

UNDERSTANDING THE PRIVILEGE AND TENURE COMMITTEE AT UC DAVIS

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Privilege and Tenure

The University Committee on Privilege and Tenure (UCP&T) considers general policies involving academic privileges and tenure. The Committee also constitutes special Hearing Committees for disciplinary cases and maintains statistical records of the grievance, disciplinary and early termination cases taking place on each of the campuses.

See: Davis Division Committee on Privilege and Tenure Policies and Procedures

<http://academicsenate.ucdavis.edu/committees/committee-list/priv-and-tenure/pt-policies.html>

UC Davis Privilege and Tenure

- *Unique* implementation among the UC campuses:
 - Subcommittee: P&T Investigation
 - Subcommittee: P&T Hearings
- Faculty have the right to a hearing regardless of outcome of investigation

Initial stages of a grievance

- Any member of the Academic Senate may file a written grievance with the Investigative Subcommittee of the Committee on Privilege and Tenure.
- Faculty members who believe they may have a grievance are encouraged to *first* consult with a Faculty Privilege and Academic Personnel Adviser.
- Communications with Faculty Privilege Advisers are confidential to the extent allowed by law.

Initial stages of a grievance

- The faculty member may also wish to consult informally with the Chair of the Committee on Privilege and Tenure prior to filing a grievance.
- In order to be considered, grievances must be filed within three years of the time the faculty member knew or should have known about the alleged violation and the harm resulting from it.

Merits and Promotions

- Grievances with respect to **tenure, promotion, or reappointment** may be based only on allegations *of procedural irregularity* or claims that the challenged decision was reached on the basis of *impermissible criteria*.
- The Committee on Privilege and Tenure is *not* permitted to re-evaluate the faculty member's qualifications or professional competence.

Grievances: *Prima Facie*

- If all administrative remedies have been exhausted, or the Subcommittee determines that they need not be exhausted, the Subcommittee reviews the written grievance to determine if the faculty member has made a *prima facie* case.
- This review is typically limited to an examination of the grievance document only.
- The test for a *prima facie* case is whether the grievance states allegations that, *if true*, would constitute a violation of the faculty member's rights or privileges.

Grievances: Investigatory Phase

- If the Subcommittee finds that the faculty member has presented a *prima facie* case, it will so inform the faculty member and the person or persons alleged to have violated the faculty member's rights or privileges.
- The Subcommittee will then further investigate to determine if there is reasonable cause to believe that a right or privilege of the complaining faculty member may have been violated. During this review, the Subcommittee will provide grievant with an opportunity to address some or all of the Subcommittee, orally or in writing.

Investigatory Process

- During its review, the Subcommittee may request files and documents from the administration. **It may also offer chairs or administrator(s) with authority the opportunity to remedy the complaint notice and respond**, and may seek information from other persons involved in the event(s) that gave rise to the grievance.

Deliberative Process

- If the Subcommittee concludes that there is sufficient reason to believe that the faculty member's rights or privileges may have been violated, it will communicate that finding to the faculty member and the Vice Provost for Academic Affairs.

Deliberative Process

- At any stage in the proceedings, any party may seek to informally resolve the grievance through a negotiated settlement. Also at any stage, the faculty member and the other parties involved may mutually agree to mediation.
- Grievances may be placed on “hold” while parties work on such resolutions.

Deliberative Process

- If the Subcommittee concludes that there is sufficient reason to believe that the faculty member's rights or privileges may have been violated, *it will attempt to promote an informal resolution of the controversy before referring the matter for a hearing.*
- If no settlement can be reached, the Investigative Subcommittee will refer the matter to the Hearings Subcommittee for a hearing.

Hearing Process

- If a Hearing is necessary, the Chair of the Hearings Subcommittee of Privilege and Tenure will appoint a Hearing Panel consisting of at least three members of that Subcommittee. No person from the department or equivalent administrative unit of any party may be appointed to the hearing panel. The Panel will schedule a Hearing.

