

UNIVERSITY COMMITTEE ON PRIVILEGE & TENURE

Notice of Meeting

Monday, December 5, 2011

10:00 am – 4:00 pm

Room 5320

UCOP

1111 Franklin St.

Oakland, CA 94607

Teleconference call-in: 1-866-740-1260 access code 9879458#

Tel. # for last-minute logistical questions: (510) 987-9143

AGENDA

Action	Item		Enclosures
Information	I.	<p>Greetings, Introductions & Announcements (10:00-10:25 am)</p> <ul style="list-style-type: none"> • David Brundage, Chair • Martha Winnacker, Executive Director 	
Action	II.	<p>Approval of the Agenda (10:25 a.m.)</p> <p><i>Approval of today's agenda items and priority.</i></p> <p><u>Action requested:</u> Approve the agenda.</p>	
Action	III.	<p>Consent Calendar (10:25 a.m.)</p> <p>1. Approve "no comment" position on the Gender Equity Study. <i>The study, completed at the behest of UCAAD and Academic Council, is currently under review, but its findings regarding systemic gender disparities in pay are outside of UCP&T's unique charge to oversee processes governing individual grievance and disciplinary cases.</i></p> <p><i>The study is posted at</i></p> <p>http://www.universityofcalifornia.edu/senate/PayEquityReportAllPagesJune2011.pdf</p> <p><u>Action requested:</u> Approve the consent calendar</p>	1 Link
Discussion	IV.	<p>Review of divisional experience with P&T processes & potential interaction with UCP&T (10:25-11:00 a.m.) <i>Members will report on their observations of processes within their divisions. Topics will include members' perception of the extent to which informal processes have substituted for or avoided formal hearings, the effectiveness and fairness of such processes, the role of the P&T attorney advisor, perceived strengths and weaknesses of current procedures, the adequacy of existing information about P&T processes, and ways in which divisional P&T committees might interact productively with UCP&T. This discussion may produce items for future research and action.</i></p> <p><i>Note: This item will be time limited; discussion may be continued at the end of the agenda if time permits.</i></p> <ul style="list-style-type: none"> • David Brundage, Chair 	2 P&T activity surveys

- Cynthia Vroom, Office of General Council & advisor to P&T committees

Discussion/
Action

V. Faculty Code of Conduct & Senate Bylaws (11:00-12:00)

- Faculty Code of Conduct (APM 015 & 016)
David Brundage, Chair
Victor Lippit, UC Riverside
Members will consider whether specific issues related to APM 015 and 016 suggest revisions and determine a process for proposing revisions, if any appear to be appropriate:
 - <http://www.ucop.edu/acadpersonnel/apm/apm-015.pdf>
 - <http://www.ucop.edu/acadpersonnel/apm/apm-016.pdf>
 - <http://www.universityofcalifornia.edu/senate/assembly/may2001/may2001viid.pdf> (Assembly action item in 2001 subdividing former Senate Bylaw 334 into Bylaws 334-337 and introducing the three-year statute of limitations.)
 - <http://www.universityofcalifornia.edu/senate/assembly/mar2005/mar05viib.pdf>
 - <http://www.universityofcalifornia.edu/senate/assembly/may2005/may05ii.pdf> (pages 11-12) (Assembly action item & minutes amending Senate Bylaw 336.4 to clarify parts of the time limitation; see page)
 - *Does the provision of APM 015, section III.A.3 that “no disciplinary action may commence if more than three years have passed” since the Chancellor “knew or should have known about the alleged violation” and Senate Bylaw 335.B.6 create an unreasonably short timeline for bringing charges? How should it apply to evidence of repeated similar misconduct extending over many years? Should it apply equally to allegations of sexual harassment and other offenses?*
 - *Are the disciplinary sanctions listed in APM 015 Section III.A.5 and placed in relative order of severity in APM 016 Section II correctly ordered? For example, might a letter of censure, which remains permanently in a personnel file, be considered a more severe sanction than a reduction in salary, which may not be visible to CAPs in future merit reviews?*
Action requested: Determine next steps
- Scope and limitations of APM 335 and 337
Onuttom Narayan, UCSC
 - *Do the answers to questions about the time limits for beginning disciplinary proceedings codified in APM 015 and implemented in Bylaw 336B.4 raise further questions about the provision of Senate Bylaw 335.B.6 that that no grievance may be considered “if*

3-5 Links
6 Assembly minutes 5/01
7 Assembly Minutes 10/01

8 Link

9a Memo on time limit



9b Proposed Bylaw language

more than three years have passed” since the grievant knew or should have known about the violation of his/her rights or privileges and resulting injury?

