

Report of Faculty Status and Welfare Committee
13 February 1986

1. Report.

At the request of members of the current faculty, the opinion of the Kentucky Attorney General was sought concerning the following question:

"Must state university faculty submit to anonymous student evaluations?"

This inquiry continued one initiated several years ago by Professor Emeritus Herbert Leopold. Copies of the complete correspondence are being given to each departmental representative, and to appropriate members of the administration. The answer to the question is in the negative, unless such a requirement is stipulated in the contractual agreement between faculty and the university. Our contractual agreement basically consists of the faculty handbook and the annual letter from the president; thus, in brief, the answer for WKU faculty seems to be "no".

2. Discussion.

The question of how, adequately and accurately, to evaluate teaching is one which has confronted and troubled our profession for ages. The most reasonable answer is likely that there is no answer, at least not one that can be engraved in stone once and for all, for all disciplines, all schools, and all circumstances. Such a task is decidedly beyond the ability, and beyond the charge, of this committee.

Nevertheless, the inability to offer an ideal alternative should not prohibit one from criticizing current practices which are deficient; indeed, the absence of an ideal alternative does not absolve one of the responsibility for criticizing current deficiencies. This committee has taken note of the widespread perception among the faculty that current administrative use of anonymous student evaluations is deficient, and often constitutes abuse of the evaluation process. The degree of abuse perceived appears to vary widely among departments and colleges, ranging from none to considerable.

Of particular concern are: (1) use of student evaluations as the sole measure of teaching effectiveness, (2) lack of consistency in the use of student evaluations, and (3) the use of numerical summary "averages" computed from student evaluations, often carried to two decimals, purporting to represent an overall measure of quality of teaching; such numerical summaries are at best meaningless statistics. Some further feel that current practice contributes to declining academic standards and grade inflation.

We fully recognize the importance of evaluation by students of our teaching practices, our texts, our courses. Such evaluations can be of tremendous value in the process of self-improvement, which was in fact their original intent at WKU. Many of us do believe that it is both possible and important to utilize student evaluations as one among several components of the process by which important decisions -- involving retention, tenure, promotion, and pay -- are made. But devising a legitimate means of doing so is neither quick nor easy. We recommend the booklet "The Recognition and Evaluation of Teaching", by Kenneth Eble, as a starting point for such discussions.

Barry Brunson, Chair



June 26, 1985

Memo To: Gene Evans, Chair, Faculty Senate

From: Barry Brunson, Chair
Faculty Status and Welfare Committee

Subject: Anonymous student evaluations: must faculty submit to them?

Former Professor Herbert Leopold wrote the Kentucky Attorney General on the subject question in 1977. A reply was received, but it seemed to be limited to primary and secondary faculty.

Earlier this year, some current faculty members of WKU asked that I pursue the matter further, whereupon I wrote the current Kentucky Attorney General, David Armstrong. His reply, via General Counsel Kevin Noland, recently arrived. Copies of the full correspondence are enclosed.

The essence of the Attorney General's advice is that Kentucky has no statute which specifically requires submission of faculty to student evaluations. Consequently,

"... if student evaluations are specified in the employment contract as a method of measuring faculty performance, then the faculty will be required to submit to such evaluations. Conversely, if student evaluations are not part of the employment contract, then the faculty member is not mandated as a condition of employment to participate in such student evaluative process."

The principal contractual provisions for WKU faculty are those contained in the WKU Faculty Handbook; my reading of the 11th edition reveals no mention of student evaluations. So it appears to me that the answer to the subject question is "no."

I do not believe that the issue is, or was, being raised in order to avoid legitimate evaluation of instructional performance. A large part of the problem seems to be determining what is legitimate (see Professor Leopold's letter).

BWB:jmw

cc: Robert C. Bueker
William G. Lloyd
Robert V. Haynes
anon.

Enclosure

June 26, 1985

David L. Armstrong
Attorney General
116 Capitol Building
Frankfort, Kentucky 40601

Attention: Kevin M. Noland, General Counsel

Dear Mr. Noland:

Thank you for your letter of 18 June concerning statutory provisions relating to student evaluation of faculty. Your very thoughtful response is greatly appreciated.

