

## **Committee on Faculty Rights and Responsibilities Annual Report for 2012-2016**

### **I. Functions**

The functions of the committee are to serve as the review committee for nonrenewal appeals pursuant to *Faculty Policies and Procedures (FPP)* 7.10.; to serve as the hearing committee for appeals in discipline and dismissal cases in accordance with the provisions of *FPP* Chapter 9; and to serve as the hearing committee in cases of layoff due to financial emergency pursuant to *FPP* Chapter 10.

### **II. Committee Activities**

#### **2012-13 Committee Activities**

The 2012-13 Committee on Faculty Rights and Responsibilities (CFRR) met once to consider an appeal of a nonrenewal decision, filed in April 2013. In this case, due to insufficient evidence, the CFRR dismissed (by a vote of 6 yes and 3 no) the assertion that required procedures were not followed. A motion to endorse the assertion that unfounded, arbitrary, or irrelevant assumptions of fact were made failed by a vote of 4 yes and 5 no. Therefore, by unanimous vote, the committee dismissed the appeal, without prejudice. The appellant refiled the appeal in June 2013; that resubmission is included below in the committee activities for 2013-14.

#### **2013-14 Committee Activities**

The 2013-14 Committee on Faculty Rights and Responsibilities (CFRR) met once to consider the resubmission of an appeal dismissed without prejudice during the prior year. The CFRR concluded that this claim related specifically to treatment of a tenure clock extension request, and therefore was outside the procedural remedies available to the CFRR as provided by UWS 3.08 and FPP 7.10. In August 2013, the CFRR unanimously recommended that the chancellor request that the University Committee review the tenure clock extension request and reconsider whether an extension was appropriate. The CFRR further recommended, by a vote of 6 yes and 2 no, that in the event the University Committee determined that an extension was appropriate, that the probationary faculty member be evaluated for tenure by an ad hoc de novo tenure committee appointed by the University Committee per FPP 7.10.C.

(The University Committee did approve the extension request upon review in September 2013 and in October 2013 appointed a de novo review committee. In March 2014, the de novo committee recommended promotion; in May 2014, the divisional committee also recommended promotion and promotion was granted by the Board of Regents in June 2014.)

The 2013-14 CFRR also met two times to consider one other appeal of a nonrenewal decision. In this appeal, the committee found that the documentation submitted showed evidence supporting allegations of violations of UWS 3.08(1)(c)(1), that required procedures were not followed, but that no material prejudice resulted. The committee also found that the appellant failed to meet the burden of proof to support allegations of violations of UWS 3.08(1)(c)(2-3), with material prejudice to the appellant, that available data bearing materially on the quality of performance were not considered or that unfounded, arbitrary, or irrelevant assumptions of fact were made about work or conduct. By a vote of 6 yes and 1 no, the committee dismissed the appeal, with prejudice.

## 2014-15 Committee Activities

The 2014-15 Committee on Faculty Rights and Responsibilities (CFRR) met six times to consider two appeals of nonrenewal decisions. The committee also met once (March 2015) concerning a faculty dismissal case that was ultimately heard by the 2015-16 CFRR.

The first nonrenewal appeal was originally filed in January 2015 as a complaint to the University Committee, which referred the case to the CFRR. In February 2015, the CFRR issued a revised timeline for the appellant to request a statement of reasons and reconsideration from the department, and instructing the appellant on how to submit an appeal to CFRR after that, if appropriate. The revised appeal was filed in May 2015 and in June 2015 the committee unanimously concluded that the department failed to properly apply standards, failed to comply with procedural requirements resulting in material prejudice to the tenure case, and failed to cure its errors during reconsideration. The CFRR found that it would serve no useful purpose to remand the case back to the department and requested that the University Committee appoint an ad hoc de novo review committee in accordance with FPP 7.10.C.

(The University Committee appointed an ad hoc de novo review committee for this case in August 2015. In April 2016, the de novo committee voted 0 yes and 5 no to recommend advancing the case to the dean for consideration for tenure. The appellant requested reconsideration of the ad hoc committee's decision in May 2016. The ad hoc committee unanimously upheld its prior decision not to recommend tenure.)

The second nonrenewal case was submitted in March 2015. Following deliberation and consideration of additional materials, the CFRR found in May 2015 (by a vote of 6 yes, 0 no, and 2 abstentions) that the appellant had not met the burden to prove improper consideration of qualifications and therefore denied the appeal. In July 2015, the chancellor remanded the case to the CFRR, asking the committee to consider additional materials from the appellant. As part of its review in response to the remand, the CFRR asked the appellant's departmental executive committee to also consider additional information and report to the CFRR whether this information would change any member's vote. In September 2015, the department chair reported that no member of the executive committee wished to change their vote. Based on this information and its own deliberations, the CFRR reported to the chancellor that (by a vote of 5 yes and 2 no) the committee stood by its earlier decision to deny the appeal.

