The slate of nominees for officers of the University Faculty Senate for 1973-1974 are:

For Chairman  
Ernest L. Bergman  Agriculture
Marjorie East  Education

For Vice-Chairman  
Barnes W. McCormick, Jr.  Engineering
Patricia M. Overdeer  Ogontz Campus

For Secretary  
Murray S. Martin  Liberal Arts
Sally S. Small  Berks Campus

(Ballots were mailed to Senators who will be serving in 1973-1974 - on May 11, 1973. They are to be returned to the Senate Office by noon, Monday, June 4, 1973. The results of the election will be announced at the Senate Meeting on June 5, 1973.)

UNFINISHED LEGISLATIVE BUSINESS

Senate Committees on Faculty Affairs and Committees and Rules

Subcommittee on Faculty Rights and Responsibilities
G. E. Philips, Chairman

(The presentation and discussion is typed from the tape of the meeting.)

Philips: I was advised that I should not give a long presentation since we discussed this matter last month at the Senate Meeting. Since I am rather uncomfortable standing in front of the Senate anyway, I intend to do just that. The remarks that were made earlier in this meeting by President Oswald relating to the proposed procedures - I believe I can speak for the committee and say it is in full accord with what he has said. I don't see that there are any conflicts between his statements - I guess it would be appropriate to say - his statements of parameters if these procedures are adopted. I would like to make a very brief comment on a couple of items. In one of them he indicated the necessity for an effective date for the procedures. The committee is completely, I don't believe there is any disagreement on this, the committee feels that these procedures should not be applied retroactively - that they should come into effect fairly soon after they are passed by the Senate and found to be acceptable to the administration, but that they should not take up cases that go back into past history. They should be applied prospectively. The committee did not include in the specifics of the procedures a suggested date because we hope that in accord with the general thrust of the procedures the emphasis would be on consensus and agreement rather than on legal technicalities. I think the committee would take the position that we would like to see agreement between all parties involved. We do indeed mean to go into these procedures with a very clear understanding that they are not meant to be applied retroactively. In line with that I would suggest that it would be quite appropriate for some of these procedures, if they are passed and that the administration finds that they believe they can cooperate with them, it would be quite appropriate for President Oswald to specify an effective date which is reasonable and workable and we will operate on that basis.

Another item which he mentioned which was discussed at considerable length at our meeting last month, is the question of procedures and substance. President Oswald emphasized and the committee agrees with this, that the committee and the potential hearings that could be established under these procedures would not be concerned with the substance in such matters as does or does not this faculty member merit promotion or does he or does he not merit tenure or whatever may be involved in the issue. At the same time I think that the procedures try to establish clearly
that we want assurance that people who have complaints not be denied an opportunity to build a case merely on grounds of a technicality. I think it is very important that when we refer to the fact that the procedures will deal with procedural fairness and not with substantive judgments on official matters as stated in the preamble, it must be clear to all concerned that this does not deny to a faculty member the opportunity to attempt to demonstrate that there may have been a serious injustice done. If the faculty member can sustain the burden of proof of demonstrating that did occur, then the faculty member should be given the right to be heard on this matter. We have attempted to cover this in the preamble to the procedures rather than by spelling out a long list of circumstances in which a complaint can be brought and circumstances in which they cannot. The committee feels that this is the best way to approach the question rather than trying to develop a cookbook of cases. A general intent is to trust the faculty to elect Senators who will elect a committee with reasonably good judgment and good sense in such matters so that our faith then will be resting on the good judgment of the committee rather than on the technicalities of procedures of that sort.

It is very important that the faculty have assurance they will be heard. Once this has occurred and the process has gone through formal hearings, the hearing board will make recommendations. These recommendations are not binding as this is not to be an arbitration procedure but is a hearing procedure which results in recommendations to the President of the University. When the President of the University finds that his decision would not be in accord with the recommendations which he receives from the hearing board, then we provide in the procedures that he will specify the reasons for the decision. This part of the procedures give assurance to the faculty member that the procedures will not be treated as a mere token process which has no effect but will be seriously dealt with.

Now my emphasizing those two points may lead you to feel that the committee views these procedures as a sort of a defense mechanism against evil administrators. That is not a fair description. The committee views these procedures as reasonable procedures, the thrust of which is to promote good relations between faculty members and administrators and to emphasize the positive aspect of goals of the University which we believe can be better achieved if these procedures exist.

That is the end of my presentation. At this point I move the action items at the end of our Appendix "E". These action items are four in number. First, that we adopt these procedures. Second, we ask the president of the University to indicate the willingness of the University administration to cooperate in implementing the procedures. The third item is to amend the Standing Rules to establish these procedures in the Senate Rules. The fourth item provides for continuing review of the procedures through the Faculty Affairs Committee and certainly including consultation with the administration each academic year thereafter with recommendations coming for revisions in the procedures.

Taylor: Is there a second to this motion? This report has been moved and seconded with the action items as stated. Is there discussion of this motion?

