

COMMITTEE ON PRIVILEGE AND TENURE

Annual Report 2021-22

To: Academic Senate, Santa Cruz Division

I. Grievances

Three grievances were filed with the committee during the 2021-22 academic year, two by the same grievant. Following preliminary investigation, the committee made positive prima facie determinations on the two by the same grievant, but the case was still being negotiated at the end of the committee's term. The committee made a preliminary prima facie determination on the third grievance, which was filed late in summer, leaving preliminary investigation to the incoming committee.

II. Charges

One charge was presented by the administration against a member of the faculty this year, ten days before the end of the committee's term, leaving a hearing or other resolution to the proceeding term.

III. Divisional and Systemwide Reviews

A. Proposed Changes to the Systemwide Policy on Sexual Violence/Sexual Harassment

The committee discussed the proposed changes to the systemwide policy on Sexual Violence/Sexual Harassment and identified two areas of potential confusion. The first involved the creation of a new category of confidential resources with the inclusion of "members of the clergy" (II (2)(C)(e)). The committee saw some inconsistencies and felt that further clarity was needed in terms of clergy members' duty to report, especially since some clergy might also be appointed as faculty members. The second area of confusion involved "no contact options." The committee was concerned about the unilateral nature of no-contact orders and wondered why the university would not restrict the Complainant from contacting the Respondent, since presumably such contact would be inviting a response from the Respondent.

B. Systemwide Review of Academic Personnel Manual Subsection 759 (APM 759)

P&T discussed the proposed revisions to section 759 of the systemwide Academic Personnel Manual (APM 759). The committee had two overarching concerns regarding the changes in policy. The first had to do with the possible rationale behind providing an exemption to policies regarding leaves without pay specifically for "entrepreneurial pursuits." As proposed, this policy would seem to have advantaged those faculty who engage in commercial activities, since it offered no such exemption to those who would use this time to engage in purely intellectual and/or artistic pursuits. P&T thus suggested that other categories of exemptions should be explicitly included such as "scholarly research and creative activity."

The second involved the intellectual property issues that might arise during extended leave for entrepreneurial pursuits. The committee held that the policy language must make crystal clear how these new policy provisions interact with campus IP/patent policy, specifically in regard to how

the campus would differentiate between IP developed using campus resources and that by the wholly independent “entrepreneurial pursuits” of the faculty member.

C. Proposed Presidential Policy on Abusive Conduct/Bullying in the Workplace

The committee held a lengthy discussion about the proposed Presidential Policy on Abusive Conduct/Bullying in the Workplace. Our comments and concerns largely revolved on two obviously related but still separable issues: one regarding the content of the policy and the other regarding implementation. Our discussion regarding content was robust, and we did not reach consensus. Most members agreed on the need for such a policy, given the prevalence of bullying within the university, and felt that the contemplated behaviors named in the policy sufficiently articulated the range of concerning behaviors. Recognizing that any adjudication of this policy would require judgment on very difficult issues, they also felt that the examples of reasonable actions that do not constitute Abusive Conduct/Bullying were important to include and would provide adequate guidance to whatever bodies investigate and hear these cases. Dissenting members expressed concern about further university overreach and bureaucracy, and squelching of freedom of speech (about which all members agreed), and felt that existing policies were probably sufficient to cover the most egregious bullying behaviors. They also questioned whether any investigative or regulatory body could judge these behaviors fairly or consistently. In addition, they questioned whether this policy would actually protect those whose minority voices are often squelched by bullying.

Regarding implementation, the committee was completely in agreement that the policy was insufficient in articulating or even contemplating appropriate investigatory bodies and adjudication processes to ensure due process and safeguards. The committee specifically noted that in trying to address bullying and abusive behaviors across all campus constituencies, the policy did not adequately incorporate existing policies and procedures for faculty grievances and discipline, nor did it address how complaints across different campus constituencies would be handled.

