

3-10-1977

Recommendations of the Ad Hoc Committee on Judicial System Review

University of Rhode Island Faculty Senate

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UNIVERSITY OF RHODE ISLAND
Kingston, Rhode Island

RECEIVED

MAR 24 1977

FACULTY SENATE
BILL

Adopted by the Faculty Senate

RECEIVED
UNIVERSITY OF R. I.
MAR 15 1977
OFFICE OF THE PRESIDENT

UNIVERSITY OF RHODE ISLAND
Faculty Senate

FROM: Chairman of the Faculty Senate

1. The attached BILL, titled Recommendations of the Ad Hoc Committee on Judicial System Review

is forwarded for your consideration.

2. The original and two copies for your use are included.
3. This BILL was adopted by vote of the Faculty Senate on March 10, 1977 (date)
4. After considering this bill, will you please indicate your approval or disapproval. Return the original or forward it to the Board of Regents, completing the appropriate endorsement below.
5. In accordance with Section 8, paragraph 2 of the Senate's By-Laws, this bill will become effective on March 31, 1977 (date), three weeks after Senate approval, unless: (1) specific dates for implementation are written into the bill; (2) you return it disapproved; (3) you forward it to the Board of Regents for their approval; or (4) the University Faculty petitions for a referendum. If the bill is forwarded to the Board of Regents, it will not become effective until approved by the Board.

March 11, 1977
(date)

Daniel P. Bergen
Daniel P. Bergen
Chairman of the Faculty Senate

ENDORSEMENT I.

TO: Chairman of the Faculty Senate

FROM: President of the University

1. Returned.
2. Approved _____ Disapproved _____
3. (If approved) In my opinion, transmittal to the Board of Regents is not necessary.

3/23/77
(date)

Frank Newman
President

(OVER)

ALTERNATE ENDORSEMENT 1.

TO: Chairman of the Board of Regents

FROM: The University President

1. Forwarded.
2. Approved.

(date)

President

ENDORSEMENT 2.

TO: Chairman of the Faculty Senate

FROM: Chairman of the Board of Regents, via the University President.

1. Forwarded.

(date)

(Office)

ENDORSEMENT 3.

TO: Chairman of the Faculty Senate

FROM: The University President

1. Forwarded from the Chairman of the Board of Regents.

(date)

President

Original received and forwarded to the Secretary of the Senate and Registrar for filing in the Archives of the University.

(date)

Chairman of the Faculty Senate

A Summary of Recommendations Concerning the University Judicial System
Compiled in a Report to the Vice President for Student Affairs

In July, 1976, a committee was formed by the Vice President for Student Affairs to study the judicial system at URI. The charge to the committee was threefold: (1) discover the purpose of disciplining at URI; (2) investigate the status of behavioral standards on our campus; and (3) analyze the present judicial structure to see if it is effective, efficient, and nonbureaucratic.

During the Fall Semester, 1976, the committee conducted hearings with representatives of various groups on campus that are involved with the system. Also, a University Opinion Index was conducted to survey student attitudes about the judicial system. On the basis of committee hearings, the UOI, and intergroup discussions, a series of recommendations were made to the Vice President. Following is a summary of the committee's major recommendations:

We recommend that the judicial boards be organized in accordance with the nature of the offense: academic or nonacademic. Also, we are recommending that all boards be given complete power of review and sanction. Thirdly, we are recommending that in nonacademic cases in which an accused student pleads guilty, the student be allowed to request an administrative, versus a board, hearing. Finally, we have tried to instill a disciplinary-counseling philosophy into the judicial system by introducing the concept of "situational conditions." Other recommendations, not quite so major, are also being made, and they may be reviewed in the committee's report to the Vice President for Student Affairs.

The new judicial system, as a result of the committee's recommendations, will be composed of three boards; a University Board on Student Conduct, which will hear all cases involving nonacademic offenses, a University Board on Scholastic Integrity, which will hear all cases involving academic offenses, and a University Appeal Board which will hear all cases of appeal from the original boards. The composition, selection process, and term of office for board members is detailed in the committee's report.

The recommendations of the committee will require changing sections 5.19 and 5.20 inclusively of the University Manual. The following recommendations are therefore being submitted to the Faculty Senate for approval.

Recommendation #1. That Sections 5.19 and 5.20 of the University Manual be deleted.