R. F. Reynolds - McKeesport Campus: I have been authorized by the Intra-University Relations Committee to propose an amendment to the main motion. This would appear on page 5, Appendix "E" under Roman Numeral IV, Committee on Faculty Rights and Responsibilities - A. Establishment of a Committee - numbers 1. and 3. To amend by adding to items number 1. and 3. the sentence "two of the faculty members shall be from academic voting units other than those at University Park."

There was a second and discussion on the amendment.
Philips: This proposal was presented to the subcommittee at a recent meeting, and the subcommittee has discussed this and considered some of the ramifications of the proposal. The subcommittee has voted not to support the amendment. We do not feel that the amendment does serious harm to the proposal, we are not against it on those grounds—we do have some reservations about it. The concern was expressed that as soon as we start assuring certain representation on this committee, we begin to get questions from other people who want assured of representation. There is also a danger that the people on the committee might begin to view it as protecting their territorial interests or something of the kind. Whereas the focus of this committee should not be departmental, or college or campus-oriented, it should be a faculty-administration widely oriented and many members of the committee would prefer not to see this amendment made. The committee, however, does not feel that it would do serious harm.

Reynolds: In the Standing Rules under the description of the Committee on Committees and Rules, it is stated that appointments to all committees should reflect a variety of disciplines, functions, and geographical locations within the University. The record of the Committees and Rules and the Senate has been impeccable in this regard. This substantiates that it is the sense of the Senate that all committees should have Commonwealth Campus representation on these committees. Now on an appointed committee this can be guaranteed by the Standing Rules. The Commonwealth Campuses have large numbers of untenured faculty and view this as an extremely important committee. We feel that the sense of the Senate should be guaranteed on this committee. The Senate Council will probably nominate many Commonwealth Campus Senators for these positions and nominations can be made from the floor. But you cannot control the outcome of an election by controlling the nominations. I feel that the only way that the Senate can guarantee its will in this regard is by means of such an amendment.

Taylor: Is there further discussion of this amendment? (The amendment passed, 66 to 49.) Discussion returned to the motion to accept the report.

D. P. Silverman - Liberal Arts: I would like to say that I am strongly in favor of the general proposal but one comment before I introduce a couple amendments of my own. In line with President Oswald's comment about a date this would take effect—according to the proposal, it indicates the Senate Council would bring a list of candidates before the Senate at its May Meeting for replacements. Now I assume all places are currently vacant on this committee and I assume then that we would have to arrange for a special date when the first slate of candidates should be brought before this body. I should think that we would not want to wait until next May for that to happen.

I do have a couple of amendments which I offer for the purpose of making certain provisions clearer and perhaps even stronger. They are on page 7 of the document—items 15. and 16. I thought while I have the floor I would indicate the nature of both the amendments even though they would have to be dealt with one at a time. The first would deal with item 15.—the first sentence would remain the same, but then the second sentence would begin—"Within 30 days of receipt of the report of the hearing board, the President shall notify the Chairman of the Committee of his acceptance or rejection of the findings and recommendations of the report and shall indicate what action, if any, he intends to take in the matter." Then the following sentence—in the event of the President's decision not in accord that would remain the same up to after the word "responsibilities." Then there would be another sentence—"The President's reply in every case shall be transmitted in full to the Committee and the parties directly involved." That's mainly to clarify the role of the President in this procedure.
In item 16. I intend to introduce an amendment there to strengthen that. Under the present wording, the committee would come before the Senate with a very general report - I frankly would like to see something a bit more specific. So I would word item 16. as follows: "At the May Senate Meeting of each academic year the Chairman of the Committee on Faculty Rights and Responsibilities will present a report indicating the nature and disposition of each case - not names, or anything of that sort - the nature and disposition of each case put before a hearing board. The Committee shall also make any recommendations it deems advisable for Senate action to establish general University-wide guidelines in the area of faculty rights and responsibilities." In other words, I would like a more definite report and I also would hope that the experience of this committee might serve us as a basis for developing some general guidelines and if we could develop general guidelines it might perhaps mean that eventually the committee would no longer have to function if there are general guidelines to be followed in the first place. I would like to move the first amendment.

Taylor: Is there a second to the first amendment? The first amendment has been moved and seconded - this is a change in item 15. on page 7. Is there discussion of this amendment?

M. B. Matson - Liberal Arts: I think I would speak in opposition to the first suggestion here. I think it is unnecessary - I think the 30 day period could be unrealistic in certain instances, and I think that the number 15. as it states provides the safeguards that Dr. Silverman is concerned about. I believe they are in there already.

Taylor: Is there further discussion?

A. J. Engel - Engineering: As a member of the subcommittee I speak here strictly on my own behalf, but we did struggle with item 15. for about 6 or 8 hours - very specifically, and the wording is rather carefully chosen and I would hate to see this amendment change it.

Taylor: Is there further discussion on this amendment?

E. L. Bergman - Agriculture: I just would like to echo what the two previous speakers have just said. We worked very hard on that item 15. and it was a general compromise by everybody concerned. I do not see what improvement could be made by accepting that motion which was brought in this afternoon. I urge you to vote against it.

The vote was taken and the amendment failed.