Sincerely,

Barry W. Brunson
Assistant Professor

BWB:jmw

University of California, Berkeley
1968

Motion

The Board of Regents of the University of California will recommend to CSFE and to the appropriate state and federal Attorney Generals that the University of California should have the right to receive anonymous student evaluations.

Motion

The Board of Regents of the University of California should endorse the concept of anonymous student evaluations. Such evaluations should be reported only to the appropriate state and university administration and should be used only for appraising teaching which are appropriate and necessary.



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DAVID L. ARMSTRONG
ATTORNEY GENERAL

June 18, 1985

CAPITOL BUILDING
FRANKFORT 40601

Mr. Barry W. Brunson
Assistant Professor
Western Kentucky University
Bowling Green, Kentucky 42101

Dear Mr. Brunson:

This response is restricted to the applicable law based upon the facts you have presented and does not represent a formal, legal opinion under KRS 15.025.

You have asked the Office of the Attorney General to consider a matter involving obligatory submission of state college/university faculty to anonymous student evaluations. Your question is whether such faculty may be required to submit to such evaluations, and if so, under what circumstances.

There are essentially three characteristics involved in the legal relationship between a college faculty member and the university. They consist of: (1) individual rights or freedoms which a teacher might possess in his or her capacity as teacher or person, (2) statutory requirements which must be followed by both institution and employee, and (3) contractual conditions of employment agreed upon between teacher and institution. See Alexander & Solomon, "College and University Law", pg, 342 (1972). Therefore, the obligations of teachers/faculty are drawn partly from their employment contracts, and partly from general laws and regulations which are made part of those contracts, either by explicit reference in the contract language or by operation of law as a matter of public policy. See McGrath v. Burkhard, 280 P.2d 864, 867 (Cal. 1955).

As to student evaluations of faculty members, this method is one of four types that is commonplace in most educational settings. The theory behind the use of student evaluations as a part of the faculty assessment process is that

the student, being on the receiving end of the learning process, is in an excellent position to comment on the faculty member's performance. R. Miller, Faculty Performance, 26-30 (1972).

First, it should be noted that there exists no state statutory provision governing such evaluations. Therefore, absent statutory mandate, the provisions of the employment contract are controlling. Richardson v. Board of Education, 58 P.2d 1285, 1287 (Cal. 1936).

Ordinarily, as part of the contract between the institution and the faculty member, post-secondary institutions have written and published standards or criteria to guide decision-making regarding contract renewal, promotions, salary and tenure. If the particular evaluative standards are not intended to be legally binding or are not intended to apply to certain kinds of personnel decisions, those limitations should be made clear in the standards themselves. W. Kaplin, The Law of Higher Education, 128-29 (1978).

The courts have generally recognized the significance of faculty evaluations and will enforce standards or criteria found to be part of the faculty contract. In addition, wide discretion is given post-secondary institutions in determining the content and specificity of those standards and criteria. For example, the court in Brouillette v. Board of Directors of Merged Area IX, 519 F.2d 126 (8th Cir. 1975), rejecting the claims of a community college faculty member, quoted an earlier case to note that "such matters as the competence of teachers and the standards of its measurement are not, without more, matters of constitutional dimensions. They are peculiarly appropriate to state and local administration."

Based upon the above-mentioned law, since no statute can be found that requires the professor to submit to student evaluations of his or her performance, it appears to be a

Mr. Barry W. Brunson

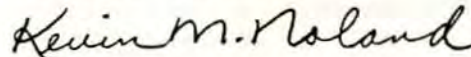
Page 3.

matter left to be dealt with by contract between the parties. Recognizing the broad discretion the law accords post-secondary institutions in defining its evaluation standards, if student evaluations are specified in the employment contract as a method of measuring faculty performance, then the faculty will be required to submit to such evaluations. Conversely, if student evaluations are not a part of the employment contract, then the faculty member is not mandated as a condition of employment to participate in such student evaluative process.

We hope this adequately responds to your inquiry.

