

JOURNAL OF THE FACULTY SENATE

The University of Oklahoma (Norman campus)
 Regular session - December 10, 1990 - 3:30 p.m.
 Conoco Auditorium, Neustadt Wing, Bizzell Memorial Library

The Faculty Senate was called to order by Professor Roger R. Rideout, Chair.

PRESENT: Ahern, Breipohl, Curtis, Fife, Foote, Gabert, Goodey, Gudmundson, Harm, Harper, Havener, Hill, Hilliard, Hopkins, Jaffe, James, Kiacz, Kidd, Knapp, Kuriger, Kutner, Levy, Livesey, Michaelson, J. Nelson, O'Halloran, Paolino, Petry, Rideout, Salisbury, Sankowski, Schnell, J. Smith, P. Smith, Stoltenberg, Striz, Sullivan, Swoyer, Tiab, Vehik, Vestal, Weaver-Meyers, White, Zaman

Provost's office representative: Wadlow
 PSA representatives: Barth, Bloomgarden

ABSENT: Christian, Cross, Gilje, Johnson, Mouser, D. Nelson, St. John, Wedel

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ANNOUNCEMENTS

The faculty selected by the administration to serve on the Search Committee for the Vice Provost for Research Administration and Graduate Dean from the Faculty Senate nominations were Michael Engel (Geology & Geophysics), Joakim Laguros (CEES), Darryl McCullough (Mathematics), and Joseph Suflita (Botany & Microbiology). Prof. Glenn Dryhurst (Chemistry & Biochemistry) will chair the committee. A list of the remaining committee members is available from the Senate office.

Prof. Lawrence Rossow (Educational Leadership) will be the Faculty Senate's representative to the Legislative Analysis Group. The LAG was established last year by President Van Horn to draft the University's legislative agenda and study the impact of pending legislation.

The Executive Committee took the following actions on behalf of the Senate:

Responded to a memo from Prof. Paul Bell (Interim Registrar) which proposed a university-wide uniform procedure for grade changes that would eliminate the dean's approval. A grade change requested by an instructor would then be verified only by the chair/director. The Executive Committee had no objection to the proposal.

Nominated Professors Thomas Hill (Mathematics) and Frederick Miller (Law) to complete the 1990-93 term of S. Lakshmiarahan (EECS) on the Faculty Awards and Honors Council. This action had to be taken without Senate approval because the Council was beginning its work the last week of November. Prof. Miller was selected by the administration.

DISPOSITION BY THE ADMINISTRATION OF SENATE ACTIONS

Prof. Anita Hill (Law) was selected to serve a 1990-91 term on the Council on Campus Life (see 11/90 Senate Journal, page 7).

The communicable disease policy is being sent to Legal Counsel for review (see 11/90 Senate Journal, page 8).

PRESENTATION BY PROF. DANIEL GIBBENS (LAW), FACULTY REPRESENTATIVE TO THE BIG 8 AND NCAA, ON PENDING NCAA ACTIONS

Prof. Gibbens announced that the NCAA convention will be held January 7-11 in Nashville. The proposals and amendments that will be considered are said to be the most extensive ever presented at an NCAA convention. Prof. Gibbens distributed a handout (available from the Senate office) which included the first page of a Big Eight memo summarizing the proposals, a 2-page document from the consultants for the NCAA presidents commission, and a 12-page document from the faculty representatives association. The academic requirements committee (ARC) of the faculty representatives association looks at the impact of proposals on academics. There are 119 proposals and 63 amendments. The letter from the consultants indicates that the presidents want the reform package adopted and that there are several amendments that they believe will be helpful to the reform package.

The key proposals that will impact most on OU fall into three parts. The first set has to do with cost reduction--limiting transportation and long-distance calls for recruiting, the number of coaches per sport, and the number of scholarships. This would be the first time that the number of coaches has been limited in sports besides football and basketball. The second area of the reform package is weekly and daily limits on the amount of time students can spend on athletics. The playing and practice season is limited to 22 weeks and 20 hours a week; outside the playing season it is 8 hours a week. A provision allows additional voluntary practice and a coach to be present for safety reasons. The third set involves membership restructuring. It would give Division I schools more control over their affairs by restricting the number of schools in the division. Proposal 79 is of considerable interest because it sets particular degree requirements that must be achieved at certain stages.

Prof. Petry asked what OU's position would be on the proposals, especially on item 38--the cut in the playing and practice season. Prof. Gibbens said the University had not formulated its position yet but he believes OU will vote yes on #38 and on the amendments recommended by the consultants.

Prof. Petry asked about OU's position on item 30--phasing out athletic dormitories. Prof. Gibbens answered that this would not become effective until October 1, 1996 because of cost considerations. OU favors amendment 30-2, which would permit student-athletes to stay in athletics domms for two years and thereby benefit by the academic support programs. Prof. Rideout asked for a breakdown on OU's vote after the convention.

SENATE CHAIR'S REPORT, by Prof. Roger Rideout, Chair.

"Two issues have occupied faculty attention over the last month. They are the draft proposal on faculty work loads and library funding. I want to summarize the conversations on these issues that the Senate Executive Committee has had in the last month with President Van Horn and Provost Wadlow. I do so in an effort to clarify the issues and, hopefully, reduce some of the confusion and tension that surrounds them. Provost Wadlow is here today, and after my summary, she can correct any misstatements I might have made, add her own comments, and answer any questions.

"Faculty perceptions about the draft proposal on work loads have centered on three points: first, that the proposal increases teaching and often seems to do so as a punishment for not having externally-funded research; second, that external funding is emerging as the major criterion for faculty merit and evaluation; and third, that departmental flexibility is being curtailed by establishing a uniform set of criteria for equating all departments. To these points the president and provost have insisted that it was never their intent to punish faculty by increasing teaching loads, but rather, to outline a possible teaching track that would allow faculty to pursue teaching fully if they and departmental chairs agree that is best for the faculty member and the department. Naturally, such a track would have more teaching than in present formulations because the research component of present loads would not be there. Secondly, the emphasis on externally funded research was a regretful and overexaggerated misinterpretation. Their intent was to call attention to this issue and ask department chairs to assure that every faculty member in every department was pursuing external funding as rigorously as possible, but at no time did they mean to substitute that criterion for all other measures of faculty productivity. The Executive Committee made it clear that that was still the perception, whether or not that was the intent. Now to the third concern--that all disciplines are being equated along a uniform set of criteria--the response was, itself, another problem. The P9 budgeting formula allows discretionary funding to be allocated through the provost's office and, in turn, from the deans' offices to the departments. The question arises, how can one fund chemistry and classics fairly? How can one be assured the allocations are justified? Here the provost believes she and the deans need some yardstick by which to measure faculty productivity between departments.

"It doesn't take a great sage to see that the ultimate goal of such a proposal is: if some means can be defined for regulating and allocating faculty work loads, then two things can occur. First, faculty evaluations by committees A and departmental chairs will be broader, dispersing faculty evaluations along a wider continuum. The strength of internal and external evaluations of these faculty will serve as the common means for comparing faculty quality and productivity between departments. The net result of such a plan is, ostensibly, to make merit raises more meaningful and to assure funding is allocated properly to departments. No one can argue against such goals, only whether they can be accomplished at all given the diversity and uniqueness of disciplines.

"To the question of whether or not this or any draft proposal will do that, the provost has repeatedly stated, 'The dialogue is the important thing. If no new criteria, themselves, emerge, at least department chairs will be more aware of and sensitive to, the issues of faculty productivity.'"

