

Committee on Academic Freedom, Tenure, and Employment Security (CAFTES)

General Description

- Committee is standing
- Number of members is up to nine
- Term is three years

The original charge (but see Rules below) was prepared by the Secretary on instruction from the Council and with editorial revisions, is as follows:

CAFTES is prepared to consider cases of individuals who believe they have been wronged in regard to some academic freedom or employment situation. The main function of CAFTES is to determine the facts of the case, rather than becoming a party to the dispute. There are certain guidelines which the committee follows. If a case is better handled by some other organization such as the AAUP or a government agency, CAFTES will guide the aggrieved person to the organization. The committee will only consider cases brought by regular members of the American Mathematical Society. CAFTES also cannot respond to anonymous complaints, although they will make every effort not to violate confidentiality for those aggrieved members who request it. The committee requests a complete vita of the complainant, details of the complaint including copies of all available documentation, and names of individuals whom CAFTES could contact for additional information on the institutional procedures on appointments and promotions or for verification of undocumented claims.

Principal Activities

The Committee should give substantial consideration to cases referred to it by the Council or the Executive Committee.

The Committee should give preliminary examination to cases which come to it from other sources, such as by direct application from an individual who thinks himself aggrieved. The preliminary examination is to determine whether the case merits substantial consideration.

On the other hand, the Committee should not consider cases for which there is another more natural point of reference. As an example, a case of inequitable compensation for reason of race or sex has natural points of reference, such as the Department of Health, Education, and Welfare under the Civil Rights Act and the executive orders based upon it. Such a case does not need the services of this committee. Cases in the natural domain of the American Association of University Professors probably do not require the services of this committee.

The Committee should not restrict its attention narrowly to cases between employer and employee. For example, the Committee might receive a complaint from one who was considered for employment but not employed, of such nature as to merit investigation.

The Committee should restrict itself to cases in which the aggrieved is an American member of the Society. Canadian and Mexican members are on a par with the American members in the United States, in that they pay full dues (no membership by reciprocity) and geographically have as ready access to Society amenities, such as meetings, as U.S. members. However, and I speak from experience, the Committee should proceed with great caution if one party to a dispute is a Canadian institution. The same remark, but not my experience, probably applies if it is a Mexican institution. The Canadians, at least, are sensitive to their position of sleeping in the same bed with an elephant.

The next question is how to investigate and what not to do. These matters will clearly depend on the case itself. As a general procedure, the Committee should determine facts and report to the Council, perhaps with a recommendation to publish either their report or a summary of it that they prepare for publication.

Other activities

The Committee is not an arbitration board. It is not supposed to be engineering a solution to a problem although it is well recognized that a clear statement of facts is sometimes useful in effecting solutions or in preventing similar problems from arising at another time or place.

The Committee is not a party to a dispute. It should not espouse the case of any party to a dispute lest it undermine its usefulness in other disputes.

The Committee should sometimes avail itself of the services of others as investigators, perhaps delegating an investigation in the same manner as the AAUP Committee on Academic Freedom and Tenure, and reviewing the work of its delegates, both because experts may be available and because the work might easily exceed their capacity.

The financial aspect of the Committee's work must be considered. The Council and the Committee must be aware that investigations take both time and money. It has been the experience of the Committee on Dismissed Mathematicians that occasionally a site visit is an essential part of an investigation. The Committee should have this in mind when it chooses whether to investigate directly or to delegate, since both the time and the travel cost of a site visit might be reduced by the latter course.

The original charge was modified by a report entitled *Report of the Committee to Write Rules for CAFTES* and endorsed by the Council of 26 January 1977 as a three year trial with review at the Council of January 1980. The Rules are attached.

Miscellaneous Info

The Committee will have a small budget, so that correspondence, telephone calls, and similar items can be reimbursed. They will have the convenience of a telephone credit card. Their larger financial needs should be referred to the Agenda and Budget Committee through the Secretary, who is a member. At that level it can be decided whether funds, as for site visits, should be immediately forthcoming or budgeted by the Trustees.

