

January 23, 2023

To: Jessica Cattelino, Chair
Academic Senate

From: Norweeta Milburn, Chair
Committee on Charges

Re: Joint Task Force (JTF) Report on Investigatory and Judicial Processes

The majority of the Charges Committee members have reviewed the JTF Report on Investigatory and Judicial Processes. In general, members are impressed with how much the task force accomplished in the short time allotted to them. The perspective of the report seems very balanced between Administration and faculty perspectives, but staff concerns need to be given greater emphasis as this work goes forward. The Committee members focused most of their comments on prioritizing the report's recommendations, but also offered other observations.

With some variation in perspective, members gave high priority to some form of implementing the recommendations. A centralized "Joint Faculty-Administration Committee" would be able to carry out the four tasks listed in Recommendation #5 (p. 22). One member, however, feared that trying to centralize and coordinate reporting might cause contentions between units with a more "legalistic" orientation and those units that are more academically oriented. With that reservation, the Committee agrees that a central office where a certain number of staff were trained to accept complaints, inquiries, etc. and know precisely where/how to direct complaints should mitigate the lack of clarity expressed by many survey participants. Where complaints are of an intersectional nature, such a mode of dealing with it would be even more effective, otherwise one is very likely going to be running from pillar to post.

Standardizing and aligning policies with authorized processes could also help resolve/stop any department or school carrying out "extrapolicy" investigations. According to the report, "Campus Human Resources noted that some departments or academic units have undertaken investigations without trained investigators" (p. 16). This seems sufficiently concerning that the Charges Committee believes it bears further review.

The Charges Committee is occasionally asked about conduct processes for non-Senate faculty. This was also noted in the report: "A common observation among survey participants was that it is unclear what office is supposed to address complaints from staff or students concerning the conduct of non-Senate faculty (NSF) and trainees, such as graduate students or postdoctoral students, who are also employees" (p. 19). This should be the subject of future clarifications.

Any investigatory or judicial process on campus should be mindful of the overall mission of the University. One of the main tenets of the Faculty Code of Conduct is that all matters related to conduct should have "significant faculty involvement" (Faculty Code of Conduct, Preamble). "[A]ppropriate procedures should be developed to involve the faculty in participating in the investigation of allegations of misconduct" (Faculty Code of Conduct, III.B.3). Charges members agree with the report that "investigations by compliance units can benefit from a richer understanding of the academic or clinical contexts from which complaints emerge . . . any improvements to the compliance landscape need to

include a careful consideration of the need for academic and disciplinary expertise” (p. 19). Recommendation #8 (p. 23) might best advance conversations for how to develop practices that better incorporate academic and disciplinary expertise: “A committee comprised of both Senate faculty and Administration officers should be formed to meet periodically to discuss the competing goals and possible conflicts between the university’s academic and teaching mission and the laws and policies governing faculty conduct. The goal of such a committee is to make faculty representatives and compliance officers aware of each other’s perspectives on questions of faculty conduct, so as to attain common ground on contested issues.” This recommendation, in fact, aligns with the admonition of the Faculty Code of Conduct Part III: “The Assembly of the Academic Senate recommends that each Division, in cooperation with the campus administration, develop and periodically re-examine procedures dealing with the investigation of allegations of faculty misconduct and the conduct of disciplinary proceedings.”

A follow up Task Force should also be a priority as long as it does not impede proceeding with implementing recommendations already identified. For example, this task force explicitly did not collect data on the timeliness of investigations because the definition was “very unit-specific and therefore beyond the scope of this Task Force” (p. 25). Even so, the report identified the length of various types of investigations as one of the key frustrations expressed in the narrative responses (V.C, p. 20). Because a long investigation can inflict its own type of harm and stress on the individuals involved as well as their academic units, Charges urges further unit-specific work on how to decrease time as well as ameliorate the impact of a long investigation on the constituents who seek the services offered by compliance units. Charges also observes that if those units with authority over strictly legal issues were able to differentiate allegations at an earlier phase, they might be able to more efficiently focus on those claims that were strictly legal (and therefore under their authority), and refer out claims that only involve violations of the various internal codes of conduct (and therefore not under their authority).

Transparent budgetary review (Recommendations #2, 3) is another essential component of the next task force. Evaluation of efficiencies should be an important element of that review. Another area that needs further research is that the results (p. 12) appear to show that staff make up a high number of the complainants in all offices. The report does not address whether this is due to the staff being more subject to improper actions, or whether staff are more likely to be the individuals making official reports on behalf of others. One Charges member considers this a likely result of staff power differentials vis-à-vis faculty. Whatever prevention efforts follow this study, more effort should be made to protect staff, especially in a time where staff retention is an operational issue; and maintaining faculty rights and authority should remain in the foreground as well.

The Committee expects to discuss these comments further during their meeting on January 26, 2023 and will update you if they have additional comments. The Committee also looks forward to continuing engagement in the next steps.

cc: April de Stefano, Academic Senate Executive Director
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