



**UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE**

*George Blumenthal*  
Astronomy & Astrophysics  
UCO/Lick Observatory  
University of California  
Santa Cruz, California 95064

Tel: (831) 459-2005  
Fax: (831) 426-3115  
george@ucolick.org

March 17, 2000

**Divisional Senate Chairs**  
**Divisional Privilege and Tenure Committee Chairs**  
**Divisional Senate Charges Committee Chairs**

**NEW OPTIONS FOR LEGAL SUPPORT  
GUIDELINES AND PROCEDURES FOR THEIR USE**

Dear Colleagues,

On August 5, 1999, representatives of the Systemwide Academic Senate informed you of three new legal support options which are now available for the benefit of Divisional Privilege and Tenure Committees, which deal with faculty discipline, grievance, and early terminations. At that time, we also promised to provide you with guidance to aid you in determining which option may be appropriate in a particular situation. Accordingly, below please find further discussion of the three options, as well as a few general guidelines regarding their use.

Option 1: Assignment of a UC Faculty Member From Another Campus With Legal Training and Relevant Senate Committee Experience to Serve As A Member of the Committee. This option is specifically designed for campuses without law schools, and it is particularly appropriate when a committee wishes to interact with a UC faculty member with legal expertise. For example, a committee might wish to consider this option during a grievance, disciplinary, or early termination case, when a faculty member or his/her attorney raises numerous procedural or substantive challenges throughout the course of the process i.e., both in the pre-hearing and hearing phases of the case. A UC faculty member with legal training or relevant committee experience may help resolve these challenges and perhaps "flag" less obvious issues before they become full blown disputes in a court of law. This option may also be appropriate if the matter is factually complex or the procedural posture of the case is unusual. The exercise of this option should not preclude the relevant committee from consulting with University Counsel Carole Rossi (see option 2 below), should committee members believe further advice is required.

The UC Committee on Committees maintains a Panel of Counselors, consisting of a group of available UC faculty members with legal training. To exercise this option, either the Divisional Senate Chair or the Divisional Privilege and Tenure chair should contact the Chair of UCP&T.

Divisional Senate Chairs  
Divisional Privilege and Tenure Committee Chairs  
Divisional Senate Charges Committee Chairs  
March 17, 2000  
Page Two.

Option 2: Advice of Designated Attorney in the Office of General Counsel. After obtaining the approval of UCP&T and the Chair of the Academic Senate, the Office of General Counsel designated attorney Carole Rossi to provide advice to Divisional P&T Committees, while maintaining a strict legal firewall between herself and that portion of the General Counsel's office which argues cases before divisional hearing committees. To date, several divisional committees have already utilized Ms. Rossi's services. She is available to provide advice and assistance whenever complex procedural, legal, or factual issues arise.

In order to consult with Ms. Rossi, please feel free to telephone her directly. Her telephone number is (510) 987-9949, and her email address is carole.rossi@ucop.edu. Ms. Rossi is available to discuss preliminary matters -- e.g., the scope of pre-hearing conferences or the suitability of various settlement options. She has also advised committee members regarding issues which arise during the course of a hearing. At the end of her first year in this role, Ms. Rossi will file a report with UCP&T describing the volume and general nature of the issues upon which she has been asked to advise. At that time, we will evaluate how successfully this option has been used.

Option 3: Assignment of a Hearing Officer. In a very complex, high profile, or unusually contentious case, it may be appropriate to use a hearing Officer (usually an experienced arbitrator or retired judge) to actually conduct the hearing. A Privilege and Tenure Committee may want to consider this option when (1) the proposed sanction is a serious one, (2) the matter has already generated considerable publicity, (3) high profile counsel are expected to aggressively litigate many complex issues, and/or (4) copious or complex documentary evidence and a large number of witnesses will be considered at the hearing. Even if a Hearing Officer is in charge of organizing and/or conducting a hearing, it is still the responsibility of the Hearing Committee to be present and to make the final determination of fact as well as the recommendation to the Chancellor.

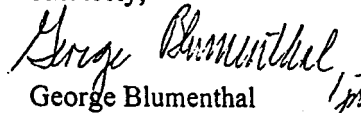
While there is some money available to hire Hearing Officers, the available resources are quite limited. To exercise this option, the Chair of the divisional Privilege and Tenure Committee must submit a written request (letter or email) to the Chair of UCP&T. UCP&T will consult with Ms. Rossi before approving such a request, and if it is approved, they will consult with the divisional P&T chair regarding both the selection of a suitable Hearing Officer and the appropriate scope of his/her responsibilities.

Finally, one last issue deserves comment regarding disciplinary cases. All campuses have a charges committee (sometimes referred to as an ad hoc or investigatory committee) which advises the Chancellor or Chancellor's designee whether there is probable cause to believe that a Senate member has violated the Faculty Code of Conduct. On some campuses this charges committee is either a separate senate committee or is a subcommittee of Privilege and Tenure. At this time, it is the view of UCP&T that it would be inappropriate for such charges committees to avail themselves of legal advice through the above channels, except that Ms. Rossi may be consulted where the question is relatively narrow in scope and strictly procedural in nature. Otherwise, charges committees are urged to consult with attorneys other than Ms. Rossi from the Office of General Counsel.

Divisional Senate Chairs  
Divisional Privilege and Tenure Committee Chairs  
Divisional Senate Charges Committee Chairs  
March 17, 2000  
Page Two.

I hope these general guidelines and procedures will facilitate your taking advantage of our three new legal support services. Please feel free to contact me if you have any questions.

Sincerely,



George Blumenthal  
Chair, University Committee on Privilege and Tenure

cc: Academic Council Chair L. Coleman  
General Counsel Carole Rossi  
General Counsel Holst  
University Provost J. King  
Executive Director S. O'Rourke  
Divisional Staff