Dr. Silverman moved his second amendment - Number 16. - "At the May Senate Meeting of each academic year the Chairman of the Committee on Faculty Rights and Responsibilities will present a report indicating the nature and disposition of each case put before a hearing board. The committee shall also make any recommendations it deems advisable for Senate action to establish general University-wide guidelines in the area of faculty rights and responsibilities."

There was a second and discussion.

M. B. Matson - Liberal Arts: I feel that there are two elements introduced in the proposed amendment that are undesirable. There is no safeguard against including names in asking for a detailed report item by item, or action by action, and I think this is unfortunate. The second objection I have to it is that the responsibility for developing guidelines does not necessarily rest with this body. We are trying to do two things within this instance which I think are not necessarily compatible.
I believe that the brief report is adequate for the purposes here and that in the instance of requests for special information, the committee could deal with this.

P. A. Klein - Liberal Arts: I just wonder if Dr. Silverman would accept an amendment that states explicitly that no names would be included in any reports.

The vote was taken and the amendment failed by a voice vote.

Discussion continued on the main motion.

R. C. Buck - Liberal Arts: Looking at item 8. - hearings before a hearing board will not be public - publicity and public statements about the case by either the faculty member or administrative officers will be avoided so far as possible - I have an amendment I would like to make, just an editorial change - striking out "so far as possible." It's either public or not public as I see it.

There was a second and discussion.

N. J. Palladino - Engineering: I had a problem with the same item and as a matter of fact I was raising my hand to speak or raise a question about this. This, even as amended, would make it public after the proceedings were over. Is that the intent, that publicity would be given after proceedings were over?

Philips: No - the intent is not to make the hearings public after ---

Palladino: It says publicity and public statements about the case, etc. will be avoided so far as possible until the proceedings have been completed. There is an implication that after the proceedings have been completed that you can release publicity. I think we ought to protect the confidentiality of the individual involved because there may be things said at these hearings that individuals would just as soon not have repeated.

Philips: The intent was that the hearings will not be public. Our committee felt that we could not bind either the faculty party involved or the University administration not to say anything about these matters, and therefore there is reference in the wording to after the proceedings have been completed. That does not say, nor is it intended to mean, that there will be publicity after the hearings have been completed, but it does mean the parties involved are not precluded from making public statements about the case after the fact of the holding of the hearings. In fact, it would not be possible for us to bind the parties involved to stay forever silent about the case. If I may expand on that just a little bit, the committee did discuss this procedural step at some length. One of the several models that we looked at or considered in developing these procedures was the procedural standards recommended by the AAUP in their 1972 recommended regulations. The corresponding section in their proposal reads as follows, and you will see that theirs is somewhat different than ours - "The Committee in consultation with the President and the faculty member will exercise its judgment as to whether the hearing should be public or private." Now our procedure differs in a major way from that. Rather than making it optional as to have public or private hearings, we prescribe that the hearing should not be public, and we feel that this is an appropriate procedure. I think the committee would not be pleased to see this procedure changed in such a way as to make it more restrictive against statements.

Taylor: Is there further discussion of this amendment which is just to delete the words "so far as possible" from item 8? If there is no further discussion - all those in favor of this amendment please say aye - all those opposed please say no. (A hand vote followed.) The motion carried 71 to 16. Further discussion on the main motion continued.
N. J. Palladino - Engineering: I would like to ask a question with regard to the preamble. First, it is not clear what the purpose of it is, but it does explain a few things and I think they are points of value. But on page 2, there actually are some statements that are quoted from the AAUP document which are not consistent with University policy. Therefore, it leaves me in the lurch as to what the status is. For example, in the last paragraph on page 2, it says in the second sentence - it does not mean that the review committee should substitute its own judgment for that of members of the department on the merits of whether the candidate should be reappointed or given tenure, and it goes on in the next sentence and speaks about the candidate's departmental colleagues' thinking must prevail. Actually our procedures place the responsibility for tenure on the shoulders of the Dean and this implies that it is otherwise. Is this not a bit misleading? I have no objection to what is trying to be expressed here, but I am a little worried that new faculty members particularly might be misled by this statement in believing that this is the way tenure is granted.

Philips: The answer to your question is that the preamble is not meant to be legislation which affects University policy and procedures. The purpose of that part of the preamble which is labeled "Objectives" is to describe necessarily general terms. The purposes of establishing these procedures, the intents - you can see on the first page of the preamble - is a fairly clear statement as to just what it is the committee will deal with. The quotation, three paragraphs long on page 2 from a report of the Committee of AAUP is an important part of the procedures. The significance of this is not at all that it describes who is responsible and who isn't, but on the contrary the significance of that, which I feel is very great to these procedures, is that this discusses the issue that I referred to earlier. Namely, one expression used here is the issue of inadequate consideration which the committee feels is important - that that type of case when the faculty member can make a case - should not be automatically excluded from this consideration. That is the intent and purpose of that. The specific parts of the third paragraph to which you refer - the reference to substitution of judgment for members of the department or merits of whether a candidate should be reappointed or given tenure, the preceding sentence - "conscientious judgment of candidates' departmental colleagues must prevail, etc.," those statements are - we quoted this in its entirety from the AAUP Committee Report - we don't think it would be appropriate to edit that statement. Obviously there will be differences of view as to what are the appropriate procedures. It is very clear at Penn State, as in nearly every other University, that the ultimate authority rests with the Board of Trustees or Regents or whoever it is. I think that this whole section is an important part of these procedures because of the fact that it does describe these issues that I mentioned.