Based on our discussions, P&T recommended the following:

- That the policy be prefaced with a clear and unequivocal statement that academic freedom, and the speech that this principle allows, is the lifeblood of the university, and that the free exchange of ideas is necessary for the discovery and dissemination of knowledge.
- That the policy be amended to include or refer to a clear chain of action, and a flowchart akin to the SVSH adjudication framework. This should clarify who the investigatory and deliberative bodies are or will be, and it should absolutely reference that cases involving faculty grievants and respondents will be handled by P&T.
- That if new organizations are required to handle complaints under the new policy, funding for those organizations needs to be provided from the center as part of the policy implementation.
- That the policy be amended to specify the analogues for “supervisors and managers” for faculty (probably department chairs and deans) while also recognizing and addressing that many
- complaints of bullying are directed towards one’s superiors, such as chairs and deans. The normal faculty grievance process should also be explicitly included here as a logical recourse.

D. Military pay

The committee asked for clarity on what “non-compliance” means, given that the proposed policy could be read as a failure of the administration to provide supplementary military pay.

E. Systemwide Review of Recommendations for Department Political Statements

P&T discussed the proposed Recommendations for Department Political Statements. Most members of the committee felt that the two recommendations together are the best one could hope for in balancing the free speech rights of the majority against the potential silencing of the minority and, moreover, that the specific recommendations give needed guidance to P&T should a case involving departmental political statements come before the committee. At the same time, the committee recognized that these recommendations were unlikely to mitigate the potentially contentious intra-departmental dynamics that might arise when such statements are discussed and faculty hold minority views.

F. Campus Academic Personnel Manual subsection 512.280

The committee reviewed revisions to subsection 512.280 of the Campus Academic Personnel Manual (CAPM), which primarily involves delegation of authority to the divisional deans and waiver of review by the Senate Committee on Academic Personnel (CAP), for all actions in the Adjunct Professor series. Since Adjunct Professors are not Senate members we were surprised to learn that Senate CAP ever reviewed these files and had assumed these were reviewed by DIV-CAP. Therefore, we supported the proposed changes.

G. Proposed Revisions to Campus Academic Personnel Manual (CAPM) Subsections 300.240 and 304.241

P&T discussed the proposed revisions to sections 300.240 and 304.241 of the Campus Academic Personnel Manual (CAPM). Overall, the committee was pleased that the proposed revisions addressed lacunae that has caused concern in the past. However, member suggested that College Provosts and Associate College Provosts should be covered by the same policy as Department Chairs and Vice Chairs (CAPM 312.245) since college provosts, like deans, often must curtail their research and teaching activities while serving in these administrative positions, yet no other policy makes explicit provision for the merit review process for those in these titles.

H. Academic Integrity Policy

The Committee reviewed a draft of the proposed Policy on Academic Integrity provided by the Vice Provost and Dean of Undergraduate Education. Although P&T was not assigned review, in light of the importance of the policy it opted to review and attend to issues even beyond committee purview.

Members supported the overall goals of the proposed policy to create greater separation of the academic and administrative aspects of academic misconduct cases and to achieve greater consistency in the handling of such cases. The committee expressed concern about the significant costs of this expansion of administrative functions, but it also recognized that a dedicated office was better suited to achieve these goals than the current scheme. Members opposed the idea of fining students to pay for the office, however.

Other concerns member raised included the need for:

- definitions of academic misconduct to be as clear and objective as possible.
- further guidance about procedures once misconduct is determined to have occurred.
- attention to incentives for participation on the board
- clarity on obligations to report, including by Graduate Student Instructors (GSI) and Teaching Assistants (TA).

IV. Advisory Opinions

A. Ombudsman Program

P&T met with a systemwide ad hoc committee to discuss reinstatement of the ombud office. Among other things, the committee felt that a person occupying this office would need to be well trained in policies and procedures related to grievances and disciplinary action. At the same time, the committee argued that a grievant should never be expected to go through the ombud office to demonstrate they have exhausted all remedies.

B. Remote Work Guidelines

The committee reviewed a revision of the remote work guidelines developed by the Vice Provost of Academic Affairs (VPAA). Repeating our prior concern, the committee wished for more clarity about what constitutes a compelling reason for working remotely, in case the committee were to see a case that disputed a remote work situation.

IV. Title IX Training

During the winter quarter P&T members participated in a Title IX training led by Isabel Dees, Title IX Officer for UCSC.

Respectfully submitted;

COMMITTEE ON PRIVILEGE AND TENURE

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