

Testimony
Board of Trustees Hearing on Proposed
Student Complaint Procedure
Monday, January 22nd, 2007

My name is Stephen Leberstein. I served as Executive Director of the City College Center for Worker Education for over 20 years and I am now adjunct Professor of Political Science at Brooklyn College. I was a member of the American Association of University Professors Committee A (on Academic Freedom & Tenure) for six years, and am also chair of the Academic Freedom Committee of the Professional Staff Congress.

The University says that existing procedures for dealing with what it terms "student-related issues" do not cover "student complaints about faculty conduct in the classroom or other formal academic settings."

CUNY disciplinary codes seem to allow ample discretion to deal with virtually any imaginable complaint on the part of any member of what is usually referred to as the "college community," a group in which faculty and students constitute a majority.

Why, then, does the University need yet another "complaint procedure"? What kinds of complaints on the part of students gave rise to this proposed new policy? The document at hand does not identify the kind of complaints that are contemplated for this new policy, except to claim that they involve "faculty conduct that is not protected by academic freedom."

A review of extant CUNY policies concerning conduct leads to the conclusion that there is a process for addressing virtually any complaint, aside from those that should be protected by academic freedom. These include sections 1, 5, 7 and 8, and especially section 2 in the penalty section, of the "Rules & Regulations for the Maintenance of Public Order," section 15 of the University's Bylaws, especially section 15.3, the Sexual Harassment Policy, the Workplace Violence Policy, and, failing all of those, section 494C (j) of the State Education Law, which provides that complaints that have not been satisfactorily addressed at a local level can be heard by the State Education Department.

Art. 21 of the PSC-CUNY Collective Bargaining Agreement spells out procedures for instances where a faculty member's conduct has been questioned. These provide due process protection for the accused; the burden of proof in such cases rests with management. The proposed procedures would not provide such clear due process protection, and the procedure's "fact finding" would potentially be left in a

multitude of different hands, most of them not the peers of the accused.

What is most troublesome about the proposed policy is its vagueness, its lack of definition. There are well organized, heavily funded groups outside the academy like the Center for the Study of Popular Culture, Students For Academic Freedom or CampusWatch.org, that encourage students to complain about their professors, to report on what they say in class. Such groups are interested only in matters which, I would argue, are protected by academic freedom, including the utterly specious demand for "balance" in the classroom.

An example of such a complaint against a member of the Queens College faculty appeared in the press just this past semester, and last year there were other complaints that aired in the press against a Brooklyn College faculty member. Fortunately, as far as I know neither of the faculty members was charged by their respective administrations with misconduct.

In the absence of any explanation as to why such a new policy is needed, how can we be assured that such a new procedure will not be used to encourage students to complain about what their faculty teach, how they organize their classes, how individual grades are awarded, how "comfortable" a student feels in a particular class and the like, all matters that do, I would argue strenuously, enjoy the protection of academic freedom.

Procedures such as the ones being proposed tonight are likely to encourage, not legitimate complaints for which ample procedures already exist, but complaints of the kind that CampusWatch.org and other external groups use to cudgel the nation's faculty. The proposed procedures are redundant in the case of real abuses; they may well lead some faculty members to begin to censor themselves for fear that they will be pilloried and perhaps prosecuted for offending the sensibilities of some of their students.

If there is a more compelling reason to adopt such new procedures that is not apparent, then I ask you to say what it is. If there is not, then I urge you not to adopt a policy whose motives can only be suspect and whose results will likely create a chilling climate for academic freedom on our campuses, restricting the ability of the faculty to do their job.

Thank you.