

**UNIVERSITY COMMITTEE ON PRIVILEGE & TENURE
MEETING, MAY 19, 2014**

MINUTES

Present: Jeff Lansman, UCSF, Chair; Alison Butler, UCSB; Vern Paxson, Berkeley; Michael Buchmeier, Irvine; Gina Dent, UCSC; Robert Hillman, Merced, Vice Chair (*phone*); Helen Henry, UCR (*phone*); Juliana Gondek, UCLA (*phone*); Stefan Tanaka, UCSD (*phone*); Cynthia Vroom, OGC, Consultant; Martha Winnacker, Staff.

- I. **Greetings and Introductions.** Chair Lansman convened the meeting shortly after 10:00 a.m. Members introduced themselves.
- II. **Approval of the Agenda.** Members unanimously approved the agenda as noticed.
- III. **Consent Agenda.** Members unanimously approved the minutes.
- IV. **Round Table.** Members exchanged reports on recent developments and concerns within their divisions. Common themes included:
 - a. The challenge of determining the scope of P&T jurisdiction in academic personnel cases, particularly when the cases arise in medical centers, where salaries in the Health Science Compensation Plan (HSCP) are set in individual negotiations, and where practicing physicians are accountable to the state medical board in issues related to medical practice. P&T has no jurisdiction over salary determinations or medical practice. Other disputes in medical centers turn on the proportion of an HSCP faculty member's time that is protected for research, clinical assignments, and office allocations.
 - b. Grievances have arisen from deans' directives about the timing when various components of a faculty member's file should be considered in a merit review. Without complete information about the merit review process, CPT is not always well equipped to determine whether merit disputes fall within its mandate to consider only whether appropriate procedures were followed and/or forbidden criteria used.
 - c. In divisions with self-standing Charges committees, CPTs do not always receive complete information in grievance cases, because administrators take any allegations that would result in disciplinary action to the Charges committee rather than to CPT. In such circumstances, processes may proceed in parallel and reach different conclusions.
 - d. All divisions report that attorney involvement in hearing processes creates complexity and tension when attorneys try to use the full array of procedural tools available in a court of law in ways that are not consistent with less formal P&T hearing process. Highly technical procedural moves burden the hearing committee.
 - e. In the context of their charge to adjudicate individual cases in confidence, CPTs continue to struggle with the lack of effective tools for identifying individuals who are chronic offenders or habitual grievants. Members note that administrators may have more institutional

memory than CPT members, but department chairs typically turn over at five- or fewer-year intervals and may not be aware that multiple complaints have been filed against the same individual over time. A member suggested that policies might be considered that would require an administrative intervention when two or more complaints against the same individual allege conduct that creates a hostile environment for faculty or students.

- f. The Riverside representative reported on a “resources workshop” co-sponsored by the divisional Senate and the campus administration to provide information and training on a range of available interventions, including P&T processes that should be deployed both to impose discipline and to make grievance claims. The workshop was well attended by a broad spectrum of faculty and administrators. Members expressed the hope that all divisions could mount similar events. The agenda is attached to these Minutes as an addendum.

- V. **Consultation with Attorney-Advisor Vroom.** This discussion took place in executive session, and no minutes were taken.

- VI. **Working Lunch and Consultation with Senate Leadership**

- a. Council chair Jacob reported highlights from the May Regents meeting. He reported further that the President is convening an action team on conflict of interest and conflict of commitment that will examine issues reported to be arising in the medical centers and could lead to revisions in or more detailed interpretations of the Code of Conduct. Such developments would eventually be reflected in matters brought to CPTs. He will serve on the task force together with former UCFW chair and UCSD professor Joel Dimsdale, Provost Dorr, Chancellor Katehi and two or three additional members. The task force will meet for the first time on June 4, and a report is due by the end of July. Jacob is participating in the searches for Chancellors at San Francisco and Irvine and expects that appointments will be announced in the summer and fall. Winnacker reported on ongoing negotiations with OGC regarding criteria for reimbursing faculty for legal expenses incurred in defending against charges brought in Whistleblower complaints in which the faculty member is found innocent.

- VII. **UCP&T Letter to Department Chairs**

- a. Members continued their discussion of a proposed letter from UCP&T to department chairs that would describe the chair’s responsibility for the employment and academic climate within the department; instruct them to take grievances seriously, offering intervention where appropriate and encouraging complainants to use the grievance process; and instruct department chairs to act promptly to initiate disciplinary proceedings when bad behavior occurs in the department and is not corrected by informal intervention. The committee went into executive session to discuss issues related to the three-year rule that should be addressed in the letter.

Action: Members agreed to continue working on the letter and to review the next draft by email.

