

UNIVERSITY COMMITTEE ON PRIVILEGE & TENURE
Minutes of Meeting
Friday, November 22, 2019

I. Welcome & Introductions

Chair's Comments/Updates

The Vice Chair is serving in lieu of the Chair, who was not able to attend. Members of the committee introduced themselves briefly.

II. Consent Calendar

A. Approval of the Agenda

Action taken: The agenda was approved.

III. Senate Bylaw 336 Implementation – “Summit” Part One

Kum-Kum Bhavnani, Academic Senate Chair

Executive Directors and P&T Analysts

Dan Hare, President's Faculty Advisor

Allison Woodall, Deputy General Counsel

Mark Morodomi and Chad Pimentel, Senior Counsel

Executive Director Hilary Baxter remarked that there had been extensive conversation between the executive directors and P&T analysts since the Bylaw revision went into effect. The California state audit included revisions to the proposed timelines. The Senate was then asked by Board of Regents to adopt those timelines. Bylaw 336 was reviewed last year in the winter and spring, the Senate adopted the changes, and now it needs to be implemented. There is concern in the Senate and on the campuses that the stated timelines will be challenging and that good faith effort toward meeting them needs to be carefully and assiduously documented. Care also needs to be shown to due process. It is very important to get the administration to understand that there is shared responsibility and that it needs to begin identifying some baseline resources. The new timelines apply to both SVSH and non-SVSH cases, but what the University is going to be asked about is the SVSH cases.

Faculty Advisor Dan Hare said that he did look over the attachments and the concerns that the group has in terms of resources, etc., had been talked about with the President back in 2015-16. Chair Bhavnani remarked that COO Rachael Nava will be looking for evidence of the need for funding to address campus and systemwide concerns. The committee may have to do some modeling or present some hypotheticals so that it can ask for a bit of a budget put-aside.

Santa Barbara analyst Jon Winterbottom said that the group has many challenges; some of them are specific to the 60 day timeframe itself. There are also concerns about the availability of all of the necessary parties to attend the hearings. The first day of the hearing needs to take place within 60 days of the charges being filed and that only leaves a several-week window in which that first date can be. Availability of space is also an issue. There are also procedural motions that come from either side and it is unclear if there is time for those to be addressed. Can due process be afforded to the respondent if the campuses stick to those timelines very tightly? There is a lack of understanding about the labor-intensiveness of trying to gather peoples' availability and determine what options to propose. There is also uncertainty as to what the case load can be like because cases can come in at any time – it is nothing that can be planned in advance.

The campus representatives talked about the difficulties they had been having at their campuses and the challenges of meeting the 60 day timeframe. The workload for the chair is considerably more than expected. There is a lot of frustration about the scheduling of hearings. One campus offered a lot of days that the parties rejected on both sides. That then moved the

hearing into the next quarter, which caused problems because schedules change. It was remarked that the hearing committee members do not know how much work is involved. It's coming out of their research time and they would like to see compensation.

Ms. Baxter noted that one thing that needs to be dealt with is good cause for extensions. Some things will be accepted and others will not be accepted. This will need to be consistent and is a piece that will be important for the administration to understand.

Professor Hare noted that the timelines were dictated by the Regents and Auditor and were not something the joint committee thought would be optimal. He suggested that the senates work with their administrations to point out which aspects of the timelines and procedures do not work that would help make a stronger case for revision. The local administrations have shared liability if the deadlines are not met.

UCLA analyst Marian Olivas walked committee members through a complex flow chart that showed the workings of the process. Members discussed hardships like childcare needs and utility outages attributable to PG&E shutdowns.

UCSD executive director Ray Rodriguez discussed resource requirements that have been discussed in multiple discussions. Some of these need a common approach and some need coordination. It is unclear how to measure what the likely cost will be. One idea is to provide compensation to faculty members to provide for summer salary and also for work that is put in throughout the year. Staffing is a big concern. One option is each division goes it alone and asks for new staff to handle P&T. The dilemma there is that P&T is very "feast and famine" and that there would not necessarily be a need for staff at all times. Another suggestion is to hire systemwide staff that float between campuses based on regions. There would be someone who would work with the southern campuses and someone who would work with the northern. The divisions would continue to have their dedicated analyst but would also have this resource when it has a case. The next option is similar but would have these staff all work in the systemwide Senate office. A third possibility is to have someone who supports all the campuses but they work alongside OGC. Yet another concern is the availability of attorneys. It would be very helpful to hire more attorneys for the administration and also for P&T. Ms. Baxter weighed in with other costs including childcare, court reporters, and facility costs. She noted that when the bylaw was revised there was language that the administration would cover all associated costs. If it is necessary, the President should let the chancellors and EVCs know that these things will be covered on the back end.

UCSC executive director Matthew Mednick discussed a P&T checklist that was included with the agenda.