Recommendation #2. That the following recommendations be approved by the Faculty Senate for incorporation into the University Manual by the Constitution, By-Laws and University Manual Committee.

COMMUNITY STANDARDS OF BEHAVIOR AND THE UNIVERSITY JUDICIAL SYSTEM

Community Standards of Behavior are designed to promote student growth and to preserve the atmosphere of learning necessary to the well-being of all students. These standards shall be implemented only through the staff of the Department of Student Relations and Research and judicial boards authorized by the Department of SR&R to hear disciplinary matters.

In general, where infractions of University rules and regulations are involved, reports of violations or complaints are received by the Department of Student Relations and Research from the campus police or local police departments, from other students, and from faculty and administrators. In all cases, the available facts are gathered from the complainant or the reporting agency; careful evaluation is made of these facts, as well as the dependability and character of the person reporting them. If corroboration of the information presented is deemed necessary, further inquiry and investigation are undertaken. If, at this point, in the judgment of the Department of Student Relations and Research, there is insufficient evidence of a violation, or the case lacks merit, a decision not to refer the matter to the judicial system can be made. If a case is referred to the judicial system, it ~~may~~ ^{will} be heard by one of the boards described below.

COMPOSITION OF JUDICIAL BOARDS

University Board on Student Conduct (UBSC)

1. The UBSC is a judicial body for peer review composed of six student members selected from among applicants solicited from the campus community, and one faculty member chosen by the Executive Committee of the Faculty Senate. The UBSC is responsible for hearing all cases referred to it by the staff of Student Relations and Research concerning alleged violations of non-academic University rules and regulations.
2. Composition: The student board members shall be full-time students chosen to provide the maximum representation of all elements of the campus community. At least one member shall be a graduate student; at least one member shall be an active member of the fraternity/sorority system; at least one member shall be a resident in a University dormitory; at least one member shall be a commuting student.

The faculty member shall hold the rank of Assistant Professor or above. *A faculty alternate and 2 student alternates will also be selected by the appointing authorities.*

3. Selection and Term of Office: Student selection to the board is governed by the by-laws which are determined by the existing judicial boards. New members will, when first selected, be appointed to serve a term of one academic year. At the end of the academic year when new selections are made, a member completing his/her first year will, with majority approval of the other members and the advisor, be appointed as a permanent member. A permanent member will remain on the Board until he/she is no longer a full-time student, or resigns. In the event that a vacancy occurs before the regularly scheduled selection, a special meeting ~~may~~^{will} be held to select a new member. The new member is eligible to become a permanent member at the next regular selection meeting providing that his/her appointment precedes the regular selection of new members by at least 60 days. The faculty member of the Board shall be selected for a period of four regular semesters.
4. Solicitation of Applicants: Applicants for student membership on the Board will be solicited by written notification to all pertinent campus organizations. Additionally, a display notice will appear in the Good 5¢ Cigar and in This Week. These notices must appear at least 14 days before the scheduled selection.
5. Affirmative Action/Equal Opportunity: Recognizing its responsibility to encourage the maximum participation in campus life of students representing minority interest, the Board will make certain that notification of Board vacancies is sent to the organizations representing minority interests on campus. A list of these organizations will be obtained from the University Affirmative Action Officer. Special efforts will also be made to acquaint these organizations with the nature and activities of the Board.
6. Notification: The names of new members will be sent to the President of the Student Senate.

University Board on Scholastic Integrity (UBSI)

1. The UBSI is a joint student-faculty judicial body composed of five members (and alternates) appointed from the several components of the campus committee. The Board is responsible for hearing all cases referred to it concerning alleged violations of academic standards of conduct, including cheating and plagiarism.
2. Composition: The UBSI is composed of five members: One member of the student body appointed by the Student Senate; one graduate student appointed by the GSA; two members of the teaching faculty appointed by the Faculty Senate; and one participating chairperson of a rank above instructor appointed by the President of the University. Alternates for each position will be selected by the appointing authorities.

3. Terms of Office: All Board members except for the chairperson are appointed for two year terms, with one student and one faculty member completing their terms each year. The chairperson is appointed for a three year term. Vacancies occurring in a position prior to the second anniversary of the appointment of the vacating member shall be filled by the alternate. If a position becomes vacant and no alternate is available, the Chief Executive of the original appointing authority shall appoint a person to complete the term of office of the vacating member. The appointing authorities are reminded that the composition of the Board should reflect as broad a sample of the campus community as possible and should reflect the University's commitment to the principles of the Affirmative Action/Equal Opportunity programs.

