

Almanac

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Equity Study: Encore April 12

Again we have assembled our panel to answer questions and hear suggestions rising from the Equity Study on Staff Salary and Promotions published in *Almanac* January 23, 1990. J. Bradley Williams, manager of OHR/compensation, Adrienne Riley, director of OHR/total compensation, and I invite you to bring your recommendations and concerns to the Benjamin Franklin Room (second floor Houston Hall) *Thursday April 12, noon-1 p.m.* We look forward to seeing you.

—Barbara Butterfield,
Vice President for Human Resources

Arrests Made in Student's Murder

Three suspects have been arrested in connection with the murder of freshman Tyrone Roberts, who was shot at a Chester, Pa., restaurant on December 30, during a fight in which he was not involved.

Arnold Butcher, 20, Michael Shaw, 24, and Dwight Townsend, 23, all Chester residents, are being held without bail on several charges, the most serious of which is criminal homicide. Other charges include aggravated assault, simple assault, conspiracy and firearms violations.

SENATE

From the Senate Office

Proposed Agenda: Annual Meeting of the Faculty Senate

Wednesday, April 18, 1990
3 to 5:30 p.m. in 200 College Hall

1. Approval of the minutes of the April 26, 1989 plenary meeting
2. Report of the Chair
3. Remarks by the President
4. Remarks by the Provost
5. Report of the Committee on the Economic Status of the Faculty
6. Discussion of potential conflicts between the Guidelines on Open Expression and Harassment Policy
7. Faculty role in University governance—Committee on the Faculty
8. Adjournment by 5:30 p.m.

Note: Members of the Faculty Senate are encouraged to come to the meeting prepared with questions for the President, the Provost, or Chairs of the Faculty Senate Committees.

Questions about the agenda can be directed to Carolyn Burdon, Faculty Senate Staff Assistant, Ext. 8-6943.

PENN



250th
Celebration

Peak Week : Waiving the Registration Fee For Faculty, Staff, Students

Starting Thursday, April 5, the University community will find a 16-page brochure around campus with a prize inside: following the 14 pages of information about Peak Week events is a vital registration form on the last two pages. If filled out according to instructions, the form specifies a \$45 registration fee—but faculty, staff and students can enter “0” in the blank. Faculty and staff will find the brochure wherever *Compass* is normally found in their buildings or offices; HUP members will find it at HUP information desks; and students’ supplies will be at residence halls and Houston Hall information desk.

While the \$45 registration fee has been waived for faculty, staff and students (including those who receive degrees in 1990), everybody will need to complete the form, and to purchase tickets at the stated price where there is an admission charge. (An overview of the events available is on page 7 of this issue.) Here’s how the waiver works:

In Section II of the registration form a zero should be entered in the “Total Cost” column. Students, faculty or staff should indicate their status by writing their job title and department or school affiliation in the left-hand margin. Forms can be returned through intramural mail or put in the special drop box at the information desk in Houston Hall, Monday through Friday, 9 a.m. to 5 p.m.

250th Director Clare Wofford notes that seating at the three events labeled *colloquia* is limited, and all registrants, including alumni, will be able to attend *only one colloquium*. (The capacity of the Zellerbach Theater will be reduced by the presence of television crews.) However, 20 percent of the tickets have been reserved for students, faculty and staff. Just as alumni will have their ticket requests filled on a first-come, first-served basis, so will members of the Penn community. Early registration is recommended, Mrs. Wofford emphasized.

OF RECORD

Rules Governing Final Exams

The rules governing final examinations are as follows:

No student may be required to take more than two final examinations on any one calendar day.

No instructor may hold a final examination except during the period in which final examinations are scheduled and, when necessary, during the period of postponed examinations. No final examinations may be scheduled during the last week of classes or on reading days.

Postponed examinations may be held only during the official periods: the first week of the spring and fall semesters. Students must obtain permission from their dean’s office to take a postponed exam. Instructors in all courses must be ready to offer a make-up examination to all students who were excused from the final examination.

No instructor may change the time or date of a final exam.

No instructor may increase the time allowed for a final exam beyond the scheduled two hours without permission from the appropriate dean or the Vice Provost for University Life.

No classes (covering new material) may be held during the reading period. Review sessions may be held.

All students must be allowed to see their final examination. Access to graded finals should be ensured for a period of one semester after the exam has been given.

In all matters relating to final exams, students with questions should first consult with their dean’s offices. We encourage professors to be as flexible as possible in accommodating students with conflicting schedules.

—Michael Aiken, Provost

Report of the 1989-90 Senate Committee on the Faculty March 26, 1990

The Senate Committee on the Faculty addressed a number of issues during the year. The resolutions of those issues are reported below in chronological order.

1. The School of Medicine asked the Faculty Senate to consider a recommendation regarding criteria for transfer from the clinician educator track to the tenure track. The proposed criteria were designed to provide exceptions to the search requirements that had been designed to comply with the University's affirmative action plan and to prevent circumventing the high standards set for tenured appointments. The proposal arose out of a special case. The Senate Committee on the Faculty felt that under the circumstances described in the submitted documents, if, in the school's judgment, the candidate was clearly of the appropriate level of accomplishment as a scholar for appointment to tenure at the rank of professor, it had no reason to object to the proposed change in status in this special case. However, the committee did not feel that there was any justification for a general exemption from the affirmative action requirements of the University. It did not approve the suggested changes in criteria for transfer from the clinician educator track to the tenure track without a national search.

2. The committee offered no objection to the Medical Senate's wish to transfer the 40 to 45 members of the Medical faculty who have tenure of title from the associated faculty to the standing faculty.

3. The committee objected to the proposed use of the title University Scientist (or Senior University Scientist) for A-1 researchers. The committee had no objections to such titles as Research Investigator or Senior Research Investigator or to any other title that the administration might think of, provided that the title does not give the impression that the holder is a member of the standing faculty.

4. The committee reviewed progress in establishing guidelines and rewarding excellence in teaching. It believed that while the administration continued to speak to the issues associated with excellence in teaching, it did not give sufficient substance to programs designed to support teaching excellence. Specific areas of neglect included: (a) lack of rewards for teaching excellence; (b) lack of teaching resources to enhance less than excellent teaching; and, (c) effective assessment of teaching quality in the promotion and tenure process. The committee felt that the provost should provide a statement of policy, published in *Almanac*, specifically responding to new directions or programs designed to enhance the quality of teaching at the University. The committee is pleased with the progress reported in *Almanac* February 13, 1990.

