

Faculty Hearings Committee

Annual Report

9 November 2018

Members 2017-18: Debashis Aikat (Journalism, Media & Journalism, 2018); Anna Beeber (Nursing, 2020); Aysenil Belger (Psychiatry, Medicine, 2018); Gary Cuddeback* (Social Work, 2019); Carissa Hessick (Law, 2020); Diane Juffras (Government, 2019); Elizabeth Meyer-Davis (Nutrition, Public Health, 2020); James Rives (Classics, Arts & Sciences, 2019); Brent Wissick (Music, Arts & Sciences, 2018)

*First alternate in elections, replaced Mimi Chapman

Members 2018-19: Debashis Aikat (Journalism, Media & Journalism, 2021); Anna Beeber (Nursing, 2020); Gary Cuddeback (Social Work, 2019); Carissa Hessick (Law, 2020); Evelyn Huber (Political Science, Arts & Sciences, 2021); Diane Juffras (Government, 2019); Elizabeth Meyer-Davis (Nutrition, Public Health, 2020); Carol Otey (Cell Biology & Physiology, Medicine, 2021); James Rives (Classics, Arts & Sciences, 2019)

Report prepared by: James Rives, Committee Chair. This report covers the period from November 2017 through October 2018.

Committee Charge: According to *The Faculty Code of University Government*, the Faculty Hearings Committee is composed of nine faculty members with permanent tenure, serving three-year terms. The Committee performs functions assigned to it in the *Trustee Policies and Regulations Governing Academic Tenure*. Those duties include conducting hearings (a) on the request of a faculty member who has been notified before the end of his or her tenure or term of appointment that the University intends to suspend, demote, or discharge the faculty member; and (b) on the request of a faculty member for review of a decision not to reappoint him or her upon expiration of a probationary term of appointment.

Continuing Matters before the Committee in 2017-18: None

New Matters Referred to the Committee in 2017-18: Three new cases were referred to the Committee.

- 1) The Committee received a request in late November 2017 for a hearing on a decision not to reappoint an assistant professor upon expiration of a probationary term. The hearing took place on 11 March 2018, after which the faculty member withdrew the request for a recommendation from the panel.
- 2) The Committee received a request in January 2018 for a hearing on a decision not to renew a fixed-term faculty member on the expiration of their contract. Since these decisions do not fall within the purview of the Hearings Committee, the Committee chair directed the faculty member to the Faculty Grievance Committee.
- 3) The Committee received a request in June 2018 for a hearing on a decision to suspend, demote, or discharge a tenured associate professor. The hearing was originally scheduled for 7-8 August, but was postponed indefinitely after a request for a disability accommodation by the faculty member.

New Matters Referred to the Committee in 2018-19 (as of 1 November 2018):

- 1) The Committee received a request in July 2019 for a hearing on a decision not to reappoint an assistant professor upon expiration of a probationary term. The hearing took place on 23 and 25 July. No further action was required of the Committee after it made its recommendation to the Chancellor.

Recommendations for Action by Faculty Council

The Committee presents today the following resolution.

Resolution 2018-8. On Amending the Policies Governing Faculty Hearings.

The rationale for this resolution is provided in the appendix that follows.

Respectfully submitted,

James Rives, chair (2018-19)

Appendix 1

Recommendations for Action by Faculty Council

Recommendation 1: Request the Board of Trustees to amend the Tenure Policy in order to provide procedural guidelines for handling allegations that fall under the purview of the Equal Opportunity and Compliance (“EOC”) Office. Specifically, Sections 3 and 4 of the Tenure Policy should be revised to state that any assertion by a faculty member that the University’s decision to suspend, demote, discharge, or not to reappoint a faculty member is the result of discrimination, harassment, or related misconduct as defined by the University’s Policy on Prohibited Discrimination, Harassment and Related Misconduct (“Policy”) must first be referred to the EOC Office for assessment and, as necessary, investigation and that any action of the Faculty Hearings Committee will be stayed until the EOC Office has completed its review. The time-frames currently specified for holding and concluding a hearing (Sections 3.b.4 and 4.c) will in such cases begin from the Committee’s receipt of the EOC Office’s report.

