

October 9, 2020

Dear Senators,

In accord with the Rules and Regulations of Senate, we are writing to request a review of the administrative actions and policies of the Academic Freedom and Tenure Committee. Specifically, we request the following clarifications of language in the Academic Charter

- 1) In what situations must the AFT communicate with specific administrators?
 - 2) What communication can the candidate expect from administrators?
 - 3) What is the nature of the response candidates can expect from AFT?
 - 4) What procedures could help ensure fair treatment of candidates in future reviews from departments or units whose recommendations the AFT has overturned?
- Regarding the first request about situations in which the AFT must communicate with specific administrators), the University charter states:
“In cases involving probationary faculty where allegations of inadequate consideration (as described in the Statement on Procedural Standards in the Renewal or Nonrenewal of Faculty Appointments as stated in the AAUP Poly Documents & Reports, 1984) or violations of fundamental fairness are raised, the Committee shall report its finding to the President, and if the committee finds substantial procedural error or serious questions of fairness, recommend the appropriate remedial action.”

What constitutes a ‘finding’? Is the decision on the part of AFT to decline holding a hearing because they found that the candidate was given due consideration and fair treatment, in fact, a finding? The conclusion that no formal proceedings are warranted could be seen as a finding unto itself, as such a decision would be based on the consideration of relevant information from the candidate and likely from the candidate’s department, program, or unit. Should the ‘finding’ that no hearing will be held, and the reasons for that finding, be articulated to the President and to the candidate?

To put the question differently, should the President be made aware of *all* AFT decisions, including the decision to not hold a hearing and the reasons for that decision? Would that help eliminate the current ambiguity around what constitutes a ‘finding’?

- Regarding the second request about what communication the candidate can expect from administrators), the sentences that follow those above in the University charter are:
“If the President rejects the Committee’s recommendation, he/she shall state the reasons for doing so and his/her subsequent judgement and action in the case, in writing, to the hearing committee and to the faculty member. The President shall also report to the Faculty Senate that he/she has received and rejected a recommendation from the Committee.”

Because this follows from the section above, it can be construed here that the President disagrees with the committee’s finding that violations occurred and that the candidate should therefore not be terminated. In other words, it seems to apply only when the President judges that the candidate should still be terminated despite an AFT finding in favor of the faculty member. Is this limited scope of communication the actual intention? If so, is it an appropriate limitation? It is not clear from this language what the President is required to do when he/she agrees with the committee’s judgement – be that a judgement to not hold a hearing, or a judgement in favor of or against the faculty member. Is he/she still obligated to report to the Faculty Senate and to the faculty member? This may be particularly important in cases where no violations are found and the President agrees with that assessment. If the answer is

'no' to some of these questions, we ask Senate to evaluate whether or not the guidelines should change accordingly.

For the President to reject the committee's recommendation as allowed for in the charter, presumably the President would have to be given information from the committee about the basis for its finding that violations did occur. We are asking whether or not the President should also be given the committee's reasons for not holding a formal hearing if that decision is reached, and the committee's basis for a judgement that no violations occurred if a formal hearing is held. The charter is unclear on whether the President can reject the committee's decision in either of these cases, and only allows the President to make a decision to still terminate a faculty member when the committee has reached the opposite conclusion. Also, for the last two situations, the charter is unclear on whether the President even needs to be informed by AFT about the result/findings of the cases, let alone communicate with the candidate.

- Regarding the third request (about the nature of the response candidates can expect from AFT):

When a faculty member appeals a tenure decision to AFT, they document their concerns. In cases where the AFT decides not to hold a hearing, it is not clear what kind of communication the candidate is entitled to other than the decision that has been made. When the faculty member is notified of the decision to not hold a hearing, should the faculty member also be entitled to the rationale behind the committee's decision, including how the committee viewed the claims of the faculty member and how the committee arrived at the decision that the claims were either false or did not merit holding a hearing? What has been the practice around this over the past ten to twenty years? Have all faculty members received the same extent of communication from the committee under similar circumstances?

- Regarding the fourth request (counsel from AFT member's assessments about whether or not candidates can get fair treatment from departments and units that have had their recommendations overturned by AFT).

Does the Senate feel that, in all cases, a faculty member who appeals a promotion and tenure decision will likely receive a fair review by the same P&T committee(s) that made the initial recommendation to terminate, particularly if people involved in those recommendations serve on subsequent evaluations of the faculty member? If candidates are likely not to receive unbiased evaluations after a finding in their favor, can the Senate propose procedures that colleges/schools could consider regarding changes to their P&T codes that may help assure fair evaluations of faculty members who successfully appealed a termination recommendation, understanding that the colleges/schools are free to adopt their own policies?

Thank you for your consideration of this request for a review of the AFT procedures here specified.

Sincerely,



Megan Brown



Elizabeth Robertson



Mark Vitha