Prof. Rideout asked Provost Wadlow to comment on this matter. Provost Wadlow said Prof. Rideout summarized the situation beautifully. Her only quarrel would be with Prof. Rideout's term "faculty productivity." The issue is how to devise a way so that faculty who are contributing fully to the goals of the department and university can be rewarded. Those who are excellent researchers or excellent teachers should have the opportunity to be recognized. She underscored the point about external funding, saying it is ludicrous to say that is a major criterion for excellence in a unit like History. On the other hand, sustained major external funding is an important element in the reward system for areas like Chemistry or Chemical Engineering. It will vary from one department to the next.

Prof. J. Levy asked whether the draft would be rewritten to make that clear. Prof. Wadlow explained that the draft that is circulating will continue to be a draft. She noted that one of the drafts inadvertently omitted service to the profession. She said it is necessary to write things down to get a discussion going and that this is a working document. Prof. J. Levy asked how many people on campus who are interested in pursuing the teaching route would want to teach 12 hours. Provost Wadlow said that is something for the faculty and department to work out and that there are some faculty already with those kinds of teaching loads.

Prof. Breipohl asked whether this would be voluntary on the part of the faculty or mandated by the administration. Provost Wadlow said it would be determined the same way as the current teaching responsibilities are assigned--by discussions that take place within departments between the faculty member and the chair/director.

Prof. Foote said he failed to understand the concern since the departments have evaluation systems. Prof. Rideout answered that the Arts and Sciences faculty were concerned that 12 hours would be fiat and in fact would change departmental policy. They were also worried that a 12-hour base load would put them at a competitive disadvantage with their peers in recruiting. The discussions in the last month have clarified that the intent was if a teaching track is created, what should it be.

Prof. Zaman questioned whether departments with low external funding would have higher teaching loads. Prof. Rideout said that is where the negotiations come in by departments and colleges. Prof. Foote pointed out that this is nothing new. If a faculty member is not doing research, the chair increases that person's teaching load. He said he would not expect the provost to impose any fiat without consulting the Senate. Provost Wadlow said she was looking for similarity of evaluations across colleges and departments. She is finding that more and more faculty are interested in doing something different in the course of their careers. The University ought to provide this type of opportunity.

Prof. Rideout continued his chair's report. "Turning to the second issue of library funding, faculty concerns are that funds were cut this year and that even if all of 1989-90 funds were in place, the amount would not be sufficient for library operations due to the inflationary spiral of serial costs, etc. [Prof. Rideout mentioned Prof. Larry Hill's letter to the provost on library funding, which is available from the Senate office.] Since this issue was discussed last on the Senate floor, the provost has been able to return the lost money to the library: \$50,000 this semester and another \$50,000 next semester. Now the original figure under dispute was \$200,000 if you remember.

Now the debate is centering on whether that missing \$100,000 was returned to the library and diverted to other library needs thus exacerbating the serial crisis, or whether it too is still due the library. Provost Wadlow can speak to that one in a moment. Right now, the issue is centering on the ability to meet the inflationary costs. While the administration has proposals before our regents and the state regents for increasing library funding for next year through new money earmarked for the library specifically, this does not resolve the issue of cuts in periodicals this year. While that is of concern, let us be clear that the issue is not clouded any longer by cuts in funds from preceding years. The issue is more money, new money for library expenditures."

Provost Wadlow explained that by the end of June 1991 the University will spend at least as much on library acquisitions as last year. The library received a \$100,000 permanent increase in its acquisitions budget. It was able to retain salary savings, which, historically, has been about \$100,000; however, only about \$40,000 of that remains because some was used for items such as extended library hours. The provost will make available any University salary savings (e.g. \$50,000 from the unfilled federal relations position). The provost assured the faculty that she will manage to get the funding to the regular level. In the budget request to the State Regents she requested a 50% increase for library acquisitions if the increase in the total budget is 15%. She also submitted a \$500,000 proposal for special funding, recognizing that the library acquisition budget does need to be increased. She said priorities for next year could be shifted to make the library a higher priority than new faculty positions.

Prof. Kuriger asked whether it is costlier to have branch libraries or a centralized library. Provost Wadlow said this issue was discussed by the University Libraries Committee, and they rejected the notion of closing the branch libraries. There might be a cost advantage to closing the branches, but that would mean a serious inconvenience. Prof. Zaman suggested a centennial fund-raising campaign for the library. Prof. Wadlow answered that she was pursuing two major potential endowments for the library. Prof. J. Levy noted that the alternative sources of funding for the libraries always seems to be faculty salaries, as opposed to administrative or other funding sources. Prof. Wadlow pointed out that she had said new faculty positions, not salaries. She said she could reduce or postpone other items, such as additional safety on campus and counselors. A Budget Council recommendation called for a freeze on hiring administrators. One option would be to delay the search for a Vice Provost for Research Administration and Graduate Dean. Prof. J. Levy mentioned that the library is also understaffed. Provost Wadlow said she is aware of that but knows many areas are understaffed.

Prof. Livesey urged that the University still provide for some type of increase in acquisitions even if the requested 15% increase falls short. He commented that there could be a beneficial impact if a public statement were made about the University's priorities. Prof. Rideout noted that University Affairs Vice President Bennett claims that he does mention the libraries' importance to donors.

Prof. Petry asked how the library is added to the priority list. He questioned whether the library should be included in departmental budget requests. Provost Wadlow answered that the library is addressed by program reviews, the Budget Council, and deans. She said the current budgeting process does not provide a way for departments like Physics and Astronomy to indicate library acquisitions as a priority. Prof. Rideout asked the senators to inform their colleagues about these clarifications.

[At the end of the meeting, Prof. Goodey, Chair of the Budget Council, invited the faculty to provide input about budget priorities to the Budget Council.]

"FOCUS ON EXCELLENCE," by Prof. Jay Smith, Chair-Elect.

Prof. Smith noted that President Van Horn had quoted George Kaiser, chair of the state regents, as saying OU is near the bottom of its peers in funding but in the middle in terms of performance. He cited the History of Science Department and Collections as examples of areas of which to be proud.

"The History of Science is an academic field that has grown up in the American universities since the second World War. The University of Oklahoma has been an important participant in this development. An excellent collection of rare books from science's past was given to the University in the early 1950's by a Geology alumnus, Everette L. DeGolyer. In 1954 the University appointed a young History of Science scholar from Harvard, Duane H.D. Roller, to be curator of this new collection and to teach students. Professor Roller presided over the History of Science Collections' remarkable growth and established successful undergraduate courses and a graduate program. Oklahoma became the fourth American university (after Harvard, Cornell, and Wisconsin) to institute a Ph.D. program in the field.

"In an age increasingly dominated by science and technology, educated people need to have perspective on and understanding of science as a cultural force. Study of the history of science reveals that, far from being an isolated enterprise, science is related in complex and intimate ways to the cultural environment in which it is practiced. The History of Science Department provides students with opportunities to understand the nature and development of science and to find bridges between ways of knowing that are often viewed as distinct or even unrelated, such as between the sciences and the humanities. The department also offers graduate training for scholars who will teach and advance our historical understanding of the scientific enterprise as well as for those preparing for professional work in museums, archives, libraries, research institutes, and military history units.

"Since the mid-1970's the University has had a department of six historians of science. There is not an undergraduate major program in History of Science; however, there is a flourishing array of undergraduate courses. Approximately two-thirds of the faculty's teaching load is concentrated on undergraduate teaching, and nearly 90 percent of the department's student credit hours are undergraduate hours. Three department members have won teaching awards and distinguished professorships in recognition of excellence in instruction. One measure of the national prestige enjoyed by the University of Oklahoma in this field is the current five-year postdoctoral research fellowship program, for which the Rockefeller Foundation has provided \$380,000 over a five year period. Faculty research grants for History of Science have been won recently from the National Science Foundation, the National Endowment for the Humanities, the Fulbright Fellowship program, and other national prominent funding sources. In 1988 and 1989 a department member, Professor Mary Jo Nye, served as the elected president of the History of Science Society, the discipline's leading professional organization. The fact that History of Science at the University of Oklahoma is internationally known and respected was most recently demonstrated by the Centennial Conference on the History of Science held in September 1990 which brought to our campus many distinguished scholars from around the country and several foreign countries.