Hearing Process

- Before the Hearing, the Chair of the Hearing Panel will schedule a conference with the parties (or their representatives, if applicable) to define the contested facts and issues to be decided, exchange lists of witnesses and documents to be presented, and resolve any procedural issues.

Chancellor: The Final Frontier

Ultimately, decisions as to the resolution of a grievance rest with the Chancellor. If the Chancellor tentatively disagrees with the recommendation of the hearing panel, the Chancellor will so inform the Chair of the Committee on Privilege and Tenure and offer to meet with the Chair or with the whole Committee prior to making a final decision. The Chair of the Committee on Privilege and Tenure ordinarily will request that the Chair of the Hearings Subcommittee and/or the Hearing Panel be present at the meeting with the Chancellor.

Grievances at the UC Davis Campus

- Approximately 5-7 grievance investigations per year; lately more hearings than usual
- Not all grievances make a *prima facie* case for violation of faculty rights
- Others require investigations which can take several months to complete
- Results of investigations are confidential: P&T's communications are with the grievant, except where noted above

Grievances at the UC Davis Campus

Annual Report: Academic Year 2014-2015
Davis Division: Academic Senate
Committee on Privilege and Tenure

Total Meetings <u>Investigative:</u> 8 <u>Hearings:</u> 3	Meeting frequency <u>Investigative:</u> As needed <u>Hearings:</u> As needed	Average hours of committee work each week <u>Investigative:</u> dependent on workload <u>Hearings:</u> dependent on workload
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<u>Investigative:</u> Total grievances: 6 <u>Hearings:</u> Total Hearings: 3 Total Disciplinary Matters Referred: 6	<u>Investigative:</u> Total grievances deferred from previous year: 3 <u>Hearings:</u> Total hearings/matters deferred from previous year: 2	<u>Investigative:</u> Total grievances continued: 2 <u>Hearings:</u> Total hearings/matters continued: 7
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Grievances at the UC Davis Campus

Annual Report: Academic Year 2015-2016
Davis Division: Academic Senate
Committee on Privilege and Tenure

Total Meetings <u>Investigative:</u> 8 <u>Hearings:</u> 0	Meeting frequency <u>Investigative:</u> As needed <u>Hearings:</u> As needed	Average hours of committee work each week <u>Investigative:</u> dependent on workload <u>Hearings:</u> dependent on workload
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<u>Investigative:</u> Total grievances: 6 <u>Hearings:</u> Total Hearings: 0 Total Disciplinary Matters Referred: 1	<u>Investigative:</u> Total grievances deferred from previous year: 2 <u>Hearings:</u> Total hearings/matters deferred from previous year: 7	<u>Investigative:</u> Total grievances continued: 1 <u>Hearings:</u> Total hearings/matters continued: 4
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Grievances at the UC Davis Campus

- **Most common** reasons for grievances:
 - “Arbitrary” decisions by leadership
 - Non-collegial behavior
 - Space assignments/removals
 - Merit/promotion actions

Grievances at the UC Davis Campus

- **Most common** individuals cited in faculty grievances:

Department Chairs

... Deans come in second

If you do have a grievance
filed against you ...



P&T is well aware that there are two sides to
every story ... which is why it investigates

How to Avoid a Grievance

1. Follow departmental procedures for allocating space and sharing equipment
 - If you have a Space Committee – *please use it*
 - If you don't have departmental procedures – form a departmental committee and write them down and share with the faculty
2. Don't move or confiscate anyone's equipment without their permission or without adequate prior notification – *consult with Academic Affairs first*
3. If you do move it – document it (e.g., video)

How to Avoid a Grievance

- Don't unilaterally assign teaching loads if it is going to be contentious
 - At least establish a departmental advisory committee that can reach a consensus
 - Use appropriate and defensible metrics to assign teaching to avoid the perception of favoritism or persecution
 - Faculty own and deliver the curriculum – whenever possible ***work with them*** to figure out the best way for your department to deliver the education it is responsible for. Build consensus.

How to Avoid a Grievance

- Is it your department policy to allow faculty in your department choose their own textbooks?
- Does your department collectively decide textbook policy?
- Have these policies explicitly in writing!