5. The committee addressed the composition of school committees on academic freedom and responsibility and agreed that: (a) the chairs of school committees on academic freedom and responsibility should be

tenured full professors; (b) the majority of members should be tenured faculty; and (c) the terms of the membership should be staggered.

6. The committee went on record as strongly believing that participation in University governance should be an integral part of the faculty experience and responsibility at the University of Pennsylvania. While it is recognized that in a major research university, research and teaching must take priority in terms of faculty effort, it is also clear that viability of a community of scholars is contingent upon the active participation of all its members. Therefore, committee members urged that deans and department chairs recognize, encourage, and foster such service in order for a climate of participation to take place. It is recommended that: (a) the expectation be conveyed by all deans and department heads that all faculty members contribute service to the University community to the degree they are able, during the whole of their careers at the University of Pennsylvania; and (b) the percentage of faculty in each school and department who serve on University committees be published annually in *Almanac*.

7. In the committee's report last year, it noted that it had made some recommendations for providing more flexibility with respect to dependent care leave. The Faculty Senate narrowed the scope of our recommendations to child care leave. The administration found the proposal too complex as far as tenure probation is concerned. It determined that the policy of concern in this matter was not a leave of absence, but a reduction in duties and salaries. It proposed treating child care as one of several reasons for such reduction. The probationary period is only affected with reductions of duty of 50%. The tenure clock is to be stopped for one year for every two years granted with 50% reduced duties. The probationary period cannot exceed 10 years for those with a normal seven-year probationary period or 13 years for those with normal a ten-year probationary period.

8. The committee sent to the Senate Executive Committee a number of recommendations that arose from its assessment of affirmative action at the University.

9. The committee continues to monitor the uncapping of mandatory retirement age.

1989-90 Senate Committee on the Faculty

Linda Aiken (nursing)	Martha Dore (social work)
Fay Ajzenberg-Selove (physics)	Richard S. Dunn (history)
Howard Arnold (social work)	Ezra Krendel (statistics)
Charles S. August (pediatrics)	Daniel Malamud (biochem/dent)
Morris Mendelson (finance) Chair	
ex officio: Senate Chair, Robert E. Davies (animal biology)	
Senate Chair-elect, Almarin Phillips (public policy & mgt)	

Senate Committee on Administration Progress Report March 26, 1990

The Senate Committee on Administration has undertaken an extensive agenda and has requested a two-year period during which the work of this committee will take place. The agenda includes:

(1) the development of a proposed course of action in response to the results of the Questionnaire on Governance (*Almanac* April 18, 1989) in which the faculty expressed an overwhelming sense of desire to participate more fully in the governance of the University;

(2) develop an effective way of providing oversight on issues of the size of the administration and administrative decisions that allocate University resources; and,

(3) provide continuing oversight of such matters as the Campus Master Plan for buildings, the Faculty Club, parking, and the new Chemistry-Engineering building.

Subcommittees have been reviewing past efforts of this committee and prepared questions for the administration in order to develop strategies to satisfy the agenda. Meetings were held with Provost Michael Aiken, Deputy Provost Richard Clelland, Senior Budget Analyst Benjamin Hoyle, and Senior Vice President Marna

Whittington. The committee has formulated a draft proposal on governance and is considering alternative ways to implement the suggestions. This draft proposal was discussed with the provost and his views are under consideration. A proposal from this committee will be finalized next year and brought to the faculty for consideration. A copy of the draft proposal will be published in *Almanac*.

The method of providing administrative oversight by past committees relied upon the administration's ability to provide answers to questions concerning numbers of A1, A2, and A3 personnel along with other accounting breakdowns in order to assess the "growth" of the administration relative to the academic community. Results were not taken seriously due to limitations on University computing systems and the changing definitions of terms from year to year. Rather, this committee embarked upon a two-year study of University budgets as a means of measuring the allocation of resources between academic needs and other needs. The Provost's office has responded to questions aimed at clarifying our understanding of these budgets. Preliminary analysis of

unrestricted budgets has started. Our early findings will be submitted to *Almanac*.

In our meeting with Vice President Whittington we were advised that, with regard to the Campus Master Plan, there are no current plans to acquire land beyond the current boundaries of the campus. The committee will seek a presentation of the Campus Master Plan. The Faculty Club remains in financial difficulty. A Faculty Club Board committee, chaired by Rev. Stanley Johnson, is exploring alternatives and Rev. Johnson will be invited to our committee to describe the status of their efforts. Parking has advanced considerably. All people who applied for parking by July 1, 1989 have received parking privileges. Future plans deal with the generation of parking revenues to cover expenditures. The Chemistry-Engineering building is still under consideration by the provost. Funding sources and a site have not been finalized.

It is anticipated that report will be available in fall 1990 describing the findings of this past year. A final report is targeted for spring 1991.

—Solomon R. Pollack, Chair,
Senate Committee on Administration

The Committee to Review the Charter of the University Student Judicial System submits the following Preliminary Report to the University Community for comment. Comments, oral or written, should be received by the Committee's chair, Professor Stephen Burbank, 154 Law (Ext. 8-7072) no later than Friday, April 13. The Committee intends to present its Final Report to the May meeting of the University Council.

Preliminary Report of the Committee to Review The Charter of the University Student Judicial System

I. Introduction

Appointed in October 1989 by the President and Provost, the Committee received its charge from Provost Aiken in early November and, since that time, has met on six occasions and conducted an open forum for the University community. The Committee has reviewed documents relating to the development of the Charter and experience under it, interviewed the JIO and the present and immediate past JA, and solicited and received—from the general University community and those involved in proceedings—comments and suggestions concerning the existing Charter and possible amendments. In addition, the Committee's chair serves on a Coordinating Committee appointed by the Provost and has met on three occasions with the chairs of the committees to review the Guidelines on Open Expression and Code of Academic Integrity.

In charging the Committee, Provost Aiken noted that the student judicial process had in recent years been the subject of considerable controversy and that the time was ripe for a review of the Charter for the purpose of making such improvements as might be desirable. Although he mentioned a number of subjects that the Committee might wish to consider (e.g., panel composition, disqualification of panel members, powers of the JA), the Provost made clear both that the Committee should chart its own course and that it should be more concerned with thoroughness than with speed.