Palladino: Mr. Chairman, it is still not clear when we vote whether we're including this preamble - otherwise, I think we do have some problems. If it is clear that we're not voting on the preamble in any legislative way then I would like the minutes to reflect it.

Philips: I don't think you can say that we are not voting on the preamble - as a matter of fact there is a reference to the preamble in the body of the procedures on page 4, Roman Numeral II, item B. 1. You can follow along - parts on the bottom of page 4 - this is the key descriptive part of the procedures which describes what kinds of matters may be considered by the Committee on Faculty Rights and Responsibilities relating to faculty members, and the statement says - "the committee may review petitions from faculty members involving any situation in which a faculty member asserts that he or she has suffered a substantial injustice resulting from a violation of academic freedom, professional ethics or procedural fairness as discussed in the preamble in these procedures." That reference to the preamble is intentional because of the felt need that we should not just use these expressions without reference to a discussion of some ramification.
Taylor: Is there further discussion of this motion?

Palladino: May I ask a question? Is this quote an extract of a longer quote?

Philips: Yes, it is.

Palladino: Well, then I would like to move that the last paragraph of that quote be deleted from the preamble.

Taylor: Is there a second to this motion? The motion was seconded.

E. L. Bergman - Ag.: This same part which is supposed to be omitted now according to the motion was in the original draft of April 6, 1971, entitled - Senate Committee on Faculty Affairs Proposal for Senate Committee on Faculty Rights and Responsibilities, and the Senate approved it. We took it out verbatim, and put it in here. That doesn't mean that it was right or wrong, but the Senate approved it once before and so we feel we could approve it a second time around.

Taylor: Is there further discussion of this matter?

President Oswald: I think - Ladies and Gentlemen - I must say something at this point - that I would not consider the text of this preamble as setting new University policy in the academic personnel area. Any acceptance of this preamble (I would want the minutes to show my statement in this meeting to that effect) would not be a means by which academic policy was being changed and that this preamble would be viewed only as background material.

Taylor: Thank you, Dr. Oswald. Is there further discussion?

Philips: The committee is in full agreement in that we do not intend to legislate any University policy change. As a matter of fact, the preamble states quite emphatically in the prior page exactly what you're saying, that this is in no way a second guessing of administration or anything of the kind. I believe, however, that the third paragraph of this discussion is an essential part of it. This does spell out what is meant here and it seems to me that it would be a most serious weakening of these procedures to remove that.

Palladino: If the preamble is accepted as background material and not legislation, my motion is unnecessary and I will withdraw it.

Taylor: We return to the main motion. Is there further discussion of the main motion?

G. H. Albright - Engineering: To review the main motion, it is my understanding it was stated to adopt the Procedure on Faculty Rights and Responsibilities - therefore, if we accept the main motion, without doubt we are identifying the preamble as part of the procedures.

Philips: The intention of the committee in making this motion and the way these are worded, the preamble is included as part of the whole package. There is - the question is - is the preamble to be viewed as a preamble to the operative sections or is it to be viewed as working legislation? I think that question has just been settled - it is not to be viewed as working legislation. The preamble sets the tone for the specific operating parts.

Albright: But yet, on the fourth line of the first page of Appendix "E" we see Procedures on Faculty Rights and Responsibilities. The whole document is being approved - it's the whole document that is being approved, without any disqualification of intent.
Taylor: Any further discussion on the main motion?

R. C. Buck - Liberal Arts: This is a question of clarification on item 3. on page 6. Upon receiving a petition the committee will make a preliminary determination as to the extent of its review of the matter. We talked about this before, but I would like the rationale why the procedural statement is so vague - in other words how do you get your agenda - this question was asked before. Is it your thinking to allow departments and programs to determine the procedures upon receiving the agenda - how does this work?

Philips: The way it works is that a faculty member or an administrator who feels that an injustice has been done and that it might be desirable to have a committee review the hearings - will bring to the committee their case. We make very clear in this section and elsewhere in the procedures that as soon as you first suspect that something may be wrong, you don't immediately run to the committee. You go through normal channels - you attempt to solve the matter through the proper line of authority so to speak - department head, etc., and you attempt to make use of any conciliation matters that may be available in your area. The question you're raising gets back to what some of us on the committee called the "laundry list" question - we don't spell out in great detail exactly who you should see at what time and whether in the morning or afternoon, etc. The faculty member who feels that he has been done a serious injustice can bring his case to the committee. If the committee finds that he makes a prima facie case then they go with it. Otherwise they tell him to try elsewhere or whatever they see appropriate.

Taylor: Is there further discussion?