University Appeals Board on Student Conduct/Scholastic Integrity (UAB)

The Appeals Board is a joint student-faculty judicial body composed of three members (and alternates) appointed from the several components of the campus committee. The Board is responsible for hearing all administrative action appeals, appeals of the decisions of the University Board on Student Conduct, the University Board on Scholastic Integrity and any other official judicial board that may be formed at the direction of the Director of Student Relations and Research.

1. Composition: The Board is composed of three members, and two alternates: one member of the student body appointed jointly by the Student Senate; and the GSA President; one member of the teaching faculty appointed by the Faculty Senate Executive Committee; and one participating chairperson of a rank above instructor appointed by the President of the University. Alternates for each position will be selected by the appointed authorities.
2. Terms of Office: All regular board members and alternates except for the chairperson are appointed for two year terms, with one student and one faculty member completing their terms each year. The chairperson is appointed for a three year term. Vacancies occurring in a position prior to the second anniversary of the appointment of the vacating member shall be filled by the alternate. If a position becomes vacant and no alternate is available, the Chief Executive of the original appointing authority shall appoint a person to complete the term of office of the vacating member. The appointing authorities are reminded that the composition of the Board should reflect as broad a sample of the campus community as possible and should reflect the University's commitment to the principles of the Affirmative Action/Equal Opportunity programs.

Fraternity-Sorority Judicial Boards

Greek housing unit judicial boards may be appointed for hearing cases involving infractions charged to an entire chapter only. Additionally, individual in-house infractions may be adjudicated by the chapter executive committee or informal judicial body.

Impeachment and Removal: Any member of any Board who does not fulfill his/her duties as provided in the by-laws, may be impeached by a majority vote of the permanent members. Impeachment is defined as having formal charges of misfeasance, malfeasance or misconduct brought against a member, and will result in a formal impeachment hearing. The impeachment hearing will be chaired by the SR&R advisor (non-voting). Following a hearing a member may be removed from the Board by a two-thirds vote of the permanent members.

PROCEDURAL STANDARDS IN THE JUDICIAL PROCESS

Following investigation, in all academic cases in which a student is charged in writing with a violation of University regulations, a hearing will be arranged before the University Board on Scholastic Integrity (UBSI). This process is described in full with options A and B below.

Following investigation, in all non-academic cases in which a student is charged in writing with a violation of University regulations, s/he will be given the following options: (A) Plead innocent and have a hearing before the UBSC, (B) admit guilt and request a hearing before the UBSC, or (C) admit guilt and request administrative action. The accused party must choose one of these options within 72 hours of the written charge.

Options A and B, and Academic Violations

In cases of alleged academic violations, or in non-academic violations in which the accused student chooses Option A or B, the following procedures shall be observed:

1. A hearing shall be held before the appropriate judicial board as soon as feasible, but in no instance later than 20 school days from the date of notification of formal charges to the student. Hearings will be closed with the provision that they may be open at the request of the accused. The board may close the hearing to protect the private rights of individuals or to preserve order at the hearing.
2. Notice in writing of the charges against her/him and of the facts in the report of the incident in which s/he is allegedly involved, with a copy of the complete statement of judicial board procedures, shall be delivered to him/her either in person or by certified mail at least 72 hours in advance of the hearing.
3. A member of the Department of Student Relations and Research staff shall be available prior to the hearing at the request of the student for advisement regarding the alleged violation and procedural matters.
4. All boards shall have a member of the Department of Student Relations and Research serve as advisor in all stages of the judicial process including hearings and deliberations. The advisor's responsibilities include: (1) advising the board regarding the requirements and pro-

visions of substantive and procedural due process, (2) serving as a resource person in those cases where the accused student has a past history of involvement in the judicial system, (3) providing continuity in board operations and procedures, (4) facilitating the implementation of judicial procedures at all levels of the judicial system, (5) acting as a liaison between boards and the University community, and (6) assisting the board in fulfilling its educational responsibility.