In considering possible amendments to the Charter, the Committee has sought to inform its deliberations with an understanding of the history of the document and of its current implementation. The history reveals a variety of tensions, periodically lessening but ever present, including between the traditional administrative model of student discipline and the adversarial model of the legal world, and, at a deeper level, between the desire to foster perceived community values and concern for the protection of the individual. The information provided to the Committee about current implementation reveals a system heavily dependent on settlement. This phenomenon, as in court systems, may be viewed as desirable because it is likely to yield juster resolutions and necessary to prevent the collapse of the system, or as undesirable because the product of inequalities in bargaining power and unnecessary in a community that truly values its dispute resolution processes.

Having considered both the history of the Charter and the nature of the University community, the Committee has concluded that it is both too late and too early in the day to recommend a return to the system of discipline that so long prevailed at this and other educational institutions. It is not that we believe administrators are any less fair-minded than they once were or that an adversary process is the only, or the best, means to resolve all disputes involving student conduct. Indeed, we are persuaded that in some, perhaps many, instances an adversary approach to such matters may ill serve both the interests of the students involved and of the community as a whole. Rather, we believe it is too late in the day because the adversary model that, in varying degrees, has prevailed since the Charter was first adopted has created expectations, a claim of rights, among students that no one committee, however deliberate and embracing its work, could reasonably expect to alter. More important, it is too early in the day because, in a diverse, multi-cultural institution of higher education, community cannot simply be imposed; it must reflect shared commitment to common values.

Today's University is too complex, too heterogeneous, and too fragile to commit to any one person, or for that matter any group, the tasks of both finding the "truth" and of delivering justice, without significant opportunities for those whose lives may be affected to participate and to contribute their versions of both. As the Committee sees it, the tensions

are inevitable, and the best this University can do is seek a system of dispute resolution that (1) includes substantial protections against action that is either arbitrary or insufficiently attentive to the contingency of truth and justice; (2) involves a cross-section of the University in decision-making, and (3) does not give up on the notion that a residential academic institution has distinctive values and problems that properly may be considered in deciding what process is due. We propose no radical revisions to, or restructuring of, the Charter. Our recommendations are intended to refine a system that seeks to promote educational values while honoring both the interests of individuals (complainants and respondents) and the needs of a residential academic community.

Having considered the current implementation of the Charter, and bearing in mind the tensions discussed above, the Committee discussed at length whether it might be possible to move from a system statistically dominated by settlements to one that maximized the benefits of informal dispute resolution. Thus, the Committee considered, and was very evenly divided over, a proposal to bifurcate the functions currently assigned to the JIO between two positions, one (the "settlement JIO") to be concerned exclusively with attempting to resolve complaints without a panel hearing (confidentiality being assured), and the other (the "prosecutor JIO") to pick up cases that did not settle, separately investigate them, and present them to a panel. The attractions of such a system include the possibility that it would lead to greater communication with, and greater trust in, the "settlement JIO" and that it would reduce the potential for role conflict thought to be inherent in the position of JIO as presently constituted. On the other side are concerns about the effects of bifurcation on the rate of settlement and about potential expense and delay, as well as doubt whether, in the hands of a sensitive individual—a necessary condition for effectiveness as JIO—what some perceive as role conflict is not rather the best hope for a resolution that reflects the values of an educational institution. Although a majority of the Committee does not presently favor bifurcation, the minority included all student members. The Committee is particularly interested in the views of the University community on this matter.

With this brief introduction, we turn to our recommendations concerning amendment of the Charter. References to that document are keyed to University Policies and Procedures, 1989-1991, as supplemented by amendments implemented in 1989 and published Of Record in *Almanac* for September 5, 1989.

II. Proposed Amendments

A. Part II: The University Hearing Board (page 11)

1. The Committee recommends that the Charter be amended to provide for four panels of five members each: three faculty, one undergraduate and one graduate student. The faculty members on each panel would constitute its standing membership and would serve for two years. The undergraduate and graduate students would be selected as presently from pools of thirty. Two panels would hear cases in alternate months, at times designated in advance, with one panel serving as an emergency hearing panel and one as an appellate panel. Each panel should have at least one alternate faculty member.

The Charter, as amended effective in 1989, provides for a University-wide Hearing Board with exclusive jurisdiction, subject to certain exceptions, in all cases involving alleged violations of University regulations, including the Code of Academic Integrity. The Hearing Board consists of thirty undergraduates, thirty graduate students and thirty faculty members, sitting in panels of five (three faculty, one

undergraduate and one graduate student).

In 1987 the JIO proposed, and the University Council approved, a plan to convert to a system of standing panels. The proposal was animated by a number of concerns, including the difficulty of securing faculty participation, lack of experience of panel members, inconsistency in sanctions, and delay. The proposal has not, however, been implemented.

A number of the problems described by the JIO in 1987 persist today. Moreover, the difficulty of securing faculty participation results in only an appearance of randomness, as the same faculty members tend to end up serving. No similar difficulty has been experienced in securing participation by undergraduate or graduate students, and the student members of the Committee strongly favor retention of the current system for selecting them.

The proposed mixed system should solve the problems of securing faculty participation, inexperience and delay. The time commitment for faculty serving on the two primary hearing panels would be substantial (as much as one day every other month), but it would be predictable and set well in advance. Moreover, such a prearranged schedule should mitigate, if not eliminate, the costs of adjourned hearings. Although students would be selected for each panel, they could and should be selected well in advance of the hearing date.

As we have noted, the current system is not, with respect to faculty, meaningfully random. In addition, we would expect the Senate Executive Committee to exercise great care in selecting the faculty who would constitute the panels' standing membership. Although it is possible that the additional experience gained by faculty might overawe students serving ad hoc, the student members of the Committee did not regard that as a serious risk, or at least not sufficiently of concern to warrant standing student membership. The Committee notes, however, the concern expressed in 1987 that students are selected at random with no screening process. If that is true today, it may be that the Undergraduate Assembly and the Graduate and Professional Students' Assembly should screen those who are to be part of the pools from which panel members are selected at random.

The proposal for an appellate panel is discussed at (B)(2) below.

