

THE UNIVERSITY OF ARIZONA
Committee on Academic Freedom and Tenure
Annual Report, 2014-2015
May 6, 2015

CAFT Members

Committee Members	Department	Term
Linda Shaw (Chair)	Disability & Psychoeducational Studies	6/09-5/15
Nafees Ahmad	Immunobiology	6/13-5/16
Dalila Ayoun	French and Italian	6/15-5/17
Michael Brescia	Arizona State Museum	6/14-5/17
Sonia Colina	Spanish and Portuguese	6/10-5/16
Celestino Fernandez	Sociology	5/12-5/15
Roberto Guzman	Chemical & Environmental Engineering	6/12-5/15
Dante Laurretta	Lunar & Planetary Laboratory	6/13-5/16
Jeffrey Milem	Educational Policy Studies & Practice	6/14-5/17
S. Patricia Stock	Entomology	6/13-5/16
Lynda Zwinger	English	6/14-5/17

Mission Statement

The Committee on Academic Freedom and Tenure shall have jurisdiction to make inquiry and to conduct hearings in two general areas contained in ABOR 6-201 and 6-301, namely: in regard to those matters contained in the Conditions of Service dealing with the contractual employment relationship between the General Faculty member and the University /Board of Regents; and in regard to any internal matters relating to grievances against or by any member of the General Faculty. The committee shall consider the protection of academic freedom and tenure as a principal obligation. (Certain preliminary steps for dismissal situations are described in Chapters 3 and 4 of the *University Handbook for Appointed Personnel* and Sections 6-201 and 6-301 of the *University Handbook for Appointed Personnel* and Sections 6-201 and 6-301 of the *Arizona Board of Regents Policy Manual*.) *Faculty Constitution, Article V, Section 10b.*

Under this policy, CAFT shall hear any faculty allegation that a decision affecting his or her employment relation with the University was not determined in substantial compliance with regular University procedures, but only after any administrative appeal mechanism applicable to the decision in question has been exhausted. This includes, but is not limited to, non-renewal of contracts, denial of tenure, promotions, sabbatical leaves, leaves, and disputes on the amount of salary due to a non-tenured faculty member who has been suspended or dismissed before the expiration of the employment period. *Faculty Bylaws, Article VIII, Section 5b, iii (2) (a).*



CAFT shall hear other faculty grievances, such as alleged unfair treatment, where no policies or procedures exist or existing policies or procedures have been misinterpreted, misapplied or violated by a University administrator. *Faculty Bylaws, Article VIII, Section 5b, iii (2) (b)*.

Grievances and Hearings

The Grievance Clearinghouse Committee (GCC) referred two cases to CAFT late in the 2014-2015 academic year. A summary of each case with current status is provided below:

1. A grievance was filed alleging wrongful alteration of teaching assignment citing conflict of interest and academic freedom violation; and gender bias. The grievant and respondent completed Conciliation unsuccessfully and this hearing is in the process of being scheduled. A hearing panel is currently being selected.
2. An appeal of a notice of dismissal in which a tenured faculty member alleged that the notice of dismissal was issued without "just cause" in violation of ABOR Policy 6-201(J)(1)(a). The grievant and respondent completed Conciliation unsuccessfully and this hearing has been scheduled for June 10-12. A hearing panel and chair have been appointed.

New Heads' Seminar

I responded to a request from Associate Provost Thom Miller to present at one of the seminars for incoming/newly appointed Department Heads at the University of Arizona. This program was initiated following a 2011 request by CAFT, and subsequently supported by the Committee of Eleven to establish training "arising from findings of CAFT hearings over the past decade [where]...it has become apparent that at the Dean and/or Department level, grievances that escalate to become CAFT hearings might be avoided if more effective administrative oversight had been in effect." (Committee of Eleven letter dated July 27, 2011). I provided this training at a "New Heads' Seminar" on 10/3/14. A handout used at the session is attached.

Academic Freedom Workgroup

Lynn Nadel, in his role as Chair of the Faculty, appointed an Academic Freedom workgroup, with the purpose of starting a faculty-wide conversation about Academic Freedom. The workgroup undertook several initiatives aimed at promoting this conversation including

- Making basic documents and information about academic freedom available
- Conducting a survey about academic freedom and sharing results with faculty
- Holding two Faculty Forums to share survey results and information, and to invite discourse

The forums were held on Jan 21st and Jan 22nd. I attended one of these and the discussion was interesting and thought-provoking. The information and discussion from the forums were subsequently shared with the faculty senate.