"Faculty members of this remarkable academic program area include Professors Steven J. Livesey, Mary Jo Nye, F. Jamil Ragep, Duane H.D. Roller, Thomas M. Smith, Kenneth L. Taylor, adjunct professor Marilyn B. Ogilvie, and from the University Libraries faculty, Marcia M. Goodman."

PAID LEAVE AND SHORT-TERM DISABILITY POLICY

The Senate was asked by President Van Horn to consider a proposed new policy on paid leave and short-term disability (Appendix IA). The Senate's Committee on Faculty Welfare reviewed the proposed policy, and conveyed some concerns to the president. Subsequently, the president's office provided a side-by-side comparison of the current and proposed policies (Appendix IB) and added this sentence to address the issue of faculty recruiting: "New 9- and 12-month faculty will receive an initial deposit of 65 days into their short-term disability account." After feedback is received from the faculty and staff governance groups, the Employment Benefits Committee will make the final recommendation to the president.

Prof. Rideout reported that Prof. Vehik, Chair of the Faculty Welfare Committee, had prepared a list of questions (Appendix IC), and Mr. Don Flegal, Personnel Director, was present to answer any questions.

Mr. Flegal commented that there are two reasons why the change is being proposed. First is the increasing utilization by employees of sick leave. The average usage is over nine days a year compared to the six or seven days for peer institutions and industry. Second, the Teachers Retirement System is questioning the extra year of service toward retirement for accumulated sick leave without extra documentation from OU. TRS was considering a rule that would allow only an accrual system; OU's system is on a per-incident basis. He explained that TRS gives participants another year of service for six months of unused sick leave. The administration has received input from a number of individuals and organizations on all three campuses.

Referring to Prof. Vehik's questions, he responded: (1) Combining sick leave, vacation, emergency leave, and funeral leave is one way to handle leave and would solve a few of the present problems. Currently, employees only have three days of emergency leave to use for situations like the illness of a child. That causes employees to use vacation or call in sick for themselves. (2) TRS wants OU to have an accrual system. (3) University policy has always been that pregnancy would be treated as a short term disability. (4) He had not received the Senate's Extended Care Leave proposal at the time the paid leave proposal was being formulated but assumes the Employment Benefits Committee will consider it. (5) The proposed policy really does not change the level of benefits. The days that were available are combined. Nine-month faculty and staff were not affected, because those positions do not accrue vacation. This does not address the issue of whether 9-month individuals are really 12-month. (6) Twelve-month employees are given more paid leave because their vacation is included. He said this was an attempt to provide for employees who lose vacation because they are at the maximum. The HSC Faculty Senate objected to the 10 days per incident of leave time taken before short term disability is used and suggested either a lower number per incident or 10 days per year.

Prof. Jaffe asked about the relationship of short-term to long-term disability. If an individual used a month of short-term disability and became ill a second time, there would be a gap between the short-term disability leave and long-term disability insurance. Mr. Flegal said he had told the insurance carrier that some changes might need to be made in the optional long-term disability coverage. Prof. Jaffe noted that the proposed policy would benefit some groups more than others. Faculty who are nearing retirement might have less sick leave than what is required by TRS to be eligible for an additional year of service. Mr. Flegal answered that this

would not have happened to any of the recent retirees. Prof. Jaffe said the University might need to grandfather the policy, provide various tracks, or bank more days for people near retirement who had been here a long time. Mr. Flegal said those are possible options.

Mr. Bloomgarden said the figures he had heard indicated that the problem was with hourly employees whose sick leave usage jumped substantially when they had been here five years (the point when they are eligible for six months sick leave). He said he had been told that short-term disability would benefit only a very small number of people. Mr. Flegal responded that short-term disability is designed for an individual with a rather lengthy illness. The biggest concern of administrators is the increase in sick leave utilization by staff employees. The current policy was put in place in the early 1980's in an effort to reduce sick leave usage, and, in fact, the amount has increased considerably since that time.


Prof. Foote moved to reject the proposed policy and to send it back to the administration for reconsideration. The Senate approved the motion, 22 to 0.


RACIAL AND ETHNIC HARASSMENT POLICY

Prof. Rideout explained that the OU Regents would be voting on this policy (Appendix II) at their December 19 meeting; therefore, the Senate would have to take some action at this meeting in order for faculty opinion to be heard. He reported that the UOSA and EEC approved the policy in principle but reserved the right to alter some of the grievance procedures. He asked the Senate to consider doing the same thing for the sake of being on record as supporting the policy, but delaying opinion on some of the accompanying procedures. He gave as an example that the faculty for the grievance panel could be selected from the Appeals Board. Prof. Schnell moved to approve the policy in principle but reserve the right to recommend changes in the grievance procedures later. The motion was approved by the Senate by a show of hands.

ADJOURNMENT

The meeting adjourned at 5:10 p.m. The next regular session of the Senate will be held at 3:30 p.m. on Monday, January 14, 1991, in the Conoco Auditorium.


Sonya Fallgatter
Administrative Coordinator


Patricia Weaver-Meyers
Secretary

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2. The specific final exam make-up time will be established on the Sunday of exam week from 3-5 p.m. The location for the make-up exam will be determined by the faculty member in consultation with the student.
3. In an effort to assure proper time for study and academic preparation,
 - a. No examinations will be allowed during the last week of classes;
 - b. All projects and papers must be assigned by the beginning of the tenth week of classes.

An examination is defined as any measurement which accounts for 5% or more of the student's final grade.

The "last week of classes" is defined as the last four days before Help Day.

Projects and papers are defined as those assignments that require extensive lab work and/or writing time and account for 5% or more of the final grade.

Prof. Kuriger commented that in paragraph 1. and 1.a., "department" should be changed to "course instructor." Prof. Rideout said that should not be changed because departmental exams are given. Prof. Kuriger also suggested that in paragraph 2., the student and instructor be allowed to determine the make-up time and if no agreement is reached, then it can be held Sunday from 3-5 p.m. The Senate agreed to that change. Prof. Kuriger suggested that paragraph 3.a. allow laboratory and evening course examinations to be held during the last week of classes, as currently provided. That seemed to have Senate approval.

Prof. Havener suggested that the word "measurement" in the footnote be clarified. Several members said they were confused by 3. Prof. Havener suggested that 3.a. be modified to indicate that papers, projects, etc. assigned prior to the beginning of the tenth week could be due during the last week of classes, but that no specific examinations would be allowed then. Prof. Rideout said the joint committee would work out the language. Prof. Mouser asked whether the resolution would come back to the Faculty Senate for a vote. Prof. Rideout answered that the Senate would vote on it next month.

Prof. Vehik commented that the final exam schedule is published in the class schedule book, so students should be able to avoid enrolling in classes where they would have three exams in one day. Prof. Rideout noted that freshmen usually have no choice, some courses have only one meeting time, and students should base their enrollment on the classes they need, not on the finals schedule. He said he did not believe the three finals in one day situation pertained to many students.

Prof. Kuriger mentioned the need for this kind of policy to clarify who has to give a make-up in the case of three finals. Prof. Christian asked who was on the joint committee. Prof. Rideout said he and Prof. Paul Bell (Interim Registrar) had worked with Craig Adkins (UOSA President) and the Student Association.