Note to the Chair

Committee chairs should be informed, at the beginning of each fiscal period, of the budget of their committees and cautioned to remain within the budget. Such items as travel reimbursement, accommodations, and meals for guests of any kind fall within these budgets.

Work done by committees on recurring problems may have value as precedent or work done may have historical interest. Because of this, the Council has requested that a central file system be maintained for the Society by the Secretary. Committees are reminded that a copy of every sheet of paper should be deposited (say once a year) in this central file. Confidential material should be noted, so that it can be handled in a confidential manner.

Authorization

Council Minutes of 29 August 1972, p.10; Council Minutes of 26 January 1977, p.3;
Council Minutes of 14 April 1983, item 4.3, p.3.

updated 10/90; 8/94; 5/95; 8/09; 7/13 updated membership and edited Note to the Chair; removed passage concerning the petition table

Past Members

A list of current and past members is available here:

<http://www.ams.org/about-us/governance/committees/caftes-past.html>

Report of the Committee to Write Rules for the Operation of CAFTES

The possible activities of CAFTES are presented roughly in the order of increasing degree of involvement of the Society. No attempt is made to specify directly the types of cases to be considered. In fact, it seems desirable that every case should be accepted for possible consideration and that whatever immediate advice or help CAFTES is able to provide should be offered.

The following material, which is grouped into seven sections, contains suggestions for the organization of CAFTES and a proposal for the establishment of a working arrangement with the AAUP, as well as proposed rules for the operation of CAFTES. It also falls naturally into two parts. Part I concerns the regular business of CAFTES and Part II more controversial actions that require Council authorization. In addition, the final section consists of several items, relevant to CAFTES' operation, on which the Committee might appropriately have made recommendations but, for one reason or another, did not reach an agreement.

PART I

1. Organization of CAFTES

It is recommended that CAFTES be increased to nine members appointed by the President for (staggered) 3-year terms with possible reappointment. The business of CAFTES should be directed by a 3-member executive committee appointed by the President and including the chairman. The membership of CAFTES should include individuals who are interested in, and have some experience in dealing with, the various kinds of complaints that arise. (Ultimately, such experience might be the result of working as a member of CAFTES.) The Chairman of CAFTES shall report regularly to the Council on CAFTES.

2. Relationship of CAFTES to the AAUP

It is expected that, in a substantial number of cases, CAFTES might appropriately request the cooperation of the AAUP. To facilitate this process, it is proposed that a formal agreement be negotiated by the President of the AMS with the President and General Secretary of the AAUP (possibly along with other senior members of both organizations) establishing a working arrangement between CAFTES and the AAUP staff. The main objection here is to obtain prompt and efficient AAUP consideration of cases involving mathematicians. CAFTES would sponsor elected cases to the AAUP after careful preparation of the initial materials. CAFTES should be able to exert some influence on, as well as follow, the progress of each of its cases within the AAUP. In addition, CAFTES would supply the AAUP with a list of mathematicians qualified and willing to advise and participate in AAUP investigations. The opportunity, within a good working arrangement between CAFTES and AAUP, for the exchange of advice and information should be advantageous to everyone concerned. There are indications from the AAUP that such an arrangement would be both possible and desirable from their point of view. There is good reason to insist, however, that the agreement be formalized at the highest levels of both the AMS and the AAUP in order to insure its success.

3. Procedures for the submission of complaints to CAFTES

CAFTES should prepare an information form (or request for information) the completion of which (to the extent possible) will be required of each individual who wishes to submit a complaint to CAFTES. The form should include such items as the following:

- (a) Complete vita of the complainant.
- (b) Details of the complaint, including copies of all available documentation, with special emphasis on written evidence concerning terms of appointment, etc., and names of individuals whom CAFTES could contact for additional information or verification of undocumented claims.
- (c) Appointment, promotion and evaluation procedures of both the department and institution involved in the dispute (when relevant to the complaint) or names of persons from whom such information might be obtained.