The Committee believes that the responsibility to ensure that sanctions are fairly comparable rests with the Vice Provost for University Life, to whom panels are merely advisory on sanctions. The information system we propose in (B)(3) below should assist the VPUL in that endeavor.

B. Part III: Staff (pages 11-12)

1. The Committee recommends that Part III(A)(3) be amended to provide:

Upon request, the JA shall refer a complainant or respondent to an advisor. In addition, the Vice Provost for University Life shall compile and maintain lists of members of the University community who are willing to serve as advisors, including those with a particular interest in assisting minority and foreign students. Such lists shall be available upon request.

The Committee has been informed that some students have had difficulty in securing a suitable advisor and that the problem has been acute for minority and foreign students. The Charter currently charges the JA with the duty, upon request, to refer a complainant or respondent to an advisor and to "maintain a list of advisors." The proposal would transfer the latter duty to the VPUL and expand it to promote the solicitation of those willing to serve in that role, including those with a particular interest in assisting minority and foreign students. It is expected that the JA will continue to work with students who desire help in securing the best possible advisor. Moreover, the Committee believes that student government organizations could play a useful role.

2. The Committee recommends that

Part III(B) be deleted and that the functions currently performed by the Appellate Officer be transferred to the Appellate Panel proposed in II(A) above.

The Committee believes that both fairness and the quest for community judgments would be better served by a larger and more diverse appellate decision-making body. No significant change in the procedures for appeals from panel decisions is contemplated (see (G) below), but we do propose that rulings upon objections for specific cause by the JA be reviewable by the appellate panel (see (C)(9) below).

3. The Committee recommends that

Part III(C)(1) be amended to delete the language relating to records

and statistics and that a new subpart be added, as follows:

The JIO shall institute and maintain an information system capable of providing an accessible and secure record of the characteristics and disposition of every complaint filed, including a case-based record system adequate to (1) facilitate review and disposition on a timely basis, (2) provide information on the range of sanctions applied, by settlement or VPUL decision following panel hearing, in cases of a similar nature, and (3) ensure the dissemination of useful statistical information about the incidence and resolution of cases to the University community in a timely fashion.

Elsewhere we recommend more frequent reporting by the JIO to the University community (see (I) below). In order to be of use over time, statistics must be comparable. The case-based record system we envision should include information about: the complainant and respondent, the alleged violation, any police (internal or external) involvement, reports of any investigations, method of disposition (including duration of any panel hearing), nature of disposition, and appeals. The files should be accessible through key indicators and semantic text search, and adequate provision must be made for their security, including through the development of guidelines and procedures for access.

C. Part IV: Procedures (pages 12-13)

1. The Committee recommends that

Part IV(A)(1) be amended to substitute "respondent" for "accused," to provide written notice to the complainant as well as the JA and the respondent, and to include the following sentences:

The notice shall also enclose a copy of this Charter, a copy of the regulations, rules, or policies alleged to have been violated, and a summary of the rights and responsibilities of those involved in the process (complainant, respondent and witnesses), including the right to be assisted by an advisor, as defined in this Charter, at each stage of the procedures, and the responsibility to observe confidentiality. Where a respondent is a graduate student the JIO shall verify that individual's current address with her or his department or school before providing written notice.

The proposed word change proceeds from the view that a distinction in terminology prior to a finding of reasonable cause is not necessary, particularly when the word used may suggest inapposite analogies. The Charter is not an easy document to negotiate, particularly for those of another native tongue. The summary of rights and responsibilities we have in mind should be written in plain language and include references to the relevant provisions of the Charter, and to sources of assistance in obtaining a suitable advisor. The proposal with respect to graduate students responds to comments we received that noted the problems presented for those laboring (i.e., on dissertations or in field research) away from Philadelphia.

2. The Committee recommends that

Part IV(A)(2) be amended to provide in pertinent part:

The JIO may interview any appropriate witness, including a potential respondent, but shall not do so until the witness has been furnished with a summary of the rights and responsibilities of those involved in the process. All witnesses have the right to consult with an advisor, as defined in this Charter, while being interviewed, and the JIO shall inform them that anything they say may be introduced as evidence.

The proposed amendment would require that witnesses be furnished with the summary of rights and responsibilities discussed in (C)(1) above.

3. The Committee recommends that Part IV(A)(3) be amended to add:

If, having dismissed charges as unfounded, the JIO concludes that there is reasonable cause to believe that the complainant knew the complaint was false, the JIO may initiate a complaint against that individual under this Charter or, with respect to those not students, other available procedures.

The Committee has been informed that on occasion members of the University community have knowingly filed false complaints. Such an abuse of the process, in our view, itself warrants sanctions.

4. The Committee recommends that Part IV(A)(5) be amended to provide in pertinent part:

FOR COMMENT

At any time after the filing of a complaint, the JIO, with the written approval of the JA, may place a "Judicial Hold" on the academic records of a respondent for the purpose of preserving the status quo pending the outcome of proceedings under this Charter. When reasonably possible a respondent shall be given an opportunity to comment on a proposed Judicial Hold prior to its institution and otherwise shall be given that opportunity promptly thereafter. In addition, the VPUL shall promptly review the propriety of a Judicial Hold at the request of a respondent. The JIO and the JA shall expedite the hearing of charges against a respondent whose academic records have been placed on Judicial Hold if the respondent so requests.

A "Judicial Hold" is heavy artillery. The proposed amendment would require the approval of, and not just consultation with, the JA. Moreover, it would require that a respondent be given an opportunity to be heard, an opportunity for review by the VPUL, and a right to an expedited hearing. In this, as in communications generally (see (C)(1) above), the JIO should be alert to problems that may confront graduate students.

5. The Committee recommends that

Part IV(B)(1)(a) be amended to reflect the proposal (see (A)(1) above) that hearing panels meet monthly, on days scheduled in advance, with the emergency panel available to hear cases in the interim.

6. The Committee recommends that Part IV(B)(1)(c) be amended to add the following sentence:

The JA shall promptly provide members of the panel with the names of the complainant, the respondent, and witnesses.

The proposed notification is designed to alert panel members, as soon as possible, to possible grounds for disqualification.

7. The Committee recommends that Part IV(B)(2)(a) be amended to provide:

Members of the Hearing Board panel shall disqualify themselves from hearing a case if they believe in good faith that, as a result of information previously acquired about the case or individuals involved in it, the nature of the alleged violation, or any other cause, their capacity for making an impartial judgment upon the evidence is, or to reasonable members of the community may appear to be, impaired. Members should not disqualify themselves for any other reason. Mere service on another panel involving the same respondent is not grounds for disqualification.

