To: All faculty members
From: Carl Gillett, Chair, Hearing Committee

Last year the Hearing Committee brought to the Faculty a motion instituting an informal Complaint Procedure to supplement our existing processes. The motion was for a year-long trial period and the Faculty passed the proposal which has been in force for the past year. In addition, the motion directed the Hearing Committee to refine the Complaint Procedure and to bring a proposal for a permanent procedure to the Faculty by March 2003. To this end, over the Fall semester the Hearing Committee continued to discuss and hone the proposed procedure, for example meeting with the University Counsel, Mark Dunn, to get his suggestions about the procedure. In light of these discussions, the Hearing Committee has made three minor changes to parts 1), 2) and 9) in the procedure we passed last. (To make clear what these minor changes are, and the rationale for each, we have outlined these at the end of the proposal below).

So far, however, no faculty member has used the Complaint Procedure and we have had no chance to assess how well the procedure works. As a result, without this important feedback the Hearing Committee believes it is still too soon to institute any permanent process. Nonetheless, the Hearing Committee continues to believe that such a procedure is an important, and necessary, part of our governance and grievance processes. We therefore propose that the Faculty renews the informal complaint procedure for a further year-long trial during which the Hearing Committee, and by March 2004, will propose a permanent process to the Faculty to make such a procedure permanent. (Please note that at the end of the proposal we have outlined the three places where we have made minor changes outlining our rationale for each change).

The Hearing Committee therefore asks the faculty to approve the following resolution:
Proposal for a Trial Structure for Resolving Complaints Informally

The current language in the Constitution and Faculty Handbook describing faculty involvement in informal resolution of complaints is unclear. We, the faculty, therefore charge the Hearing Committee with the following.

1) On a further one year trial basis, the Hearing Committee will constitute a structure for informally resolving complaints brought by faculty against other faculty or against members of the administration. The procedure may not be used by faculty members holding the administrative positions of Provost, Dean of Faculty, Registrar, Associate Dean, Associate Provost or Special Assistant to the President.

2) This structure will consist of a Mediation Subcommittee, comprised of 3 members of the Hearing Committee. Membership of the Mediation Subcommittee may rotate among Hearing Committee members as different complaints arise.

3) The Mediation Subcommittee will be autonomous, serving independently of other institutional structures and reporting only to the complainant and respondent except in such cases where the Subcommittee deems that involvement of other persons or structures is necessary to bring about a fair and/or amicable resolution to the complaint.

4) Use of the Mediation Subcommittee will be optional.

5) Complaints brought to the Mediation Subcommittee must be faculty initiated.

6) The Mediation Subcommittee has the right to refuse to hear a case.

7) The complainant and respondent will have equal access to the Mediation Subcommittee.

8) Both the complainant and the respondent will have the right to challenge one member of the Mediation Subcommittee. After a challenge, the Hearing Committee will select an appropriate replacement.

9) The expectation will be that the proceedings of the Mediation Subcommittee will be confidential.

10) The Mediation Subcommittee will be flexible in its manner of resolving complaints, providing mediation, non-binding arbitration, or oversight of due process as necessary.

11) The complainant need not have pursued all the avenues of complaint resolution stipulated for a formal hearing before bringing a complaint to the Mediation Subcommittee. However, the complainant should at least have brought the matter to his or her department chair (unless the complaint involves the department chair).
12) No findings or deliberations of the Mediation Subcommittee can be used in a formal grievance hearing by the Hearing Committee. If the complainant or respondent wishes to present arguments and/or evidence to the Hearing Committee that were advanced during informal complaint processes by the Mediation Subcommittee, he or she must re-present such arguments and evidence as if the informal processes had not taken place.

13) These procedures are not intended to bypass or circumvent any procedures for resolving complaints now specified in the Constitution or Faculty Handbook. Bringing a complaint to the Mediation Subcommittee will not foreclose the possibility of bringing a grievance before the Hearing Committee for a formal hearing. If a formal hearing becomes necessary, the Hearing Committee must provide for such a hearing five members, alternates, or replacements who have had no prior involvement in the case.

During the further trial year, and by March of 2004, the Hearing Committee will finalize a permanent proposal and will report back to the faculty with a recommendation for changes to the language in the Constitution and Faculty Handbook pertaining to informal complaint procedures.

LIST OF MINOR REVISIONS FROM THE 2002-2003 PROCEDURE AND RATIONALES
To help illuminate the minor changes we have made, and to clarify our reasons for these changes, below we compare the three parts we have revised giving a brief rationale for each.

2002-03 VERSION
1) On a one year trial basis, the Hearing Committee will constitute a structure for informally resolving complaints brought by faculty against other faculty or against members of the administration.

NEW VERSION
1) On a further one year trial basis, the Hearing Committee will constitute a structure for informally resolving complaints brought by faculty against other faculty or against members of the administration. The procedure may not be used by faculty members holding the administrative positions of Provost, Dean of Faculty, Registrar, Associate Dean, Associate Provost or Special Assistant to the President.

RATIONALE
The new version limits the use of the procedure solely to faculty members that are not in one of the important, named administrative positions. The Committee recognizes faculty concerns that a Complaint Procedure be used solely to resolve disputes between faculty members and that such a procedure should not be open for use by administrators. Faculty holding administrative positions continue to have access to all the formal grievance procedures laid-out in the Constitution and Faculty Handbook, including the procedure for a formal Hearing.
2002-03 VERSION
2) This structure will consist of a Mediation Subcommittee, comprised of 2-3 members of the Hearing Committee. Membership of the Mediation Subcommittee may rotate among Hearing Committee members as different complaints arise.

NEW VERSION
2) This structure will consist of a Mediation Subcommittee, comprised of 3 members of the Hearing Committee. Membership of the Mediation Subcommittee may rotate among Hearing Committee members as different complaints arise.

RATIONALE
The change from a 2-3 to a 3 person Subcommittee is to avoid deadlocks and all the ensuing problems.

2002-03 VERSION
9) Proceedings of the Mediation Subcommittee will be confidential.

NEW VERSION
9) The expectation will be that the proceedings of the Mediation Subcommittee will be confidential

RATIONALE
The University Counsel suggested it was unwise to commit ourselves to confidentiality in such an informal procedure when we might be unlikely to attain this. However, the Hearing Committee believes that we should have the expectation of confidentiality in such a process and the new version enshrines this view.