When CAFTES agrees to consider a case, the department and institution involved should be contacted immediately. They should be advised of the complaint and requested to provide whatever routine information they have concerning the dispute, including any information concerning administrative procedures, etc. that the complainant was unable to supply. CAFTES' role here must be strictly non-partisan with no suggestion of accusation or threat of action.

The type of information required by CAFTES with respect to a complaint should be published in the *Notices* along with a statement outlining CAFTES' purposes, etc. Complaint "forms" should be readily available both to departments and individuals. We regard the form as very important, not only as an efficient device for obtaining quickly necessary case information, but as an educational device. For example, it should alert both departments and prospective employees to the importance of specifying in writing the conditions of appointment as well as prospects and procedures with respect to reappointment and promotion. Documentation of this kind might reduce significantly the misunderstandings that give rise to complaints.

It is recognized that adequate information concerning cases other than the standard ones involving reappointment, etc. (e.g. discrimination cases) may be very difficult, or even impossible, to obtain.

4. Classification of cases and preliminary action by CAFTES.

No complaint submitted to CAFTES should be considered in detail until the initial information form has been filled out as completely as possible under the circumstances. However, unnecessary delays should be avoided, since the speedy processing of each case within the statutory time limit is of utmost importance.

Except for the elimination of obviously frivolous or totally unsupported complaints, each completed form shall be examined by at least two members of the committee and placed in one or more of the following categories:

C1 Cases that should be dropped (e.g., for lack of evidence or because there appears to be no legitimate complaint).

C2 Cases for the AAUP or other established agency.

C3 Cases for possible court action.

C4 Cases for mediation either by CAFTES or the AMS.

If the number of complaints is large, then limited resources may force the Committee to set up a priority schedule for further consideration of cases. Priorities, if necessary, should be proposed by the CAFTES Executive Committee and approved by the full committee.

In general, the role of CAFTES in all complaints should be strictly impartial and unbiased toward either party in the dispute. However, in certain cases, where the complainant has not had access to internal grievance or similar proceedings (required, e.g., by Title IX in sex discrimination cases), CAFTES may respectfully urge the institution to provide such access. This should not be accompanied by any suggestions of bad faith on the part of the institution or threats of action by CAFTES. Also, for cases in which a university administration has overruled a departmental recommendation, a special effort should be made, but only at the request of the complainant, to obtain a detailed statement of reasons for the action. [See the AAUP 1966 Statement on Government of Colleges and Universities, AAUP Bull, 52 (1966), 375-379.] This statement was endorsed jointly by the AAUP, the American Council on Education and the Association of Governing Boards of Universities and Colleges.

The CAFTES Executive Committee shall review the suggested classification of each complaint and initiate the following actions with the approval of the full Committee.

For a complaint in C1, CAFTES should explain carefully to the complainant the evident weaknesses of the case and recommend that he consider dropping it.

For a complaint in C2, CAFTES may offer to sponsor the case with the appropriate agency.

For a complaint in C3, CAFTES may recommend that the complainant contact a lawyer and investigate the possibility of legal action. (For cases that do go to court, the council has voted that CAFTES may recommend that an amicus curiae brief be submitted, and has also established loan procedures.)

For a complaint in C4, in which the difficulty appears to be based on differences that might admit of routine settlement through a neutral party, CAFTES may contact the institution and attempt to arrange an amicable settlement. If the complaint involves more substantial differences that might, however, be resolved through a more formal mediation attempt by the AMS, then CAFTES may request that the President of the Society initiate such a mediation process. Since mediation can lead to delay that might be disadvantageous to the complainant, CAFTES might suggest a deadline, appropriate to the case in question, for completion of the mediation process.

It is recognized that a case, as it develops, may shift from one category to another and so may need to be reexamined periodically.

