

UNIVERSITY REVIEW COMMITTEE

Friday, February 28, 2014
9 a.m., Hovey 302

MINUTES

Members present: Angela Bonnell, Phil Chidester, Diane Dean, Domingo Joaquin, David Rubin, Sam Catanzaro (ex officio)

Members not attending: Doris Houston, Sheryl Jenkins, Bill O'Donnell, James Wolf

Others present: Bruce Stoffel (recorder)

I. Call to order

Chairperson David Rubin called the meeting to order at 9:05 a.m.

II. Approval of minutes from the February 14, 2014, meeting

Diane Dean moved, Angela Bonnell seconded approval of minutes from the February 14, 2014, meeting. Chairperson Rubin declared the minutes approved.

III. Continued discussion: Draft faculty suspension and dismissal policy and procedure

Sam Catanzaro facilitated committee discussion regarding the draft policy for reassignment, suspension, and dismissal for cause of tenured and tenure track faculty and draft procedural steps for dismissal.

Catanzaro noted that the Academic Senate chairperson initiated discussion of this issue by asking that a policy be drafted for review by the appropriate committees and by Faculty Caucus. Catanzaro stressed that the intent is to create a policy that effectively addresses extreme cases.

Catanzaro reviewed his memorandum to the University Review Committee dated February 19, 2014, titled "Discussion of Draft Policy on Suspension and Dismissal of Tenured Faculty" (attached).

Regarding point 1 in his memo, Catanzaro said that involving the Faculty-Staff Threat Assessment Team in determining threat of harm might be appropriate in some circumstances. He said that he plans to discuss this point with legal counsel. He suggested referring to threat of harm in general terms in the documents to provide the University flexibility in the manner in which it responds to specific cases. Dean explained that she has suggested including a reference to the threat assessment team in the dismissal policy to recognize and incorporate existing University processes.

Regarding point 2 of Catanzaro's memo, David Rubin suggested aligning wording in the draft documents related to harm with wording in ASPT policies related to collegiality. Catanzaro said he would investigate doing so.

Regarding point 3 in his memo, Catanzaro will clarify that persons suspended would continue to be paid absent explicit legal considerations to the contrary.

Regarding point 4 of his memo, Catanzaro recommended retaining the general term “administration” in the Faculty Suspension paragraph on the first page of the draft policy and replacing the term “administration” with reference to a specific administrator in point 4 on page 2 of the draft policy.

Catanzaro noted that other points in his memo are clarifications rather than recommendations for changes. Dean suggested that a key theme emerging from these points is deciding the appropriate balance between specificity and flexibility.

Chidester indicated his satisfaction with discussion being the first step in dismissal procedures. He said that all options should be investigated through discussions involving the faculty member, chairperson, dean, and provost before dismissal proceedings are initiated. Catanzaro confirmed that the initial discussion is to occur before DFSC is asked to review and comment on a case, with a goal of reaching mutual agreement rather than initiating formal proceedings. If the situation requires immediate action, e.g., due to the threat of harm, the policy is written to allow for that.

Rubin asked if documents related to a dismissal case will be kept in the department if formal proceedings are not initiated. Catanzaro responded that they will.

Catanzaro explained that the Academic Senate Faculty Affairs Committee has been reviewing and providing input regarding the same draft documents. He distributed a flow chart (attached) prepared by committee chairperson Martha Horst that illustrates proposed dismissal proceedings.

Joaquin asked Catanzaro if there are ways to slow dismissal proceedings if necessary. Thanking Joaquin for his February 19 email raising this issue, Catanzaro noted that current ASPT policies assign to the Faculty Review Committee responsibility for hearing dismissal cases to provide for faculty oversight. Rubin commented that having FRC involved may ensure a balanced review in cases involving interpersonal issues at the department level.

Joaquin asked if department faculty will be asked to provide input to the DFSC before a case reaches FRC, as is permitted in tenure and promotion processes. Catanzaro responded that in some circumstances obtaining input from faculty members would work well; however, legal issues may preclude doing so. AAUP guidelines provide that faculty input should come through a faculty committee charged with maintaining confidentiality, he said. Chidester noted that his department does not allow faculty input in promotion or tenure cases. In the case of dismissal or suspension, there could be privacy issues to consider. FRC can provide an objective view, he said. Catanzaro added that soliciting input could result in potentially harmful delays in cases requiring immediate action, particularly cases in departments with large numbers of faculty members to consult.

Rubin asked if the proposed policy would apply to a department chairperson who elects to retire before a scheduled comprehensive evaluation. Catanzaro responded that the role of the chairperson lies outside ASPT. Instead, the appropriate dean is charged with resolving such matters. Chidester suggested that the scenario described by Rubin could be addressed through initial discussions provided for in the draft policy. Catanzaro noted that the draft policy would apply only in cases involving loss of tenure and dismissal.