Sincerely,

DAVID L. ARMSTRONG
ATTORNEY GENERAL



Kevin M. Noland
General Counsel

KMN:sb



WESTERN KENTUCKY UNIVERSITY

BOWLING GREEN, KENTUCKY 42101

February 22, 1985

Department of Mathematics

David L. Armstrong
Attorney General
KRS 15
116 Capitol Bldg.
Frankfort, KY 40601

Dear Mr. Armstrong:

I am writing to you in my capacity as chair of the Faculty Status and Welfare Committee of the Western Kentucky University Faculty Senate.

Enclosed are copies of an exchange of letters between former Attorney General Robert Chenoweth and former W.K.U. Professor Herbert Leopold, which occurred in 1977. The question at issue was that of Kentucky statutory provisions concerning obligatory submission of faculty to anonymous student evaluations, especially when such evaluations may influence administrative decisions on retention, promotion, and/or salary adjustments.

The correspondence was brought to my attention by some current faculty members at Western, who asked that I contact you for additional information. Mr. Chenoweth's reply appears to limit itself to primary and secondary school faculty, and I would like your opinion, relative to state college/university faculty, on Professor Leopold's question, to wit: whether such faculty may be required to submit to such evaluations, and if so, under what circumstances.

I refer you to Professor Leopold's letter for the background leading to the asking of this question. Many would agree that several of his remarks remain pertinent today. I do not know Professor Leopold myself, but I assure you that the resubmission of his question does not stem from a desire to avoid legitimate evaluation of instructional performance.

Thank you for your time and assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barry W. Brunson".

Barry W. Brunson
Assistant Professor

BWB:tvc

Encls.

Box 173
Smith's Grove, KY 42171

The Attorney General
of Kentucky
Frankfort, KY 40601

Dear Sir:

By its very nature, the teaching process often places a faculty member in conflict with students, because it often requires the making of unpopular academic decisions or demands on students in maintaining academic standards and school policies, or when having to enforce school laws.

Such inherent problems are often aggravated by numerous other factors not under the teachers control; such as over crowded classrooms, a lack of auxiliary services, undue external poise or disturbance or serious temperature problems, which tend to create or contribute to situations that invite varying degrees of student dissatisfaction and/or resentment.

In recent years there has been a growing trend toward requiring that teachers submit to anonymous evaluations by their students, even those who have been openly hostile. Under such conditions, these evaluations and evaluative instruments often become demeaning, if not ego destructive. Also, the pressure to get "good evaluations" tend to favor grade inflation. Therefore, when considering the value of morale to successful teaching, along with the importance of a teachers self esteem and confidence, the following opinion is sought.

Are teachers employed in the publicly operated schools and universities of Kentucky required to submit to official mandatory, non-professional, student evaluations?

An answer to this question is of particular importance to the many state employed teachers because normative evaluations are at best subject to major bias. And, even though this is known, important decisions such as those pertaining to salary, job assignment, retention, tenure and advancement are subject to the influence of sub-professional testing, at best of questionable validity, which could cause permanent adverse effects.

Sincerely,

Herbert A Leopold

mls



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
FRANKFORT

ROBERT F. STEPHENS
ATTORNEY GENERAL

November 30, 1977

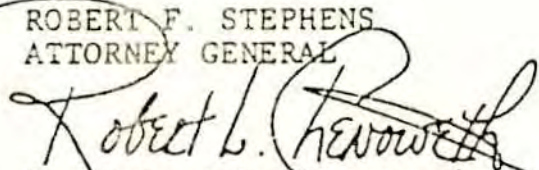
Mr. Herbert A. Leopold
Box 173
Smiths Grove, Kentucky 42171

Dear Mr. Leopold:

You have asked the Office of the Attorney General to advise you as to whether teachers employed in the public common schools are required to submit to mandatory, non-professional, student evaluations. Our answer to this inquiry is simply that there exists no state statutory or regulatory provision requiring such evaluations. While under the broad plenary powers of a local board of education, KRS 160.290, a policy could be adopted calling for evaluative measures to be taken relative to the certified staff of a local school system, we hardly believe such a policy should call for teachers being required to submit to student evaluations. Thus, we must admit to being perplexed by your statement that teachers are being required to submit to student evaluations. If the students on their own are evaluating the teachers in a school system, that is one thing, but a teacher being required to do something (be interviewed, fill out a questionnaire, etc.) associated with such an evaluation is something else. If there does exist such a requirement because of a local school board policy, we believe the rationale underlying such a policy and the legitimacy of it should be carefully scrutinized with the assistance of legal counsel by the local board of education.

