meeting audio, Ginger Malphrus for typing a verbatim transcript, and the Senate Secretary for summarizing this transcript. She noted that she had been assured by Jean-Paul Carton (CLASS, Faculty Welfare Committee Chair) that the Faculty

Welfare Committee was already at work processing the Fausett motion.

9/16/2004: Motion by Don Fausett re: Supplementary Procedures for Faculty Dismissal: Don Fausett (COST) made the following motion:

1. That a faculty member has the right to know the issues of a meeting with administrators when summoned to such a meeting. Upon request, the individual be presented with a written agenda of issues to be discussed so as to allow him/her an opportunity to prepare for said meeting.
2. That prior to such meeting, the individual be apprised whether or not the university is to be represented by an attorney.
3. That the faculty member has the right to have legal counsel present at any meeting in which the university will have legal counsel present. In meetings where the university does not have legal counsel present, the faculty member has the right to bring a faculty colleague to act as an academic advisor.
4. That a written record of the meeting be preserved. That the faculty member be entitled to a copy of that record and able to contest the version of events as stated in the written record of the meeting.
5. That any administrator who violates established methods of procedure should be accountable for failure to adhere to university procedures.
6. That grievance procedures be allowed for faculty even if termination or forced resignation was the outcome of discussions with the administration. In short, people who have been terminated or who have been forced to resign should still be able to appeal their termination of employment according to established "Procedures."

Fausett immediately amended his original motion by deleting items 5 and 6 and by adding a phrase to item 4. The amended motion is as follows:

1. That a faculty member has the right to know the issues of a meeting with administrators when summoned to such a meeting. Upon request, the individual be presented with a written agenda of issues to be discussed so as to allow him/her an opportunity to prepare for said meeting.
2. That prior to such meeting, the individual be apprised whether or not the university is to be represented by an attorney.

3. That the faculty member has the right to have legal counsel present at any meeting in which the university will have legal counsel present. In meetings where the university does not have legal counsel present, the faculty member has the right to bring a faculty colleague to act as an academic advisor.

4. That a written record of the meeting be preserved upon request of the faculty member. That the faculty member be entitled to a copy of that record and able to contest the version of events as stated in the written record of the meeting.
The motion was seconded.

Rice Jenkins (COST, Senate Moderator) called on Don Fausett to speak first in support of the motion. Fausett, citing Section 210.02 of the Faculty Handbook, responded by saying that this set of procedures was an effort to supplement the dismissal procedures of the University as allowed by the Board of Regents. Rice Jenkins then called for discussion.

Candy Schille (CLASS) asked who would be keeping the written record of the Faculty/Administrator meeting referred to in item 4. Fausett replied that he thought it ought to be the designate of the person calling the meeting. Rice Jenkins then asked Fausett if the meetings to which these procedures applied were meant to be those held between Faculty and Administrators prior to any formal dismissal for cause action. Fausett replied in the affirmative.

Pat Walker (CLASS) asked why Fausett wanted to delete item 6 in the original motion. Fausett and Rice Jenkins both responded to this question by saying that grievance issues were more properly dealt with by the Faculty Grievance Committee and deletion of item 6 brought important items 1-4 to the floor more expeditiously.

Chuck Johnson (COBA) asked what the definition of an "Administrator" was in the context of item 1. Johnson was concerned that these procedures would require a written agenda every time a faculty member had a meeting with his/her department chair. Fausett replied that "Administrator" meant anyone in the chain-of-command above the faculty member. Rice Jenkins explained that a written agenda was not required for all meetings but that, if a faculty member were called to an administrator's office, the faculty member was entitled to receive at least a verbal description of the meeting agenda if desired.

Bob Cook (CIT) inquired if this motion intended these procedures to appear in the Faculty Handbook and, if so, then where in the Handbook. After some discussion, Cook offered a friendly amendment that these procedures appear in Section 210.01 which Rice Jenkins said contained a general statement of Renewal/Non-renewal of Faculty on Probation in a probationary period. Fausett agreed to this friendly amendment to his original motion. At this point, Rice Jenkins (COST, Senate Moderator) recognized Clara Krug, Chair of the Faculty Grievance Committee, from the gallery and asked her to

make a statement.

Krug said that the charge of the Faculty Grievance Committee was not to make policy.

She further stated that this committee would consider matters related to item 6 in the original motion and make recommendations that would ultimately come back to the Senate for consideration.

John Nauright (CHHS) commented that the language in item 1 was too broad and suggested that the wording be revised to apply only to meetings relating to renewal or non-renewal of probationary faculty. Nauright felt like the current wording required a written agenda for every meeting with administrators. Fausett replied that he thought that Nauright's suggested language was too restrictive and pointed out that a written agenda was not required at every meeting but only when requested by the faculty member.

David Robinson (CLASS) stated that the proposed procedures seem to assume that a faculty member currently does not have the right to have an attorney present at a meeting with administrative personnel. He then asked Jeff McLellan if that was the case.

McLellan declined to answer the question stating that he was present in the capacity of Senate Parliamentarian rather than as University attorney. Robinson then directed the same question at Dr. Grube who suggested that this question be studied by a Senate standing committee. Robinson explained that, if faculty members do not have the right to an attorney, then nothing that is put in the Handbook will make any difference and so the legal question needs to be answered before the motion is considered. Robinson wondered if referring the motion to a committee for study might not be the best course at present.

Rice Jenkins reminded the Senate that, if they wished to send the motion to committee, someone could move to commit the motion to a specific committee and this needed to be passed by a majority vote.

Debra Sabia (CLASS) said that this motion arose as a result of an actual incident indicating that faculty members are currently not allowed to bring in their own attorneys.

