

UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE 2020-21 Annual Report

TO THE ASSEMBLY OF THE ACADEMIC SENATE:

Under Senate Bylaw 195 and consistent with [Bylaw 40](#), the University Committee on Privilege and Tenure shall: (Am 23 May 01; Am 28 May 2003)

1. Advise the President, the Academic Senate and its Divisions, and the Divisional Privilege and Tenure Committees on general policies involving academic privileges and tenure [see [Bylaw 334](#)]. (Am 25 May 76; EC 28 May 2003)
2. Constitute special Hearing Committees as provided for in Bylaw 336.A. (EC 28 May 2003)
3. Maintain statistical records of the grievance, disciplinary, and early termination cases taking place on each of the campuses, as specified in [Bylaw 334.B](#). (EC 28 May 2003)

Topics of Note During the 2021-22 Year

Simultaneous Misconduct Charges and Merit and Promotion Considerations

The Vice Chair (who is from the Davis division) sought the input of the committee on the question of how to conduct simultaneous merit and misconduct cases. These circumstances arose in at least three instances on the Davis campus. She explained that the Davis administration had taken upon itself to sometimes inform the department chairs, to include information in dossiers, and also would occasionally engage in some “foot dragging” to slow and stall the promotion process. She asked if credible allegations exist regarding serious misconduct, should the administration have the ability to pause a personnel action. Vice Chair Simon also noted that the requirements to put a faculty member on paid administrative leave are quite stringent

The committee felt that it was in the interest of P&T to be unambiguous about this matter; it could result in a grievance. The committee discussed potential ways of dealing with such a situation, such as changes to the APM, involvement (or not) of the campus CAP, the Graduate Council’s willingness to deny a faculty member’s right to teach, or a retroactive “fix.” Demotion of a faculty member who has tenure would require a change to APM 016.

The Chair formed a task force to look at options and develop a proposal to address this problem.

Bylaw 336 Timelines

In 2019, the Senate changed Bylaw 336 which dictates various timelines for disciplinary cases. This was largely in response to concern raised in the state auditor’s report. Once that was finalized, UCPT expressed concern about the feasibility of the timelines and agreed to revisit the decision in two to three years to see if timelines were being met. Members discussed concerns they had about the timelines (e.g., feeling that 90 days might be more attainable than 60). The University reported to the state auditor for 2019-2020 on the timelines of its SVSH cases, and the auditor determined that the University has met its goals. The reporting on SVSH that is being conducted now is only for the University’s Title IX office.

Faculty Vaccination Compliance

In response to the Covid-19 pandemic, the University developed a policy that mandates vaccination for those who are going to be physically present on campuses. Senate members who were not in compliance with this mandate would have to go through UCPT; violation of the policy is a form of misconduct under

APM C8. There are exemptions (medical, disability, and religious). The committee engaged with the Vice Provost about this issue. There was concern that campus P&Ts may be facing a considerable number of disciplinary cases related to non-compliance. The Vice Provost shared a report that indicated that there was only one vaccination-related disciplinary case for a Senate faculty member systemwide.

UC Anti-Discrimination Policy

Professor Brian Soucek (UCD) informed the committee that there was a working group formed last year with a charge from President Drake to support the development of a presidential policy on discrimination and harassment that would apply to all faculty, staff, and students. It was specified that the policy should address education and training, employment practices in hiring and retention, adjudication of policy violations, and prevention. This working group was also developing a procedure for implementation of the policy at all locations and recommend changes to other relevant University policies. Originally the Senate Chair was the only faculty member on the committee which had about 34 members; however, Mr. Soucek was added as a member. Professor Soucek invited the committee members to reach out to him with suggestions and advice from the P&T perspective.

UCSC R&J Request for Guidance

There was a grievance at UCSC related to a personnel letter and an assertion that that there had demonstrably false claims related to bullying behavior. The faculty member had asked to have that information removed and the chancellor rejected that request. The chancellor said it is not a personnel record until the review is complete. UCSC P&T did not agree with the chancellor's opinion; anything that goes into a file is a record. UCSC P&T contested that, and the EVC rejected their findings.

UCSC asked UCPT to review this issue and respond to it. UCPT found in favor of UCSC's P&T, and sent a [letter](#) to the division P&T chair regarding the administration's interpretation of APM 160-30. In the letter, the committee expressed the belief that the administration's actions were inconsistent with both the letter and the spirit APM 160.

Court Ruling: The Role of P&T

At UCD, there was a case where the chancellor recommended a letter of censure and a reduction in pay for three months for a faculty member. The professor brought a lawsuit challenging the chancellor's decision and the court found in favor of the professor. The court held that the Chancellor is not permitted under UC policy to revisit the fact-finding that was done by P&T and relied on its interpretation of APM 016 and Bylaw 336. The court held that the Chancellor exceeded his authority by interpreting the Faculty Code of Conduct differently from the way P&T had. The committee discussed the decision with considerable input from Attorney Adviser Meltzer. The Chair asked that Mr. Meltzer keep the committee apprised on the developments.

Acknowledgements

UCPT is grateful to have had valuable input from - and exchange with- these UCOP and campus consultants and guests over the past year: Vice Provost Susan Carlson, Associate Vice Provost and Deputy to the Vice President Amy K. Lee, Senior Counsel Joshua Meltzer, Senior Counsel Chad Pimentel, and Systemwide Title IX Director Suzanne Taylor. Special thanks to Academic Council Chair Robert Horwitz, Vice Chair Susan Cochran and Senate Executive Director Hilary Baxter.

Respectfully submitted,

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