

COMMITTEE ON PRIVILEGE AND TENURE
Annual Report 2022-23

To: Academic Senate, Santa Cruz Division

I. Grievances and Charges

One grievance was filed by a faculty member in the spring term. The Committee on Privilege and Tenure (CPT) reached a positive prima facie determination on part of the grievance. A disciplinary charge was also filed against the faculty member by the administration concerning the same events. A hearing was scheduled but not required per a resolution agreement between the respondent/grievant and the Administration.

II. Divisional and Systemwide Reviews

A. Second Systemwide Review of Draft Presidential Policy -- Abusive Conduct in the Workplace

CPT broadly supported the creation of the policy. The absence of existing policy to address abusive conduct leads to situations in which faculty members ineffectively grieve such behavior, when it would be better suited as a charge. Yet, for a charge to be disciplined it requires a violation of the Faculty Code of Conduct, which can include a violation of policy.

The committee appreciated that the protection of academic freedom had been strengthened and the procedure for adjudicating cases clarified. However, the policy was still not clear about who were mandated reporters. Greater clarity was also needed about how disciplinary action under this policy would intersect with the personnel process, i.e. whether it could be considered and conversely whether the absence of disciplinary action would preclude raising this issue during a subsequent personnel process.

B. Systemwide Review of Presidential Policy – University of California – Policy on Vaccination Programs

CPT recommended that required vaccines should be defined not just in terms of Centers for Disease Control (CDC) and California Department of Public Health (CDPH) recommendations but by being attached to the vaccination policies and posted on the website with presidential policies.

CPT also recommended that the statement that individuals who fail to comply may be barred from physical presence at University facilities and programs and may be terminated or dismissed as a result of noncompliance should be reworded. Termination or dismissal should only be if the inability to be physically present made termination or dismissal appropriate, not as an independent result of noncompliance.

C. Systemwide Review of Proposed Presidential Policy – Anti-Discrimination

CPT’s main objection was that it was impossible to understand how this policy was not subsumed in the existing policy on abusive conduct. At a minimum, the two policies should be reviewed together and aligned as much as possible, and an explanation should be provided for why the second policy was needed. At a more detailed level, CPT recommended that the Local Investigating Officer (LIO) should be the same as for the abusive conduct policy, that the definition of protected category should be broadened if possible, and that it should be clear how employees who are mandatory reporters have to notify the LIO (e.g. if an email is sufficient).

D. Proposed Presidential Clery Act Policy

CPT noted that one critical clarification was needed. The reporting requirement in the policy applies to persons who are specified in the campus Annual Security Report (ASR) as an individual to whom employees should report criminal offense. But there is no such specification in the Annual Security Report¹ (even though federal law² requires a list of titles of each person or organization to whom offenses should be reported). It also applies to persons who “have significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings”. With the “but not limited to provision”, this is non-specific. Faculty members should not have to guess whether they have a reporting requirement or not, potentially resulting in disciplinary cases if they guess incorrectly.

E. Proposed Presidential Policy on Inventions, Patents, and Innovation Transfer

CPT had two primary areas of concern it recommended be clarified before the policy was finalized.

The first clause in the definition of University Intellectual Property (IP) in the draft policy referred to the “course or scope of employment”. The committee recommended that the “or” be changed to an “and”, consistent with the Patent Acknowledgement Form signed by all faculty. But even with this change, the committee was unsure how broadly this provision would apply to faculty, whose field and therefore the scope of their employment, and their working hours or course of employment, are not clearly defined. The boundaries of this clause should be clearly delineated, either in the clause or in a supplementary document containing examples, or the clause should be deleted. As a related point, it was not clear to the committee if the obligation to promptly report and fully disclose (emphasis added) all inventions to the University include inventions that are clearly or probably not University IP.

CPT also noted that the line “An additional 15% of net royalties and fees per invention shall be allocated for research-related purposes on the inventor's campus or Laboratory” (page 4) has been deleted from the previous version. Essentially, 15% has disappeared in the policy, but it was not flagged in the policy as being reallocated to some other purpose.

¹ See: <https://police.ucsc.edu/crime-prevention/ucsc-clery-2022.pdf>

² See 34 CFR 668.46: <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-668/subpart-D/section-668.46>

III. Advisory Opinions

CPT recommended to the Campus Provost and Executive Vice Chancellor that when the Academic Employee Relations Director receives a complaint against a faculty member and meets with them about a matter which may later be formalized as disciplinary charges, the purpose and the terms of the meeting should be clarified in advance.

IV. Title IX Training

During the winter quarter CPT members participated in a Title IX training provided by the UC Santa Cruz Title IX Office. This training is required for any hearing committee member participating in a hearing which has Title IX implications. It is also of contextual assistance in assessment of sexual harassment or sexual conduct charges against faculty members.

Respectfully submitted,

COMMITTEE ON PRIVILEGE AND TENURE

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