COMMUNICABLE DISEASE POLICY

The Senate will discuss the proposed policy at the November meeting. (A copy of the document is available from the Senate office.)

PAID LEAVE AND ^{SHORT} ~~LONG~~-TERM DISABILITY POLICY

Prof. Rideout announced that the Faculty Welfare Committee Chair, Prof. Vehik, had prepared an analysis of the proposed policy, which was distributed at the meeting. (A copy of the analysis is available from the Senate office.) He explained that the Executive Committee had discussed those issues with the Provost, who conveyed the concerns to the President. Subsequently, the President said the policy would be revised to assure that the faculty would not lose any benefits. The Senate should receive a revised version before the next meeting.

RESOLUTION ON RACIAL HARASSMENT

Prof. Rideout commented that because of some racial incidents on campus in recent weeks, the Executive Committee asked Prof. Hill to draft a statement to reaffirm the faculty's position on racial tolerance. After a brief discussion, the Senate unanimously approved the following resolution:

Whereas, the faculty remains firm in its commitment to a belief in equality of all races; and

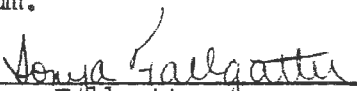
Whereas, the faculty reaffirms its sincere belief that the existence of a hostile racial environment is incompatible with the pursuit of knowledge and its transmission to the students body; and

Whereas, the faculty is continually working to create an environment that is open to diverse thought and perspectives;

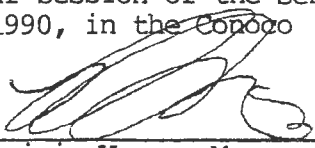
Be It Resolved that the Faculty Senate strongly urges the administration of the University of Oklahoma to enforce existing policies and initiate appropriate new policies to correct past occurrences and to prevent future acts of invidious racial intolerance in the University community.

ADJOURNMENT

The meeting adjourned at 4:55 p.m. The next regular session of the Senate will be held at 3:30 p.m. on Monday, November 12, 1990, in the Conoco Auditorium.



Sonya Fallgatter
Administrative Coordinator



Patricia Weaver-Meyers
Secretary

OFFICE OF THE PRESIDENT

UNIVERSITY OF OKLAHOMA

MEMORANDUM

TO: Dr. Roger Rideout, Chair
Norman Campus Faculty Senate

Dr. Glenda Ochsner, Chair
HSC Faculty Senate

Jane Weber, Chair
Employee Executive Council

Charlene Clark-Smith, Chair
Employee Liaison Council

FROM: Richard L. Van Horn 
President

SUBJECT: Proposed Paid Leave and Short-Term Disability Policy

DATE: September 18, 1990

Attached is a proposed new policy on Paid Leave and Short-Term Disability. The proposed policy is designed to preserve the excellent benefits which help attract and retain valuable employees and to discourage misuse of sick leave. The proposed policy includes an accrual system to address questions raised by the Teachers' Retirement System about granting an additional year of credit upon retirement for unused leave. I ask that you review this proposal and forward your comments and suggestions.

Both new and current employees will benefit from incentives designed to reward responsible behavior. Employees will be given more control and responsibility for their use of paid leave time. The proposed policy provides consistent treatment for both hourly and monthly staff and employees with differing needs. i.e., personal illness versus family responsibilities.

The current sick leave policy can be interpreted as allowing "unlimited" sick leave. Inconsistent interpretation and administration have created inequities. The new policy allows all employees to earn "paid leave" benefits on a consistent basis and to manage their use.

Paid Leave

Under the proposed policy, paid leave time will combine vacation, sick, emergency and funeral leave. Nine month employees will accrue at a lower rate since vacation does not apply to them. The current policies regarding holidays, administrative leave, jury duty, voting and military leave will remain the same.

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New employees will begin accruing paid leave time immediately. During the first six months of employment, paid leave time may only be used for personal emergency or illness.

Current twelve-month employees will have their vacation accrual balance deposited into their paid leave time account. Six additional days will be deducted from their current sick leave balance and deposited in that account as well to cover incidental sick leave the first few months of implementation, thereby eliminating the need to use accrued vacation time for sick leave. If the addition of these hours exceeds the employee's maximum accrual, the balance will be returned to their short-term disability account.

Short-Term Disability

Current employees will receive the following deposit of sick leave into their short-term disability account (less the six days deposited in paid leave):

Hourly employees under five years of service	The total hours currently accrued as sick leave.
Monthly employees under five years of service	65 days (3 months)
All employees with five or more years of service	130 days (6 months)

New employees will receive deposits into their short-term disability account only after they accrue more than the maximum paid leave time allowance. Time accrued beyond the maximum allowance will be deposited in their short-term disability account.

Computer systems will maintain two balances for each employee, short-term disability and paid leave time. Time certifications will reflect usage in each. Changes of status and proper medical documentation will be required to use short-term disability. In accordance with Fair Labor Standards Act guidelines, paid leave time will not count as time worked for purposes of overtime calculations.

Careful consideration has been given to a transition plan for implementation of this policy. If adopted, an implementation date will be set and announced in advance. Appointments on or after the implementation date and illness or other use of paid time off or short-term disability on or after that date will fall under the new policy.

Questions about the proposed policy may be addressed to Don Flegal on the Norman Campus or Gerry Moore at the Health Sciences Center.

RVH:skp
Attachment

Paid Leave and Short-Term Disability Policy

Paid leave benefits are available to faculty and staff who hold continuous appointments. Employees on limited appointments and student employees are not eligible for paid leave time. Paid leave time may be used for vacation, personal illness, funeral attendance, illness of a family member, or other personal business. Monthly employees working at least half-time but less than full-time will receive paid leave accrual in proportion to their FTE appointment. Employees on the hourly payroll receive leave accrual on the basis of the number of hours paid. Accrual will be given for weeks during which at least 20 hours up to 40 hours are paid. Employees working at least half-time but less than full-time will accrue paid leave benefits on a pro-rata basis. The 40-hour work week will be the basis for the pro-rata computations. Earned paid leave time is accrued on a monthly basis according to the schedule below:

<u>Employment Category</u>	<u>Years of Service</u>	<u>Monthly Hours</u>	<u>Annual Accrual</u>	<u>Maximum Accrual Allowance</u>
Executive Officers, Administrative Officers, & 12-month Faculty	Each year	22	33 days (264 hrs)	42 days (336 hrs)
9-month faculty & staff*	Each year	8	12 days (96 hrs)	12 days (96 hrs)
All other staff	1st yr. - 5th yr.	18	27 days (216 hrs)	30 days (240 hrs)
	6th yr. - 10th yr.	20	30 days (240 hrs)	36 days (288 hrs)
	11th yr. & thereafter	22	33 days (264 hrs)	42 days (336 hrs)

*Accrual rate is less since vacation policy does not apply to 9-month faculty and staff.

Paid leave time can be accrued up to the maximum allowance listed above. Time accrued beyond the maximum allowance will be deposited in a short-term disability account. # Short-term disability can be used for extended personal illness requiring more than 10 days up to 240 days. Accrual to the short-term disability account is to a maximum of 240 days. Time deposited in the short-term disability account may not be transferred back to the paid leave time accrual.

Time away from work because of vacation, illness of a family member, funeral attendance, or other personal business is to be reported as paid leave time taken. Absence due to personal illness is to be reported as paid leave time taken for the first 10 days per incident. When there is no accrued time in the paid leave time account, the first ten days per incident of illness must be leave without pay. Absence due to personal illness beyond 10 continuous working days will be deducted from the short-term disability account as long as accrued time is available. When there is no accrued time in the short-term disability account, absence due to personal illness will be deducted from paid leave time. Paid leave time taken and short-term disability time taken will not be considered as time worked for the purpose of compliance with the University overtime policy.