(In September 2015, the chancellor informed the appellant, upon review of the totality of circumstances, that there were no procedural errors in the process, the nonrenewal decision was not arbitrary, and there was no failure to consider relevant data about performance. The chancellor thus concluded that the CFRR correctly held that appellant had not met the burden of proving that the nonrenewal decision was based on any of the factors in UWS 3.06 and she upheld the CFRR's decision in this matter. In April 2016, the appellant filed a grievance against the CFRR with the University Committee per FPP 8.15, alleging violation of rights and discriminatory treatment, and requesting as remedy that the University Committee appoint an ad hoc review committee to conduct a de novo review of the tenure record. In July 2016, the University Committee found that there had been a procedural error in the CFRR's consideration of the case, but that that error had no material impact on the CFRR's decision. Thus, the University Committee upheld the CFRR decision and denied the grievance.)

## **2015-16 Committee Activities**

The 2015-16 Committee on Faculty Rights and Responsibilities (CFRR) met four times to consider two appeals of nonrenewal decisions. The committee also met once to consider a faculty dismissal case, prior to hearings held over a three-day period as described below. The CFRR chair and the Secretary of the Faculty had several separate meetings with that faculty member and university counsel in preparation for the hearings.

The first nonrenewal appeal was filed in December 2015. In March 2016, the CFRR unanimously found that the allegations in the appeal were valid and may have substantially affected the tenure/renewal decision; that the nonrenewal decision was based to a significant degree upon impermissible factors and/or improper procedure with material prejudice to the appellant; and that remanding the case back to the department would serve no useful purpose. The CFRR therefore requested that the UC appoint an ad hoc de novo review committee per FPP 7.10.C.

(The University Committee appointed an ad hoc de novo review committee for this case in April 2016. In May 2016, the de novo committee unanimously voted to recommend advancing the case to the dean for consideration for tenure. In Fall 2016, the divisional committee also recommended promotion and this individual is on the promotion list to be approved by the Board of Regents in June 2017.)

The second nonrenewal case was submitted in July 2015, but returned by the CFRR, which was unable to determine its validity due to several missing items and conflicting information. Following resubmission in September 2015, the CFRR ruled by majority vote that the information provided did not support the allegations and therefore dismissed the appeal with prejudice.

An appeal of the provost's recommendation for a faculty dismissal resulted in a hearing held on Friday, Saturday, and Sunday, May 6-8, 2016. The hearings were conducted by the committee, with two substitutions to replace members with conflicts, pursuant to FPP and UWS. The dismissal recommendation included five allegations, on four of which the hearing panel found that the provost established a clear and convincing case (by votes of 8-0, 7-1, 8-0, and 6-1-1) and on one of which that the provost had failed to establish clear and convincing evidence. The hearing panel also found that: the first substantiated allegation (by a vote of 5-3) did not, standing alone, provide a basis for termination, but did (by unanimous vote) constitute misconduct subject to appropriate sanction; the second substantiated allegation (by a vote of 2-6) did not, standing alone, establish sufficient grounds for dismissal, but did (by unanimous vote) warrant the imposition of disciplinary sanctions less severe than dismissal; the third substantiated allegation (by unanimous vote) did not, by itself, establish a ground for dismissal, but did (by unanimous vote) constitute conduct that warrants the imposition of a sanction short of dismissal; and the fourth substantiated allegation (by unanimous vote) did not, standing alone, constitute grounds for dismissal, but did (by a vote of 8-0) warrant the imposition of a sanction less than dismissal. Finally, the committee considered the question of whether the four substantiated allegations, taken together, established a case for dismissal. By a unanimous vote of 8-0, the committee concluded that the provost had established, by clear and convincing evidence, a case of dismissal for cause and therefore the committee recommended dismissal.

(Per FPP 9.09.B., a finding of just cause for the imposition of discipline or dismissal requires a majority vote with not more than two dissenting votes.)

### III. Committee on Faculty Rights and Responsibilities Membership

#### 2012-13 Committee Membership

Jean Bahr (Geoscience)  
Dominique Brossard (Life Sciences Communication)  
Thomas Givnish (Botany)  
Irwin Goldman (Horticulture)  
Mary Layoun (Comparative Literature)  
Douglas Maynard (Sociology)  
Patricia McManus (Plant Pathology)  
Thatcher Root (Chemical and Biological Engineering) Chair  
Kirsten Wolf (Scandinavian Studies)

#### 2013-14 Committee Membership

Jean Bahr (Geoscience)  
Susan Coppersmith (Physics)  
Thomas Givnish (Botany) Chair  
Irwin Goldman (Horticulture)  
Nancy Kendall (Educational Policy Studies)  
Caroline Levine (English)  
Douglas Maynard (Sociology)  
Patricia McManus (Plant Pathology)  
Kirsten Wolf (Scandinavian Studies)

#### 2014-15 Committee Membership

J Michael Collins (Consumer Science)  
Susan Lederer (Medical History and Bioethics)  
Howard Schweber (Political Science) Chair  
Susan Coppersmith (Physics)  
Nancy Kendall (Educational Policy Studies)  
Caroline Levine (English)  
Douglas Maynard (Sociology)  
Patricia McManus (Plant Pathology)  
Kirsten Wolf (Scandinavian Studies)

#### 2015-16 Committee Membership

Jean Bahr (Geoscience)  
Corinna Burger (Neurology)  
Susan Coppersmith (Physics)  
Irwin Goldman (Horticulture)  
Caroline Levine (English)  
Jennie Reed (Chemical and Biological Engineering)  
Howard Schweber (Political Science) Chair  
David Vanness (Population Health Sciences)  
Jin-Wen Yu (Dance)