Procedural/Administrative Issues:

Two issues have emerged that warrant additional attention by CAFT in the upcoming year. First, Mary Beth Tucker requested that CAFT review its procedures to ensure that it is compliance with new Title IX requirements, and offered the assistance of the Office of Institution Equity in conducting such a review.

Second, the Chair recommends that CAFT work with the Office of General Council (OGC) to identify and resolve inconsistencies and improve the clarity of the various documents that guide its operations. Both the 2013-2014 CAFT Chair and I confronted numerous areas of confusion, where there were inconsistencies and a lack of clarity that resulted in various interpretations and opinions about procedural matters. This inconsistency resulted in confusion as to proper procedure and delays while legal and administrative clarifications were sought.

For example, the previous chair noted in his 2013-2014 annual report that "CAFT internal guidelines describe that for ABOR-required hearings involving allegations of unconstitutional or illegally discriminatory behavior by the University and for "just cause" suspension or dismissal hearings the CAFT panel shall be composed of 5 panel members. There is no requirement in the ABOR rules, the UHAP, or the faculty by-laws that a CAFT panel be composed of that many panel members. The language in the current ABOR rules is for allegations of unconstitutional or discriminatory action by the University [and states that] there must be an impartial hearing committee of "not fewer than three committee members. (ABOR 6-201M 2 a.).

An issue came up for the current Chair when I wished to appoint a Hearing Officer for a hearing, as provided for in Article VII Section 6 a. viii. (6) (c) of the bylaws, which appears to be designed specifically to handle a situation in which the CAFT panel members may not be entirely comfortable with establishing ground rules, dealing with prehearing discovery, and running a hearing. The bylaws state that "At the discretion of the CAFT panel, when the parties are represented by counsel, a hearing officer may be secured under the University's agreement with Tri-University Outside Counsel. The hearing officer assists the panel in developing findings, conclusions and recommendations during deliberations and may prepare the written report in consultation with the panel but does not participate in the decision-making process of deliberation." The OGC, however contends that because the ABOR Policy Manual establishes both policy and procedural guidelines in cases involving dismissals, and because the ABOR Policy Manual has no provision for a hearing officer, this is only allowable in cases not involving dismissals. The OGC's office agreed that the relationship of the ABOR policy manual, the By-laws and CAFT's internal guideline documents should be reviewed and revised, as necessary, to achieve consistency, and greater clarity to all parties involved in CAFT processes.

Finally, I wish to thank the committee members and the personnel of the Faculty Center (especially Jane Cherry) for her support and work on behalf of CAFT. Additionally, I would like to thank the past-Chair of CAFT, Jamie Ratner for his support and advice. Finally, I must share my perception that the time, effort, and careful deliberation with which CAFT members have approached their responsibilities continues to be an outstanding example of the many strengths of the faculty of the University of Arizona.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda R. Shaw".

Linda R. Shaw, Ph.D.
Chair, CAFT (2014-2015)

**On behalf of the
Committee on Academic Freedom and Tenure (CAFT)**

Welcome to your new role as Department Head!

CAFT is a university committee made up of elected faculty of the University of Arizona that reviews, investigates and/or holds hearings, as necessary, in a variety of cases, including, but not limited to recommendations for dismissal or suspension, violations of due process and/or academic freedom, procedural violations in performance reviews, and unreconciled grievances.

Several years ago, the Chair of CAFT made several recommendations for training of new department heads, with training topics based upon several themes that seem to have emerged over multiple hearings. These same issues seem to be present in many of our more recent hearings, and others have also emerged. Issues that tend to become problematic include the following:

- Poor faculty mentoring
- Outdated college criteria for tenure and promotion
- Outdated criteria for annual faculty performance evaluations
- Lack of clear rationales and documentation to support annual faculty performance evaluations
- Failure to resolve personal disputes
- Poor communication between deans or heads and faculty
- Lack of knowledge and use of university resources for obtaining information and support in managing faculty challenges and resolving interpersonal conflict.
- Failure to consistently follow University, College, or Departmental procedures

A little bit of advance planning, knowledge, and consultation can go a long way in preventing the build-up of frustrations, perceptions of unfair treatment, and resentment that result in the unpleasantness of grievances, dismissals, and hearings.
