

Report to the Tufts Faculty of Arts, Sciences, and Engineering  
from the Executive Committee

Review of the Faculty Governance Aspects of the Committee of Student Life's (CSL)  
Decision and its Appeal by the Dean of Undergraduate Education

After consulting with various parties and reviewing relevant documents and publications:

***Summary of Case***

An African-American student brought a complaint against the Primary Source to the CSL that charged the Primary Source with defamation, harassment, and creation of a hostile environment. Review of the Student Judicial Process handbook indicated that the CSL could act on the harassment and hostile environment charges; not the defamation charge. This complaint was then joined by the Muslim Student Association for an article in another issue of the Primary Source.

The CSL found that the Primary Source articles did represent harassment and creation of a hostile environment. The "consequence" of the ruling was that all Primary Source articles have a named author(s) or contributor(s).

The ruling was appealed by the Primary Source to the Dean of Undergraduate Education. The Dean agreed with CSL's finding (harassment and hostile environment) but vacated the "consequence" believing it violated rights of free speech. The President's statement on the case's appeal via currently-held free speech doctrine (holding Tufts to the same level as that of public institutions) has been accepted by a committee of Tufts Board of Trustees. At present, changes to existing policies concerning future such complaints are being evaluated.

***Summary of Executive Committee's Review***

Through consultations with various parties (groups and individuals) at Tufts and review of relevant documents; the Executive Committee explored these questions:

Does the CSL have the "charge" of deliberating the case? YES. The CSL does have jurisdiction over such complaints according to the Student Judicial Process handbook (p.34 of 2007-2008 version) and the Bylaws of the Faculty of Arts, Science and Engineering (Article IV, Section 1.c.iii). There is conflicting language between the handbook and bylaws regarding whether the CSL can hear cases referred by the Dean of Students OR CSL can hear appeals of a prior ruling by any Dean or other governing/judicial body. However, the history of such cases indicate that the CSL has assumed the position of being the first judiciary body to hear complaints without having to appeal, or wait for, a ruling from the Dean of Students.

Can the CSL's ruling be appealed and overturned? YES. The Dean of Undergraduate Education has been designated by the Deans of Arts and Sciences and Engineering to review and act on appeals to CSL rulings (p. 35 of Student Judicial Process handbook 2007-2008). Additional note: Based on the bylaws of the Tufts Board of Trustees, the ruling by the Dean of Undergraduate Education can only be heard and overturned by the President. The faculty's role ends after the ruling of the CSL.

Direction of future efforts to review and revise policies.

The president and Dean Glaser did consult with representatives of the CSL and Executive Committee prior to issuing their statements in August; however, not all parties agree that meaningful consultation occurred. Currently, neither the president nor the Board of Trustees has plans to unilaterally create new policy with respect to harassment. The president would like to create a university-wide community to create a university "standard" on harassment. This standard would then be applied by the policies developed by the various schools.

***Conclusions and additional information***

Based on this review, the Executive Committee concludes the following:

1. Proper procedures were followed with respect to the complaint; i.e.,
  - a. the CSL had the authority to hear the case, and
  - b. the Dean of Undergraduate Education has the authority to hear and act on the case's appeal.
2. Based on review of current faculty bylaws, changes to the current policy and procedures regarding the hearing and appeal to the such cases, especially with respect to potential changes in what constitutes harassment and/or creation of a hostile environment, require consultation and input from the faculty committees who will hear and rule on these cases.
3. The President's statement and its acceptance by the Board of Trustees has had a "chilling effect" on members of the CSL who now feel that they cannot address, with any confidence, any complaint placed before them that has, or can have, a basis in free speech.
4. A constructive dialogue is warranted on what constitutes racial harassment and how as a community we should address it. The Executive Committee is willing to advise on how best such a dialogue can be conducted.
5. The involvement of the trustees in the larger issue of adopting free speech as a university-wide standard that might affect harassment policy has to date consisted of approving the president's email to the Tufts community this summer. This matter is *not* on the agenda for the trustees' meeting on November 3. The president intends to appoint a university-wide committee about standards of free speech and harassment, and the Executive Committee has made suggestions regarding its membership.

***Recommendation***

The Executive Committee recommends that any potential changes to existing policies on harassment be conducted in full consultation with appropriate faculty committees and members of the Tufts community.

Respectfully submitted,

Professor Kent Portney (co-chair), Department of Political Science  
Professor Boris Hasselblatt (co-chair), Department of Mathematics  
Professor Susan Ostrander, Department of Sociology  
Professor George Norman, Department of Economics  
Professor Phillip Holcomb, Department of Psychology  
Associate Professor Christopher Swan, Department of Civil and Environmental Engineering