

THE UNIVERSITY OF ARIZONA®
General Faculty Standing Committee
Faculty Center
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Committee on Conciliation
ANNUAL REPORT 2018-19

Committee Members	Department	College	Term
Jamie Ratner, CHAIR	Law	LAW	6/18 - 5/20
Cynthia White, VICE CHAIR	Classics	HUM	6/17 - 5/19
Pearce Paul Creasman	Tree Ring Lab	COS	6/18 - 5/20
Judith Becerra	Biosphere 2	CO	6/17 - 5/19
Etta Kralovec	Teacher Education	UA South	quit 1/18
Gayatri Vadantam	Animal/Biomedical Sciences	CALS	6/18 – 5/20

The Committee on Conciliation received one case this year referred by the Grievance Clearinghouse Committee (GCC) and one case referred from the President's office pertaining to a dismissal. In addition, however, the Committee explored conciliation in two other matters, one involving two prospective grievants and the other involving one prospective grievant.

Each of the latter two explorations came about due to discussion at the Committee's annual meeting on September 19, 2018. At that meeting, several of the members of the Committee expressed a desire to figure out methods to enable prospective grievants to explore conciliation prior to actually filing a grievance. The custom (although it is not specifically mandated in University or ABoR rules) has been that matters only come to Conciliation after a valid grievance is filed and the matter referred to Conciliation by the GCC. It was a feeling of the majority of the Committee on Conciliation that it would be helpful to encourage some prospective grievants to seek conciliation with a goal of eliminating any need to file a grievance. The University rules can be read to accommodate such a goal. As chair, I agreed to explore this with faculty governance representatives and with the GCC. Twice during this year matters came before the GCC (of which the Conciliation chair, Prof. Ratner, is a member) for which the GCC determined there was no valid grievance. In the letters to the faculty members who had filed the (non)grievances, the recipient was given information concerning the possibility that the recipient might wish to seek to conciliate the matter via the Faculty Committee on Conciliation even though the faculty member had not stated a grievance. This language did result in the prospective grievants contacting the chair of Conciliation, at least partially meeting the goal of increasing the availability of conciliation.

On June 21, 2018, President Robbins, pursuant to ABOR 6-201.1.3.a, referred to the Committee a faculty dismissal. The ABoR rules make the referral mandatory. Prof. Ratner conferred with the faculty member's lawyer to inform the faculty member concerning a possible conflict of interest with Prof. Ratner being one of the conciliators and to offer a choice as to whether the faculty member wanted conciliation with our committee with Prof. Ratner as one of the conciliators, conciliation with our committee but with

Prof. Ratner not as one of the conciliators, or to opt instead, as the ABoR rules specifically allow, to have the matter mediated by a mediator appointed by the University.

The lawyer indicated the client's preference for Conciliation with the faculty Committee on Conciliation and Prof. Ratner as one of the conciliators. For medical reasons, however, the faculty member requested that

her attorney be present at the conciliation. University rules specifically prohibit attorneys from attending conciliations conducted by the Committee on Conciliation (and don't, apparently, distinguish between referrals that come from the GCC and those that are mandated by the ABoR rules pertaining to dismissal, although the latter are far more likely to involve lawyers than the former), and after exploring whether that rule could be waived, the faculty member via her attorney on July 3, 2018, chose outside mediation at which there is no prohibition of attorney participation.

On October 17, 2018 the GCC referred a grievance concerning matters within the medical school to the Committee on Conciliation. Prof. Ratner assigned the matter to Committee Members Prof. Ratner and Prof. Cynthia White. They met first with the grievant for over 2 hours on October 25, 2018. At the end of the discussion the grievant expressed considerable ambivalence about whether he wanted to proceed with the conciliation by having us meet with respondents, and before doing so he wished to explore meeting and discussing matters with people in his department with whom he thought he might be able to establish a constructive working relationship and environment. The grievant did not respond to follow up inquiries by the conciliators concerning whether he wished the conciliation to continue. He eventually sent us an email (dated January 3, 2019) not referring specifically to the conciliation but indicating that he had left the University. At that point we considered the conciliation closed.

On November 16, 2018, two prospective grievants contacted Prof. Ratner in response to a GCC letter informing one of the faculty members that his complaint had not stated an actual grievance but that he might nevertheless consider exploring conciliation with the chair of the Committee on Conciliation. Prof. Ratner initially appointed Prof. White and Prof. Pearce Paul Creasman to serve as conciliators. One of the faculty members seeking conciliation indicated he was uncomfortable with Prof. White serving as a conciliator because of overlap between Prof. White's department and his own, so Prof. Ratner served as the second conciliator. Prof. Creasman and Prof. Ratner met first with the two prospective grievants. They indicated who the appropriate respondent would be, and Prof. Ratner then met with that person. (Prof. Creasman was out of the country and unable to attend and after discussion with all involved people it was decided that the best thing to do was for Prof. Ratner to meet alone with the respondent and fill in Prof. Creasman after the meeting.) Both sides were originally amenable to a face to face meeting to air grievances and see if agreements could be achieved. But after the respondent agreed to such a meeting, the two faculty members requested that a faculty member involved in faculty governance attend the meeting, and the respondent was unwilling to meet under those circumstances. At that point one of the two faculty members declined to meet and indicated he would consider other avenues, while the other faculty member chose to meet with the respondent without any other attendees. At that point the conciliation was closed.

On April 23, 2019, a prospective grievant contacted Prof. Ratner in response to a GCC letter informing him that his complaint had not stated an actual grievance but that he might nevertheless consider exploring conciliation with the chair of the Committee on Conciliation. Prof. Ratner contacted this faculty member, explained the process, also explained a bit why the GCC had concluded his complaint did not state a valid grievance, and discussed whether he wished to pursue conciliation. The faculty member was out of the country until the start of the Fall semester, however, and Prof. Ratner explained that conciliation is a face-to-face mediation process conducted by two committee members. The faculty member did not express an immediate desire to pursue conciliation, but we left it open for him to consider his options and in any event if he were to request conciliation it could not begin until he returns to Tucson. There is no need to appoint conciliators until he makes a request for conciliation.

The Chair of Conciliation met several times with the GCC on matters concerning filed grievances. One above described matter was referred to the Committee on Conciliation. Two other grievances were evaluated by the GCC, ultimately were not referred to Conciliation, but Conciliation was suggested as a possible avenue for the denied grievant to explore.

Submitted by Prof. James Ratner
Chair, Committee on Conciliation