10 Link

- *Does Bylaw 335 adequately distinguish between grievances that can be remedied by a Chancellor and those that must be addressed at the systemwide level? Should UCP&T’s charge (Bylaw 195) be expanded to include jurisdiction over faculty grievances that result from the actions of the Regents or systemwide administrators?*
- *Should Bylaw 337 be amended to clarify that it does not apply to early termination as a result of a disciplinary proceeding?*

<http://www.universityofcalifornia.edu/senate/manual/blp/art3.html#bl335> (scroll down for SBL 336 & 337)

Action requested: Determine next steps

Break

Lunch service (12-12:15 p.m.)

Discussion VI.

The Office of General Counsel and Discipline Cases (12:15 – 1:00 p.m.)

11 *Khoury*
opinion

David Brundage, Chair

12 TBD

Cynthia Vroom, OGC

Attorneys from the Office of General Council typically play two roles in discipline cases. An assigned attorney serves as advisor to the committee. Another, who may be part of OGC or may be retained outside counsel, serves as attorney for the administration, acting in a quasi-prosecutorial role. Members will discuss various questions with the attorney advisor to P&T committees, including how OGC avoids conflicts of interest in these two roles, how her responsibilities are defined by OGC and whether this charge matches the expectations of the committees she advises, how committees can work most effectively with her. Members may also raise questions about the positions taken by University attorneys in legal actions against faculty.

Executive Session

**Executive
Session
Discussion**

VII.

Reflections on the role of attorneys in Privilege & Tenure cases (1:00-1:50 p.m.)

Members will discuss their experiences and insights related to the role of University attorneys in discipline cases and other cases in which attorneys participate, as well as their concerns, if any, with

the positions taken by OGC in litigation. This discussion will shape future agenda topics for UCP&T.

Action requested: Determine next steps, if any

End of Executive Session

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| Discussion | VIII. | Consultation with Senate Leadership (2-2:30 p.m.)
Bob Anderson, Academic Council Chair | |
| Discussion/
Action | IX. | Administrative sanctions for failure to comply with University policy (2:30-2:45 p.m.)
David Brundage, Chair
Martha Winnacker, Executive Director
<i>Citing the provision of APM 016 that “faculty members may be subject to certain administrative actions which are outside the scope of faculty discipline,” such as those related to “parking, library privileges, health and safety, and use of University facilities” the Provost has requested the Senate to recommend appropriate sanctions for failure to comply with such University policies as the requirements to sign a revised version of the Patent Acknowledgement (current, one-time) and to complete sexual harassment prevention training (ongoing). Members will discuss whether UCP&T should consider responding, since any sanction is potentially grievable.</i>
<u>Action requested: Determine the nature of administrative sanctions that fall outside of the Privilege & Tenure process.</u> | 13 2009
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| Discussion/ | X. | Review divisional P&T data for 2008-09 and 2009-10. (2:45-3:00 p.m.)
<i>Every year, the divisions are required by Senate Bylaw 334.B to provide UCP&T with statistical data on the number of privilege & tenure cases that are handled. Members will review the scope of UCP&T’s jurisdiction as defined in Bylaws 195 and 334 and assess how the most recent two years of fit into that context, as well as how UCP&T may use the data.</i>
<u>Action requested: Determine how to use the data.</u> | See #2 |
| Discussion | XI. | Role of Charges committees (3:00-3:15 p.m.)
Victor Lippit, UCR
<i>Divisions vary as to whether they work with independent Charges committees or appoint panels from within the committee on privilege and tenure to determine whether probable cause exists for disciplinary charges. Members will be asked to compare their experience, in particular in relation to combined Charges & Privilege & Tenure committees.</i> | |
| Discussion | XII | UCP&T as a resource to divisional committees (3:15-3:45 p.m.)
<i>Members will discuss how and whether UCP&T can best serve as a resource to the divisional committees and how to conduct its business in the future.</i> | |

Discussion XIII. New Business (3:15-4:00 p.m.)
Members will discuss new business that has arisen in the course of the day's discussions.

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