5. The student shall have the right to request the assistance of an advisor of his/her choice from the University community. The advisor may not serve as a witness. Neither party shall be permitted to employ professional legal counsel or other persons from outside the University community to present the case before the hearing board.
6. Although the student must be present at the hearing (except as provided in section 14), the student and/or his/her advisor may present evidence and introduce witnesses in his/her behalf.
7. Since University judicial bodies are not legally constituted courts except within the jurisdiction of the University, no oaths shall be requested or allowed. The technical rules of evidence applicable to civil and criminal trials are not applicable and the board shall rule on the admissibility of evidence.
8. During the hearing, the accused student and/or his/her advisor shall have the right to cross-examine all witnesses and to view and question all evidence presented to the judicial board. Only by mutual consent of the judicial board, the accuser, and the accused may written testimony from absentee witnesses be received for consideration. Proof of the authorship but not content of such testimony must be made by certification by a notary public.
9. Decisions shall be based only upon evidence and testimony introduced at the hearing. Evidence must have been acquired according to state and local laws and ordinances.
10. In cases in which a student denies an allegation, the burden of proof shall rest upon the person bringing the charge.
11. All decisions made by a judicial board shall be by a majority vote. The chairperson shall have the right to vote in all matters.
12. The judicial board shall make one of the following decisions upon completion of the hearing:
 - (A) A finding of not guilty.
 - (B) A finding of guilty and a determination of the penalty.
 - (C) Dismissal of the charges due to lack of evidence.
 - (D) Continuance of the case for the purpose of obtaining additional information or of providing for further consideration.

13. A record of each hearing, comprised of a summary of the testimony and evidence presented and of the decision rendered, shall be made. Such records are confidential and shall be filed in the Department of Student Relations and Research. All such records shall be destroyed by the Director of Student Relations and Research five years after the date when the hearing ended. Access to such files is governed by University "Policies for the Release and Disclosure of Information from Student Records" (See section 16 of University Rules, Regulations, and Policies).
14. Each board member shall be informed orally or in writing of the student's name and the charges against him/her at the time of the hearing. Any board member may disqualify himself/herself and either party to the case may be permitted to disqualify a prospective member if s/he can satisfy the remaining members of the board that there is "good cause" for disqualification. An alternate member may take the place of the disqualified member. Each judicial board must have a method of choosing and seating alternates as part of their constituting legislation (without changing the basic composition).
15. A student shall have the right to one rescheduled hearing if s/he fails to attend the originally scheduled hearing, through no fault of his/her own as determined by the Director of Student Relations and Research. The rescheduled hearing will take place after proper notification. If the student fails to attend the second hearing, the judicial board shall determine whether the student's absence is for reasons that justify scheduling a third hearing, or the board may judge the student in contempt. If such a ruling is made, the board may either: (A) Consider the case on the basis of the evidence available despite the student's absence, render a decision, and, if the decision is guilty, impose an appropriate penalty; or (B) Assign a penalty for contempt. A further hearing will then be set for the original violation. Failure to attend the rescheduled hearing following the judgment of contempt may result in suspension.

Option C-Administrative Action

If the accused party chooses Option C, the following procedures shall be observed:

1. The student will meet with the appropriate staff member in the Department of Student Relations and Research who will discuss with the student the full circumstances of the charge(s). This meeting will take place within 20 school days of written notification of charges. The staff member may make an immediate decision or may take the matter under advisement in order to gain information which would be helpful in determining an appropriate action.
2. Upon reaching a decision, the staff member sends the student a letter confirming the action taken and the reasons for it.

3. A record of the administrative action, including a summary of the evidence presented and decision rendered, shall be made. Such records are confidential and shall be filed in the Department of Student Relations and Research. All such records shall be destroyed by the Director of Student Relations and Research five years after the date of the administrative action. Access to such records is governed by University Policies for the Release and Disclosure of Information from Student Records" (section 16 of University Rules, Regulations, and Policies).
4. If the student fails to attend the initially scheduled meeting with the staff member of the Department of Student Relations and Research, s/he may be given a rescheduled meeting or referred directly to the UBSC. Failure to attend the rescheduled meeting will result in an automatic referral to the UBSC. If the student fails to attend the initially scheduled Judicial Board hearing, the board shall determine whether the student's absence is for reasons that justify a rescheduled hearing or the board may judge the student in contempt. If a ruling of contempt is made, the board may either: (a) consider the case on the basis of the evidence available despite the student's absence, render a verdict, and, if the verdict is guilty, impose an appropriate penalty; or (b) assign a penalty for contempt. A further hearing will then be set for the original violation. Failure to attend the rescheduled hearing following the judgment of contempt may result in suspension.