M. B. Matson - L. A.: Perhaps I'm the only one in this body who is not clear as to what the status of this preamble is, but let me ask a specific question and see if we can agree with this. One interpretation is that the legislative aspect begins on page 4 with item II - "Scope" and continues with the rest of the report and that the rest of that is background material. I should like to have an answer to this question -- Are we legislating the material that begins on page 4 - Roman Numeral II - "Scope" and the rest of this with the understanding that the preamble and all the material prior to the middle of page 4 is background rationale or something of this type? Or are we legislating the entire document - start to finish?

Philips: It's difficult to find exactly the right words. The committee means the preamble to be a part of the package. The preamble is meant to be a real guide to the committee in its operations. The preamble says that the committee is not to sit in judgment of administrative or second guessing limits - it's not just kidding around - it means that - it's a serious preamble. On the other hand the preamble is a guide - it is not legislation - perhaps that's the best word. Now I would accept a resolution from the Senate which would say that the preamble was to be used as background material to guide the committee in its operations, and I think that might settle the matter.

Taylor: Do you wish to make such an amendment Dr. Matson?

Matson: I think this issue should be faced by the Senate, therefore I make this as a motion.

Taylor: This would then be added to the sentence on page 7 - after the first recommendation - "Adopt the Procedures on Faculty Rights and Responsibilities" - you wish to add a sentence then to specifically state ---

Matson: Yes, I think you would have to say - "Adopt the Procedures on Faculty Rights
and Responsibilities - pages 4 through 7 of this document beginning with 'Scope' and that the earlier material be considered as background or guidance material."

Taylor: This proposal has been moved and seconded - is there discussion?

Philips: May I suggest rewording, and if you will accept, it may save us some amending. Rather than say adopt pages 4 through 7, why don't we say, "Adopt the Procedures, the preamble to which will be, etc. etc."

Taylor: Could we have a clear statement from somebody on what the amendment now is?

Philips: Item 1 under Action Items - "Adopt the Procedures on Faculty Rights and Responsibilities, the preamble to which will constitute background material to guide the committee in its operations."

Taylor: Thank you, Dr. Philips. Is this agreeable to the seconder of this motion? Is there discussion on this amendment?

P. A. Klein - L. A.: I'm not sure - I may be a bit confused - I think this puts the preamble in a peculiar and questionable position. Dr. Oswald said that he would not view the preamble as changing University policy. I wonder if I could ask him if he regards anything in the preamble as now stated as contrary to University Policy?

(President Oswald answered Yes.)

A. O. Lewis, Jr. - L. A.: I'm not quite sure about the importance of this to the actual amendment. It seems to me that what we've got here is a proposal by a committee which makes a great deal of sense and improves on what we've got. Every piece of legislation we pass in this Senate is subject to the final approval of the President. The President has already told us exactly what he is going to do with it - I don't see why we need any more amendments of any kind - he's asked to have his statement placed in the minutes - so if you want to vote for this amendment see no particular objection to it, but I see no need for it either.

Taylor: Are there further comments on this amendment? All those in favor of the amendment which is to change the first item on the bottom of page 7 - all those in favor of the amendment, please say aye - all those opposed please say no. (By hand vote the amendment was passed 53 to 43.) Thank you.

We return finally to the main motion - is there further discussion on the main motion? All those in favor of the main motion please say aye - all those opposed please say no. The motion passed.

Thank you, Dr. Philips.

[THE COMPLETE DOCUMENT ON FACULTY RIGHTS AND RESPONSIBILITIES AS PASSED BY THE SENATE - WITH THE CORRECTED AMENDMENTS - IS FOUND IN APPENDIX III]
I. Preamble

A. Objectives

In any large organization disputes and disagreements are bound to arise as a result of differences over the merits of particular decisions or how rights are safeguarded and responsibilities discharged. In a university, composed as it is of a highly professionalized and skilled Faculty, such issues will also emerge -- Faculty members may not be reappointed or given tenure, allegations of Faculty misconduct and irresponsibility may be made, salary adjustments may be omitted or inadequate, Faculty members may be derelict in the discharge of their duties, promotions may be contested, sabbatical leaves may be denied, and so on. We should hasten to add that such issues are more likely to occur in strong and dynamic universities where there is greater sensitivity to questions of academic freedom and self-governance, and where professional standards are more exacting.

Ordinarily, when specific decisions are made in these areas, the underlying reasons are mutually understood and accepted. From time to time, however, a particular decision will seem to be arbitrary and unjustified, and the parties concerned will pursue the matter through the normal channels of administrative responsibility. These vary from college to college, but informal and constructive consultative procedures should be emphasized in the hope that misunderstandings and misapprehension could be clarified and dispelled. Indeed, nothing proposed herein is intended to override or short-circuit such procedures. Usually, but not always, issues will be satisfactorily resolved through such steps.