This circumstance has generated much discussion among faculty and is a good indication of what is missing from the dismissal process. Richard Flynn (CLASS) agreed with Robinson that one needs to know the legal fact about having an attorney present before being able to vote intelligently on the motion. Ming Fang He (COE) asked if faculty members have the right to know that they are not doing well before such meetings take place. Mary Hadley (CLASS) replied that these meetings involved dismissal for cause rather than poor performance.

Virginia Richards (CHHS) complained that there were many questions still outstanding in this motion such as too many people to fit in the meeting room, who would be taking notes, and what about the rights of the administrator. Richards then moved that the motion be sent to the Welfare Committee for further study. The motion was seconded. Rice Jenkins asked for discussion on the motion to send the Fausett motion to committee. David Stone (COST) stated that the motion should not go to committee because the people that wrote the motion had thought about it a lot. He said that he was not worried about rooms being too small or administrator's rights. The purpose of these policies is to protect faculty rights. The administrator is not the one being threatened with dismissal.

Debra Sabia (CLASS) worried that the Fausett motion might stay in the Welfare committee for up to a whole academic year before coming back to Senate for consideration. Rice Jenkins stated that the Richards motion to send to committee could be amended to put a limit on the time the motion sat in committee.

David Robinson (CLASS) reiterated that the legal position of a faculty member in the position considered by the Fausett motion is unknown by anyone on the Senate and so, for that reason, it should be referred to committee.

Jeanette Rice Jenkins (COST, Senate Moderator) reminded the Senate that, because all Senate actions are advisory to the President, the choice before them was either to pass the Fausett motion and let the President make a decision about it or to send to committee to study the legal underpinnings before considering the motion again.

Godfrey Gibbison (COBA) stated that time was not of the essence in passing this motion since such meetings between faculty members and administration personnel were relatively rare. Gibbison was in favor of sending the Fausett motion to committee.

David Alley (CLASS) commented that there was a motion on the floor and then another motion was made. Rice Jenkins responded that the current debate focused on the Richards motion to send the Fausett motion to committee. If passed, the Fausett motion becomes moot. Chuck Johnson (COBA) said that the Fausett motion ought to read as a motion to modify the Faculty Handbook. Rice Jenkins reminded him that Bob Cook's friendly amendment had taken care of that.

Michael Nielsen (CLASS) pointed out that, if the Senate voted to approve the Fausett motion and there was a legal problem, the President would surely apprise the Senate of that fact in thirty days time.

Mark Edwards (COST, Senate Secretary) asked what steps would the Welfare Committee take to discover the answer to the legal question if the Fausett motion were referred to them. Rice Jenkins asked Jeff McLellan (as University attorney) if the

Welfare Committee could call upon his expertise to receive an answer to the legal question.

McLellan replied in the affirmative.

Michael Moore (COE, Senate Librarian) referred to a response Jeff McLellan gave to an ad hoc committee charged with revising faculty grievance procedures in which McLellan stated that faculty members are free to consult with attorneys in conducting their private affairs. Moore held that this essentially answered the legal question that, yes, faculty members have the right to have an attorney present at meetings with administrators if they chose. Moore's opinion was that the Fausett motion need not go to committee.

Richard Flynn (CLASS) stated that, if faculty already had the legal right to an attorney, then there is no need to have a motion passed. However, he believed that it was not so clear and thus the motion should go to committee. Flynn then "called the question" on whether to end the debate on the Richards motion to send the Fausett motion to the Welfare Committee.

Jeanette Rice Jenkins (COST, Senate Moderator) reminded Senators that the Flynn motion to end debate on the Richards motion by "calling the question" was not itself debatable but required a two-thirds majority to pass. That being the case, the vote would be taken by a show of hands. This vote failed to garner the needed number of votes and so debate continued.

Don Fausett (COST) pointed out that many items in the Faculty Handbook were there merely for informational purposes. He compared these procedures to the Miranda rule which provides that suspects arrested for a crime be told their rights. He noted that people's rights do not depend whether they know them or not. If it is not illegal, he said, there is no harm in stating it.

Ellen Hendrix (CLASS) suggested that Virginia Richards (CHHS) amend her motion to send the Fausett motion to committee to include a date certain by which the Welfare Committee should report on their study of this motion. Jeanette Rice Jenkins (COST, Senate Moderator) then asked Virginia Richards if she was interested in doing so.

Richards then moved to amend her motion to send the Fausett motion to the Welfare Committee so that they bring back their report by the November 17 meeting of the Faculty Senate. Rice Jenkins asked for debate on this amendment.

Debra Sabia (CLASS) wondered why the report couldn't be given in time for the October meeting of the Senate. Richards responded that the Welfare Committee only met every two weeks and Rice Jenkins noted that they have a full agenda already. The motion was seconded and, as there was no further discussion, Rice Jenkins asked for a

voice vote on the amendment which passed.

Jeanette Rice Jenkins (COST, Senate Moderator) stated that the question before the Senate was then the amended Richards motion to send the Fausett motion to the Welfare Committee with the proviso that the Welfare Committee report back to the Senate by the November 17, 2004 meeting. She then asked if there was further debate.

Candy Schille (CLASS) reiterated that her original comment about who would be taking the minutes of any meeting had not been answered to her satisfaction and so she was in favor of sending the Fausett motion to the Welfare Committee.

Jeanette Rice Jenkins then asked if there was more discussion. Hearing none she then asked if the Senate was ready to vote on the amended Richard motion that the Fausett motion be referred to the Welfare Committee with the proviso that this committee report back by November 17, 2004. This motion passed by voice vote.

Sent back to Faculty Welfare Committee 9/16/2004