

Senate Council
March 6, 2015 (Special Meeting)
Faculty Disciplinary Action Comments from March 2, 2015 Senate Council Meeting
(grouped by topic)

Comments about the appeals processes:

- A proper check and balance regarding the President's authority would be to prohibit the President from overturning a recommendation from the faculty hearing panel and to allow appeals of final decisions to the Board.
- There is no mechanism for a faculty member to appeal in the initial stages, which could come to treading on academic freedom if the faculty member is prohibited from utilizing or accessing research-related resources. If there is any infringement of academic rights the case should be sent to the Senate's Advisory Committee on Privilege and Tenure (SACPT). There are no checks and balances.
- If an appeals policy is added to the proposed *GR*, it will add to the process's duration. Even if a faculty member is suspended with pay, there has to be clarity about an appeals process for faculty.
- At some point, it is reasonable to assume that someone will have to make a final decision, after which no appeals are permitted.

Comments about an administrator being able to ignore a finding of the faculty hearing panel:

- It is inappropriate to have a mechanism for the President to overrule the decision of the faculty hearing panel. If the faculty member is not found guilty, then it is akin to being tried twice for the same crime if the President or Dean ignores the recommendations of the faculty hearing panel. Such an allowance seems to be based on a premise that administrators do not trust the integrity of a faculty process to decide on cases.
- There is precedent for an administrator to overrule a faculty decision, specifically the processes under which the SACPT functions. After receiving a recommendation(s) from the SACPT, the President is free to disagree with the SACPT's findings and ignore their input.
- The SACPT is only an advisory body, but there is a reference in one of UK's regulations that says if the President or Provost ignores the recommendations of an advisory committee, the President must report to the Senate on why he did so. Further the proposed *GR* allows the President to consider a case de novo, which negates the spirit of the proposed *GR*. At the very least the President should have to report to the SC, SC Chair, or to the Senate as to why he disagreed with the advice.

- Because there are policies that state faculty and staff may appeal to the Board any decisions regarding conditions of employment, the proposed *GR* must also include that language so that if the President disagrees with the faculty hearing panel, the accused may appeal to the Board.
- The proposed *GR* gives the administration many options, but does not offer the same to faculty. It is very troubling that the proposed *GR* allows a unanimous decision by the faculty hearing panel to be overruled by an administrator, but without any options for the faculty member.

Comments about other parts of the proposed *GR*:

- Will the proposed *GR* take away discretion from a department chair to report or not report an issue? Response from Watt: At the very least an issue would need to go to the dean of a college who will make a decision on whether or not the department chair can work on the matter alone, or if Legal Counsel (or another entity) should be involved. Watt went on to say that when he served as an administrator, he thought it unfortunate when an issue fermented for months at the departmental level, but then exploded in another direction at some point due to not being taken care of. He said he regretted that the department chair had not talked to anyone higher up on the reporting chain so as to address the problem sooner rather than later. While the department chair has a role to play in the proposed *GR*, it will be up to the dean as to whether the issue will be handled solely internally or if other entities (such as the Provost or Legal Counsel) will need to be involved.
- The proposed *GR* is not consistent regarding the role of the department chair; sometimes the chair is notified and sometimes not. In the latter parts of the process the Chair is largely written out. Clarifying the role of the chair throughout would be helpful, although it could be an editorial change made after the philosophical issue of chair input is determined.
- There are a number of time frames mentioned in the proposed *GR*. If one thinks about it backwards from the end to the beginning, a faculty member could theoretically be in limbo for many days or months, even if the allegation turns out to be false. It could be damaging to a researcher to lose access to a research lab or paperwork while the disciplinary process unfolds.
- The issue of indefinite suspension without pay is troubling because it really amounts to termination of employment.

Comments reflecting a philosophical concern:

- If the offending faculty member is a chair or dean, it is highly unlikely that the inquiry panel will recommend further action because the HR representative and Provost's office representative are beholden to the University. There should be a different process for faculty who serve in administrative positions because they will be protected by their faculty administrator colleagues from any sanctions or findings of guilt.
- A lot of the legalese in the proposed *GR* could be removed if a simpler practice were followed. If a faculty member's behavior is out of line, the way the case could be heard could still involve

just three individuals. The two disputing parties would each identify an advocate for their position, and then the two advocates would agree on a third person to hear the situation.

- If there is a faculty member accused of something that is relatively minor, but who is also an unpopular faculty member, the process outlined in the proposed *GR* could allow that person to be terminated for the minor infraction.
- An employee ombudsperson would be helpful to have at UK.
- A faculty member from the College of Law who is knowledgeable about dispute resolution practices should be consulted on the proposed *GR*.
- The proposed *GR* does not address confidentiality for the accused – if information about an allegation is made public, it will be hard for the faculty member to receive an impartial hearing.
- The issue of greatly weakened trust came from the President's insistence that an administrator have the right to overturn a (perhaps) unanimous decision of the faculty hearing panel.

Comments on next steps:

Comments about moving forward immediately:

- The SC should not trust the administration to do the right thing. The proposed *GR* should be edited according to what best protects faculty; SC and Senate can deal with the consequences later.
- The SC should edit the proposed *GR* as it sees fit and send it to the Senate for review. It is not necessary for the President or Legal Counsel to review that version prior to Senate review.
- It would be inappropriate to take to the Senate a version of the proposed *GR* that has not been reviewed by the President and Legal Counsel.
- The SC should send the report as-is to the Senate for the March meeting for comment, and reserve first and second readings for April and May, respectively.
- It would be a mistake to try to edit the proposed *GR* on the Senate floor.

Comments about slowing down the process:

- Being on a timeline should not preclude SC's ability to be exceptionally thoughtful.
- Taking a revision to the Senate without first vetting with the President and Legal Counsel would not be the best course of action. The SC and Senate should make a good-faith effort to compromise on the issues it feels comfortable compromising on, but not compromise on aspects that are of critical importance to the faculty.

- Given the level of importance of this document, the SC has not spent sufficient time to review it and it should not yet go to the Senate.
- There is substantial disagreement within the Committee about the proposed *GR*, so the SC may want to consider a special meeting to discuss just the proposed *GR*.
- If a special SC meeting is called, a representative from Legal Counsel will need to be invited.
- SC should put compile a list of issues that it is willing and not willing to compromise on, and discuss those issues with Legal Counsel and the President.
- The Committee members should also be involved in the SC's special meeting.

As discussion wound down, SC members began to concentrate on holding a special SC meeting very soon to deliberate further on the proposed *GR*. The Chair asked if the Committee desired an opportunity to revise the proposed *GR* based on the SC's discussion. The Committee members present concurred with the sentiment that the Committee's formal work was complete and it was the SC's responsibility to move forward. SC members had no objection to that, but made it clear that the continued input of Committee members was certainly desired.

The Chair recapped the next step – the SC will hold a special meeting on Friday, March 6, at 3 pm with the location to be announced. The SC will deliberate further on the proposed new *GR* at that time.