

Grievance Clearinghouse Committee

The Grievance Clearinghouse Committee
2013-2014 Annual Report

<u>Committee Members</u>	<u>Department/College</u>	<u>Status</u>	<u>Term</u>
James R. Ratner	Law/LAW	Chair, CAFT	2013-2014
Sonia Colina	Spanish & Portuguese	Vice Chair, CAFT	2013-2014
Joel Cuello	Agric/Biosys Engineering	Faculty Senator	2013-2014
Homer Pettey	English	Chair, Conciliation	2013-2014
Srini Raghavan	Materials/Sci. Engin	Chair, UCEC	2013-2014
Mary Beth Tucker	Dir/Office Inst. Equity	OIE Representative	2013-2014

The Grievance Clearinghouse Committee (GCC) members are the Chair of the Committee Freedom and Tenure (CAFT), the Chair of the Committee on Conciliation, the Chair of the Committee on Ethics and Commitment, a representative of the Office on Institutional Equity (OIE), and a faculty representative elected by the Faculty Senate at its May meeting. The Vice Chair of CAFT serves as a non-voting member. The bylaws make the Chair of CAFT the *ex officio* voting Chair of GCC. The GCC evaluates grievance petitions submitted by faculty members and makes an initial determination concerning which dispute resolution committee or office, if any, is the appropriate place for the submission. (The GCC has no authority concerning dismissals. Dismissals are regulated by the ABOR rules, and the dismissal process establishes requirements that eliminate the need for a GCC determination.) The GCC has the power to forward matters to Conciliation, Ethics, OIE, the Equal Opportunity/Affirmative Action Office or to CAFT (although it has no authority to require a grievant or respondent to participate in Conciliation).

Matters considered by the GCC during the 2013-2014 academic year:

1. A faculty member denied tenure by the University appealed his denial of tenure to the President seeking a CAFT hearing. The appeal alleged that the University denial involved unconstitutional violations of due process and thus required a CAFT hearing pursuant to ABOR rules. The faculty member had repeatedly sought out the chair of GCC/CAFT (Prof. Ratner) to discuss his appeal, and sent Prof. Ratner an unsolicited "courtesy" copy of the appeal to the President. The President denied the faculty member's appeal, concluding it did not raise matters requiring a CAFT hearing under the ABOR rules. The GCC evaluated whether the President's denial was justified. We considered whether the appeal had raised questions of unconstitutional behavior or illegal discrimination by the University, and agreed with the President's conclusion that the appeal had not sufficiently alleged University behavior that triggered a required CAFT hearing. The GCC also considered whether the appeal sent to Prof. Ratner stated a grievance for which the faculty bylaws mandate that GCC evaluate and make a decision as to disposition (e.g. Conciliation or a CAFT hearing). The GCC concluded that the appeal to the President did not amount to a grievance for which a CAFT hearing was required by the bylaws, in large part because it did not name a respondent. The GCC, however, concluded that some of the allegations contained in the appeal were allegations that the University failed to comply with its rules for evaluating tenure, and that if those allegations were made as part of a valid grievance petition would necessitate a CAFT hearing. The GCC thus delegated to the Chair of CAFT

(Prof. Ratner) the authority to convene a CAFT panel for a hearing should the faculty member choose to file a grievance for which a CAFT hearing would be required by the bylaws. After discussion with Prof. Ratner, the faculty member chose to file a grievance that largely repeated the allegations contained in the appeal but named the Provost as a respondent and met the minimum allegations entitling the faculty member to a CAFT hearing.

2. A faculty member alleged that the department head intentionally falsified an aspect of the faculty member's performance evaluation documents. Prior to (and subsequently to) filing the grievance, the grievant had attempted to discuss the matter described in the grievance with many different people on campus, including the Faculty Center staff and the Chair of GCC/CAFT (Prof. Ratner). The grievance itself contained little substance on which to base a conclusion other than the allegation itself. The GCC unanimously concluded that it would be productive as an initial reference to offer the grievant and respondent the opportunity to conciliate the matter, in part because there had been previous apparently successful conciliation between them. The GCC thus referred the grievance to the Conciliation Committee. The grievant initially requested that the matter be suspended while he pursued other avenues. The grievant subsequently informed the Chair of CAFT and GCC (Prof. Ratner) that he wished to "reinstate" his grievance, and the matter was "re-referred" to Conciliation. Conciliation was not successful (see 3 below) but the grievant has not as of yet come to the GCC with a request that this grievance be given a CAFT hearing.

3. The faculty member who made the allegation described in 2 above filed a grievance alleging that the Conciliation Committee members that attempted the conciliation process (which had not successfully resolved the dispute) violated University rules. The grievance alleged that the final conciliation report contained an appendix identifying a timeline and a description of how the timeline was generated and that the grievant did not agree with the accuracy of either. Prior to (and subsequently to) filing this grievance, the grievant had attempted to discuss the matter described in this grievance with many different people on campus. The GCC (minus the chair of The Conciliation Committee, who recused himself due to the obvious conflict) unanimously concluded that this allegation did not raise sufficient grounds for a CAFT hearing or further dispute resolution of any kind, because it did not adequately allege that the Conciliation Committee or any other University entity failed to comply with University rules and did not allege any harm to the grievant. Subsequent to this decision, which was explained to the grievant in a letter from the Chair of GCC/CAFT (Prof. Ratner), the grievant, unable to accept the decision, insisted to the Faculty Center staff and, in an over 2 hour phone conversation with Prof. Ratner, that he be entitled to pursue the matter of the appendix and the process of conciliation.

4. A faculty member alleged that the department head had engaged in "a pattern of mistreatment" including assigning the faculty member an excessive teaching load compared to other faculty in his department. The faculty member sought relief from particular teaching assignments. The GCC, without consideration of whether the grievance alleged matters sufficient to warrant a CAFT hearing, unanimously concluded that the appropriate initial reference for the grievance was to the Committee on Conciliation. The grievant has not as of yet come to the GCC with a request that the grievance be given a CAFT hearing.

5. A faculty member alleged that her department engaged in sex harassment and sex discrimination while considering and voting on her application for tenure. The GCC unanimously concluded that based on the nature of the allegation the matter should be immediately referred to the Office of Institutional Equity as required by the faculty by-laws. (Article VII § 5a.ii. of the Bylaws indicate that if "the grievant's case contains an allegation of unlawful discrimination, the grievant's case shall be referred to the Office of Institutional Equity.")

Respectfully submitted,



James R. Ratner, Chair
Grievance Clearinghouse Committee