

# t u f times

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## UH/CLC GUILD OFFERS HELP ON GRIEVANCES

At its April meeting our Guild decided to offer confidential help to any faculty member who is pressing a grievance or wishes to press a grievance. Although we can't promise the sky, we do have some experience in these matters. So break through the conspiracy of silence and speak to a Guild member about what's bothering you. If the case below is any indication of how the newly-established grievance procedures are going to work, you're going to need help. (See the bottom of page two for names.)

### ANATOMY OF A GRIEVANCE

The original grievance was filed by the faculty member over a section of his Program Director's performance evaluation, given in May, 1981. In the contested section the Program Director alleged that the faculty member seemed to regard the University as a cold war theatre in which the faculty member constantly opposed and obstructed any administrative procedure, promoting conflict, stalemate, or at least a muddling and dragging out of what would normally be simple, routine proceedings. The Program Director suggested that a continuation of this attitude on the part of the faculty member would push that faculty member further and further to the outer fringes of faculty councils and the University as a whole.

In keeping with the grievance procedures established by a memorandum of September 4, 1981, issued by Dr. James Benson, then assistant to the Vice Chancellor and Provost, the faculty member appealed the contested section of the Program Director's evaluation to the Dean. The substance of the faculty member's argument was that the Program Director, in the absence of specific instructions to that effect in the ACADEMIC POLICIES AND PROCEDURES MANUAL, had no authority to put such comments in his file. The faculty member also maintained that if the program director was permitted to define his or her job responsibility to include the placing of unsubstantiated and unverifiable opinions in a faculty member's file, the guidelines established for faculty evaluation would make no sense, since anything could be justified as part of that evaluation. Finally, the faculty member claimed that if material could be placed in a faculty member's file which was both unsubstantiated and unverifiable, the faculty member's professional reputation could be damaged without cause and such a procedure could be used to intimidate faculty and keep them from speaking freely about issues on which they might disagree with the Program Director or, indeed, any administrator. The faculty member requested that the Program Director's comments be removed from his file and that no similar written comment replace it.

The Dean responded that the Program Director's opinion of the faculty member's interaction with the University community could be reasonably construed as a matter which impinged upon the faculty member's performance of his teaching, service, and research, though the Dean also stated that the contrary could be reasonably argued. The Dean decided that to define the Program Director's evaluative function narrowly, as relating only to those things specifically stated in the ACADEMIC POLICIES AND PROCEDURES MANUAL, would restrict free and open communication in the University community. The Dean admitted that this interpretation of the Program Director's evaluative function left open the possibility that inaccurate statements could be placed in a faculty member's file. He felt, however, that sufficient safeguards against such inaccuracies existed because such written communications, since they were not part of the Vice Chancellor's official files, could not be used in promotion and tenure decisions, and because a faculty member could place rebuttals and contrary opinions in his or her own files. The Dean decided to leave the evaluation in the faculty member's file, feeling that the issues raised by the grievance could only be taken up at the University-wide level.

The faculty member appealed the Dean's decision to the Faculty Grievance Committee. The faculty member maintained that the Dean's decision to permit the Program Director to place unsubstantiated and unverifiable material in a faculty member's file would not promote but destroy free and open communications in the University community by allowing, if they so chose, Program Directors (and, by extension, all administrators) to place whatever opinions they chose, regardless of their accuracy or verifiability, into a faculty member's file, as long as they claimed that such actions were merely part of their official responsibilities. The only protection the faculty member would have is a chance at rebuttal, in writing, and the slim hope that those people evaluating his or her promotion and tenure would not consider such charges when making their decision. The faculty member argued that such safeguards were insufficient protections, and constituted a threat to free speech.

The Faculty Grievance Committee found that while the Program Director's evaluative function could not be limited to those duties specifically prescribed in the ACADEMIC POLICIES AND PROCEDURES MANUAL, the Program Director was obligated by generally accepted principles of personnel management to substantiate his or her performance evaluations and to demonstrate that the written comments were job-related. The Committee found that the Program Director's written comments on the faculty member were not substantiated nor were they demonstrated by the faculty member's file to be job-related, and so should be removed from the faculty member's files, and that written comments that were unsubstantiated and not demonstrated to be job-related should not be placed in the faculty member's files. The Faculty Grievance Committee also suggested that the issue raised by the grievance be addressed by the faculty and administration in a policy statement.

The faculty member was satisfied with this resolution of his grievance, although the Faculty Grievance Committee had not upheld all of his position. According to the grievance procedure, this should have put an end to the grievance, since the grievance procedure provides that if the grievance remains unresolved, the grievant may appeal the Faculty Committee's decision to the Provost. If the grievant fails to appeal, the Faculty Committee's decision is final.

The grievance, however, did not stop with the Faculty Committee. The Committee forwarded its decision to the Vice Chancellor without the request of the faculty member. The Vice Chancellor ruled that the Faculty Committee had failed to determine whether or not there was a University policy which prevented a Program Director from placing in a faculty member's file those evaluations necessary for them, the Program Directors, to carry out their functions as outlined in the ACADEMIC POLICIES AND PROCEDURES MANUAL. The Provost also faulted the Faculty Committee for not addressing the position that the Dean had taken on the faculty member's grievance. The Provost concluded that since no University policy prohibited the Program Director from placing in a faculty member's files any materials that he or she considered important in the carrying out of his or her official responsibilities, the Program Director's action had been in keeping with sound administrative practice. The Provost rejected the recommendations of the Faculty Grievance Committee and supported the position taken by the Dean and the Program Director, adding that the issue was important, and that the Faculty Senate might want to take it up with the University administration.

The faculty member appealed the Provost's decision to the Chancellor, maintaining that the Provost had no jurisdiction in the case, since the Faculty Grievance Committee's decision had not been appealed to him by the grievant, as the grievance procedures required. The faculty member argued that the Provost, upon receipt of the Faculty Committee's recommendations, should properly have informed the Committee that he, the Provost, had no jurisdiction to act without an appeal by the grievant. The faculty member requested that the Chancellor overrule the Provost and implement the Faculty Grievance Committee's recommendation.

Here the grievance rests, because 20 working days have not passed since the faculty member appealed the Provost's decision to the Chancellor.

#### WHAT CAN WE CONCLUDE?

1. All the administrators, from Program Director to Dean to Vice Chancellor, insisted that the range of an administrator's discretion in what constitutes an evaluation of a faculty member takes precedence over any question of veracity or substantiation.
2. The Vice Chancellor and Provost can ignore the grievance procedures that were adopted by him at the beginning of the year.
3. The Vice Chancellor and Provost overruled the Faculty Grievance Committee completely, which reveals the tendency of UH/CLC administrators to simply ignore faculty recommendations and faculty governance when it does not suit their purposes.

And while we are on the subject of the Vice Chancellor and Provost:

#### HARDWICK TO REVISE TENURE AND PROMOTION GUIDELINES

It appears that Dr. Hardwick is, all on his own, setting up a committee to recommend changes in the promotion and tenure guidelines and, as usual, doing it in the summer, when most of the faculty are away. Rather than turn to the Faculty which, through its own governance procedures in the Faculty Assembly, created the present document, he is creating his own committee, and consulting the Senate only after the fact. So much again for faculty governance.

(For grievance information and help, contact Professors Curt Smith or Bruce Palmer, at home or school.)