Ms. Baxter remarked that the working group and the directors and analysts can work on creating critical messages for the administration from this meeting. The group will need to summarize some of the steps for PT members to take back in a "cheat sheet" way.

V. Consultation with Academic Personnel

Amy K. Lee, Diversity, Labor & Employee Relations Director

Kimberly Grant, Director – Academic Policy and Compensation

Ms. Lee and Ms. Grant came to talk about APM-011 Academic Freedom, Protection of Professional Standards, and Responsibilities of Non-Faculty Academic Appointees, that was issued on November 13, 2019 to take effect February 1, 2020.

Director Lee said that the Academic Researchers declined to have academic freedom extended to them because they did not want to be held to the responsibilities. So the 4100 academic researchers will not be held to 011. The non-represented (roughly 350) who are ordinarily supervisors of these individuals do fall under 011. There are separate title codes for supervisors that clearly state that they are not represented.

The UAW was very eager to get its first contract settled so they could start representing members. The contract expires three years from now, which is the same time that the Provost said he would do an assessment based on the recommendation of the Senate.

Ms. Lee and Ms. Grant said that their office is happy to provide assistance in implementing this policy – we hoped to have a toolkit to help with this.

VI. SVSH in a Clinical Setting

This topic has been tabled until the next meeting.

VII. Systemwide Review Items

A. [Proposed Revised Presidential Policy on Copyright Ownership](#)

The committee discussed the updates and decided that they look “eminently reasonable” and will make things a little bit clearer and better. The Vice Chair will draft a letter of support and circulate it to the committee for review.

B. [Proposed Revised Academic Personnel Manual \(APM\) Section 120 \(Emerita/Emeritus Titles\)](#)

The committee discussed the proposed revision and noted that the changes were vague on a number of points. The Vice Chair will circulate a draft letter to the committee asking that the proposed changes – as written – should not be adopted.

VIII. Roundtable: Reports from the Divisions

UCB- The first semester was consumed with one very complicated SVSH case. There have been no grievance cases this semester. The Executive Director will be contacting staff at other campuses to find out their experiences with a charges committee first and also saw a proposal for a “tiger team” but the Berkeley senate is not looking at a tiger team now.

UCD – The UCD Representative was not present.

UCI – The campus had a couple of non-SVSH hearings last spring and there is a possible case coming up now but it is in very early stages. There was also a theoretical issue having to deal with instituting a policy for faculty applying for tenured jobs to be willing (as part of the application process) to submit any disciplinary record they might have at their own campus. This is because there is a long history of serial misbehavior being passed from institution to institution.

UCLA- The campus is closing out a report on a six-day hearing case that it had in the spring. It is currently reviewing a preliminary grievance, two involuntary leave grievances, and the rehearing of a Title IX case that was done a few years ago that went to the courts and it came back to redo with in-person testimony from one of the witnesses. This was originally scheduled for December but now it is in February. The campus has one case now that is under the new timelines and it is set for January. This year, the campus has five cases of involuntary leave with pay.

UCM is dealing with a grievance case now and is learning from the other campuses. This is only its second case to come in the past 13 years but now that it has more faculty, the cases are going to come more often.

UCR is only handling one disciplinary case; there is no new business this academic year. There were four grievances last year and one disciplinary case that was pending and they were resolved. Most of the grievances were related to an ongoing disciplinary action or something that was leading to disciplinary action. There is a clause in 336 that allows for the appointing of a mediator. Can a mediator be used in SVSH charge per Title IX?

UCSD- The campus had three hearings in the spring completed prior to change in 336; they took four months. It now has two which are at the prima facie level. The campus is working on shaping its campus policy on prohibitions on romantic relationships between faculty and students. They are also working on formulating a bullying policy for faculty. In terms of University communications, the campus is attempting to add a restriction that it is illegal to transmit obscene material using university equipment.

UCSF – The campus had one case in 2018-19 that was very complex and was a disciplinary, and grievance, and SVSH. The campus met all of the time guidelines and over two weeks of hearings. It has three cases now; one is non-SVSH and two grievances which are under review.

UCSB – The campus has three ongoing disciplinary cases (one on the old 336 policy) and one ongoing grievance case.

UCSC – The biggest challenge so far this year has been addressing the change in the Bylaw. There is one other issue which is coming up that involves transfers from department to divisions. The current EVC has said that these should not be used as a substitute for discipline but other administrators think this is a solution to a lot of things. There are no policies that address this specifically. It is done through MOUs and they are very inconsistent. The campus just went through a strategic planning process but many decisions are made at the department level. Awards, etc., all happen at the department level. Information flows all happen at the department level. There is a big loss of information.

IX. Other Topics/New Business

There was no new business.

The committee adjourned at 2:30.

Minutes prepared by Fredye Harms, Committee Analyst
Attest: Nicholas Webster, Committee Chair