The Committee has attempted to elaborate the standard for disqualification. This is not an easy task, and we chose to do so by suggesting possible sources of influence preventing "an impartial judgment upon the evidence" (vs. "objective judgment" in the current Charter). Although the proposed amendment provides that "mere service on another panel involving the same respondent is not grounds for disqualification," such service may cause an individual panel member to lose the capacity for impartial judgment upon the evidence, requiring disqualification.

8. The Committee recommends that

Part IV(B)(2)(b) be amended by replacing "the objection" with "any existing objection" and "forty-eight hours" with "five days", and by adding the following after the first sentence:

The conduct of a panel member during a case shall not be grounds for disqualification but may be considered on appeal.

The longer lead time for objections for specific cause is necessary in light of the proposed appellate mechanism (see (C)(9) below) and the proposed fixed schedule of panel hearings. The Committee was informed that objections for specific cause have been renewed, in some cases repeatedly, based on conduct by panel members claimed to demonstrate pre-existing bias or partiality. In our view, "bias" conceived as a result of information gained during a case is not grounds for disqualification. If, however, it infects the process in such a way as to promote unfairness, it may be considered on appeal.

9. The Committee recommends that Part IV(B)(2)(d) be added as follows:

Rulings denying objections for specific cause by the JA may be appealed in writing, within forty-eight hours of the ruling, to the appellate panel. The panel, or as many members as are available, shall review the written objection and statement of appeal, any written ruling of the JA, and shall issue a prompt decision. The decision on appeal shall be final.

An appellate mechanism provides an additional check as to how reasonable members of the community might judge the propriety of panel members' participation. Since both an objection for specific cause and the appeal must be in writing, it should be possible for the appellate panel to rule with sufficient dispatch to ensure that, if the objection is sustained, a replacement member can be found for a scheduled hearing. When an appeal has been taken, the JA should normally transmit the reasons for her or his ruling in writing to the appellate panel. In our view, if the JA sustains the objection for specific cause, there should be no appeal.

10. The Committee recommends that Part IV(B)(4) be amended to provide:

a. At each stage of the procedures provided by this Charter, a respondent and complainant may be assisted by an advisor who is a member of the University community (student, faculty or staff). If criminal charges are pending or in the judgment of the JIO are reasonably in prospect against a respondent, she or he may be accompanied by an advisor who is an attorney who is not a member of the University community. Such an advisor may not, however, question witnesses or address a panel except as provided below with respect to advisors generally.

b. During a hearing, an advisor may consult with her or his advisee but, unless invited to do so by the JA, may not question witnesses or address the panel, except that an advisor may make a summary statement to the panel before it begins private deliberations. The time allowed for such summary shall be set by the JA. An invitation to an advisor to question witnesses or to address the panel may be withdrawn.

c. Any advisor who refuses, or repeatedly fails, to abide by the procedures of this Charter or rulings in the case may, after due warning, be disqualified from continuing to serve by vote of a majority of the panel, which decision shall be subject to immediate review by the JA. In the event the disqualification is upheld by the JA, the panel may (but need not) proceed in the absence of a replacement advisor. Any person who is disqualified from serving as an advisor, whether or not a member of the University community, shall be ineligible again to serve as an advisor for a period of two years.

The proposed amendments to subparts (a) & (b) codify current practice. Determining when criminal charges are "reasonably in prospect" is a judgment committed to the JIO based on experience with similar incidents at the University. The proposed addition of subpart (c) responds to perceived abuses of the system by advisors who have refused to abide by the University's rules or rulings in a case. The requirement of "due warning" should help to protect a respondent, as the ability (n.b. not a requirement) to proceed after disqualification and before a replacement has been secured protects the system against manipulation. The Vice Provost for University Life should maintain with the list of advisors required by (B)(1) above, a list of those who are ineligible to serve because of prior disqualification.

11. The Committee recommends that Part IV(B)(7) be amended as follows:

a. The JIO, in consultation with the complainant and on terms approved by the JA, may settle a complaint at any time after it has been filed and before final disposition of an appeal, if any.

b. Settlements shall be recorded in a writing signed by the JIO, the JA and the respondent, who shall waive further proceedings under this Charter.

The proposed amendment to IV(B)(7)(a) reflects current practice. Prior approval by the JA should, in combination with a better information system (see (B)(3) above), help to ensure that similar sanctions are imposed in similar cases. The formal approval by the JA proposed in IV(B)(7)(b) may help to promote a realization in the community that responsibility for informal resolutions is shared.

D. Part V: Resolution by Vice Provost for University Life (pages 13-14)

The Committee recommends that

the Vice Provost for University Life be charged to consider how the "simpler, less formal, alternative judicial procedure" presently offered by the Charter, which has rarely been invoked, might be revised so as to achieve its purposes.

Ideally, this is a task that this Committee should have undertaken. In light of a history of desuetude, however, the procedure, whatever its potential,

did not seem to us sufficiently promising to justify delaying our other recommendations. We would note that partial explanation for the history of non-use may lie in a failure to publicize the option (whether or not amended, its availability should be included in the summary statement of rights and responsibilities proposed in (C)(1) above). In addition, we question whether a complainant should have the ability to veto resort to the option by a respondent who desires to invoke it. Finally and most important, we wonder about the reasoning behind an "alternative judicial procedure," with participation by the JIO and conferences at which "the JIO, the respondent and the complainant may present relevant evidence." A more truly inquisitorial/administrative model might be appropriate, at least once it is recalled that, as observed by Henry Friendly, "change inquisitorial to inquiring, and the bad becomes the good."

E. Part VII: Suspension Pending Hearing (page 14)

The Committee recommends that the title of this Part be changed to "Temporary Leave Pending Hearing" and that Part VII be amended to provide as follows:

A. In extraordinary circumstances, when a student's presence on campus is deemed to be a potential threat to order, health or safety, the VPUL may place the student on temporary leave of absence pending a hearing of charges. The VPUL shall consult with persons of appropriate expertise and, when reasonably possible, provide the student with an opportunity to be heard, before making a decision to place that student on temporary leave of absence. Such a decision shall in all cases be subject to prompt review by the Provost at the student's request. Any student placed on temporary leave of absence shall not be liable for tuition or fees attributable to the period of leave.

