

January 20, 2023

To: Jessica Cattelino, Chair
Academic Senate

From: Sandra Graham, Chair 
Committee on Privilege and Tenure

Re: Joint Task Force on Judicial and Investigatory Processes Report

Dear Chair Cattelino,

At its meeting on January 19, 2023, the Committee on Privilege and Tenure (P&T Committee) had an opportunity to discuss the report by the Joint Task Force on Judicial and Investigatory Processes. The P&T Committee focused on the recommendations in the report.

Overall, the report showed how much there is to know about judicial and investigatory processes, for campus faculty, staff, and students who may need or have to interact with these services. Even “those [survey participants] with oversight over a particular category of constituent, reported receiving inquiries from and about multiple categories of constituents” (p. 11). The report noted that “[s]urvey participants and the department chairs or designees with whom we spoke evinced, on the whole, a sincere commitment to making their investigatory processes transparent, efficient, and effective for the populations they serve” (p. 18). P&T Committee members therefore consider it critical that the work done to date by this task force be put to use and pushed forward, especially given the willingness and interest in the endeavor that the task force found.

While continued study is advisable (Recommendation #1, p. 22), the P&T Committee advises that priority be placed on the recommendation to appoint a joint Senate-Administration committee as soon as is feasible to begin to implement the recommendations made in the report so that the work done to date does not get set aside (Recommendation #5, pp. 22-23). The need for a centralized “where to go” resource (#5a) should be first on the to-do list. Not only did it seem to have been a common thread in the survey responses (IV.F “Redundancy and Uncertainty,” pp. 16-17; V.B “Routing,” p. 19), the implementation of the new “Abusive Conduct” policy is certain to invite even more inquiries in all types of units. It is imperative that this implementation committee be a cross-collaboration in order for Administration to understand how policies and procedures play out “on the ground” with the intended constituents: faculty, staff, and students (as well as unit leaders).¹ Another theme in the report across the discussion and recommendations, was a lack of uniformity in terms of how investigative bodies maintain records and standardize terminology (V.B “Routing,” p. 19; V.F “Limitation of Data,” p. 21; VII.

¹ This could potentially be combined with Recommendation #8 (p. 23) to discuss “competing goals and possible conflicts between the university’s academic and teaching mission and the laws and policies governing faculty conduct.”

Charge Two, p. 24). As the implementation committee works on cataloging policies, the committee should evaluate procedures and policies for uniformity of process and definitions.

P&T has observed firsthand the need for direct training of chairs and deans, who must oversee many of the referrals to proper resources. Members therefore urge that this implementation committee have the staff support to create the recommended catalog of policies (#5b) as well as to implement the training as recommended in #5c (and requested by many survey participants).

In addition to launching an implementation committee as soon as possible, the P&T Committee agreed that with limited overall resources, a robust and transparent analysis of budgets, goals, resources, and outcomes for each of the “subject-specific” and “constituent-specific” offices is critical (Recommendations #2 and 3, p. 22). Since there are always limited resources, how are these entities spending their allotted budgets? How much of their budgets is dedicated to each of the areas of prevention, training, and investigations? How many staff FTE are dedicated to judicial-specific functions? What do they consider to be their goals and measurable outcomes? Uniformity of definitions and of process will also improve this analysis.

The P&T Committee affirms and has serious concerns about a fact noted in the report that “[d]espite the absence of a university policy that accords investigatory authority to academic units, at least two academic units noted having their own documented intake and/or investigatory processes, and another indicated needing resources to develop one” (p. 16). Faculty and other constituents have the right to due process—and due process begins with documented procedures. Recommendation #4—to transfer investigations in academic units to policy- or constituent-compliance units—therefore resonated strongly with P&T as an imperative action.²

There were many other observations and thoughtful comments in the report that bear consideration, particularly by the individual survey participants. The P&T Committee urges the Administration to ask for feedback on the report and recommendations from the survey participants doing the work on the ground.

Lastly, the P&T Committee discussed that while some participants suggested that increased reporting of and sense of discrimination issues might be due to the increased visibility of and comfort with reporting (See V.B “Changes in types of inquiries,” p. 10), it would be a mistake to dismiss the increase without further consideration and calibration of what exactly is being reported. There may be more reporting, but there also seems to be more pushback from faculty who want to think everything is fine. This surfaced in the report in several places. “[S]ome survey participants suggested there was a need to clarify the institutional responsibility if an individual experiences discrimination or a failure to accommodate a disability due to institutional and structural failures rather than to the actions of a single individual. For individuals alleging this kind of systemic wrongdoing, the problem may not just be “I’m not sure where to go,” but “there is nowhere to go” (p. 19). To this end, the P&T Committee strongly supports Recommendation 5.d.iii “Compliance units within the Civil Rights Office should explore protocols for decoupling investigations of systemic discrimination within academic units and departments from the complaints against individuals that may prompt them, to reduce delays in determining the rights and liabilities of the individual parties (p. 23).”

P&T Committee members conduct disciplinary hearings. However, but the bulk of committee work is with faculty grievances and finding remedies and preventative measures for various possible violations of rights. The JTF Report noted that the survey asked about, but did not focus on, grievances or

² For confidentiality reasons, details are provided in Appendix A, which will be shared directly with the Senate Leadership, who can then share at their discretion.

prevention. Nonetheless, “[a]t least 25% of survey participants noted receiving inquiries that were general grievances rather than directed at a particular individual. This percentage rose to 40% for survey participants with authority over a particular constituent group (e.g. faculty, staff, or students)” (IV.C “Survey Results,” p. 12). The P&T Committee aligns with the several participants who “commented on the need for early remedies and actions that might prevent misconduct or harm” and urges a deeper conversation about preventative and remedial measures that could go beyond training videos.

Thank you for the opportunity to review and comment on this report.

cc: Members of the Committee on Privilege and Tenure
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