Absences due to personal illness consisting of 10 continuous working days or less should be reported on the monthly payroll certification or hourly time records. Absences of more than 10 continuous working days are to be reported on the payroll certification and hourly time records, and a change of status form for short-term disability leave must be processed. The University reserves the right to require acceptable evidence of illness, disability or other pertinent reason for absences before allowing any charges to short-term disability leave benefits whatsoever.

Leave for personal illness should be taken in the following order: 10 days of paid leave time, short-term disability leave, compensatory leave, remaining paid leave time, leave without pay. Duration of the disability is to be medically determined. No supervisor should compel an employee to return to work without a medical release. Pregnancy is to be treated as any other short-term disability. An employee may continue normal duties through pregnancy or use available leave while unable to perform regular duties. Employees who utilize leave for pregnancy should suffer no penalty, retaliation or other discrimination.

Vacation time is to be taken from paid leave time. Authorized holidays falling within an employee's vacation period will not be counted as vacation time. Paid leave time may not be used for vacation within the first six months of employment. Use of paid leave time for other than personal illness or emergency must be scheduled in advance with supervisory approval. Employees must comply with departmental policies for reporting absences and approving time off work. Whenever possible, the University will grant earned paid time off at the convenience of the employee. However, departmental needs must be met.

Cash payment to an employee in lieu of paid leave time will not be permitted except upon termination. Employees terminating their employment under satisfactory conditions and who have been employed by the University more than six months will be paid for paid leave time which they have accrued not to exceed the amount of their annual accrual. Terminal pay will not include credit for University-recognized holidays falling within the terminal pay period. The budget head may recommend that terminal pay be denied to an employee discharged for serious cause. Retiring employees or the beneficiaries of deceased employees will not be governed by the one time annual accrual restriction, nor will they be deprived of pay for holidays falling within the terminal pay period. Employees appointed to grants and contracts accounts are expected to use all earned paid leave time during the specified period of their appointment or transfer the remainder into the short-term disability account so there will be no unused paid leave time remaining should the grants or contracts be discontinued. No cash payment will be made for time accrued in the short-term disability account.

New 9- and 12-month faculty will receive an initial deposit of 65 days into their short-term disability account.

<u>CURRENT POLICY</u>		<u>PROPOSED PAID LEAVE TIME POLICY</u>		<u>CURRENT POLICY</u>	<u>PROPOSED PAID LEAVE TIME POLICY</u>
<u>VACATION</u>				<u>SICK LEAVE</u>	
1. Available only to 12-month, continuous employees.		1. Available to all continuous employees.		1. Available to all continuous employees.	1. Same
2. Can't take vacation the first 6 months of employment.		2. Same--Cannot use paid leave time as vacation for first 6 months of employment.		2. 9 & 12 Month Faculty & Monthly Paid Staff Under 5 years of service - 3 months per incident. Five years of service or more - 6 months per incident	2. Sick leave is taken from paid leave time. After 10 continuous working days sick leave will be deducted from short term disability account as long as accrued time is available.
3. Accrual proportionate to FTE for monthly.		3. Same		Hourly Paid Employees	
4. Accrual based on hours paid but no less than 20 or over 40 for hourly.		4. Same		Under 5 years of service - 12 days per year. Maximum accrual is 60 days. Five years of service or more - 6 months per incident	
5. Considered time worked for overtime purposes.		5. Leave time taken will not be considered as time worked for overtime purposes.			
6. Number of vacation days earned per year:		6. Number of paid leave days earned per year (includes vacation, sick, emergency & funeral leave):			
Executive Officers, Admin. Officers & 12-Month Faculty	21 days	Executive Officers Admin. Officers & 12-Month Faculty	33 days		
Hourly Staff	1-5 years 12 days	9-Month Faculty and Staff	12 days		
Monthly Staff	1-5 years 15 days	All other Staff	1-5 years 27 days 6-10 years 30 days 11 years & over 33 days		
Monthly & Hourly Staff	6-10 years 18 days 11 years & over 21 days				
7. Maximum vacation accrual allowance:		7. Maximum paid leave time accrual allowance:			
Executive Officers, Admin. Officers & 12-Month Faculty	42 days	Same as current policy except:			
Hourly Staff	1-5 years 24 days	9-Month Faculty & Staff	12 days		
Monthly Staff	1-5 years 30 days	Hourly Staff	1-5 years 30 days		
Monthly & Hourly Staff	6-10 years 36 days 11 years & over 42 days				
8. Cash payment not permitted except on termination.		8. Same			
9. Maximum at termination 1 1/2 times annual accrual except upon retirement.		9. Maximum at termination is 1 times annual accrual except upon death or retirement.			
				<u>FUNERAL LEAVE</u>	
				Taken from available sick leave up to a total of 5 working days per occurrence.	Taken from paid leave time.
				<u>EMERGENCY LEAVE</u>	
				3 days each fiscal year	Taken from paid leave time.

PAID LEAVE QUESTIONS

1). *Why is it necessary to interrelate sick leave, vacation, and short term disability?*

The new policy essentially requires 12 month employees who get sick or have funeral and family emergencies to use what should be vacation time. This encourages people to come to work ill and in an unlikely state for quality job performance. It denies people who get sick a vacation and vacations are necessary for maximum employee productivity.

To designate unused sick leave/vacation time as the means for accruing short term disability penalizes people for being sick or going on vacation. As noted above this encourages sick people to come to work, encourages workaholicism, and in the end decreases productivity. Furthermore, if you use sick leave/vacation time then you accrue no short-term disability. This rewards those lucky enough to be stay well and penalizes those unlucky enough to need short-term disability.

2). *Why is it necessary to tie sick leave/vacation, through short-term disability, to TRS credit at retirement?*

This policy penalizes those who take sick leave/vacation by delaying retirement.

3). *This policy treats pregnancy as an illness or short-term disability. Why?*

The policy discriminates against women forcing them to use sick leave or short term disability and thus necessarily incurring the problems outlined under points 1 and 2.

4). *The policy makes no attempt to articulate with the Faculty Senate's Extended Care Leave proposal. Why?*

5). *By giving 12 month employees more paid leave than 9 month employees and allowing paid leave to accrue in short-term disability where it ultimately translates into TRS credit this policy gives 12 month employees a sizeable increase in benefits. Why is this necessary?*

The University seems to view 9 month faculty as part time employees. While those faculty may only teach for a 9 month period they spend most of their summer doing research, supervising student research, preparing for classes etc. That the 9 month's pay is actually for a 12 month job is tacitly recognized by the University in allowing the 9 month pay to be given in 11 installments.

6). *Because 12 month employees receive more paid leave where it accrues in short-term disability one group of employees is receiving an increased benefit in an area where all employees have the same need (i.e. short-term disability). Why?*

7). *How is this system going to be any more abuse-free than the existing system?*

Supervisors must still be in charge of insuring honesty. The possible loss of vacation and retirement time encourages people to try and cheat the system or show up in conditions under which they cannot possibly do their work.

Once people have attained 240 days (the maximum accruable amount) the abuse of the overage will be perceived as a problem.

ALTERNATIVES

Sick Leave (short term personal leave)

Why can't "sick" leave be set at some amount per year that reflects the average number of sick and emergency leave days taken? This would be nonaccruing or accruing to only 2X. If a person is not doing their job on any given day and is not on vacation then they are using their short term personal leave.

Vacation

Remain as present. Only two year's accrual. People should be encouraged to take vacation and not to work themselves to death.

Short-term Disability

Employees could receive an initial 65 days upon employment. Each year another 12 days accrue. If TRS will only give credit for untaken leave that somehow accrues then this can be used for that purpose (it still penalizes certain segments of the population, but less so than under the new proposal).

