

**UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE
2022-23 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 2022-23 Year

Simultaneous Misconduct Charges and Merit and Promotion Considerations

Last year, then-Vice Chair Simon explained that the question of how to conduct simultaneous merit and misconduct cases had arisen in at least three instances on her campus. She explained that the Davis administration had taken upon itself to sometimes inform the department chairs, to include information in dossiers, and also occasionally would 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. She asked if a “no fault” pause could be placed on a personnel action. She remarked that it is not in the interest of P&T to be ambiguous about this matter; any ambiguity could result in a grievance. This year, Chair Simon wrote Council a letter with recommendations on this issue, and Council advised that the Senate seek guidance from the Provost (which would be a temporary fix). In the interim, Chair Simon was advised to consult with UCAP and UCAF.

Chair Simon sent some draft language to UCAP and UCAF; initial responses from those committees were fairly negative. The Chair reviewed the UCAP and UCAF responses with the committee. After considerable discussion, it was determined that Chair Simon would reach out to the chairs of UCAP and UCAF committees directly to try to get some resolution. In her subsequent discussions with those committees, Chair Simon explained that UCPT proposed this change to the APM to accomplish several goals:

1. To provide a uniform policy for handling concurrent misconduct and personnel actions across all campuses systemwide and end the ad hoc solutions currently being employed.
2. To provide clear guidelines for circumstances in which personnel actions may be paused. These will include:
 - a. A temporary no-fault pause may be imposed at the point in the disciplinary process when charges are filed in most cases. Currently, some administrations pause actions as soon as investigations are opened.
 - b. The misconduct being charged must have occurred during the period under review and have a direct bearing on research, teaching, or service.
3. To require that the faculty member under review be notified that their personnel action has been paused.
4. To establish procedures for grieving the imposition of the pause on an expedited basis.

5. To require the administration to provide a timeline for the anticipated conclusion of the disciplinary action and resumption of the personnel case.
6. To require the administration to provide periodic updates (at least every 6 months) on the status of the case to divisional privilege and tenure committees.
7. To prevent the insertion of materials into personnel files before the conclusion of disciplinary proceedings.

Ultimately, both UCAF and UCAP agreed with the proposed language. In April, [UCPT brought it forward to Council](#) again in the hopes of having it forwarded to APP for inclusion in the APM. In May, Council forwarded [a request to Provost Newman](#) for a proposed change to APM 016. As of this writing (early August 2023), there has been no response from the Provost's Office.

Proposed Policy Overlap Questions

Between the February and June meetings, UCPT reviewed the revision to the proposed Presidential Policy on Anti-Discrimination. Via email communication, the committee expressed concern about what appeared to be significant overlap and redundancy between the proposed policy, the SVSH policy, and the abusive conduct policy. Members felt that these areas of overlap with other policies could lead to difficulty in adjudicating specific cases of misconduct on the campuses. The committee wrote a [letter to Council](#) explaining its concerns and also its unease regarding a lack of guidance for implementation of the policy. This letter was appended in its entirety to a [letter to Vice Provost Haynes](#) from Academic Council Chair Cochran on May 1. As of this writing (early August 2023) there has been no response to this letter. Prior to this letter, Associate Vice Provost Lee shared a [chart](#) developed by UC Legal which outlined differences in application of the various policies.

Consultation with the Systemwide Title IX Director and UC Legal

Throughout the year, UCPT consulted with the systemwide Title IX Office and with UC Legal. At the start of the year, the Title IX consultations were held with Isabel Dees, the Deputy Director and Interim Director. Ms. Dees remarked that P&T members should be receiving training on SVSH issues. She added that it is important that P&T members have support around processing vicarious trauma and access to adequate support resources. Cases that develop a public profile create additional hardship for faculty, and it is important that they are supported through the process. Members voiced surprise that such training and support were available and were very much in favor of it taking place on the campuses. The committee discussed the issue of training and support extensively with the Deputy Director and it was agreed that she and Attorney Adviser Meltzer would work together to determine how training could be provided and what it would entail.

At the February meeting, Title IX was represented by both Deputy Director Dees and by Julie Lewis, the newly hired Title IX Director. At that time, it was believed that the new Title IX regulations would be available in May. However, at the June meeting, Director Lewis said that the regulations would not be available until October 2023. Following up on the November consultation with Deputy Director Dees, Director Lewis stated that it might be better to have the Title IX regulations finalized before she and Mr. Meltzer conduct P&T trainings.

Attorney Adviser Meltzer was available at all three UCPT meetings and was able to give his counsel on items that had arisen on the campuses.

Consultation with Academic Personnel and Programs

In addition to discussing matters related to the proposed APM revision and the confusion with the many policies addressing inappropriate conduct, Vice Provost Haynes, Associate Vice Provost Lee, and Academic Personnel Director Anders were available at the UCPT meetings for consultation. One topic that Vice Provost Haynes informed the committee about was the Provost's intent to form a workgroup or task force regarding Achievement Relative to Opportunity (ARO). VP Haynes' office engaged with Senate Chair Cochran to identify Senate representation to serve on this workgroup.

Much of the consultation during the course of the year was related to the graduate student contract. APP was in conversations with other universities across the country to see how they managed the issue of graduate student unionization.

Acknowledgements

UCPT is grateful to have had valuable input from - and exchange with - these UCOP consultants and guests over the past year: Douglas Haynes, Vice Provost; Amy K. Lee, Associate Vice Provost, Academic Personnel and Programs; Kelly Anders, Director, Academic Personnel; Joshua Meltzer, Senior Counsel; Julie Lewis, Systemwide Title IX Director; and Isabel Dees, Systemwide Title IX Deputy Director. Special thanks to Academic Council Chair Susan Cochran, Vice Chair James Steintrager, and Senate Executive Director Monica Lin.

Respectfully submitted,

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