How to Avoid a Grievance

- Make sure your faculty – especially the more junior faculty – understand the department procedures for merits and promotions.
- Have a transparent process and follow your department's approved voting rules. Revisit them regularly.
- Meet with faculty coming up for merits or promotions to ensure that they understand their options under Step Plus.

How to Avoid a Grievance

- Do not interfere with the merit/promotion process when it goes out to a faculty vote
 - **Be factual, analytic, and objective in your departmental letter. Do not let your personal feelings come through in it.**
 - Don't reinforce negative comments even if you agree with them – just include them unabridged.
 - You have the opportunity to voice your personal opinion in a side-letter directly to your Dean

How to Avoid a Grievance

- Build consensus whenever possible when evaluating someone for merit or promotion. If your department discusses these at a meeting (not all do), find common ground, and keep the deliberations confidential.
- Utilize departmental metrics when they exist and apply them consistently.

How to Avoid a Grievance

- Be careful about what you say or write – words are **immortal** and can come back to haunt you.
- E-mail messages can be included in grievances and can be subpoenaed, so do not send them without considering their content very carefully.
- Build bridges to faculty through firm but constructive mentoring.
- Don't reprimand – suggest ways of doing things differently.
- **NEVER NEVER NEVER** send email when you are angry and frustrated.

How to Avoid a Grievance

- When conducting a faculty recruitment follow the approved Search Plan *to the letter*
 - Avoid becoming involved with Search Committee deliberations (although some chairs will disagree on this point).
 - Do STEAD training:
<https://academicaffairs.ucdavis.edu/training-and-development/stead/index.html> .
 - Treat all candidates equally.
 - If you have a preference, confidentially discuss it with the Department at the appropriate time, and after the Search Committee has provided its recommendation to the Department.

How to Avoid a Grievance

- ***Never retaliate*** – this alone can be the basis of a grievance.
- If you have honest differences of opinion with faculty, or you need to bring up issues potentially contentious, then consider the campus Ombuds office:
<http://ombuds.ucdavis.edu/>

How to Avoid a Grievance

- Are there special leadership positions within your department, such as endowed chairs?
- If so – **document** the requirements for holding the position, the term limits, and the criteria for evaluation.
- Have the holder of the position *sign* a document acknowledging these conditions.

How to Avoid a Grievance

- Does your department have laboratories that undergraduate or graduate students use?
- Be aware that **safety is paramount**, and that the Committee on P&T will not countermand any decisions made by safety officers or fire marshals.
- Have a department safety committee to help faculty bring their laboratories into safety compliance.

How to Avoid a Grievance

- IF there is a problem with a member of your department:
 1. Seek assistance from the Dean or Academic Affairs
 2. Intervene EARLY – problems often worsen over time, rather than go away

How to Avoid a Grievance

- If you expect that you will have a confrontational meeting with a faculty member, invite someone else to attend, and allow the faculty member to invite someone as well.
- Faculty are less likely to be volatile and unpredictable when others are present.

How to Avoid a Grievance

- LISTEN without interruption before you speak. Those 6 letters also spell: SILENT.
- Don't immediately judge – there are always two sides to a story.
- Always remain calm, don't shout, and **don't touch.**
- Memorialize difficult conversations afterwards to build consensus and avoid future misunderstandings.

How to Avoid a Grievance

- Being a Chair means being a force of good ... unless you take the position too seriously.
- Department Chair ≠ Department Head.
- Chairs have less power than they sometimes believe – the most power you have is to resolve problems so everyone wins.
- UC Davis has a *deeply* embedded culture of shared governance – practice and respect it.

How to Avoid a Grievance

- Most grievances have a single thing in common: *failure to communicate*
- Talk less – listen more. Understanding and empathy may be more important than actions. People who feel threatened need to have their feelings acknowledged whether you agree with them or not.
- This may be especially true for faculty who have not been as successful advancing through the ranks and steps.
- There are good Chairs and there are bad Chairs – so think about the legacy you want to leave.