Extended Care Leave

a). Six to ten weeks paid leave beginning at time of delivery or adoption.

b). Five days leave for spouse/copartner of pregnant person or grandparent of resulting child.

c). Unpaid extended care leave and reduced percentage FTE for primary care giver.

11-13-90
DRAFT**RACIAL AND ETHNIC HARASSMENT
POLICY****I. Introduction**

The University of Oklahoma stands fully committed to a multicultural, multiethnic and multiracial university. Diversity is one of the strengths of our society and one of the hallmarks of a great university. Promoting dignity and respect among all members of the University community is a responsibility each of us must share. Acts of racial and ethnic harassment are repugnant to the University's commitments and will not be tolerated. While the University embraces the principles of free speech guaranteed by the First Amendment to the United States Constitution, it abhors the deliberate abuse of this freedom by those who would provoke hatred and violence based on race and ethnicity.

Racial and ethnic harassment is a growing concern across American college campuses. It has taken various forms, from criminal acts (assault and battery, vandalism, destruction of property) to anonymous, malicious intimidation and is most often directed toward persons whose race or ethnicity is readily identifiable. While principles of academic freedom and freedom of speech require tolerance of some offensive ideas and opinions, racial and ethnic harassment cannot and will not be permitted at the University of Oklahoma. The University's policy against racial and ethnic harassment will be vigorously enforced.

II. Policy Statement

It is the policy of the University of Oklahoma that racial and ethnic harassment shall be prohibited and is subject to disciplinary action as set forth in this policy. Racial and ethnic harassment is defined as:

1. Behavior or conduct addressed directly to individual(s) related to the victim's race, religion, ethnicity, or national origin that threatens violence, or property damage, or that incites or is likely to incite imminent lawless action; or
2. "Fighting words" such as racial and ethnic epithets, slurs, and insults directed at an individual(s) with the intent to inflict harm or injury or that would reasonably tend to incite an immediate breach of the peace; or
3. Slander, libel or obscene speech based on race, religion, ethnicity, or national origin.

III. Sanctions

Violations of this policy may result in disciplinary action taken by the appropriate authority. Sanctions may range from reprimands to suspension, expulsion or termination. Sanctions shall be based upon the facts and circumstances of each case and shall be in accordance with the terms and guidelines of the applicable campus complaint procedures.

IV. Retaliation

Threats or other forms of intimidation or retaliation against complaining witnesses, other witnesses, any reviewing officer, or any review panel shall constitute a separate violation of this policy which may be subject to direct administrative action.

V. Complaint Process

This policy is in addition to current University policies concerning discrimination, and applies to all students, faculty, staff, guests or visitors. Complaints alleging violation of the racial and ethnic harassment policy will be reviewed and investigated by the appropriate University office. Complaints may be resolved informally or may proceed through the applicable formal complaint proceedings. Complaints may be filed in the following manner:

1. Complaints against students or student organizations shall be filed with the Affirmative Action Office (AAO) for review and investigation. The AAO, or its designee, may assist in the informal resolution of the complaint or in processing a complaint through the applicable campus procedures.
2. Complaints against faculty or staff shall be filed with the Affirmative Action Office. The AAO or its designee may assist in the informal resolution of the complaint or in processing a complaint through the applicable campus procedures for faculty and staff.
3. Complaints against visitors or guests should be processed through the University of Oklahoma campus police departments.

VI. PREPARATION AND DISSEMINATION OF INFORMATION

The Affirmative Action Officer is charged with distributing copies of this Policy to all current members of the University community.

To contact the Affirmative Action Office:

Norman Campus
Room 102, Evans Hall
325-3546

Health Sciences Center Campus
Room 111, Library Building
271-2110

DRAFT

11-13-90

PROCEDURE FOR RACIAL AND ETHNIC HARASSMENT COMPLAINTS AGAINST STUDENTS

A. Who May Use Procedure

Racial and ethnic harassment complaints against students or student organizations shall be addressed under the procedures embodied herein in accordance with the authority delegated by the Board of Regents through the President. The procedure is available to any person who, at the time of the acts complained of, was enrolled as a student at or employed by the University of Oklahoma.

B. Filing of Complaint

Persons who have complaints alleging racial or ethnic harassment are encouraged to raise them with the Affirmative Action Officer. The Affirmative Action Officer or the Affirmative Action Officer's designee is referred to as "administrator."

C. Timing of Complaint

Any complaint (either verbal or written) must be filed with the Affirmative Action Officer within 30 University class days of the complainant's discovery of the act of alleged racial or ethnic harassment. All other time periods may be extended for good cause.

As addressed in the policy, the University reserves the right to deal administratively with racial and ethnic harassment issues whenever becoming aware of their existence.

D. Withdrawal of Complaint

The complainant may withdraw the complaint at any point during the investigation or prior to the completion of a formal hearing.

E. Proceedings

1. INFORMAL PROCEEDINGS

Upon receipt of a complaint of racial or ethnic harassment, the Affirmative Action Officer or designated administrator is empowered to investigate the charge, to interview the parties involved, to hear testimony pertaining to the matter, and to gather any pertinent evidence. The investigation shall be completed within 30 University class days of receipt of the complaint and the investigator shall prepare a written report of the investigation.

In arriving at a determination of the existence of racial or ethnic harassment, at any stage of the proceedings, the evidence as a whole and the totality of the circumstances and the context in which the alleged incident(s) occurred shall be considered. The determination of the existence of racial or ethnic harassment will be made from the facts on a case by case basis.

Upon completion of the investigation, the Affirmative Action Officer or designated administrator is authorized to take the following actions:

a. Satisfactory Resolution

Resolve the matter to the satisfaction of the University and both the complainant and the party accused of racial or ethnic harassment. If a resolution satisfactory to the University and both parties is reached through the efforts of the Affirmative Action Officer or administrator, a written statement, a copy of which shall be attached to the administrator's investigation report, shall indicate the agreement

reached by the parties and shall be forwarded to the Affirmative Action Officer. At that time the investigation and the record thereof shall be closed by the Affirmative Action Officer.

b. No Resolution

Find that the parties are unable to resolve the matter informally. Written notice of such finding shall be given each party involved. Any party has the right to request in writing within 15 University class days of the date of that notice a formal hearing according to the provisions of the section on Formal Hearing. The request is to be addressed to the Affirmative Action Officer. If no such request is made within the 15 University class day period, the opportunity for such hearing shall be forfeited and the case shall be closed.

c. Dismissal

Find that no racial or ethnic harassment occurred and dismiss the complaint, giving written notice of said dismissal to each party involved. The finding may indicate that the alleged conduct is protected by the First Amendment. The complainant has the right to appeal said dismissal in writing to the President within 15 University class days of the date of the notice of dismissal. If no appeal is filed within the 15 University class day period the case is considered closed.

2. DIRECT ADMINISTRATIVE ACTION

The Vice President for Student Affairs/Vice Provost for Educational Services or other appropriate persons in authority may take immediate administrative or disciplinary action which is deemed necessary for the welfare or safety of the University Community. Any student so affected must be granted due process including a formal hearing as provided herein, within 15 University class days following the summary action.