The Right to Appeal

An accused student shall have the right to appeal the decision of a board or an administrator to the University Appeal Board. Such appeals shall be based only on specific evidence, presenting in writing, of fraud, denial of rights, procedural error, or on the claim of new evidence not previously available which would have materially affected the decision of the board. Appeals must be filed within one week of receipt of the letter confirming the judicial action. Should the Appeal Board determine that a written request for appeal has merit, it would re-hear the case. Upon completion of the appeal hearing, the Appeal Board may either uphold the original decision and sanction imposed, or adjust the original decision and/or sanction.

EMERGENCY SUSPENSION

Pending final action on violation of University regulations, the status of a student shall not be altered or his/her right to be present on the campus and to attend classes suspended, except for reasons relating to his physical or emotional safety and well-being, or for reasons relating to the safety and well-being of the University community. The decision to separate a student from the campus under these conditions shall be made only by the President of the University after consultation with the President of the Student Senate or the President of the Graduate Student Association (as may be appropriate) and the chairperson of the Faculty Senate. If a student is separated from the campus by this procedure, the

University Board on Student Conduct will be convened promptly, not to exceed a period of 10 class days after the separation to provide a full hearing for the student with all deliberate speed. The continuation of the suspension will be subject to the approval of the University Board on Student Conduct.

RANGE OF JUDICIAL ACTION

Introduction

The actions which may be taken as a consequence of violating the community standards of behavior range from the traditional sanctions of no further action to dismissal. In addition, situational conditions can be attached depending upon, and appropriate to, the severity of the violation, the degree to which the individual has participated or been involved, his/her motivations and intent in connection with the infraction, and any record of past violations as well as a consideration of all facets of the specific individual situation.

Situational Conditions

Situational conditions include, but are not limited to:

- restitution to the University or an individual for any damage committed
- restitution for misuse of a mealbook
- suspension of a student's right to represent the University at University-sponsored or related events
- suspension of a student's right to occupy a position as president, vice-president, secretary, manager, assistant manager, committee chairperson or other office in any student organization or living unit
- suspension of a student's right to serve on the editorial board of any student publication
- a move from one floor to another in a living unit (where feasible)
- a move from one living unit to another (where feasible)
- the option to work in the area of the violation
- referral to the Counseling Center
- referral to the Alcohol Education Program
- suspension from SRO facilities

For those conditions which suspend privileges, a specific time period should be set, indicating when the student may regain the privilege(s), if at all.

Following are descriptions of the various judicial sanctions.

No Further Action

This is interpreted to mean that although a student is guilty of the violation(s), the discussion with the administrative officer or appearance

before the appropriate judicial board has been sufficient in and of itself and that further action is not deemed necessary under the circumstances; however, the guilty verdict is still noted in the student's record in the Department of Student Relations and Research.

Warning

In instances of minor violations of the community standards of behavior, the student may be warned in writing of the possible consequences of continuing such behavior. Situational conditions such as may be attached as appropriate.

Residence Probation

This means that a student is no longer in good standing with his/her living unit for a specified period of time, and that situational conditions may be placed on his/her actions. The status of residence probation first and foremost serves as a reminder to the student that his/her infraction has become part of his/her record and that repetition of similar or other unacceptable behavior may be cause for his/her removal from the living unit.

Removal from Living Unit

The primary effect of this action is to preclude either the student's continued residence in a particular living unit or in any campus living unit. This action would normally be taken after one serious violation or repeated violations of community standards of behavior related to the living unit environment.

Disciplinary Probation

This action implies a middle status between good standing at the institution and suspension or dismissal. The student is permitted to remain enrolled at the University under certain stated situational conditions, depending upon the nature of the violation and the potential learning value that may derive from such conditions. Usually, probation extends over a stated period, during which it is clearly understood that the student is subject to further disciplinary action, including suspension or dismissal, if he/she violates the terms of the probation or in any way fails to conduct him/herself as a responsible member of the University community. Probation is, in effect, a final warning to the student to help him/her reevaluate his/her behavior.

Suspension

Is an involuntary separation of the student from the institution, differing from dismissal only in that it implies and states a time limit when return will be possible. Thus, suspension may extend for a semester, for a specified period, until a specifically designated date, or until a stated condition is met. Such action does not take effect until approved by the President of the University.

Dismissal

Is the permanent involuntary separation of the student from the institution. Such action does not take effect until approved by the President of the University.