

GRADUATE COORDINATING COUNCIL LEGAL INFO SHEET

The legal status of University Employees (including T. A.'s) who have participated in any way in the FSM student strike:

1. "There is no California statute which says that the people in question cannot strike."
2. "The absence of such a statute means that the University of California is under no compulsion to discipline, penalize or terminate the employment of any person for participation in the FSM strike."
3. "Any statements which assert that the University of California must discipline, penalize or terminate the employment of any persons in question are false."
4. "Moreover, it appears to be possible that the University of California has no legal discretion to discipline, penalize or terminate the employment of any striking University employee, which means that the University will, arguably, be acting illegally if it does so."

EXPLANATION: The Strike Committee of the Graduate Coordinating Council received these quotations on Saturday, December 5, from top legal counsel to the FSM. Presently there is a large team of competent civil rights lawyers from the Bay Area working practically full-time preparing defense for all involved in the FSM struggle. These attorneys have advised us that there is only one case - a decision made in 1958 in an inferior California court - which the University administrators might mention in efforts to intimidate striking employees, but for which it appears that there is no danger of its application in the courts. The case is entitled Newmarker vs. the Board of Regents. The strike committee has received from attorneys all of the pertinent legal details surrounding this case, and subsequent decisions which determine its applicability, both from the standpoint of time and court jurisdiction.

Moreover, the "strike," involving as it does elements of political demonstration, would appear to have protection under the guarantees of the First and Fourteenth amendments, and of course to that extent the University's discretion is not unlimited. The final arbiter of University disciplinary action will necessarily have to be the courts. The unavoidable conclusion here is at least that the University may not exercise summary powers in this context.