B. At the student's request, and if adequate information is available upon investigation by the JIO, the JIO and the JA shall expedite the hearing of charges against a student placed on temporary leave of absence.

Recent controversy on the campus has suggested a failure to distinguish between a "suspension" imposed as a sanction by the VPUL after a panel hearing and the administrative remedy, available only in "extraordinary circumstances," under this Part. Of course, if a "suspension" or "temporary leave of absence" imposed administratively prior to a hearing causes a student to lose both a term's work and a term's tuition, the suggested distinction may be thought a play on words. Moreover, particularly in these times, time is money and, whatever the label, the temporary remedy is likely to bear a stigma. For these reasons the decision should be taken only after the VPUL has consulted appropriate experts (e.g., law enforcement personnel or physicians) and, whenever reasonably possible, only after the student has had an opportunity to be heard (orally or in writing). Moreover, the decision should be subject to formal review at the highest levels of the University if the student so requests.

To a great extent, the proposed amendments reflect the current practice of the VPUL, who requested the Committee to consider the matter.

F. Part VIII: Sanctions (page 14)

The Committee recommends that Part VIII(B)(2) be amended as follows:

2. The JIO, with the approval of the JA, may place a Judicial Hold on a student's records or take any other action necessary to enforce a sanction.

See (C)(3) above.

G. Part IX: Appeals (page 14)

The Committee recommends that Part IX be amended

by substituting "The Appellate Panel" for "The Appellate Officer" (together with appropriate pronominal changes) throughout and by adding "or the VPUL's decision" after "the panel's decision" in IV(B)(1).

For the proposed appellate panel, see (B)(2) above. The other proposed amendment reflects the fact that the VPUL imposes sanctions (while a complainant or the JIO can appeal directly from a panel's determination of innocence).

H. Part X: Confidentiality of Judicial Records and Proceedings (page 14)

The Committee recommends that Part X (A) be amended by adding at the end the following:

All members of the University community shall respect the confidentiality of judicial records and proceedings, mindful of the unfairness that can result from selective disclosures, partisan representations, and the inability to respond to such disclosures and representations. Failure to observe the requirement of confidentiality by a member of the University community, other than a respondent, who is involved in a case in whatever capacity, shall constitute a violation of University rules and subject the individual to the appropriate procedures for dealing with such violations. If a respondent discloses, causes to be disclosed, or participates in the disclosure of, information that is otherwise confidential, any person whose character or integrity might reasonably be questioned as a result of such disclosure, shall have a right to respond in an appropriate forum, limited to the subject matter of the initial disclosure.

This proposal is an admittedly imperfect response to problems that have seen recent manifestation on the campus. The requirement to observe confidentiality applies to all. Formal sanctions are not, however, available against a respondent who makes unauthorized disclosures; nor are they available against those who are not involved in a case who compound a violation by repeating a disclosure. Where, however, responsibility for a disclosure that impugns any person's character or integrity is fairly attributable to a respondent, the proposal provides a limited right of response. The procedures to be employed in the event of a violation by those involved in a case (other than a respondent) should be those normally applicable to persons holding similar positions in the University community.

I. Part XI: Reports (page 14)

1. The Committee recommends that Part XI(A) be amended as follows:

Subject to the requirements of Part X above, the JIO, in consultation with the JA, shall make public reports at the beginning of each year and periodic reports as may be appropriate. The purposes of such reports are to inform the University community about the character and extent of the work of the Judicial System, including the nature of the violations of University rules and regulations and the sanctions imposed.

2. The Committee recommends that Part XI(B) be amended by deleting the last sentence and replacing it with the following:

Periodic reports shall inform the University community about recurring or, as determined by the JA, extraordinary violations of rules or regulations, as the case may be, and the sanctions imposed for such violations.

The proposed amendments are designed to provide authority for more frequent reporting by the JIO to the community, subject to the requirements of confidentiality. In the Committee's view, deterrence alone argues for periodic reports, and they may also be helpful in developing a shared commitment to norms of conduct.

Stephen B. Burbank, Chair

*Committee to Review the Charter of the
University Student Judicial System*

*Members: Howard Brody
Stephen Gale
John Hughes
Elizabeth Hunt
Robert F. Lucid
Eli Pringle
Louise P. Shoemaker
Ken Tercyak
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Carolynne Martin*

A Peek at Peak Week

When the 250th's 16-page brochure arrives later this week, these are among offerings Penn faculty, staff and students—along with alumni, parents and other guests—can choose from:

The Kickoff: Fireworks on the river, both aural (Handel's *Royal Fireworks Music*) and visual, at Boat House Row Wednesday, May 16.

Three Centerpiece Days: A plenary at Convention Hall opens each day Thursday, Friday and Saturday (May 17, 18, 19), running 8:45 to 10:15 a.m., each with a different speaker (Former President Ronald Reagan, Nobelist Oscar Arias Sanchez of Costa Rica, and a third to be announced). Afterward, each day there are choices:

Colloquia: Ted Koppel of ABC News moderates panels of world leaders on the umbrella topic, *The Twenty-First Century: A World Without Walls?* The series, being televised by Koppel Communications for later viewing as a mini-series on PBS, brings together world leaders and scholars to explore accelerating changes in global politics, economics and culture.

Exchanges: Each morning (concurrent with the colloquia) and each afternoon will feature what many consider to be the heart of the 250th event: the alumni-faculty exchanges, biomedical exchanges and student life exchanges. More than 100 presentations by panels of alumni, faculty and students will engage distinguished members of the Penn community in dialogues. Some sample titles: *Reforming the Soviet Economy...Steinberg on Picasso...The International Dimension (one of the student life exchanges)...The Impact of Molecular Genetics on Modern Medicine...Europe, 1992—Opening the Borders.*

Exhibitions: At the Arthur Ross Gallery, in cooperation with Van Pelt Special Collections, art and artifacts from *The Intellectual World of Benjamin Franklin*. A presentation from University Archives and Records is *The Many Faces of Pennsylvania: The University's Affirmation of Diversity*. Other displays and exhibits will dot the campus, along with tours of the Museum, Furness restoration, and art on campus.