For those cases, however, where the foregoing procedures have not been able to resolve a dispute successfully, a Rights and Responsibilities Committee would provide an avenue of appeal. Such a Committee would not duplicate or supplant existing Administrative procedures; rather, in appropriate cases, it would stand as a tribunal available for disputes unable to be satisfactorily resolved in other ways. Similarly, if questions of Faculty misconduct or violation of professional ethics arise, administrative officers might believe that formal hearing procedures would be more appropriate than direct administrative action. Maintaining professional standards and traditions of self-regulation might be better served by mechanisms involving the judgment of colleagues than by actions based upon the employer-employee relationship.

It is important to be clear about the proper area of responsibility of such a Committee. Clearly, it cannot and should not make its own evaluation on matters concerning professional judgment; this Committee is not in a position to substitute its own views with respect to academic competency and other professional issues for the judgment of peer groups best qualified to make such determinations. Likewise, it cannot and should not function as another echelon of administrative decision-making, sitting in judgment, or "second guessing" as it were, on all decisions made at other administrative levels. It should not be thought of as a routine part of the administrative machinery to be utilized in the normal course of events; its operation would be restricted to areas within which its competence and concern would lie. Broadly speaking,
the focus of the Committee's concern would be with issues of academic freedom, professional ethics, Faculty behavior, and procedural fairness -- which transcend disciplinary boundaries -- and not with substantive judgments on professional matters.

As a recent report of Committee A on Academic Freedom and Tenure of the Association of American University Professors has stated:

Even with the best practices and procedures, however Faculty members will at times feel that they have been improperly or unjustly treated and may wish another Faculty group to review a decision of the Faculty Body immediately involved. Committee A believes that fairness both to the individual and the institution requires that the institution provide for such a review when it is requested. A possible violation of academic freedom is of vital concern to the institution as a whole, and where a violation is alleged it is of cardinal importance to the Faculty and the Administration to determine whether substantial grounds for the allegation exist. The institution should also be concerned to see that decisions respecting reappointment are based upon adequate consideration, and provision should be made for a review of allegations by affected Faculty members that the consideration has been inadequate...

Complaints of inadequate consideration are likely to relate to matters of professional judgment, where the department or departmental agency should have primary authority. For this reason Committee A believes that the basic functions of the review committee should be to determine whether adequate consideration was given to the appropriate Faculty Body's decision and, if it determines otherwise, to request reconsideration by that Body.

It is easier to state what the standard "adequate consideration" does not mean than to specify in detail what it does. It does not mean that the review committee should substitute its own judgment for that of members of the department on the merits of whether the candidate should be reappointed or given tenure. The conscientious judgment of the candidate's departmental colleagues must prevail if the invaluable tradition of departmental autonomy in professional judgments is to prevail. The term "adequate consideration" refers essentially to procedural rather than substantive issues: Was the decision conscientiously arrived at? Was all available evidence bearing on the relevant performance of the candidate sought out and considered? Was there adequate deliberation by the department over the import of the evidence in the light of the relevant standards? Were irrelevant and improper standards excluded from consideration? Was the decision a bona fide exercise of professional academic judgment? These are the kinds of questions suggested by the standard "adequate consideration".1

The persuasiveness of the Committee's writ rests upon mutual respect for colleagues and shared belief in its sense of fair play. The fact that it would be a joint Faculty-Administrative body should ensure full commitment by both to its deliberations. Although it must judge, it primarily seeks mutual agreement and consensus.

Clearly, the nature, jurisdictional boundaries, and operating procedures of such proposed machinery would have to be specified very carefully in order to maintain a proper balance between protecting the rights of individuals and ending up with excessively rigid and complex administrative procedures. Likewise, such machinery must maintain the essential academic freedom of Faculty yet also enhance professional responsiveness to generally accepted codes of professional ethics and academic accountability. Such machinery should, moreover, by its very existence avert disputes that might otherwise occur by inhibiting hasty and ill-advised actions which would not be sustained. It would seem eminently desirable, therefore, and certainly consonant with the best traditions of academic governance, to devise some formal machinery for assisting in the settlement of disputes involving Faculty and Administration.

B. Rights and Responsibilities

In addition to academic freedom, the members of the University community have other rights, including appropriate participation in the governance of the institution. These rights are accompanied by and interrelated with responsibilities to the University and to others.

These procedures do not include an attempt to list specific faculty rights and responsibilities in detail. The following Statement on Professional Ethics (AAUP, 1966) is included here as an excellent summary, in terms of the ideal, of faculty responsibilities.

1. The professor, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognizes the special responsibilities placed upon him.* His primary responsibility to his subject is to seek and to state the truth as he sees it. To this end he devotes his energies to developing and improving his scholarly competence. He accepts the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. He practices intellectual honesty. Although he may follow subsidiary interests, these interests must never seriously hamper or compromise his freedom of inquiry.

2. As a teacher, the professor encourages the free pursuit of learning in his students. He holds before them the best scholarly standards of his discipline. He demonstrates respect for the student as an individual, and adheres to his proper role as intellectual guide and counselor. He makes every reasonable effort to foster honest academic conduct and to assure that his evaluation of students reflects their true merit. He respects the confidential nature of the relationship between professor and student. He avoids any exploitation of students for his private advantage and acknowledges significant assistance from them. He protects their academic freedom.

