

Section I

Name of Committee: Committee on Academic Freedom and Tenure

Submitted by: Jill Theresa Messing, Chair, School of Social Work, Watts College of Public Service and Community Solutions, Downtown Campus

Date submitted: April 18, 2023

Membership Roster:

- Majia Nadesan, West Campus, School of Social and Behavioral Sciences
- Pamela Swan, Downtown Campus, Health Solutions
- Aaron Hess, Downtown Campus, Languages and Cultures
- Xihong Peng, Polytechnic Campus, Department of Physics
- Marco Janssen, Tempe Campus, School of Sustainability
- Aya Matsuda, Tempe Campus, Department of English
- Alan Gomez, Tempe Campus, School of Social Transformation
- Kristin Mickelson, West Campus, School of Social and Behavioral Sciences
- Hilary Harp, Tempe Campus, School of Art
- Stephen Bokenkamp, Tempe Campus, School of International Letters and Cultures

Overview Narrative:

During AY 2022-23 the chair of the Committee on Academic Freedom and Tenure (CAFT) also chaired the Grievance Clearinghouse Committee (GCC). There were eight new cases presented and no cases were carried over from AY 2021-2022. Of the eight cases presented, four were dismissed by the GCC, one was a request for mediation and was forwarded to the Ombudspersons Committee, and the remaining three were assigned to CAFT.

Section II

Grievance Cases Dismissed by CAFT:

1. Grievant alleged that their denial of promotion to full professor was the consequence of the abridgement of their academic freedom as the University Promotion and Tenure Committee included alleged factual inaccuracies and that their synopsis and did not contextualize the vote in terms of the Unit Bylaws. The Respondent filed a motion to dismiss. Upon review, Grievant and Respondent agreed that there were no factual inaccuracies in the University Promotion and Tenure Committee summary document; instead, the Grievant misinterpreted the form. The Grievant alleged that the substantive judgement of the University Promotion and Tenure Committee was erroneous because of the lack of context. The Respondent stated that the alleged lack of contextualization was not material to the decision of the University Promotion and Tenure Committee. CAFT ruled

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that the Grievant did not articulate a policy or procedural violation with regard to the contextualization of the vote in terms of the Unit Bylaws. Rather, the Grievant disagreed with the committee over the substance of the promotion case. Grievance committees do not have jurisdiction to evaluate the substance of a faculty member's original case. CAFT dismissed the case prior to hearing.

Grievance Cases Heard by the Committee and Forwarded to the University President

1. Grievant alleged several policy and procedural violations material to their non-renewal of a multi-year contract. Both parties were represented by counsel. After a pre-hearing, the CAFT chair ruled that the following issues would be presented at hearing: (1) whether the non-renewal was submitted in compliance with applicable deadlines and, if not, whether this constituted a violation of policy and (2) whether the reasoning for non-renewal was justified under applicable policies and procedures. The specific matter before CAFT was as follows: The Grievant had received an intent to renew their multi-year contract under the previous Dean, and had subsequently been issued a one-year contract by the current Dean based on the articulated rationale that there was insufficient information on which to evaluate the faculty member's performance. CAFT concluded that the grievant did not establish that a policy or procedural violation occurred and recommended that no relief be granted to the Grievant. The University President concurred with CAFT's conclusion.
2. Grievant alleged several policy and procedural violations material to their denial of promotion to full professor, primarily based on the omission or misinterpretation of evidence related to teaching. Neither party was represented by counsel. At a pre-hearing, the parties stipulated that omission of the 50-page teaching summary from the Grievant's promotion file was an administrative error, and that the promotion file should be sent back for re-review beginning with the level where the information was excluded. After the pre-hearing, the CAFT chair ruled that the hearing would address the following issues: (1) timeliness of submission of a peer teaching review and whether it was a violation of policy to exclude the peer teaching review, and (2) whether there was a material mathematical error in the comparison of the Grievant's teaching scores with the comparators provided by the University. With regard to the first issue, the Unit required submission of a peer teaching evaluation; this peer evaluation was deemed late and excluded from the Grievant's promotion file at the College level. Witnesses for the Grievant testified that the Grievant was fully cooperative with the peer teaching evaluation process and that peer teaching evaluations with similar dates had been accepted in years prior and subsequent to the year that the Grievant submitted their promotion materials. CAFT concluded that there was a differing and inconsistent application of the deadline for inclusion of the peer review and recommended that the promotion file be sent back for re-review with the peer teaching evaluation included beginning with the level at which the peer teaching evaluation was excluded. With regard to the second issue, there was disagreement in how the standard deviations of teaching scores should be interpreted. For example, are comparative means within the standard deviation of the class score considered lower/higher than the class mean? CAFT did not find any policy violation with regard to the review or comparison of the Grievant's teaching scores. The University President did not find that a policy violation occurred, but concurred with CAFT's recommendation that the promotion file be re-reviewed with the 50-page summary and peer teaching evaluation included.

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Grievance Cases Pending as of April 18, 2023

There are no grievance cases pending.

Grievance Cases Considered but not Heard

There were no grievance cases considered but not heard.

Section III

Item to carry-over into AY 2023-24

At this time, there are no pending cases to be carried over to the next AY.

Section IV

Recommendations to the Senate or Formal Comments

Academic freedom is crucial and is of utmost importance to the intellectual health of the university. Faculty members must attend carefully to the policies that govern their employment at all levels of the university structure.

The scope of CAFT is limited. Grievance committees may hear cases where an allegedly material substantive policy or procedural violation may have occurred. For an alleged violation to be material, it must have had an impact on the outcome of the case. Grievance committees do not have jurisdiction to evaluate the *substance* of a faculty member's tenure and promotion materials.

The relief available for a policy or procedure violation is for the matter to be sent back to the level at which the violation allegedly occurred. CAFT is unable, for example, to renew a contract or reverse a negative tenure or promotion decision. Rather, when a material policy or procedural violation occurs, the matter is often sent back to the decision-makers who rendered the original decision, so that they can revisit that decision while following applicable policies and procedures.

CAFT proceedings are meant to be collegial and cooperative. All university personnel are expected to cooperate, participate, and provide information as necessary. The proper Respondent in any particular case is generally identified by the Grievant on the Grievance Service Request form. Generally speaking, the proper respondent should have knowledge of the underlying events. When the Grievant has not named the proper party, where appropriate, CAFT can identify the proper Respondent, but is not required to do so.

If a Grievant obtains an attorney, the ASU Office of General Counsel is assigned to represent the Respondent. If the Grievant does not obtain an attorney, the Respondent is not provided representation. The ASU Office of General Counsel does not properly provide legal guidance to CAFT, which has its own attorney.

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Please type a summary in 100 words or less in this space. This paragraph will be cut and pasted directly into the Senate Annual Report.

During AY 2022-23 the Grievance Clearinghouse Committee (GCC) received eight new cases; of those, four were dismissed by the GCC, one was forwarded to the Ombudspersons Committee, and three were assigned to CAFT. Of the cases assigned to CAFT, one was dismissed and two were heard by CAFT and forwarded to the University President. Of the cases forwarded to the University President, CAFT recommended that the Grievant be granted relief in one and that the Grievant not be granted relief in the other. The University President concurred with CAFT's recommendations. There are currently no pending cases.

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