

**UNIVERSITY COMMITTEE ON PRIVILEGE AND TENURE
2016-17 Annual Report**

TO THE ASSEMBLY OF THE ACADEMIC SENATE:

Under Senate Bylaw 195, the University Committee on Privilege and Tenure met twice in person and once by teleconference in 2013-14 as well as working through email to carry out its duties to advise on general policies involving academic privileges and tenure and to maintain statistical records on grievance, disciplinary, and early termination cases that are addressed through formal Privilege and Tenure (P&T) processes. In addition to conducting its own business during meetings, the committee consulted extensively with Senior Counsel Cynthia Vroom, the Office of General Counsel's designated attorney advisor to committees on privilege and tenure; the systemwide Senate leadership; and Vice Provost for Academic Personnel and Programs Susan Carlson. Senior Counsel Vroom and Vice Provost Carlson are consultants to the committee.

Topics of Note During the 2016-17 Year

Public Records Act (PRA) Request

Public records act requests were submitted to the University regarding instances of sexual violence and sexual harassment on all 10 campuses. The data listed 113 instances of sexual violence or harassment over the past three years; about two-thirds of the perpetrators no longer work for the University, and about one-quarter were faculty. Roughly half the victims were students and half were staff. Approximately four faculty continued to serve as actively serve in teaching positions. The University had the difficult job of balancing the individual's right to privacy with the public's right to know.

APM and Bylaw Revisions

Academic Personnel Manual (APM) Sections 015 (The Faculty Code of Conduct) and 016 (University Policy on Faculty Conduct and The Administration of Discipline) were sent out for review during 2016-17. The proposed changes were recommended by the Joint Committee of the Administration and Academic Senate, a committee convened by President Napolitano in October 2015. This action also resulted in a review of Academic Senate Bylaw 336.

The Joint Committee suggested changes to APM 015 to explicitly clarify that sexual violence and sexual harassment are violations of The Faculty Code of Conduct. UCPT worked with the Senate leadership to crafted language that specified: 1) when the Chancellor is deemed to know about an SVSH allegation; 2) when the Chancellor must initiate any related disciplinary action; 3) how the related disciplinary action is communicated to the respondent; and 4) that there is no time limit for reporting an alleged violation.

The Joint Committee also proposed changes to APM 016 which governs the schedule for involuntary paid leave. The proposed revisions suggested a new timeline that is practical, that can be applied consistently, and that is fair to the respondent.

UCPT members discussed the proposed changes at length, particularly the question of "expedited review." Some of the main concerns were the following:

- Would it be out of synch with the academic schedule?
- Would it rely on involuntary leave schedule or time-dependent grievance procedures?
- Would faculty rights be significantly abridged by these recommendations?
- Claiming "expedited" review and then having the dates not work could be grounds for a lawsuit.
- If a hearing is part of the handling of a case, significant time could be required.

In addition to concerns about expedited review, members voiced concerns about the paid part of the leave, the criteria for withholding pay, the issue of campus safety vs. punishment, and perhaps the “softening” of some of language of the proposed changes.

The Committee discussed concerns – and drafted a letter - over pressure to bring a second disciplinary action against a faculty member under APM 016 and Senate Bylaw 336. This faculty member had already been sanctioned once for the same conduct. Members asked if the procedures could be clearly defined as two separate actions. They suggested that comments should be focused less on the consecutive disciplines and more on the concept that two investigations of the same event are inappropriate.

Title IX Coordinator

OP hired a new systemwide Title IX Coordinator (reporting directly to the President) in February. Her role is to oversee UC’s ongoing efforts to effectively prevent and respond to sexual violence and sexual harassment. These efforts include education, investigation, adjudication, and sanctioning in cases involving students, faculty and staff. The coordinator met with the committee and discussed documents she had drafted to help guide peer review. The committee discussed the documents and gave the Coordinator feedback regarding their language and implementation.

Letter on Faculty Discipline

Because of the variety of changes to personnel policies and guidelines during the year (the Sexual Harassment/Sexual Violence Policy, the changes to the APM and the Bylaws), UCPT authored a letter to the Academic Senate that reviewed and spelled out essential components of the faculty disciplinary process. The document laid out the processes involved in – and the differences between - the four components of the response to faculty misconduct: Formal Discipline, Informal Resolution (including Early Resolution), Interim Measures, and Administrative Actions. It also included a detailed FAQ section to help further elucidate the various steps of the four options.

Acknowledgements

UCPT is grateful to have had valuable input from - and exchange with- these UCOP and campus consultants and guests over the past year: Provost Aimée Dorr, Vice Provost Susan Carlson, and Senior Counsel Cynthia Vroom. Special thanks to Academic Council Chair Jim Chalfant, Vice Chair Shane White, Senate Executive Director Hilary Baxter and Associate Director Jocelyn Banaria.

Respectfully submitted,

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