3. FORMAL PROCEEDINGS

a. Request for a Formal Hearing

- (1) Appeals and complaints unresolved following an investigation may result in a formal hearing before the hearing panel described below. The written request for a hearing is to be addressed to the Affirmative Action Officer.
- (2) The written request for a hearing must contain the particular facts upon which the racial or ethnic harassment claim, or other reasons for the hearing, is based as well as the identity of the appropriate respondent(s). A copy of the request shall be given to the proper respondent(s).
- (3) Any written response to the request for a formal hearing must be sent to the Affirmative Action Officer within 15 University class days of receiving notice that a formal hearing has been requested. A copy of the response shall be given to the party requesting the hearing.

b. The Formal Hearing Panel

A Hearing Panel shall be appointed for each campus to hear cases involving alleged violations of the Racial and Ethnic Harassment Policy. Each panel shall be composed of seven (7) members appointed by the President of the University: three students, one of which shall be nominated by the respective Student Body President; two faculty members, one of which shall be nominated by the respective Faculty Senate Chair; and two full-time University staff members, one of which shall be nominated by the respective Staff Employee Council Chair. One member of the panel shall be a qualified attorney. Nominees of the constituent groups shall serve an initial term of one year

with subsequent appointments for two-year terms. All other appointments shall be for a term of two years.

The Affirmative Action Officer shall convene the panel at the beginning of each academic year for the purpose of orientation and selection of the presiding officer.

The Panel shall act on the authority delegated by The Board of Regents of the University through the President for issues concerning University discipline. The Panel shall have authority to hear cases involving alleged violations of the Racial and Ethnic Harassment Policy. Additionally, the Panel shall have jurisdiction over other acts of misconduct which arise out of the same incident or occurrence which is the basis of the harassment complaint.

c. Hearing Procedures

- (1) The Hearing Panel shall schedule its hearing to reasonably ensure that the complainant, respondent, and essential witnesses are able to participate. A hearing must be held within 30 University class days of receipt of the written request for hearing.
- (2) The Hearing Panel shall establish and publish rules of procedures for conducting hearings consistent with the guidelines established herein.
- (3) Each respondent to a complaint will be asked to sign a statement that they have received a copy of the applicable rules, regulations, policies and procedures which shall be available through the Affirmative Action Office.
- (4) Students shall be given written notice of the charges against them at least ten (10) days prior to a hearing. The notice shall include:
 - (a) Statement of the time, place, and nature of the hearing;
 - (b) Statement of the authority and jurisdiction under which the hearing is to be held;
 - (c) A reference to the particular sections of the Policy involved;
 - (d) A short and plain statement of facts asserted in enough detail to provide the average person with a clear understanding of the origin and nature of the incident alleged.
- (5) Any Panel member with a conflict of interest in a particular case shall disqualify themselves or be disqualified. Requests for disqualification shall be made in writing to and decided by the Affirmative Action Officer. The requests shall be made at least 10 days prior to any scheduled hearing. The President or his designee shall appoint a person as needed to replace members excused due to disqualification, unavailability, or other factors. A quorum consisting of five (5) panel members shall be required to hear any case.
- (6) The parties and/or their authorized representatives shall be accorded the opportunity to present evidence, respond to any evidence against them, call appropriate witnesses in their behalf, cross-examine witnesses, and present any other evidence relevant to the proceedings. Formal rules of evidence shall not apply.
- (7) The Panel shall have the power to compel student witnesses to appear. In addition, the Panel shall have the power to cite students for failure to comply with the lawful directions of institutional officials.
- (8) The burden of proof shall be upon the complaining party. The Panel shall make its decision based upon a fair, careful and objective consideration of the information presented by both parties. Clear and convincing evidence is required

in cases which result in suspension or expulsion in accordance with the guidelines provided below.

- (9) Any student respondent may be accompanied and assisted by a representative who may be an attorney. For Norman campus students, free assistance is available from the UOSA General Counsel Office.

Any respondent who will have legal counsel present shall notify the Chair of the Hearing Panel ten (10) days in advance of the scheduled hearing.

A Hearing Advocate shall be available through the Affirmative Action Office to assist in the preparation and presentation of complaints to the Hearing Panel. The Office of Legal Counsel for the University of Oklahoma may present or assist in the presentation of any complaint.

- (10) The hearing shall be open. Deliberations of the Hearing Panel shall be made in closed session.

d. Satisfactory Resolution Prior to Hearing Completion

In the event the matter is resolved to the satisfaction of all parties prior to completion of the formal proceedings of the Hearing Panel, a written statement shall indicate the agreement reached by the parties and shall be signed and dated by each party and by the Chair of the Hearing Panel. The case shall then be closed.

e. Panel's Final Order

In the event no solution satisfactory to the parties is reached prior to the completion of the formal proceedings of the Hearing Panel, a final order of the Panel shall be issued in writing. The final order shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. The final order shall set forth the sanctions, if any, in accordance with guidelines established below. Parties shall be notified either personally or by mail of any order.

f. Sanctions

The Hearing Panel has the authority to issue sanctions including warnings, reprimands, disciplinary probation, restitution, fines, and educational alternatives. Examples of disciplinary sanctions are set forth in the Hearing Guidelines.

The Hearing Panel has the authority to recommend the disciplinary sanction of suspension or expulsion. The severe sanction of suspension and expulsion shall be imposed only when the offending behavior involves violent or dangerous acts, wanton disregard for human life and the safety of others, repeated offenses, or acts by an offender already on disciplinary probation.

g. Appeals

Appeals of the final order of the Hearing Panel may be made to the President of the University. A written appeal must be filed within ten (10) days of the final order of the Hearing Panel. The written appeal shall be filed with the Affirmative Action Officer who shall forward it to the Office of the President. The grounds for appeal to the President shall be:

- (1) Insufficient evidence to support the decision;
- (2) The sanction imposed is too harsh;
- (3) An error that significantly prejudices the right of the defendant;
- (4) Significant new information.

PROCEDURE FOR RACIAL AND ETHNIC HARASSMENT COMPLAINTS AGAINST EMPLOYEES

F. Confidentiality of Proceedings and Records

The administrators, investigators and members of the Hearing Panel are individually charged to preserve confidentiality with respect to any matter investigated or heard.

A breach of the duty to preserve confidentiality is considered a serious offense and will subject the offender to appropriate disciplinary action.

All records upon disposition of a complaint - regardless of how handled - shall be transmitted to and maintained by the Affirmative Action Officer as confidential records.

A. Who May Use Procedure

The grievance procedure embodied herein shall be available to any person who, at the time of the acts complained of, was employed by, or was enrolled as a student at the University of Oklahoma except for complaints against students. Racial and ethnic harassment complaints against students and student organizations shall be addressed under the student complaint procedures prescribed by the University.

B. Filing of Complaint

Persons who have complaints alleging racial and ethnic harassment are encouraged to raise them with the Affirmative Action Officer. The Affirmative Action Officer or the Affirmative Action Officer's designee is referred to as "administrator."

C. Timing of Complaint

Any complaint (either verbal or written) must be filed with the Affirmative Action Officer within 180 calendar days of the act of alleged racial and ethnic harassment. All other time periods may be extended by the administrator for good cause.

As addressed in the policy, the University reserves the right to deal administratively with racial and ethnic harassment issues whenever becoming aware of their existence.

D. Withdrawal of Complaint

The complainant may withdraw the complaint at any point during the investigation or prior to the completion of a formal hearing.

E. Proceedings**1. INFORMAL PROCEEDINGS**

Upon receipt of a complaint of racial and ethnic harassment, the Affirmative Action Officer or other appropriate administrator is empowered to investigate the charge, to interview the parties involved, to hear testimony pertaining to the matter, and to gather any pertinent evidence. The investigation shall be completed within 30 calendar days of receipt of the complaint and the investigator shall prepare a written report of the investigation.

In arriving at a determination of the existence of racial and ethnic harassment, at any stage of the proceedings, the evidence as a whole and the totality of the circumstances and the context in which the alleged incident(s) occurred shall be considered. The determination of the existence of racial and ethnic harassment will be made from the facts on a case by case basis.

