



Faculty Hearing Committee Members and Service

This is an academic year annual report of the Faculty Hearing Committee established under university faculty rule 3335-5-4810 and comprising 24 faculty members who serve four-year terms (3 years as a regular member; 1 year as an alternate). The table below includes the affiliations, email addresses, end-term date and service activities for continuing members during the 2018-2019 academic year.

Continuing Members	College	Department	Term Expires	Service
Noelle Arnold	EHE	Ed Studies	2022	
John Blackburn	BUS	Finance	2022	
Enrico Bonello	FAES	Plant Pathology	2022	04 Panel
Imed Dami	FAES	Horticulture/Crop Sci	2022	
Colette Dollarhide	EHE	Ed Studies	2022	04 Panel
Christopher Highley	ASC-AH	English	2022	04 Presiding Officer
Loren Wold	NURS/MED	Physiology/Cell Bio	2022	
Ningchuan Xiao	ASC-SBS	Geography	2022	04 Panel Alternate
Prosper Boyaka	VET MED	Vet Biosciences	2021	
Caroline Clark	EHE	Teaching & Learning	2021	Ex Officio
Kent Harrison	FAES	Extension	2021	
Greg Labarge	FAES	Extension	2021	
Steven Lopez	ASC-SBS	Sociology	2021	04 Presiding Officer
Tania Obersyszyn	MED	Pathology	2021	04 Panel
Erdal Ozkan	FAES	Food, Ag/Bio-Eng	2021	

The table below includes the affiliations, email addresses and service activities for outgoing members of the committee. Much thanks to all of these colleagues for their significant service to the university.

Outgoing Members	College	Department	Service
Benjamin Acosta-Hughes	ASC-AH	Classics	04 Presiding Officer 05 Panel
Bala Balasubramaniam	FAES	Food Sci & Tech	04 Panel
Suzanne Bartle-Haring	EHE	Hum Dev/Family Sci	04 Panel
Stratos Constantinidis	ASC-AH	Theatre	05 Panel
Prabir Dutta	ASC-MAPS	Chemistry	
Scott Harper	MED		
Alan Hirvela	EHE	Teaching & Learning	04 Panel 05 Panel
Alan Loper	ASC-MAPS	Mathematics	

Finally, this last table includes the affiliations, email addresses and end-term dates for newly appointed members who will join the committee in the 2019-2020 academic year.

Incoming Members	College	Department	Term Expires
Desheng Liu	ASC-SBS	Geography	2023
Scott McGraw	ASC-SBS	Anthropology	2023
Don Mutti	OPTOMETRY		2023

Antonio Ramirez	ENG	Materials Science	2023
Terry Reese	LIBRARIES		2023
Orlando Simonetti	MED	Internal Med	2023
Lucille Toth	ASC-AH	French & Italian	2023
Keith Warren	SOC WORK		2023
Cliff Whitehead	ENG	Mech/Aerospace	2023

Hearings

During the 2018-2019 academic year, the Faculty Hearing Committee received three appeals from faculty members under university faculty rule 3335-5-04.

Case #1: Appeal of a Finding of Gross Incompetence

On September 7, 2018, the Faculty Hearing Committee of the University Senate (FHC) received notification of an appeal by a tenured, Full Professor in response to a charge of “gross incompetence,” which was initiated by his Department Chair on August 1, 2017. Per university faculty rule 3335-5-04:

Gross incompetence is defined as conduct that reflects gross indifference or consistent failure to satisfactorily perform faculty obligations. Allegations of gross incompetence shall be judged on the basis of a faculty member’s serious failure to meet his or her obligations as a faculty member.

The claim against this professor as framed by the College Investigation Committee, their college Dean, and Provost McPheron revolved around three matters: (1) Failure to engage in publication in a manner appropriate to the rank of Full Professor; (2) failure to engage with the research community in a manner appropriate to the rank of Full Professor; and (3) failure to secure research funding in a manner appropriate to the rank of Full Professor. The proposed sanction was immediate dismissal.

