

University Senate Annual Committee Report Academic Year 2016-2017

Section I

Name of Committee: Committee on Academic Freedom and Tenure

Submitted by: Brooks D. Simpson, Chair, Polytechnic campus, College of Integrative Sciences and Arts/Barrett, The Honors College

Date Submitted: 4-24-2017

Roster:

- Angela Chen, Downtown Phoenix campus, Nursing
- Barbara Ainsworth, Downtown Phoenix campus, Nutrition and Health Promotion
- Robert Kleinsasser, Polytechnic campus, Mary Lou Fulton Teachers College
- Terri Kurz, Polytechnic campus, Mary Lou Fulton Teacher's College
- Richard Creath, Tempe campus, Life Sciences
- David William Foster, Tempe campus, International Letters and Cultures
- Michael F. Kelley, Tempe campus, Mary Lou Fulton Teachers College
- Robert St. Louis, Tempe campus, WP Carey School of Business
- Bambi Haggins, Tempe campus, English
- Karen Leong, Tempe campus, Social Transformation
- Carol Mueller, West campus, Social and Behavioral Sciences
- Suzanne Painter, West campus, Mary Lou Fulton Teachers College

Overview Narrative:

During AY 2016-17 the chair of the Committee on Academic Freedom and Tenure (hereafter CAFT) also chaired the Clearinghouse Committee. Of the six grievances submitted to the latter committee, five were assigned to CAFT, while a sixth was assigned to the Office of Equity and Inclusion. The five cases assigned to CAFT are noted in Section II.

Grievance Cases Dismissed by the Committee

1. Grievant alleged that a denial of promotion to Clinical Associate Professor was due to an assumption that a Ph.D. was required for the rank sought; that the decision failed to credit Grievant with “informally” holding the rank of Clinical Assistant Professor for three years before being awarded that rank formally in 2014; and that Grievant failed to receive a clear written explanation of the basis for denial of promotion. Subsequent to a prehearing, the CAFT Chair ruled as follows:

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- a. Outcome: There was no evidence to support the allegation that the Grievant was denied promotion based on degree attainment, and both parties agreed that possession of a Ph.D. was not an absolute requirement for promotion in this instance; There were no grounds upon which Respondent need recognize Grievant’s claim of three years of “informal” service as a Clinical Assistant Professor prior to being formally promoted to that rank. Moreover, no material procedural violation regarding how that claim had been treated during the promotion process had been identified; Grievant failed to identify any policy or procedure that requires an explicit explanation of why Grievant was denied promotion. Given Grievant’s failure to identify any material procedural violations, the case was dismissed.
2. Grievant alleged that a denial of tenure to Grievant was due to a failure to allow Grievant sufficient time to satisfy publication requirements; that Grievant’s promotion and tenure file was evaluated without due consideration given to performance of service obligations that adversely impacted Grievant’s ability to meet research and publication requirements; that an assessment of Grievant’s file undervalued refereed conference proceedings in comparison to other publications; and that Grievant was not permitted to select a disciplinary field representative to evaluate Grievant’s file at the department level. Subsequent to a prehearing, the CAFT Chair ruled as follows:
 - a. Outcome: The parties agreed that Grievant was not entitled to select the disciplinary field representative to evaluate the file at the department level; Grievant failed to identify a material procedural violation in the relative weight given refereed conference proceedings in the assessment of Grievant’s publications; Grievant failed to make a timely complaint about the amount of service that Grievant performed, failed to request an extension of her tenure clock in light of such service, failed to make a complaint about the publication requirements prior to candidacy (and indeed prior to denial), and offered no evidence that there was a material procedural violation in the assessment of Grievant’s file. Given Grievant’s failure to identify any material procedural violations, the case was **dismissed**.
3. Grievant alleged that a denial of promotion to Principal Lecturer was due to inaccuracies and misrepresentations made by the college personnel committee in its letter assessing Grievant’s record and offering its recommendation concerning Grievant’s promotion. Subsequent to a prehearing, the CAFT Chair ruled:
 - a. Outcome: Grievant had failed to state a material procedural violation or submit evidence in support of Grievant’s claim that the committee had failed to recognize that possession of a terminal degree was required for promotion and that the committee had mischaracterized Grievant’s efforts to explain why Grievant should not be expected to possess a terminal degree. This charge was therefore **dismissed**. Grievant had failed to state a grievable issue concerning the import of the term “university service” in the committee’s letter. This charge was therefore **dismissed**. Grievant had identified three grievable procedural issues that potentially had an adverse material impact on Grievant’s candidacy for promotion, justifying a hearing.

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After said hearing, CAFT made the following determination:

Grievant charged that the committee's letter misrepresented the evidence provided by Grievant as to his service in several capacities when it claimed that he offered no such evidence or minimized such service. CAFT determined that the committee's statements in its letter concerning Grievant's service to be substantially inaccurate in such a way as to have an adverse material impact and to be a violation of the committee's charge to review a candidate's file fully and fairly and offer an accurate report of its contents. CAFT thus **sustained** the Grievant in this matter.

CAFT recommended that the President return the file back to the college personnel committee with the charge to compose a letter that reviewed Grievant's file fully and fairly and offer an accurate report of its contents.

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

1. Grievant alleged that Respondent had engaged in discrimination based upon race and national origin in removing Grievant from a project team and in evaluating his research and teaching in such a way as to cause his termination; an additional claim that Respondent had violated Grievant's due process rights was withdrawn at the prehearing.
 - a. Outcome: The case proceeded to a hearing, where CAFT found the Grievant had failed to prove that Respondent had engaged in discrimination based upon race or national origin in removing Grievant from the project team in question or in evaluating the Grievant's performance as a researcher and as a teacher, and that the university's decision to terminate the Grievant's employment was not due to any such discrimination.

Grievance Cases Pending as of 4-25-2017

1. Grievant alleges that Respondents violated Grievant's academic freedom and acted in violation of university procedures in reallocating research space once devoted to Grievant's work and in moving research instruments once reserved for the exclusive use of Grievant's research team so that other researchers would have access to them.

Section III

Items to carry-over into AY 17-18

1. Not applicable for CAFT

Section IV

Recommendations to the Senate or Final Comments

In the past this committee has noted that the University Faculty Senate should remind faculty of the importance of filing grievances in a timely manner pursuant to ACD 509-02 (2013-14 CAFT Annual Report) and that it might make efforts to contact faculty undergoing review or seeking promotion and/or tenure to inform them of their options in case of an unsatisfactory outcome so that they can

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consider whether to appeal the result, do so in a timely fashion, and offer evidence that allows the grievance process to proceed as intended. It has also requested that the University Senate review the need to provide to someone who can help faculty considering a grievance on the general procedures to be followed in filing a proper grievance in a timely manner (2015-16 CAFT Annual Report). While the role of the University Ombudsperson does not include participating in reviews of cases concerning denial of tenure or dismissal for cause, the person holding that office is not prohibited from outlining, for the benefit of an aggrieved faculty member, the process of filing a grievance, including the grounds upon which a grievance can be heard. Such informational responsibilities do not constitute advocacy; the Chair (who has served for chair for three terms) believes that the University Senate should consider how best to serve the interests of faculty members who are considering grieving various decisions or outcomes, and to not to do so in a more active way constitutes a weakening of faculty governance. In offering this observation, the Chair notes that in the spring 2015 semester a Grievance Policies and Procedures Task Force was organized and inquires as to what were its findings and recommendations.

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