

UNIVERSITY COMMITTEE ON PRIVILEGE & TENURE

ANNUAL REPORT 2011-12

TO THE ASSEMBLY OF THE ACADEMIC SENATE:

The University Committee on Privilege & Tenure met twice during the year and deliberated by email to carry out its duties under [Senate Bylaw 195](#) to advise on general policies involving academic privileges and tenure and to maintain statistical records on grievance, disciplinary, and early termination cases. The committee was not called upon to constitute any special hearing committees as provided for in Bylaw 336.A. In addition to deliberating and opining on specific issues as described below, the committee took advantage of the opportunities presented at both meetings for extensive consultation with Cynthia Vroom, the Office of General Counsel's designated attorney advisor to committees on privilege and tenure, for consultations with the systemwide Senate leadership, and for in-depth exchanges of information on privilege and tenure procedures and practices, including the form and frequency of interactions with the administrations, in their respective divisions.

The committee deliberated at length on the effect of Bylaws 335.B.6 and 336.B.4. These Bylaws limit the period in which a grievance or a disciplinary action may commence to three years from time when the grievant or the administration knew or should have known of the conduct in question. By comparing local experiences and interpretations, the committee learned that the Bylaws have been interpreted differently in relation to the introduction of older evidence in cases originating from conduct within the designated time period. After extensive discussion, the committee recommended that the 2012-13 committee solicit detailed input from the divisions and develop recommendations as to the admissibility of older evidence in disciplinary and grievance proceedings that arise from conduct within the defined period but where it is alleged that the conduct has continued or been repeated over a longer period.

Noting the small number of grievance cases reported in the annual statistics, the committee devoted significant attention to issues related to informal resolution of cases without formal proceedings and evidence. Members expressed concern that faculty members, especially those in non-tenured positions, may not be well informed of their rights. The committee urged the 2012-13 committee to take up this matter and consider formal action.

The committee formally opined on the following:

- Recommended that Bylaw 337.A be amended to clarify the distinction between disciplinary proceedings and early termination based on non-performance. The proposed amendment was submitted for Senate review and enacted by the Assembly in June 2012.
- Declined to recommend to the Provost what specific administrative sanctions should be imposed for failure to comply with the University policy that requires all employees to sign a

revised version of the patent agreement. The committee's letter also informed the Provost that divisional committees would consider grievance claims arising from such actions.

- Recommended that APM 150 be amended to clarify the rights of non-Senate faculty and timelines for notice and hearings in early termination proceedings under Bylaw 337. Rather than propose intent language, however, the committee asked the 2012-13 committee to draft specific APM language that would accomplish this purpose.
- The committee suggested extensive revisions to guidelines prepared by the Office of General Counsel for reimbursing faculty legal expenses in cases where a faculty member is found innocent of research misconduct after an investigation triggered by a whistleblower complaint. Academic Council used these comments as the basis for its response to the Office of General Counsel.
- Without objecting to the proposed revision, questioned the need for revising APM 010 as proposed by the Provost; supported the proposed revision of APM 015; and opposed the proposed revision of APM 016.
- Generally supported the recommendations of the Faculty Salaries Task Force while urging the Provost to develop detailed guidelines for the treatment of off-scale components of salary in the event of increases in the salary scales.
- Recommended that the ascending order of severity of disciplinary sanctions contained in APM 016 be revised as follows: censure, salary reduction, withdrawal of emeritus status, suspension, demotion, dismissal.

The committee wishes to acknowledge the expert advice, assistance, and support provided by Cynthia Vroom, Office of General Counsel, and Academic Senate Executive Director Martha Winnacker."

Respectfully submitted,

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