A hearing panel was agreed to, consisting of Christopher Highley (Presiding Officer), Bala Balasubramaniam and Alan Hirvela as voting members, and Ningchuan Xiao as non-voting alternate. During the hearing on December 13, 2018, the complainant (the appealing faculty member) and the respondent (the Provost’s designee) both presented their cases to the hearing panel. Additionally, four witnesses were called to answer questions posed by the complainant, the respondent, and members of the hearing panel. The hearing began at 8:30 am and concluded at approximately 2:30 pm with a one-hour break for lunch. A digital audio-recording was made of the full hearing procedures. Based on careful deliberation and review of all information, the FHC Panel unanimously found that none of the charges against the appealing faculty member rose to the level of “gross incompetence.” Additionally, they found that the proposed sanctions were too severe and, instead, recommended the following:

- 1) The University should reassign the appealing faculty member to a tenure-initiating unit outside of his current TIU, where his teaching, research, and service can be valued and supported.
- 2) Once reassigned, measures should be taken to help the appealing faculty member become more competitive with grants either by providing some bridge research funding or re-training in new research areas where there may be more funding opportunities available.
- 3) The University should freeze the appealing faculty member’s salary until such time as he publishes his current research or wins outside grants, either of which must occur by or before May 2020. Until that time, he should receive a 0% increase in his salary.

- 4) In the event that the appealing faculty member does not publish his research findings and secure outside funding in the wake of these publications on the time-frame outlined above, the University should assign him additional teaching duties to account for this proportion of effort.

A full report of the hearing, findings, and the above recommendations were delivered to President Michael Drake on January 2, 2019. As of the submission of this annual report, there has been no response from the President regarding this case.

Case #2: Appeal of a Finding of Gross Incompetence

On July 31, 2018, the Faculty Hearing Committee of the University Senate (FHC) received notification of an appeal by a tenured, Full Professor in response to a charge of “gross incompetence,” which was initiated by his Department Chair on August 9, 2017. Per university faculty rule 3335-5-04:

Gross incompetence is defined as conduct that reflects gross indifference or consistent failure to satisfactorily perform faculty obligations. Allegations of gross incompetence shall be judged on the basis of a faculty member’s serious failure to meet his or her obligations as a faculty member.

The claim against this professor as framed by the College Investigation Committee, their college Dean, and Provost McPheron was that his performance had been grossly incompetent in two areas: (1) research productivity; and (2) external research funding. The proposed sanction was immediate dismissal.

On August 18, 2018, a hearing panel was agreed to, consisting of Steven Lopez (Presiding Officer), and Suzanne Bartle-Haring and Enrico Bonello as voting members. Guidelines for conducting the hearing were developed by the panel and shared with the complainant and respondent. Both parties agreed to these guidelines and the dates of January 9th and January 16th, 2019 were set for the hearing. Both the complainant and the respondent were represented by legal counsel. After opening statements from both parties, additional witnesses were called to answer questions posed by the complainant, the respondent, and members of the hearing panel. The hearing began at 9:00 am and concluded at approximately 1:30 pm on January 9th and reconvened at 10:30 am and concluded at approximately 4:00 pm on January 16th, with a 45-minute break for lunch. A digital audio-recording was made of the full hearing procedures. During their subsequent deliberations, the hearing panel requested input from the Committee on Academic Freedom and Responsibility (CAFR) on one aspect of the case. Based on careful deliberation and review of all information, the FHC hearing panel unanimously found that none of the charges against the appealing faculty member rose to the level of “gross incompetence.” Additionally, they found that since the appealing faculty member was not found to be incompetent under Rule 3335-5-04, there were no grounds for revocation of tenure and dismissal from the University, or any other disciplinary sanction and the decisions of the Dean, the CIC, and the Provost must be reversed.

A full report of the hearing, findings, and the above recommendations were delivered to President Michael Drake on March 19, 2019. As of the submission of this annual report, there has been no response from the President regarding this case.

Case #3: Appeal of a Finding of Grave Misconduct

On December 7, 2018, the Faculty Hearing Committee of the University Senate (FHC) received

notification of an appeal by an Associate Professor – Clinical in response to charges of “grave misconduct,” which were initiated by a faculty program director in a letter to the Dean of her college on January 3, 2017.

