

## Special Report of the Faculty Grievance Committee

**Background.** At its October 9, 1998 meeting, the Faculty Council adopted Resolution 98-10 asking that the Faculty Grievance Committee study the feasibility of introducing mediation by trained mediators into the conflict resolution process regarding issues currently handled by this committee. This report responds to that request.

Resolution 98-10 was referred to a subcommittee composed of Dr. Jean DeSaix, Professors John Rubin, John Schopler, and John Stephens, and Visiting Professor J. Dickson Phillips III. Members of the subcommittee shared their experiences with mediation and also initiated inquiries about the use of mediation in grievance procedures at other universities. Information was obtained from some twenty-five institutions. The bulk of this came in response to an electronic inquiry sent on behalf of the subcommittee by Dr. Tim Sanford, Director of Institutional Research. Although mediation was said to play a role in the formal procedures of almost all of the respondents, the specifics of that role were amazingly diverse. The subcommittee found that, with respect to the use of mediation in faculty grievance processes in institutions of higher education in the United States, there is neither a dominant pattern nor a core of wisdom. In the absence of finding a compelling system elsewhere, we recommend that this University seek to employ mediation in a way that fits well within our existing resources.

**Recommendations.** We offer the following definition: "mediation" means a process by which trained neutrals assist disputants in attempts to find common ground and to arrive at mutually agreeable solutions. We recommend that mediation be available as an option for resolving grievances coming to the Faculty Grievance Committee for a trial period of two years according to the following guidelines:

1. The faculty grievance procedure will begin in the manner now employed. The chair of the Faculty Grievance Committee undertakes preliminary informal discussions with grievants. First, the chair will determine whether the grievance is within the scope of the committee's jurisdiction. If it is, the chair will attempt to resolve the matter informally. If those efforts are unsuccessful, the chair will offer the grievant two options: (1) mediation, or (2) a formal hearing before the committee.
2. A grievant's election of mediation will not abridge subsequent rights to a formal hearing before the Faculty Grievance Committee and will require mandatory participation by the respondent(s) involved in the dispute. The grievant must supply the chair of the Faculty Grievance Committee with a written summary of the grievance and the names of the respondents involved.
3. During the two-year trial period, mediation will be conducted by the Orange County Dispute Settlement Center. The chair will provide OCDSC with the names of the disputants. OCDSC will then follow their normal mediation procedures. These typically involve an intake procedure that explains the

process and finds a mutually agreeable time for the mediation, which takes place at OCDSC and involves using co-mediators. If mediation resolves the grievance, a written summary of the agreements will be forwarded to the chair of the Faculty Grievance Committee. If the grievance is not resolved, the mediators will so indicate to the chair, who will then continue the normal procedures of the committee with respect to the matter.

**Funding.** The committee is pleased to report that the Orange County Dispute Settlement Center has offered to waive its normal charges for disputes routed through the Faculty Grievance Committee for the two-year trial period. If the trial is judged to be a success, we estimate that an annual budget of \$1,500 would be adequate. This budget would allow mediation of five disputes of average complexity each year.

**Proposed Faculty Council Resolution.** The Faculty Grievance Committee presents the following resolution for consideration by the Faculty Council:

The Faculty Council resolves:

Section 1. The Faculty Council endorses the Special Report of the Faculty Grievance Committee submitted in response to Resolution 98-10 and encourages the committee to offer mediation as an option, on a trial basis, for resolution of grievances brought to the committee during the 1999-2000 and 2000-2001 academic years.

Section 2. The Faculty Grievance Committee shall report its recommendations to the Faculty Council no later than the Spring Semester 2001 as to whether mediation should continue to be offered as an option and, if so, how the cost of that option should be funded on a permanent basis.