VIII. **Privilege & Tenure Manual.**

- a. Members have previously suggested that UCP&T should draft a manual for use by divisional CPTs, whose members often come to the role with no previous experience in formal adjudication. Members agreed that following kinds of information would make such a manual useful:
 1. Narrative scenarios illustrating the kinds of cases CPTs typically see, which include:
 - a. Research issues
 - b. Disputes over conference and laboratory space
 - c. Merit reviews - process and prohibited criteria
 - d. Hostile environment, including bias and discrimination
 2. Guidelines for drafting a grievance
 - a. How to formulate a claim in terms of the rights and privileges of a faculty member
 - i. How to identify a right or privilege that may have been violated if a *prima facie* determination is to be made
 - ii. Kinds and specificity of evidence required to establish whether there is reason to believe that the alleged facts may have occurred as described
 3. Hearing Processes
 - a. Steps from complaint or charge to hearing
 - b. Timelines
 - c. Informal resolution
 - d. When must an administrator be informed of a grievance claim?
 - e. Meetings in preparation for a hearing
 - i. Determination of what facts are in dispute
 - f. Working with attorneys and the role of attorney-advisor to the CPT
 - g. Managing requests for postponement
 - h. When must a named party be invited/requested to meet with CPT?
 - i. Handling documents and confidential reports
 - j. Determining who needs to and may be informed of committee findings
- b. Members agreed on two distinct priority needs: (1) material that CPTs can use as guidance for how to conduct their business and (2) material that can be used to educate the general faculty about their rights and the P&T process as a resource. A member asked whether a guide to legal cases affecting UC faculty, similar to a more general guide to litigation produced by the AAUP (link contained in the agenda packet) would be useful.
- c. Dent reported that the Santa Cruz division has developed a flow chart to document the P&T hearing process.

Action: No definitive action was taken. It is the sense of the committee that this discussion should be continued next year. Attorney Advisor Vroom will review the AAUP litigation guide and offer comments as to whether a similar document focused on California cases would or would not be useful. She noted that UC faculty are employed by statute rather

than contract and that rights vis-à-vis the University are often framed as professional rights or privileges rather than employment rights. Dent will circulate the Santa Cruz flow chart for information.

IX. Moreno Report and Climate Survey follow-up.

- a. Members reported ongoing discussions at their respective campuses, but none of the members present at the meeting has been directly involved with the campus administration in developing responses.

X. Consultation with Vice Provost Carlson

- a. Vice Provost Carlson reported on work she is doing together with UCAAD Chair Emily Roxworthy to develop a set of training modules on campus climate for deans and department chairs. The training is funded with a portion of \$1M in one-time funds that the President directed to enhancing the President's Post-Doctoral Fellows Program and will be offered once on every campus as a half-day session in 2014-15. It includes a theatrical simulation component being developed under Roxworthy's supervision that is intended to provoke discussion of implicit bias, micro aggressions and similar factors that may affect department climate. After the initial offerings, training components will be made available in modules that can be replicated in the future at any campus. Vice Provost Carlson intends for the material to reflect current research on bias and to adhere to a quality standard that will ensure that participants find value in it. She is working with campus administrators to ensure that the presentations are offered in a manner that ensures that the target audience will regard them as important.
- b. Vice Provost Carlson reported that the President has also committed matching funds to support individual campus memberships in the National Center on Faculty Diversity and Development (<http://www.facultydiversity.org/>), intended to be a resource for faculty who are members of minorities within the campus community. A member commented that the resources provided by this organization and organizations like it are often viewed as patronizing by faculty and graduate students of color and do not address the real needs, especially of faculty of color. A vigorous conversation followed, in which it was suggested that UC fails to support faculty of color by not acknowledging that their jobs are different from those of majority faculty because of the extraordinary demands that are placed on them as mentors, role models, and minority representatives. It was suggested that effective support would include compensation for additional service, especially in the form of sabbaticals or course releases and other protected time for their research. Members commented that "diversity" is a vague term that does not recognize the specific challenges that can arise from membership in a racial minority. A member compared perceived administrative receptiveness to scheduling accommodations for the parents of young children to administrative rebuffs of requests for extra leave to compensate for extra service due to being the only woman of color in an academic unit. Members suggested a climate survey targeted at faculty of color and soliciting suggestions.

Conclusion: Members and Vice Provost Carlson agreed that the conversation had been worthwhile and provided important insights that should be incorporated into UC's diversity efforts. No specific action was taken, however.

- XI. Wrap up.** Members agreed to continue work on the draft letter to department chairs by email. The meeting adjourned at about 3:45 p.m.