

Executive Summary

The Faculty Senate *Ad Hoc* Case Review Committee, chaired by Dr. Rodolpho Sandoval, included Dr. Diane Abdo, Dr. Ronald Ayers, Dr. Steven R. Boyd, Dr. Sandy Norman, Dr. Chia Shih, and Dr. Armando Trujillo. Pursuant to a complaint to the Faculty Senate, the Committee reviewed the case of Dr. Manuel Berriozabal, the former Director of the Prefreshman Engineering Program (PREP). Following a six-month investigation, the Committee unanimously recommends that:

- 1) The UTSA PREP program be relocated to the College of Engineering, an appropriate and logical placement for a pre-college preparation program for prospective engineering students;
- 2) Dr. Manuel Berriozabal be named as Founding Director of PREP, complete with all authorities, benefits, and monies appropriate to that position;
- 3) The newly created office of Ombudsman be charged with responsibility to review independently any allegations of improper behavior by an administrator or faculty member and report its findings directly to the president; and
- 4) The Senate Statement of Administrative Professional Responsibility be adopted by the Senate and placed in the HOP.

THE CRIMINAL INVESTIGATION

Between February and July 2005, the Faculty Senate *ad hoc* Committee evaluated the documents relevant to and interviewed key people involved in the process that led to the removal of Dr. Manuel Berriozabal (hereafter, MB) as Director of PREP, his re-assignment to the position of Development Director of PREP, and to his subsequent resignation from the program.

In sum, on October 2002, a staff member of PREP, the Supervisor of Accounts, informed the authorities within the administration that she had knowledge of wrongdoing at the San Antonio Educational Foundation (SAEF), then under investigation by the Bexar County District Attorney. That staff person subsequently informed the UTSAPD that she had worked as a paid consultant to SAEF on State time while in the PREP office and that MB knew of and encouraged this illegal action. In the course of the ensuing investigation, that staff person's supervisor and MB, in their statements, denied to the UTSAPD any knowledge of the illegal actions of the employee.

In the judgment of the Committee, the investigating officers, discharging their duty in good faith, nonetheless failed to understand the responsibility of faculty and administrators to perform public and professional service. MB's service as treasurer of SAEF, rather than illegal, met a University community service mandate. Since the staff member worked on a flex schedule, the evidence in the police report does not support a charge of breach of fiduciary responsibility. Nevertheless, the UTSAPD, on November 20, submitted charges of illegal activity by MB to the Bexar County Assistant District Attorney .

The UTSAPD, while acting in good faith, discounted the testimony of two people in the PREP office (MB, the Director of PREP, and the staff person's supervisor) in favor of one staff person who, in addition to working as a paid consultant for SAEF on State time, did not fulfill the responsibilities of her PREP position to maintain financial records properly. The UTSAPD, in good faith, acted on the basis of an incorrect assumption about MB's professional responsibilities, failing to recognize the aforementioned community service mandate. Then, based upon that false assumption, the UTSAPD read certain e-mails from MB to the staff person in an erroneous manner that led to charges being filed with the D.A.

In our judgment, careful review of the investigation by an independent administrator should have noted these errors and prevented the unfortunate events that followed.

LEAVES OF ABSENCE

Following the submission of charges to the District Attorney's office, the Vice President for Extended Services (acting upon the advice of the UTSA attorney), in good faith, initiated a series of administrative leaves of absence with pay for MB, the reason being that charges had been filed with the District Attorney. These leaves extended from November 25, 2002 through May 23, 2003.

In the judgment of the Committee, the rationale for these leaves and the imposition of them on MB as an administrator and faculty member was unsound. The committee could find no definitive authority on leave of absence, either in the HOP or elsewhere, which required MB to be placed on a leave of absence. If the reason for the leaves of absence were for the purpose of preventing a potential conflict between MB and his accuser, there was none, as she was also placed on leave. If the reason were to keep MB from the PREP organization while the case was being investigated by the DA, a shorter and more reasonable approach would have been more appropriate and equitable. The absence of clear guidelines on the imposition of administrative leave exacerbated the confusion when MB was placed on a leave of absence both as an administrator and a faculty member. In January the Provost partially ameliorated the problem when he intervened to end the imposition of leave on MB the faculty member.

INTERNAL INVESTIGATION

Following the UTSAPD's referring of charges, and the imposition of administrative leaves on MB, the VPES, on the advice of the UTSA attorney, in good faith initiated an internal investigation with the assistance of the Associate Director of Problem Solving/Conflict Resolution. In the course of that investigation, with few, if any, available university procedures to guide the process, the VPES conducted interviews, interpreted the testimony and evidence collected, made a final judgment with regard to MB's actions, and reassigned him. The VPES also continued to keep MB under his personal supervision. The VPES concluded that MB failed to properly supervise his employee by allowing her to breach UTSA policy with regard to non-University work on UTSA time, did not comply with University policy regarding fiscal controls, and falsely

certified that required accounting procedures were in place in the PREP office when they were not.

The Committee accepts the conclusions of the “Assessment Services” report written by the Audit Department, which concluded that MB failed to adequately monitor the work of his subordinates with regard to accounting procedures. On the other hand, it finds the testimony of his subordinate (the Supervisor of Accounts) and subsequent accuser ambiguous at best. Finally, we do not concur with the VPES’s conclusion in reassigning MB because of the accounting deficiencies.

CONCLUSION

In our judgment the ultimate outcome for MB is an unfortunate one that demonstrates the need for additional procedural and management controls and an independent observer to insure that all faculty and administrators be guaranteed a more objective hearing whenever allegations of improper behavior occur. In this instance, MB’s guilt was assumed and far too much of the investigation focused on proving the case against him, rather than objectively evaluating the data with a presumption of innocence.

Our recommendations seek to remedy procedural and substantive errors as they pertain to Dr. Berriozabal. By creating the position of Founding Director of PREP and appointing Dr. Berriozabal to that position, UTSA can begin to restore relationships with the community at large, which have been strained because of this case. We also seek to provide an improved process in the future through an active role for the office of Ombudsman and the adoption of the Statement of Professional Responsibility into the HOP.