Upon a clear showing at any stage in the grievance procedure that immediate harm to either party is threatened by the continued performance of either party's regular duties or University responsibilities, the proper executive officer may suspend or reassign said duties or responsibilities pending the completion of the grievance procedure.

Upon completion of the investigation, the Affirmative Action Officer or other administrator is authorized to take the following actions:

a. Satisfactory Resolution

Resolve the matter to the satisfaction of the University and both the complainant and the party accused of racial and ethnic harassment. If a resolution satisfactory to the University and both parties is reached through the efforts of the Affirmative Action Officer or other administrator, a written statement, a copy of which shall be attached to the administrator's investigation report, shall indicate the agreement reached by the parties and shall be signed and dated by each party and by the administrator. At that time the investigation and the record thereof shall be closed.

b. No Resolution

Find that the parties are unable to resolve the matter informally. Written notice of such finding shall be given each party involved, except as noted in paragraph d.(2). Any party has the right to request in writing within 15 calendar days of the date of that notice a formal hearing before a panel selected from the membership of the Committee on Discrimination, according to the provisions of the section on Formal Hearing. The request is to be addressed to the Affirmative Action Officer. If no such request is made within the 15 calendar day period, the opportunity for such hearing shall be forfeited and the case shall be closed.

c. Dismissal

Find that no racial and ethnic harassment occurred and dismiss the complaint, giving written notice of said dismissal to each party involved. The finding may indicate that the alleged conduct is protected by the First Amendment. The complainant has the right to appeal said dismissal in writing to the President within 15 calendar days of the date of the notice of dismissal. If no appeal is filed within the 15 calendar day period the case is considered closed.

d. Determination of Impropriety

- (1) Make a finding of impropriety and notify the parties of the action to be taken. Either party has the right to appeal said determination in writing within 15 calendar days of the date of notice of determination to the Affirmative Action Officer by requesting a formal hearing according to the provisions of the Formal Hearing. If no appeal is filed within the 15 calendar day period the case is considered closed.
- (2) In the case of a complaint against a faculty member, the administrative investigator may determine that the evidence of racial and ethnic harassment or other impropriety is sufficiently clear and serious so as to warrant the immediate commencement of formal proceedings as provided in the Abrogation of Tenure, Dismissal Before Expiration of a Term Appointment, and Severe Sanctions section of the Faculty Handbook. If the President concurs with the administrator's finding, the case shall be removed from the grievance proceedings contained herein and further action in the case shall be governed by the Abrogation of Tenure, Dismissal Before Expiration of a Term Appointment, and Severe Sanctions section in the Faculty Handbook. Otherwise, this policy and procedure shall apply.

2. FORMAL PROCEEDINGS

a. Request for a Formal Hearing

- (1) Appeals and complaints unresolved following an investigation may result in a formal hearing before a hearing panel selected from the membership of the Committee on Discrimination as described below. The request for a hearing is to be addressed to the Affirmative Action Officer.
- (2) The request for a hearing must contain the particular facts upon which the racial and ethnic harassment claim, or other reasons for the hearing, is based as well as the identity of the appropriate respondent(s). A copy of the request shall be given to the proper respondent(s) with an invitation to respond.
- (3) Any written response to the request for a formal hearing must be sent to the Affirmative Action Officer within 15 calendar days of receiving notice that a formal hearing has been requested. A copy of the response shall be given to the party requesting the hearing.

b. Selection of a Formal Hearing Panel

Within 10 calendar days, following receipt of the written request for a hearing, the Affirmative Action Officer shall preside at a meeting with both parties to determine the members of the Hearing Panel who are to conduct a hearing.

A five member hearing panel will be chosen from the memberships of the Staff Committee on Discrimination, the Committee on Discrimination (Faculty), and the Student Discrimination Grievance Committee on the appropriate campus by the parties to the complaint. The selection process shall be in the following manner: the complainant shall select two panel members, and the respondent shall select two panel members with the fifth person being chosen by the other four panelists. The fifth person shall chair the panel. If the four panelists cannot agree on the fifth, the names of five additional Committee members will be drawn by lottery. Each panelist will strike one name off the list of five names. The remaining person shall be the fifth panelist. Either party of the complaint may request the Affirmative Action Officer to disqualify any member of the Hearing Panel upon a showing of cause. Furthermore, no panelist shall be expected to serve if he/she feels that a conflict of interest exists. Replacements shall be selected in the same manner as the original panel.

The panel shall be convened by the Affirmative Action Officer for an orientation meeting prior to the formal hearing. Each panel member shall be given a copy of the written complaint, the written response, the investigator's report and the Hearing Guidelines.

c. Hearing Guidelines

The hearing panel procedures in conducting formal proceedings shall be established with reference to the Hearing Guidelines and shall provide that the parties to a proceeding may be represented by legal counsel and that the parties may present all of the evidence that they consider germane to the determination. Further, the parties may call witnesses to testify and may cross-examine witnesses called by the other party. The formal proceeding shall be closed to the public unless either the complainant or respondent request otherwise. Audio tape recordings of the proceedings shall be arranged by the Chair of the Hearing Panel.

Any party who wishes to have legal counsel present at the hearing must notify the Hearing Panel Chair and other parties that legal counsel has been retained at least 5 calendar days in advance of the scheduled hearing. Attorneys may advise their clients at the hearing but may not directly address the Hearing Panel or witnesses.

The Chair of the Hearing Panel shall notify parties and other participants it wishes to call as witnesses of the date, time and location of the hearing. Parties are responsible for giving such notice to their witnesses. The hearing shall be scheduled to reasonably ensure that the complainant, respondent, and essential witnesses are able to participate.

d. Satisfactory Resolution Prior to Hearing Completion

In the event the matter is resolved to the satisfaction of all parties prior to completion of the formal proceedings of the Hearing Panel, a written statement shall indicate the agreement reached by the parties and shall be signed and dated by each party and by the Chair of the Hearing Panel. The case shall then be closed.

e. Panel's Findings and Recommendations

In the event that no solution satisfactory to the parties is reached prior to the completion of the formal proceedings of the Hearing Panel, the Panel shall make its findings and recommendations known to the proper executive officer, with copies to the President of the University of Oklahoma and the Affirmative Action Officer. The Panel's report, with its findings and recommendations, shall be prepared and properly transmitted within seven (7) calendar days after conclusion of the proceedings.

f. Executive Officer's Decision

Within 15 calendar days of receipt of the Hearing Panel's findings and recommendations, the proper executive officer shall inform the complainant and the respondent of the findings of the Hearing Panel and the officer's decision regarding the racial and ethnic harassment complaint. A copy of the officer's decision shall be transmitted to the Chair of the Hearing Panel, with copies to the President of the University and the Affirmative Action Officer. In a case investigated initially by an administrator, the administrator also shall be informed of the officer's decision. If the recommendations of the Hearing Panel are rejected or modified, the executive officer shall state the reasons for such deviation. In the event the allegations are not substantiated, all reasonable steps will be taken to restore the reputation of the accused.

g. Appeal to the President

The Executive Officer's decision may be appealed to the President within 15 calendar days of being notified of prospective action or of action taken, whichever is earlier. If the President does not act to change the decision of the Executive Officer within 15 calendar days of receiving the appeal, the decision of the Executive Officer shall become final under the executive authority of the President.

F. Confidentiality of Proceedings and Records

Investigators and members of the Hearing Panel are individually charged to preserve confidentiality with respect to any matter investigated or heard.

A breach of the duty to preserve confidentiality is considered a serious offense and will subject the offender to appropriate disciplinary action.

Except for complaints that ultimately go before the Faculty Appeals Board, all records upon disposition of a complaint - regardless of how handled - shall be transmitted to and maintained by the Affirmative Action Officer as confidential records.