Rationale: Section 3 of the Tenure Policy provides the grounds for which the University may suspend, demote, or discharge a tenured faculty member. Faculty members may, however, allege discrimination, harassment, or related misconduct as the basis for the University’s decision. Additionally, Section 4 of the Tenure Policy addresses requests for hearings on decisions not to reappoint a tenure-track faculty member. Among the grounds on which the Faculty Hearings Committee may grant a hearing are allegations that the decision was based on forms of discrimination, harassment, and related misconduct that come under the University’s Policy. That Policy requires that all allegations of prohibited discrimination, harassment, and related misconduct be investigated by the EOC Office. These sections of the Tenure Policy, however, which were last amended in 2009 and thus predate the Policy, make no provision for the coordination of the EOC Office with the work of the Faculty Hearings Committee hearing. The Committee accordingly lacks any clear procedural guidelines for handling such cases.

Recommendation 2: Request the Board of Trustees to reconsider the requirement in Section 4.c of the Tenure Policy mandating that hearings on decisions not to reappoint a tenure-track faculty member be held within 14 calendar days of the request of the hearing, and change “14 calendar days” to “28 calendar days.”

Rationale: According to the procedure established by the Tenure Policy, Section 4.c, the Faculty Hearings Committee must first conduct a preliminary review of each request for such a hearing and determine whether it “contains a contention that the decision was impermissibly based or affected by material procedural irregularities and that the facts suggested, if established, might support the contention.” Such a preliminary review, usually conducted by email, generally takes two to three days. Given that the Tenure Policy, Section 4.c, also requires that the faculty member be given at least 7 calendar days’ notice of the hearing, the Committee is often left with only four or five days on which the hearing can take place. Given the many commitments of the faculty members who serve on the Committee, as well as the parties and witnesses involved in a matter, that is simply too restrictive. Extending the time-frame for the hearing from 14 days to 28 would still provide members of the faculty with a timely response while making the procedure much more workable.

In accordance with these recommendations, the Faculty Hearings Committee requests that the Faculty Council approve the following resolution.

Resolution 2018-8. On Amending the Policies Governing Faculty Hearings.

The Faculty Council asks the Board of Trustees to amend the *Trustee Policies and Procedures Governing Academic Tenure in the University of North Carolina at Chapel Hill* as follows (with proposed additions underlined and deletions struck out).

Part 1. In regard to a request that the Faculty Hearings Committee review a decision to suspend, demote or discharge a faculty member, Section 3.b.4 should read:

If the faculty member makes a timely written request for a hearing, the Chancellor or his or her delegate shall insure a process is in place so that the hearing is accorded before a standing committee of the faculty composed of at least five faculty members who had permanent tenure when elected by the voting members of the general faculty. The hearing shall be on the written specification of reasons for the intended discharge, suspension, or demotion. If a faculty member alleges that the University's decision resulted from conduct prohibited by the University's Policy on Prohibited Discrimination, Harassment and Related Misconduct, the hearing committee will immediately forward the faculty member's allegation to the Equal Opportunity and Compliance Office for assessment and, as necessary, investigation. The hearing committee will suspend any further action on the faculty member's hearing request until the Equal Opportunity and Compliance Office has completed its review. The hearing committee shall accord the faculty member thirty calendar days from the time it receives his or her written request for a hearing to prepare his or her defense. The hearing committee may, upon the faculty member's written request and for good cause, extend this time by written notice to the faculty member. The hearing committee will ordinarily endeavor to complete the hearing within ninety calendar days from the receipt of the request or, as applicable, the report or other final documentation from the Equal Opportunity and Compliance Office, except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and despite reasonable efforts the hearing committee cannot be assembled.

Part 2. In regard to a request that the Faculty Hearings Committee review a decision not to reappoint a tenure-track faculty member, the fourth paragraph of Section 4.c should read:

The hearing committee shall consider the request and shall grant a hearing if it determines after a preliminary review that the request contains a contention that the decision was impermissibly based or affected by material procedural irregularities and that the facts suggested, if established, might support the contention. If the faculty member alleges that the decision not to reappoint was based on conduct prohibited by the University's Policy on Prohibited Discrimination, Harassment and Related Misconduct, the hearing committee will immediately refer the faculty member's allegation to the Equal Opportunity and Compliance Office for assessment and, as necessary, investigation. During the Equal Opportunity and Compliance Office's review of the faculty member's allegation, the hearing committee will suspend any action on the faculty member's request for a hearing until the Equal Opportunity and Compliance Office has completed its review. If the request is not granted, the committee shall make a recommendation to the Chancellor to uphold the decision not to reappoint. If the request is granted, a hearing shall be held within ~~44~~ 28 calendar days after receipt of the request or, as applicable, the report or other final documentation from the Equal Opportunity and Compliance Office, provided that the faculty member shall be given at least 7 calendar days' notice of the hearing.

Submitted by the Faculty Hearings Committee.