Bonnell said that in reviewing the flow chart she has noticed that the provost may ask FRC to reconsider its recommendation regarding dismissal. Bonnell asked if there are any other ASPT processes in which FRC can be asked to reconsider its decision. Catanzaro responded that he knows of none. He explained that allowing a second review in dismissal cases is recommended in

AAUP guidelines and is intended to permit the reviewing committee to consider points it might not have considered in its first review.

Catanzaro explained that he intends to consult with legal counsel regarding issues raised by URC in its discussions. He will then send a revised draft of the policy and procedural steps to URC on Tuesday or Wednesday prior to the March 6 URC meeting (3 p.m., Hovey 302). Chairperson Rubin said that the committee can vote on the matter at that time.

IV. Other business

Chairperson Rubin asked Catanzaro to provide URC a list of ASPT sections he would like the committee to discuss as part of the ASPT policies revision process. Catanzaro said that he will send a list to the committee via email prior to the March 6 URC meeting.

V. Adjournment

Chidester moved, Dean seconded adjournment of the meeting. The meeting adjourned at 9:50 a.m.

Respectfully submitted,
Angela Bonnell, Secretary
Bruce Stoffel, Recorder

ATTACHMENTS:

Memorandum to the University Review Committee from Sam Catanzaro dated February 19, 2014, regarding discussion of draft policy on suspension and dismissal of tenured faculty

Dismissal Flow Chart, Martha Horst, 2-27-14

TO: University Review Committee

FROM: Sam Catanzaro

RE: Discussion of Draft Policy on Suspension and Dismissal of Tenured Faculty

DATE: February 19, 2014

Thanks for your thoughtful discussion of the draft policy on Suspension and Dismissal of Tenured Faculty at the URC meeting on February 14, 2014. Below is a list of the main questions, points of clarification, and suggested revisions that were raised. I have included update information where available. I look forward to our continued discussion.

1. How does “threat of harm” get determined? Would Faculty-Staff Threat Assessment Team be involved?

The Faculty-Staff Threat Assessment Team could provide advice to the President or Provost in some cases where suspension might be considered, though their work is usually restricted to evaluating threats of physical harm. Suspension could be considered in the face of other threats (see item 2). I am awaiting advice from legal counsel.

2. More precise specification of what is meant by “harm” or the categories of “harm”

We discussed physical, financial, programmatic, and reputational harm. (By “programmatic” harm, I refer to disruption of the University’s ability to meet its mission/serve students.) The AAUP white paper on “Use and Abuse of Faculty Suspensions” includes disruption of University business (e.g., impairing the ability of colleagues to carry out their business) as a real and immediate harm. Reputational harm can significantly and adversely affect the University’s ability to recruit students, faculty, and staff--all of which have financial and programmatic implications. I will work on language to capture these that passes legal muster.

3. Under what circumstances might there be suspension without pay?

As we discussed, this would be limited to very unusual circumstances when the faculty member had either abandoned his/her duties was otherwise unable to perform said duties. Please note that suspension would NOT be indicated in all instances in which a faculty member was not able to perform their duties; for example, sick leave or FMLA would be a more appropriate arrangement in the case of an incapacitating medical condition.

Note that the AAUP recommendation is that unless legal considerations forbid, suspensions should be with pay. I will work on the language for this.

4. References to “the administration” in the Suspension section:

- a. *I suggest that on p. 1, last paragraph, the more general term “Administration” be retained, because it then allows for communication by the chair, dean, provost, or*

- designee to communicate with the faculty member. Thus, the leadership team can have the flexibility to tailor the communication to the individual case.*
- b. *On p. 2 Step 4 of procedure, I agree that the and individual (President, Provost, or designee) should be identified, rather than "the administration."*
5. If the suspended faculty member were exonerated, would any withheld salary be reinstated?
I am awaiting advice from legal counsel.
6. Make clear that "dismissal" implies revocation of tenure
I will add language to this effect.
7. Non-binding recommendation from the DFSC on initiating dismissal proceedings is not as clear as it could be.
I will clarify that the DFSC is not required to make a recommendation if they would rather not.
8. Dismissal proceedings step 2: Allow faculty member the option to have a member of his/her College on the committee determining whether proceedings should commence.
The AAUP RIR emphasizes that the faculty on the committee(s) should be objective. I think we can allow individuals from the same College, but not the same Department/School. I also suggest we add language emphasizing committee members' responsibility to avoid conflicts of interest and to consider the matter objectively. Those who are unsure they can do so in a particular case should decline to participate.
9. Faculty have a right to counsel if there is a hearing before FRC--at whose expense? If at faculty's expense, would it be reimbursable?
I am awaiting advice from legal counsel.
10. Clarify the nature of "recording" of hearing before FRC
Pending advice from legal counsel, I would suggest explicitly stating that the recordings be audio or video.

PROPOSED DISMISSAL PROCEEDINGS