Sincerely yours,

ROBERT F. STEPHENS
ATTORNEY GENERAL


By: Robert L. Shenoweth
Assistant Attorney General

RLC:lb

Hiding evaluation results only damages credibility

Even Purdue University has abandoned the faculty evaluation system it originated.

Western also realizes the Purdue Cafeteria System isn't a very good method and is looking for a new one. That's commendable.

But, in the meantime, Faculty Senate wants to render the current system useless.

If the administration adopts a proposal passed Thursday by Faculty Senate, no one but teachers would see the evaluations. Their department heads or administrators wouldn't see them. Students would still be excluded.

Shouldn't administrators know that Professor A is a great teacher (and deserves tenure or promotion) and that Professor B is always unprepared and mumbles his lecture from the textbook?

Shouldn't students also have the right to know? Would anyone want to take a class from a faculty member who consistently gets D's from his

students?

That's why the university should get student input to develop its own practical evaluation system. The results should then be published in a reference book.

A condensed version would be sent to faculty and administrators. Copies of the results should be open to students — in the library, in departmental offices or in dorm lobbies.

Only faculty members with something to hide would insist that their evaluations be confidential.

But if the university won't make the results available, someone else must.

Associated Student Government could obtain the evaluation results or conduct their own surveys and publish the results in an inexpensive tabloid. It could be sold to offset printing costs.

Faculty should know that their bosses, their students and their peers will read their evaluation results — and know who's doing a good job.

We all have a right to know.

College Heights Herald

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date?

Motion would limit effect of evaluations on faculty

By CARLA HARRIS

Faculty evaluations by students would no longer affect a professor's promotion and pay raises if a motion passed Thursday by Faculty Senate is adopted by the administration.

Only faculty members would see the results of the evaluations — at least until faculty and administration can find more ways to evaluate professors, the motion says. Their department heads would no longer get the results.

The motion was developed after a senate committee found out that faculty don't have to submit to evaluations under their contracts, said committee Chairman Dr. Barry Brunson, an assistant professor of mathematics.

"But no one advocated mass refusals to participate in them," he said. "Our committee asked 'Should it be done? How should it be done? How should the results be used?'"

Now, responses on the forms students fill out each fall semester are tabulated and the written comments are transcribed. Both are distributed to faculty and department heads, said Dr. Robert Haynes, vice president for academic affairs.

These results, along with copies of faculty members' syllabi, exams, drop rates and grade distributions, are then used to evaluate teachers.

At least ideally.

"Some places are using it (the evaluation) as the only method," Brunson said. "It differs from college to college, from department to department."

Haynes suggested that, rather than using university-wide guidelines, Western should let faculty in each discipline establish their own standards. "They should be heavily involved in that process," he said.

When answering evaluations, students choose from five responses: strongly disagree, disagree, undecided, agree and strongly agree. The responses are averaged and used to rate faculty from one (strongly disagree) to five (strongly agree).

"The numbers are silly," Brunson said. "The students are answering in words, and we're getting statistics."

Some senate members said they were wor-

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Motion would limit effect of evaluations

—Continued from Front Page—

ried about the importance of the numbers being taken too far—that a professor with a 4.23 average might be considered much better than one with a 4.20.

Other members said they feared that sidelining student evaluations might cause them to be done away with altogether.

"I don't like the implication of not wanting student evaluations," said Dr. John Parker, a professor of government. "If we don't use that, what will department heads use?"

"This is not a perfect instrument, but at least it's quantitative," he said. "Without it, department heads will use rumors and the grapevine."

Greg Elder, administrative vice president of Associated Student Government, said he thinks students are qualified to judge faculty.

"Who's going to know what kind of job a teacher is doing teaching? The students," Elder said yesterday. "Most students take it quite seriously—they're glad to have a chance to do it objectively."

The motion wouldn't ban professors from showing their evaluation results to their department heads, Brunson said.

But, Dr. Joe Glaser, a professor of English, said, "Until we come up with better ways, we'll be leaving the students out of it. I think there's a real difference between someone who gets a five and someone who gets a one."