PART II

5. Investigation by the AMS.

There may remain certain cases that cannot be resolved by any of the procedures outlined in Part I, but which, in CAFTES' judgment, deserve further attention and possible action by the AMS. It is obviously important that any major action of the Society with respect to disputes between individual mathematicians and their institutions be backed up by carefully documented evidence. The required documentation may in some cases consist of material produced in an investigation conducted by the AAUP or other agency. However, if such material is not available, then it may be necessary for the AMS, either independently or jointly with the AAUP to make an on-site investigation.

A request by CAFTES for an investigation of a given case, either by the AMS alone or jointly with the AAUP must be submitted to the Council or the Executive Committee of the Council for authorization.

The report of the investigating team shall become a part of CAFTES' report on the case to the Council. In its report, CAFTES may recommend one or more of the actions outlined in Section 6.

6. Possible AMS actions concerning unresolved disputes.

CAFTES may, in a suitable case, recommend to the Council at various times that it take one or more of the following actions:

A brief statement might be published in the *Notices* outlining the facts of the given case but with no value judgments on the merits of the case.

The CAFTES' report to the Council might be published in the *Notices*.

The Council might pass a resolution identifying certain common practices or customs in the mathematics community. It might also declare its support of certain standards or principles. In a given case, it might vote to find that a particular action by an institution has not been in accord with the common practices, customs, standards or principles and might publish that resolution in the *Notices*.

The Council might authorize the submission of an amicus curiae brief for cases that are being tried in court. It might also offer the services of expert witnesses to either party or to the court.

7. Unsettled Questions.

In this section we outline several items that have either been discussed by the Committee or communicated to the Committee in one form or another. They are obviously relevant to CAFTES' activity but do not appear explicitly in the suggested rules. Some are also controversial to an extent that the Committee was unable to agree on recommendations concerning them.

(a) The status of CAFTES within the AMS. It has been proposed that the members of the Executive Committee of CAFTES be made *ex officio* voting members of the Council. This proposal was discussed at length within the Committee but no agreement on a recommendation was reached.

(b) Types of cases to be considered by CAFTES. There have been several carefully worked out proposals that certain types of complaints be considered by CAFTES (e.g. Karl Norton's resolutions) that deserve more attention than the Committee was able to give them. Although the rules proposed here do not specify the types of cases to be considered, the understanding is that essentially all complaints, regardless of type, would be accepted for possible consideration, examined by at least the Executive Committee of CAFTES and records kept on each case. The decision as to which cases would be actively pursued is left to CAFTES, although the Council may wish at some point to instruct CAFTES on the matter. In any given case, such decisions are always subject to possible review by the Council using CAFTES' case records.

(c) Investigation. The Committee is in general agreement, that as stated in the proposed rules, CAFTES must obtain approval of the Council, or the Executive Committee of the Council, before initiating an on site investigation. However, there was not general agreement on whether such investigations should be permitted in the first place, or, if permitted, exactly how they should be conducted. Some members of the Committee would support a judgmental type of investigation while others would insist that an investigation be limited to the gathering of facts in the case without bias toward either the complainant or the accused.

(d) Actions with respect to unresolved disputes. The several actions that CAFTES might recommend to the Council, listed in Section 6, have been suggested in one form or another by various interested members of the AMS. Although generally recognized as possible appropriate actions in certain situations, they have not been fully discussed within the Committee and there is far from general agreement on exactly what the actions of the Council should be in any given case. On the other hand, there has been extensive discussion concerning the possibility of censure by the AMS. Some members of the Committee would regard censure as an appropriate action in certain cases, while others believe that censure by the AMS would be inappropriate for any case, however complete the documentation or flagrant the violation. There is also opposition to a suggested substitute for censure, viz. a Council resolution "finding at fault," as being essentially equivalent to censure.

Members of the Committee:

Charles W. Curtis, Murray Gerstenhaber, Edwin E. Moise, M. Susan Montgomery, Calvin C. Moore, Karl K. Norton, and Charles E. Rickhart (Chairman)