*The use of masculine pronouns is solely for convenience. The Statement applies, of course, to both men and women faculty members.
3. As a colleague, the professor has obligations that derive from common membership in the community of scholars. He respects and defends the free inquiry of his associates. In the exchange of criticism and ideas he shows due respect for the opinions of others. He acknowledges his academic debts and strives to be objective in his professional judgment of colleagues. He accepts his share of faculty responsibilities for the governance of his institution.

4. As a member of his institution, the professor seeks above all to be an effective teacher and scholar. Although he observes the stated regulations of the institution, provided they do not contravene academic freedom, he maintains his right to criticize and seek revision. He determines the amount and character of the work he does outside his institution with due regard to his paramount responsibilities within it. When considering the interruption or termination of his service, he recognizes the effect of his decision upon the program of the institution and gives due notice of his intentions.

5. As a member of his community, the professor has the rights and obligations of any citizen. He measures the urgency of these obligations in the light of his responsibilities to his subject, to his students, to his profession, and to his institution. When he speaks or acts as a private person he avoids creating the impression that he speaks or acts for his college or university. As a citizen engaged in a profession that depends upon freedom for its health and integrity, the professor has a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

II. Scope

A. In these procedures the term "faculty member" refers to members of the University faculty as defined in the University Faculty Senate Constitution (Article II, Section 1) plus any other University employees in academic positions which lead to permanent tenure.

B. The Committee on Faculty Rights and Responsibilities established by these procedures may review petitions from faculty members and administrators involving:

1. Any situation in which a faculty member asserts that he or she has suffered a substantial injustice resulting from a violation of academic freedom, professional ethics or procedural fairness as discussed in the preamble in these procedures.

2. Any situation in which an administrator seeks a Committee judgment as to appropriate action toward a faculty member, who in his judgment, may be failing to meet his or her responsibilities.

C. The Committee on Faculty Rights and Responsibilities will normally consider only petitions which involve, as a direct party, faculty members (as defined in II. A.). Exceptions to this restriction apply to University academic employees (a University academic employee is a person whose duties include instructional, research or creative responsibilities)* as follows:

1. Dismissal. Any University academic employee may make use of these procedures upon receipt of notice of dismissal. A dismissal is a termination before the end of the period of appointment.

*This definition excludes graduate assistants.
2. Nonreappointment. Any University academic employee who can demonstrate that considerations violative of academic freedom significantly contributed to a decision of nonreappointment may make use of these procedures.

3. Other matters. The Committee on Faculty Rights and Responsibilities may, as it deems appropriate, review petitions of any University academic employee in matters beyond the above limitations, but formal hearings will not be held except in rare cases where there are compelling reasons for them.

D. In a dispute involving termination for cause of a permanent appointment or the release of a faculty member during the provisional appointment period with less advance notice than specified in University policy, hearings will be before the Standing Joint Committee on Tenure described in Section 5 of the University Academic Tenure Regulations - P323. (Also Article III, Section 1 of the Standing Rules of the Senate.) A tenured faculty member who is dissatisfied with his release when it is caused by financial exigency or program changes is also entitled to hearings by the Standing Joint Committee on Tenure. (See Section 6 of the University Academic Tenure Regulations.)

III. Conciliation

Colleges and campuses should have a person or group to serve in the role of "ombudsman." The objective would be to enhance communication and clarify possible misunderstandings in situations which involve potential disputes, to advise faculty members and administrators as to appropriate courses of action, and to help settle matters before they become hardened into serious disputes. The individual or group should be selected by procedures approved by a majority of the faculty in the unit.

IV. Committee on Faculty Rights and Responsibilities

A. Establishment of the Committee

1. The Committee on Faculty Rights and Responsibilities will have nine members elected by the Senate; six faculty members and three members of the Council of Academic Deans. Two of the faculty members shall be from academic voting units other than those at University Park.

2. The term of office will be three years, with staggered terms for the initial committee.

3. Six faculty members and two deans will be elected as alternates for three year terms. Two of the faculty members shall be from academic voting units other than those at University Park.

4. The Senate Council will present a list of nominees to fill vacancies and expiring terms on the committee at the May meeting of the Senate each year. Additional nominations may be made from the floor at that time.

5. Election of committee members and alternates will be by secret written mail ballot.

B. Operation of the Committee

1. The Committee Chairman will be elected by the Committee from among its members at a meeting in June. The term of office will be for one year - from the July meeting of one year to the July meeting of the next year.
2. A quorum of the Committee will be a majority of those remaining after
disqualifications on a matter at issue, subject to a minimum of three
members. A majority of those voting on a matter at issue will be faculty.

3. Upon receiving a petition, the Committee will make a preliminary
determination as to the extent of its review of the matter. The Committee
will reserve the right not to take up a complaint that it judges insub-
stantial or without merit or where it appears that other remedies should
be sought before coming to the Committee.

   The Committee may decide to have an informal review or to establish
   a Hearing Board. If a Hearing Board is not established, the Committee
   may use its good offices in an attempt to bring about a satisfactory
   settlement.