Music and Performing Arts: The Penn Baroque Ensemble...the Concerto Soloists Chamber Orchestra of Philadelphia...The Preservation Hall Jazz Band of New Orleans...The University of Pennsylvania Chamber Singers...and a series of recitals on the Curtis Organ in Irvine Auditorium. A special concert on May 18 features works of several award-winning faculty composers.

The Capitol Steps, a troupe of political satirists, will be up from Washington, D.C... The Glee Club's *Basses Loaded!*, Mask and Wig's song-and-dance tribute to Ben Franklin, *Healthy Wealthy and Wry...* Arts House Dance Company performing with Penn Dance...Solaris, a dance-

theatre company featuring Wharton alumnus Henry Smith...Claire Bloom in an adaptation of *A Turn of the Screw*, and an experimental new comedy by Bill Bozzone are among the many stage offerings.

Parties: The night of May 17, celebrants can choose the festive black-tie 250th Celebration Dinner in the Quad or the Sports Celebration—*Philly Style at the Palestra*. They merge in the Birthday Party on College Green, 10 p.m. Next night, a sock hop at the Palestra (Jerry Blavitt, the Platters, and others in *Ben's Bandstand Bash*).

Penn Mayfare is Saturday, May 19 at Hill Field, transformed into an international food festival—with international performers, musicians, jugglers and others. From Mayfare, revelers move to Convention Hall for *PennULTIMATE*, the extravaganza featuring Bill Cosby as performing emcee of a supervariety show headlined by country stars Dolly Parton and Kenny Rogers.

The Windup: Sunday morning, "Fanfares and Farewells" a champagne brunch in Irvine.

"When I look at this program," Mrs. Clare Wofford notes, "I am struck by the contrasts between 1990 and 1940, when President Franklin Delano Roosevelt came to speak at our 200th. I think of the events that were taking place then; we were about to enter the second World War, a five-year period when one tragic event followed another. Today there is at least a chance that the world is entering a period of peace. I think that Peak Week events reflect this changing world. In addition to our gaiety and accomplishment, there is the reality of great political and economic opening in the world. To quote our program, these changes promise 'a new wholeness across the domains of human endeavor.'"



Speaking Out

Freedom of Speech

As readers of *Almanac* know, Professor Carolyn Marvin of the Annenberg School for Communication burned an American flag during one of her classes last fall in order to make a point about freedom of speech. This event provoked great controversy, and in a time when most people state that they "believe in freedom of speech, but..." it was not surprising that the Pennsylvania State Assembly, last week, condemned Professor Marvin for having burned the flag.

The two writers of this letter were surprised and alarmed, however, to read in *The Daily Pennsylvanian* (March 20, 1990) that the University's assistant vice-president in charge of relations with the state government had written to a state legislator that "We [the context implied that he meant the president, the provost and himself] very much regret that this incident happened..."

Americans have strong and often complex feelings about the American flag, and the issue for the two of us is neither the wisdom nor the desirability of Professor Marvin's act. We do believe deeply, however—and we trust that our colleagues also so believe—that Professor Marvin not only has the professional duty to teach her students about freedom of speech, but that she obviously has the constitutional right to practice it.

We have not seen the letter to the state legislator, and we do not know what other points its writer may or may not have made. We hope that he made absolutely clear that the president and provost believe that this involves a clear issue of freedom of speech, and that they stand by the right of Professor Marvin to say

whatever she pleases, even if it offends, and, indeed, even if it offends those who may threaten to cut the university's state subsidy.

—James C. Davis,
—Alan Charles Kors,
Professors of History

Response by James Shada

In response to the concerns of Professor James C. Davis and Professor Alan Charles Kors, let me make clear that the portion of my letter to State Representative Jerry L. Nailor was only one part of a response to a number of issues raised by Mr. Nailor and his colleagues in the General Assembly. My letter to R. Nailor addressed a number of narrow issues raised in a meeting a week earlier in Harrisburg; it was not intended to be the University's official response on the matter. Instead, President Hackney wrote to Representative Nailor, with copies to scores of members of the State House of Representatives. Below is the full text of President Hackney's letter.

—James Shada, Assistant Vice
President for Commonwealth Relations

President to Mr. Nailor 10/23/89

Thank you for your letter regarding the classroom incident in which a member of the faculty in the Annenberg School for Communication burned an American flag as part of a discussion on freedom of expression. Please excuse the delay in my answer, but the volume of mail has been heavy and it has not been until now, with the semester winding down, that I have been able to take the time I wanted to respond personally to you.

I understand your anger at this incident, and appreciate your taking the time to let me know how strongly you feel about Professor Marvin's action. You certainly have not been alone in expressing your opinion.

Let me first say that Professor Marvin's action was not meant as a political statement or demonstration. Her destruction of the flag was done not as a protest but as part of an academic exercise.

While I fully agree with you that Professor Marvin could have found another way to demonstrate her point, it is also true that the University's commitment to free expression in the classroom does not proscribe her conduct. As much as one may disagree with the step taken by Professor Marvin, I am convinced that such disagreement is the price we must pay for the freedom of expression symbolized by our nation's flag itself.

Often it is not easy, I fear, to defend freedom of expression when one is offended by someone else's speech or actions. Unfortunately, that is exactly when the principle most needs to be defended. The alternative would be policies and laws that easily could be used to extinguish our own rights and freedoms.

I say all of this not in the expectation that you will be less concerned about this incident. Rather, I hope that you understand that this professor's action does not represent a University position, and that it was interpreted here on campus not as a demonstration of disrespect for our flag, but rather as a pedagogic device—however unwise many found it—related to an issue that is being discussed in lively debate by people in every corner of our nation.

—Sheldon Hackney, President

Deans Forum: April 5

SAS Dean Hugo Sonnenschein invites the University community to a forum honoring the school's outstanding undergraduate and graduate students.

Speakers are two former state governors: Pierre S. du Pont of Delaware and Gerald L. Baliles, of Virginia. Their topic is *Private Initiative and Government Responsibility: Achieving a Balance*.

Mr. du Pont IV, who served in the U.S. Congress and in 1988 ran for U.S. President, is currently a director in the Wilmington law firm of Richards, Layton & Finger. He has been appointed by the Hudson Institute to the International Blue Ribbon Commission which will prepare economic proposals for the Hungarian Government.

