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Utah State University
Academic Freedom and Tenure (AFT) Committee

Minutes for 21 September 2015

In attendance (in person or via dial-in): Bruce Duerden, Kathy Chudoba, Troy Beckert, Cathy Bullock, Peter Adler, Farrell Edwards, Sterling Banks, Susan Talley, Anthony Lott, John Stevens.

Meeting called to order at 3:30pm, and the minutes from 4/20/15 meeting were approved.

Old Business

- Review AFT-related faculty code
 - There was a brief discussion of the role of the AFT committee. We typically see 1-2 grievances each year, plus several inquiries. AFT committee members encouraged to read the relevant code sections for AFT role and jurisdiction:
 - 402.12.3: AFT Committee outlined
 - 403: Academic Freedom and Professional Responsibility
 - 407: Academic Due Process
(especially 407.4: Sanctions, and 407.5: Grievances)
- Review AFT handbook – waiting for feedback from Provost’s Office
 - John will re-send to Larry Smith (Provost office contact) and Bryce Fifield (previous AFT chair) to request their feedback.
 - AFT committee members encouraged to read and provide feedback – what do you wish this document had so that it would help you feel prepared to participate in (or even lead) a hearing panel?
- Ongoing grievance (general discussion of process, not details of this case)

New Business

- Code change proposal in 407.6.4(1) – reason for non-renewal stated in notice of non-renewal (revisited)
 - Last year our committee initiated a proposal to replace “Reasons for non-renewal may be stated in the notice of non-renewal, at the president’s discretion” to read instead “The reason(s) for non-renewal (of the three specified in 407.6.2) shall be stated in the notice of non-renewal. At the president’s discretion, the notice may elaborate on the reason(s) by referencing previous reports or reviews of the faculty member (405.7, 405.12.1).”
 - The proposal was motivated by a desire to prevent non-renewed faculty from blindly alleging violations of academic freedom when no reason for

non-renewal is given, and also by a sense of fairness and closure to the non-renewed faculty member.

- The proposal made it unanimously through the Faculty Senate, but was killed by the Executive Committee when USU general counsel Craig Simper raised his concern that this would open up the president to being more likely named a respondent in subsequent grievances. John met with Craig earlier this semester to discuss his concerns, and once Craig realized the intent, he was fully supportive. In a subsequent meeting with Provost Cockett and Sydney Peterson (President Albrechts' Chief of Staff), they both told John that they would support the change if it was paired with something to not invite more grievances naming the president as respondent.
- John reported that in practice, AFT chairs have denied grievant requests to name the president as a respondent. This is because at the end of the grievance process, the hearing panel writes a report and recommendation to the president, and the president responds at that time with his or her final decision. It would seem odd to ask the president to make a final decision on a grievance in which he or she had potentially been involved.
- AFT committee discussed the issue that if the president had in fact (and this is hypothetical – no one is suggesting it is happening) violated code, or engaged in arbitrary or capricious conduct, or violated a faculty member's legal or statutory rights (the three grievable classes of actions set forth in 407.5), there should be a way for these actions to be grieved. The discussion consensus was that for this reason, a codified, blanket exemption of the president from being named as respondent in any grievance would be inappropriate.
- Committee members were given the homework to consider and make suggestions on a possible package of code changes to have some combination of:
 1. Require the decision letter from the president to include a reason (probably 99% of the time it would just say something like "unsatisfactory performance of your assigned role")
 2. Prevent the president from being named as a respondent to a grievance (unless he or she really should be) – but how to word this?
 3. Require reason(s) for nonrenewal recommendation be included with clear language (about "unsatisfactory performance of assigned role") in letters by department head or dean
- [John's thoughts after the meeting – maybe something like "In grievances involving non-renewal, the president cannot be named as respondent simply for acting on recommendations of advisory committees, department heads, or deans." Do we also need to somehow clarify in code that grievances are not a way to request a simple reconsideration of an administrative decision?]
- Other items from committee
 - Vince Wickwar's proposal for suggested revisions to section 406

- AFT committee members encouraged to read the proposal (much of the red text is a result of re-ordering events in the timeline), with particular attention to matters that could be considered under AFT jurisdiction.
- Vince will be at our next 10/19 meeting to discuss this, so committee members need to come prepared and with questions.
- Next meeting: Monday 10/19 3:30pm
 - John to request tech support from RCDE for future meetings

Meeting adjourned at 4:15pm.