   A Hearing Board will be established only when the issue is clearly
   serious, a prima facie case has been established by the complaining par-
   ty and the Committee finds that reasonable efforts have already been made
to solve the problem and that no alternative way of attempting to settle
the matter is appropriate in the circumstances.

4. The burden of proof in establishing a prima facie case will be on the
   complaining party.

5. The Committee on Faculty Rights and Responsibilities should attempt
to settle matters brought to it as quickly as possible without sacrificing
fairness to all parties. Only in extraordinary circumstances should there
be a time span longer than 30 days between the receipt of a complaint by
the Committee and a decision as to whether there will be a formal hearing.

6. For a particular case, a Hearing Board, consisting of two faculty
   members and one Dean to be chosen from the Committee by methods of its own
   selection, will be established to hear the case. The Hearing Board will
elect its chairman from among its members. A member will remove himself
from a case if he deems himself disqualified by reason of bias or interest.
Each party will have a maximum of two challenges without stated cause. If
disqualifications and challenges make it impossible to set up a Board with
3 members from the Committee or elected alternates, the Senate Council will
select substitutes for a particular case. Each party will have a maximum
of two challenges of such substitutes without stated cause.

7. If a hearing is scheduled, notice will be served with a specific
   statement of the complaint at least 20 days prior to the hearing. The
   party complained against may waive a hearing or may respond to the com-
   plaint in writing at any time before the hearing.

8. Hearings before a Hearing Board will not be public. Publicity and
   public statements about the case by either the faculty member or admin-
   istrative officers will be avoided until the proceedings have been com-
   pleted. The Hearing Board may have present at the hearing such assistance
   as it deems necessary.

9. During the proceedings the parties will be entitled to have an advisor
   and counsel of their own choice. The Hearing Board will not be bound by
strict rules of legal evidence, and may admit any evidence of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available and to avoid excessively legalistic procedures.

10. A verbatim record of the hearings will be taken and a typewritten copy will be made available to both parties.

11. The Hearing Board will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.

12. The parties will be afforded an opportunity to obtain necessary witnesses and documentary or other evidence. The University administration will make all reasonable efforts to cooperate with the Hearing Board in securing witnesses and making available documentary and other evidence.

13. Parties will have the right to confront and cross-examine all witnesses.

14. The Hearing Board's findings of fact and conclusions will be based solely on the hearing record.

15. The Hearing Board shall reach its conclusions by majority vote and shall submit these conclusions to the President of the University through the Chairman of the Committee on Faculty Rights and Responsibilities. The President shall notify the Chairman of the decision that has been reached. In the event that the President's decision is not in accord with the conclusions of the Hearing Board, the reasons for that decision shall be specified to the Chairman of the Committee on Faculty Rights and Responsibilities who will inform the Committee and the parties directly involved.

16. At the May Senate Meeting of each academic year the Chairman of the Committee on Faculty Rights and Responsibilities will present a brief general report of the Committee's activities.

Senate Action Items

Committees move that the Senate:

1. Adopt the Procedures on Faculty Rights and Responsibilities, the preamble to which will constitute background material to guide the Committee in its operations.

2. Request the President of the University to indicate the willingness of the University Administration to cooperate in implementing the procedures.

3. Amend the Standing Rules of the Senate to add a new Section 2 to Article III. The new section will consist of Part IV A. of the procedures with the following addition:

4. Establish that the Faculty Affairs Committee will review the operation of these procedures and will report on them to the Senate not less than once each academic year and will make recommendations for any desirable revisions in the procedures.

COMMITTEE ON COMMITTEES AND RULES

William Rabinowitz, Chairman
J. H. Britton
W. E. Crocken
Ernest Dejaiffe
J. L. French
R. S. Friedman
Helen A. Guthrie
P. A. Klein
Arthur Marsicano
W. K. Murphey
M. T. Pigott
W. M. Smith, Jr.
L. N. Zimmerman

COMMITTEE ON FACULTY AFFAIRS

Ernest L. Bergman, Chairman
Marjorie East
Alfred J. Engel
Nicholas Gavrilis
Thomas J. Knight
Robert F. Lima
G. Edward Philips

SUBCOMMITTEE ON FACULTY RIGHTS AND RESPONSIBILITIES

G. E. Philips, Chairman
Joseph H. Britton
Alfred J. Engel
Joseph L. French
Nicholas Gavrilis
Stanley O. Ikenberry
Abram W. VanderMeer
This report contains the following:

1. Rosters of Senators, arranged alphabetically by Voting Units.
2. Roster of Ex-Officio and Appointed Senators.
3. Roster of Undergraduate and Graduate Student Senators.
4. Roster of members of the Senate Council for the coming year.
5. Roster of members of the Intra-University Relations Committee for the coming year.
6. Roster of members of the Senate Committee on Committees and Rules for the coming year.

Errors and/or omissions in these rosters should be reported immediately to the Senate Office, 205 Willard Building (863-0221).

Respectfully submitted,

Patricia M. Overdeer
Senate Secretary