

## Court Upholds University's Right to Control Grades

The federal Court of Appeals for the Seventh Circuit recently addressed the delicate issue of the interaction between a faculty member and a university in the grading process. The University of Illinois at Urbana-Champaign, in an attempt to ensure consistency in grading across sections, required professors to grade on a prescribed curve and to submit their grading materials. Wozniak, a tenured engineering faculty member, turned in his grades for the Fall 1994 semester but repeatedly refused to submit the required materials. As a result, the Dean barred him from further teaching, canceled his research funding, and reassigned him to manage the engineering faculty's Web site. His title (associate professor) and salary were not changed.

Wozniak sued in federal district court alleging the University violated his first amendment and due process rights under the U.S. Constitution. The district court granted summary judgment for the defendants (the University and certain officials). The Court of Appeals affirmed the judgment below. *Wozniak v. Conry*, No. 97-2182 (7th Cir. Jan.10, 2001).

With respect to the due process claim, the Court of Appeals accepted Wozniak's contentions that his position as a tenured faculty member was "property" within the meaning of the due process clause and that the change of duties he suffered amounted to a constructive discharge from that position (*i.e.*, a loss of "property"). However, the Court held that since Wozniak retained both his title and salary the due process "hearing" required was simply a chance to present his side of the story, not a formal adversarial hearing. The Court noted that Wozniak was given the opportunity to respond in writing at least three times before the actions complained of were taken. It therefore concluded that he could not successfully assert that a property right had been taken from him without a hearing when he had refused the University's invitation to be heard.

The Court also ruled against Wozniak on his first amendment claim. In doing so, the Court first held that Wozniak had no standing to assert the rights of students under the first amendment, federal statutes, or notions of privacy as a basis upon which to deny administrators access to grading information. Further, the Court concluded that Wozniak would not prevail even if the standing requirement had been met. This conclusion was based on the Court's determination that since the university, not the faculty individually or collectively, certifies a student's successful completion of a course of study, each university may decide for itself how the authority to assign grades is allocated within its faculty. Where, as here, a university chooses to restrict the discretion of its faculty in the award of grades, the university is entitled to ensure that its evaluation systems have been followed.