

MEMORANDUM

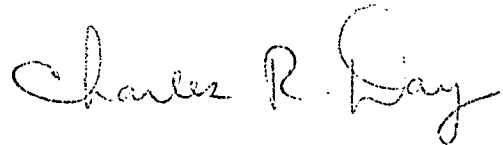
To Secretary of Senate

From Senate Sub-Committee dealing with question
of non-professional conduct.

Subject Committee Report

Date April 17, 1969

The Senate Sub-Committee organized to consider the question of allegations of non-professional conduct respectfully submits its report.



Chairman

CRD:dd

The Ad-Hoc Committee called by Senate September 23, 1968, to study rules and procedures for considering allegations of non-professional conduct of Faculty members considered these questions:

1. Precedents in Canada for committees dealing with allegations of non-professional conduct.
2. The S.F.U. institutions or bodies in which such a committee might be incorporated.
3. The possibility or desirability of establishing such a quasi-judicial body at Simon Fraser University.

The reporting committee ruled out the possibility of establishing itself as the committee which would deal with allegations of non-professional conduct. Nor did it attempt to codify the rules and procedures governing faculty conduct. Rather, it studied the feasibility of establishing a standing committee within the University to do this.

There are few precedents for such a committee in Canada. A number of Universities, including U.B.C., have Faculty Association Committees which are essentially grievance or arbitration committees of higher appeal, dealing with department problems of salaries, promotions and non-renewals. The appeals are usually made through the Heads and Deans, the Faculty Association committee acting as ombudsman.

The Committee then considered how a committee, tentatively entitled Committee on Professional Conduct, might be incorporated into S.F.U.. There are three possibilities.

1. Joint Faculty
2. Faculty Association
3. Senate

Joint Faculty was ruled out because it has neither terms of reference nor administrative apparatus. The Faculty Association was also ruled out because:

- a) it does not as yet represent the entire faculty,
- b) it possesses no administrative machinery by which its decisions or recommendations could be carried out,
- c) its role should be primarily that of ombudsman without judicial functions.

However, one or more members of the Faculty Association Executive (or individual members of the Faculty Association) might be elected to ex-officio seats on the proposed Committee.

The Faculty Association Executive might also play some role as ombudsman in cases of allegations of non-professional conduct; its exact functions would be decided in discussion with the Committee on Professional Conduct.

The reporting committee therefore agreed unanimously that a Committee on Professional Conduct should be a standing committee of Senate. It then turned its attention to the manner in which such a committee would function and the problems that it might encounter. The following problems were foreseen and discussed.

1. The difficulty of defining rules and procedures for such a committee, and especially the absence of clear-cut, generally accepted rules and regulations governing faculty conduct and professional ethics at S.F.U.
2. The difficulty of codifying traditionally unwritten standards of professional decorum, standards which have only recently been challenged in any systematic way within the University community.
3. The question whether written rules would stand a better chance of being respected than the unwritten standards now being ignored or attacked by a minority within the academic community.
4. Finally, that such a committee must clearly be established for the mutual protection and benefit of the entire academic community at Simon Fraser University. It must not become an instrument for the imposition of the standards of the majority upon the minority except in cases where the minority has shown no disposition to respect the rules.

The reporting committee considered these problems seriously before deciding that a Senate Committee of Professional Conduct must be established and that a genuine effort must be made to define at least minimal standards of faculty decorum. It did so for the following reasons:

1. That the Committee could define rules and procedures governing faculty conduct on the basis of the Preamble of the Academic Freedom and Tenure brief and in view of the growing volume of case law developing at other Canadian Universities, notably the Gray case at McGill and the Strax case at the University of New Brunswick.
2. Although there is no perfect answer to objections #2, #3 and #4 listed above, it is equally obvious that the University community, with its traditional standards and ethics, is under serious attack from certain individuals and groups. It seems obvious that the University has the right to defend itself and its values of intellectual enquiry, freedom of expression and the accumulation of knowledge. The alternative is either anarchy or outside public intervention, with the resultant loss of the autonomy and freedom won by the University during the past century.

The reporting committee therefore recommends:

1. That a six-man standing committee of Senate entitled Senate Committee on Professional Conduct be elected by Senate from among full-time faculty at S.F.U. to receive charges of non-professional conduct.

2. That it define its own rules and procedures subject to ratification by Senate and Faculty Association.
3. That it draw up a minimum charter of academic rights and duties based on the Preamble of the Academic Freedom and Tenure brief, subject to the ratification of Senate and Faculty Association.
4. That in cases going beyond the Preamble of the Academic Freedom and Tenure brief that it rely on case law drawn from Canadian and American universities.
5. That the committee operate as follows:
 - a. as a kind of Grand Jury receiving charges of non-professional conduct and deciding which cases are worthy of adjudication.
 - b. that once it has decided to adjudicate, it will organize a special committee consisting of the chairman of the Senate Committee on Professional Conduct and two full-time faculty members mutually acceptable to the parties concerned, one of whom will be chosen from outside the university.
 - c. If the parties concerned cannot agree upon the two members, the Senate Committee on Professional Conduct will select them. Should the accused refuse to cooperate with the committee thus selected, or if he becomes recalcitrant and uncooperative at any time during the adjudicative process, he forfeits the right to benefit from procedures designed for mutual protection. The Senate Committee on Professional Conduct then has the option to turn over the dossier on the case with its comments and recommendations to the President of the University for final decision.
 - d. The decision of the special adjudicative committee will be delivered to the Senate Committee on Professional Conduct which if necessary will deliver it to the proper bodies for implementation.
 - e. In no case will the penalties and sanctions taken be more severe than those recommended by the special adjudicative committee and the Senate Committee on Professional Conduct. Under the Universities Act, the accused may appeal to the President to reduce or otherwise mitigate the decision of the committee.

In conclusion, the reporting committee urges Senate to create a standing Senate Committee on Professional Conduct and to empower it to draw up a formal plan of rules, procedures and professional standards governing faculty conduct at Simon Fraser University.

To: ALL MEMBERS OF SENATE

From: H. M. Evans
Secretary of Senate and
Registrar

Subject: Allegations of Non-
Professional Conduct

Date: July 22, 1969

I have been instructed by the Senate Agenda Committee to attach an explanatory note for Paper S.252.

Senate, at its meeting on September 23, 1968, passed the following motion:-

"that Senate appoint an Ad Hoc Committee consisting of 6 members (with the Nominating Committee to present names of nominees) and charge it with bringing before Senate recommendations with regard to rules and procedures for considering allegations of non-professional conduct of Faculty members."

(Page 6 - September 23, 1968)

HME:jb