The claim against this associate professor-clinical as framed by the College Investigation Committee, their college Dean and Provost McPherson asserted that the appealing faculty member violated several university policies including the Faculty Conflict of Commitment Policy, the Faculty Financial Conflict of Interest Policy, and the “no solicitation” clause of a contract she held in her college. Per university faculty rule 3335-5-04:

Grave misconduct is defined as flagrant, egregious, and willful misbehavior in violation of the law or established university rules or policies. Allegations of grave misconduct shall be judged on the basis of acts or omissions which seriously impair the effectiveness of a faculty member to meet his or her obligations as a faculty member.

On January 14, 2019, a hearing panel was agreed to, consisting of Benjamin Acosta-Hughes (Presiding Officer), Colette Dollarhide and Tania Obersyszyn as voting members, and Steven Lopez as non-voting alternate. Shortly before the hearing, Dr. Lopez needed to withdraw as the non-voting alternate due to a scheduling conflict and Caroline Clark served as the non-voting alternate. Guidelines for conducting the hearing were developed by the panel and shared with the complainant and respondent. Both parties agreed to these guidelines and the dates of April 29 and 30, 2019 were set for the hearing. Both the complainant and the respondent were represented by legal counsel. The hearing began at 8:30 am and concluded at approximately 3:30 pm with a 20-minute break for lunch. Since all matters were addressed in a single day, the hearing concluded and did not continue through April 30th. A digital audio-recording was made of the full hearing procedures. Based on careful deliberation and review of all information, the FHC panel unanimously found all of the charges against the appealing faculty member rose to the level of “grave misconduct.” Therefore, the FHC hearing panel recommended immediate dismissal of the faculty member for cause.

A full report of the hearing, findings, and the above recommendations were delivered to President Michael Drake on May 1, 2019. As of the submission of this annual report, there has been no response from the President regarding this case.

Meetings

The full body of the Faculty Hearing Committee met 4 times during the 2018-2019 academic year.

November 2, 2018: This was the first meeting of the academic year. The chair shared the 2017-2018 annual report with the committee, including an accounting of two appeals under faculty rule 3335-5-05. The committee discussed developing mechanisms for maintaining data on cases in order to better track patterns that might be indicative of systemic problems in some units. The committee also expressed some concern related to communications back to the committee from the Provost’s Office regarding follow-through on FHC recommendations regarding cases.

February 1, 2019: The chair provided updates on pending cases under faculty rule 3335-5-04. The committee discussed the need to better educate all faculty members about their rights under the university rules, especially as these relate to due process, and discussed possible collaborations with other Senate committees (e.g., CAFR) in forwarding this work. The committee requested that the chair compose and send a memo to Senate Steering regarding these potential efforts. Enrico Bonello, as a member of Senate Steering, agreed to work with the chair to convey this request to that body. A memo (attached) was composed and sent to the Senate Steering Committee on February 3, 2019. The committee requested that more meetings be held in order to educate the body as a whole about hearing processes and agreed to meet

on the first Friday of each month for the remainder of spring semester.

March 1, 2019: The chair provided updates on pending cases under faculty rule 3335-5-04 and shared information from Faculty Cabinet regarding potential changes to this rule. The committee requested that it be communicated to Senate Steering and the Faculty Cabinet that any subsequent conversations related to this rule include communication with the FHC.

April 12, 2019: The chair provided updates on pending cases under faculty rule 3335-5-04. The committee discussed that it had been over 3 months since at least one of the cases had gone to President Drake for his decision. The committee noted that, currently, the university faculty rules do not impose a time-frame within which the President is expected to respond to cases. The committee agreed that a time-frame of 60 days was reasonable. The committee will begin the process of having the rules amended to reflect this time-frame during the 2019-2020 academic year. Additionally, the committee discussed the draft policies and procedures that were developed during the year to help guide the 04 hearing processes. The committee agreed to pursue codifying these policies and procedures during the 2019-2020 academic year. The committee voted that the current chair, Caroline Clark, should continue as chair of the FHC for the 2019-2020 academic year.