Mr. Baliles, whose 1985 campaign brought Virginia its first black Lieutenant Governor and first woman Attorney General, is noted for the creation of the office of Secretary of Natural Resources, the Virginia Tax Reform Act, and the Commission on Efficiency in Government. He is currently a partner in the law firm of Hunton and Williams in Richmond, and was 1988-89 chair of the National Governors' Association.

Facilitators for Diversity Education

Students, staff, and faculty are invited to serve as small group facilitators for the 1990 Diversity Education Program for first-year students. The Program will take place on the afternoon of September 3 (Labor Day). Each group of about twenty first-year students will be co-facilitated by a faculty or staff member and a student.

Prospective facilitators must attend one of three orientation sessions (Tuesday, May 15, 9:30 a.m.-12:30 p.m.; Thursday, July 12, 9:30 a.m.-12:30 p.m.; Sunday, September 2, 2-5 p.m.). They will also need to be available for final instructions and lunch with their co-facilitator immediately prior to the Program.

Those interested in serving are asked to fill out a one-page form which is available in Houston Hall (Information Desk and Student Life, Room 110) and in Residential Living area Offices (North Campus, 110 Grad Tower B; South Campus (Quad), 3700 Spruce; West Campus, Harnwell House, 3820 Locust Walk). Forms need to be returned by April 30. For information, call Bob Schoenberg at 898-5044.

Update

APRIL AT PENN CHILDREN'S ACTIVITIES

7 *Passport to the World*; interactive workshops which allow children to explore cultural traditions around the world; 10:30 a.m.-3 p.m., International House. Admission: \$3 for children (International House Spring Festival).

FILMS

8 *Mirch Masala Spices*; winner of the Best Indian Film Award; 7:30 p.m.; April 11 and 12, 7:30 p.m.; April 14, 8 p.m. International House (International House).

SPECIAL EVENTS

5 *Kite Flying Competition*; commemorates Ben Franklin's historical discovery of electricity; 3-5 p.m., Hill Field. Three \$50 prizes will be awarded to the largest, smallest and most creative kites. Information: Ext. 8-6564.

6 *10th Annual Economics Day*; Penn faculty and distinguished economists discuss such issues as "Economic Transition in the Soviet Union;" 9 a.m.-1 p.m., Annenberg School Auditorium (Department of Economics).

7 *International House Spring Festival*; 6th annual celebration of ethnic cuisine, crafts, music and dance; 10:30 a.m.-5 p.m., International House. Admission: \$5 adults, \$4 members, students and senior citizens, and \$3 children (International House).

9 *Revival: The Words of the Cross*; Rev. Richard Krueger, Faith Community Church; 7:30 p.m., Ben Franklin Room, Houston Hall; April 10 and 11, Room 245, Houston Hall (Student for Christ). Through April 11.

TALKS

6 *Is the Ontological Argument Ontological?*; Jean-Luc Marion, University of Paris-X, Nanterre; 4 p.m., Room 310, Logan Hall (Department of Philosophy).

9 *The Future of Affirmative Action Programs*; Eleanor Holmes Norton, Georgetown Law Center; 7 p.m., Annenberg School Theatre (Greenfield Intercultural Center Lecture Series).

10 *Definition of G-Protein Through Immunologic Approaches*; David Manning, pharmacology; 1-2 p.m., Physiology Library, Richards Building (Respiratory Physiology Group and Department of Anesthesiology).

11 *Time and the Physical Universe*; Nobel Laureate, Norman F. Ramsey, Harvard University; 4 p.m., Room A-1, David Rittenhouse Labs (Department of Physics, Henry Primakoff Lectures).

University of Pennsylvania Police Department

This report contains tallies of part 1 crimes, a listing of part 1 crimes against persons, and summaries of part 1 crime in the five busiest sectors on campus where two or more incidents were reported between **March 26, 1990 and April 1, 1990**.

Totals: Crimes Against Persons-0, Thefts-17, Burglaries-3, Attempted Thefts of Auto-0, Theft of Auto-2

Date	Time Reported	Location	Incident
34th to 36th; Locust to Walnut			
03/26/90	3:30 PM	Van Pelt Library	Unattended keys taken
03/26/90	5:35 PM	Van Pelt Library	Arrest/male attempt theft
03/26/90	7:23 PM	Van Pelt Library	Unattended wallet & contents taken
36th to 37th; Spruce to Locust			
03/26/90	7:06 PM	3600 Blk Locust	Unattended wallet & contents taken
03/28/90	10:45 AM	Steinberg/Dtrich	Secured bike taken from rack
36th to 37th; Locust to Walnut			
03/26/90	2:30 PM	Christian Assoc	Unattended bag and contents taken
03/30/90	2:42 AM	Annenberg Center	Unattended coat/wallet/book/taken
38th to 39th; Spruce to Locust			
03/27/90	7:01 PM	Zeta Beta Tau	Jacket/gloves taken during party
03/28/90	6:37 PM	Dining Commons	Glasses taken from loading dock
32nd to 33rd; South to Walnut			
03/27/90	11:18 AM	Franklin Field	Boxes of copper taken
03/27/90	9:08 PM	Lot #5	Auto taken from lot

Safety tip: Areas where Money Access Centers are located often are targets of crime. When accessing a money access machines be careful, use caution and keep alert for the unexpected. We urge you to utilize the machines on campus.

18th Police District Philadelphia Police

Schuylkill River to 49th Street, Market Street to Woodland Ave
12:01 AM March 5, 1990 to 11:59 PM March 18, 1990

Totals: 9 Incidents, 3 Arrests

Date	Time Reported	Location	Offense/Weapon	Arrest
03/19/90	3:24 AM	3925 Walnut	Robbery/gun	No
03/20/90	6:55 PM	4832 Baltimore	Robbery/gun	No
03/20/90	4:12 AM	4300 Larchwood	Robbery/board	Yes
03/21/90	12:35 PM	38 S. 40	Robbery/knife	No
03/22/90	12:19 AM	3900 Walnut	Robbery/strong-arm	Yes
03/22/90	12:19 AM	3900 Walnut	Robbery/strong-arm	Yes
03/22/90	4:35 PM	4200 Spruce	Robbery/strong-arm	No
03/25/90	11:35 AM	1248 S. 45	Purse Snatch	No
03/25/90	4:16 PM	4000 Market	Robbery/gun	No

Almanac

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