



May 14, 2019

## **Committee on Academic Freedom and Responsibility Annual Report 2018-2019**

### **CAFR Responsibilities**

The Committee on Academic Freedom and Responsibility (CAFR) has the general responsibility under University Rule 3335-5-48.9, section (B) to:

- (1) Study all conditions which may affect the academic freedom or responsibility of the faculty of the university, including, but not limited to:
  - (a) the review of proposed changes in Chapter 3335-6 of the Administrative Code Rules of the University Faculty Concerning Faculty Appointment, Reappointments, Promotion and Tenure; and
  - (b) such changes in the Office of Academic Affairs Policies and Procedures Volume 3 Promotion and Tenure as may impinge upon academic freedom, responsibility, or tenure. If the committee finds that any such condition or proposed change adversely affects academic freedom, responsibility, or tenure, it shall report that finding promptly to the senate for its review.
- (2) Hear and investigate complaints by individual faculty members concerning alleged infringements upon academic freedom or responsibility in the university; report findings and recommendations to the parties involved with the hope of mediating a dispute and report to the senate if further action by the senate is appropriate.
- (3) Hear and investigate complaints by individual faculty members concerning alleged improper evaluation under the procedures of rule 3335-5-05 of the Administrative Code.

An additional CAFR responsibility by university policy is that a member of CAFR sit on Committees of Initial Inquiry investigating allegations of research misconduct in order to determine whether or not the allegation has substance. CAFR members are currently fulfilling that responsibility.

The university is reviewing its research misconduct policy. CAFR is represented by its chair on that committee. One issue CAFR has discussed as part of this revision process is the discrepancy between the federal standard of proof for research misconduct (preponderance of evidence, >50%, or more likely than not) compared to the standard cited in rule 3335-6-04 ("clear and convincing," typically taken to be 75%). CAFR has not issued a report on this issue or on the proposed revisions to the policy at this time.

### **Policy Review**

CAFR reviewed two policies related to academic freedom and responsibility during the 2018-2019 academic year. One was a proposed change to the 04 rule that would prevent complaints being lodged against faculty who also hold administrative titles when the alleged misconduct applies to their administrative role. CAFR was opposed to that proposed change. CAFR was in agreement with the spirit of the proposed change in that CAFR agrees that the 04 rule should be reserved for serious misconduct rather than for more ordinary workplace disputes. Unfortunately, current grievance procedures are inadequate. Pattern of Administration documents often have sections that describe resolution of salary disputes in great detail, but are silent on resolution of faculty workplace grievances. CAFR's view is that the better solution to this problem is for colleges to develop their own robust grievance resolution processes that are independent of the influence of the dean or chair. The proposed language also raises the problem of deciding what role a faculty member was engaged in, faculty or administrative, when serious misconduct might have taken place. These revisions imply a sort of immunity that might exempt someone holding dual responsibilities. The 04 rule as currently written is an effective way to hold faculty accountable for serious misconduct regardless of whatever role they may also serve in the university while also providing the protections of due process.

The second policy was proposed revisions to Faculty Appointments. According to the draft policy circulated for feedback, the revision was intended to create “Greater clarity in policy that a faculty member’s FTE cannot be involuntarily reduced due to performance issues unless Faculty Rule 3335-5-04 is followed.” The proposed language in Section I(E)(3)(a) in fact read “Unless otherwise set forth in the offer letter and the terms and conditions of employment, the involuntary reduction of FTE must follow the process under Faculty Rule 3335-5-04.” CAFR provided feedback opposing this language as excessively vague and likely to result in threats to tenure and academic freedom. CAFR’s feedback read as follows:

**CAFR objects to the proposed language contained in section I(E)(3)(a). The phrase “Unless otherwise set forth in the offer letter and the terms and conditions of employment” is vague and allows for an unacceptable number of exceptions where involuntary reduction in FTE may be imposed outside of Faculty Rule 3335-5-04. CAFR’s view is that the policy in that section should simply state “The involuntary reduction of FTE must follow the process described within Faculty Rule 3335-5-04.”**

### **Complaints of Improper Evaluation**

There were no formal complaints of improper evaluation brought to CAFR this academic year.

### **Complaints of Infringement of Academic Freedom**

There were three allegations of infringement of academic freedom that were brought to CAFR during the 2018-2019 academic year. The first alleged that academic freedom was infringed when the faculty member was prohibited from attending a scientific conference. CAFR’s decision was that the provost had the proper authority under University Rule 3335-5-04 (A)(13) to restrict faculty duties and that the decision to prohibit attendance at this meeting was appropriate given the faculty member’s reassignment to home. The faculty member appealed that restriction and other imposed sanctions to the Hearing Committee under the process described in Faculty Rule 3335-5-04, which is outside of CAFR’s purview.

The second complaint alleged infringement of academic freedom because of the imposition of sanctions outside of Faculty Rule 3335-5-04 related to what was perceived to be inadequate departmental committee service. CAFR’s decision was that sanctions such as reductions in space and financial support represented a threat to academic freedom that should only be imposed as part of the due process described in Faculty Rule 3335-5-04. The recommendation was that the memo describing the committee service and the threat of sanctions be withdrawn. This complaint underscores the inadequate description of the process for resolving faculty grievances with their supervisors within current Pattern of Administration documents.

The third complaint alleged censorship because of failure to post a controversial article on a departmental website. The complaint was not upheld. The committee recommended that there should be written guidelines for departmental postings that are then used by the person in charge of the website for accepting or rejecting submissions. There should be peer review by one or more qualified persons with acceptance or rejection based on well-defined and written criteria. Unlike one’s rights to free speech as a citizen, there is no absolute academic right to unedited speech. Being subjected to peer review and editorial decisions is not censorship. The editing, however, should be by mutual consent and follow the traditional academic iterative process. Once again, these disputes might be better handled by using a robust departmental grievance resolution procedure.

Hearing Committee also asked for CAFR input on a case of alleged gross incompetence brought against a tenure-track faculty member. The allegation was gross incompetence based on failure to meet expectations in research productivity and obtaining extramural funding. The central issue was whether departments have the right to require tenured professors to publish in particular kinds of peer-reviewed journals connected to the department’s field, and to do particular kinds of research that would typically be conducted in a faculty member’s home unit – or do faculty have the right to fulfill research responsibilities in any academic area in which the faculty member is qualified. CAFR’s view, which was adopted by Hearing Committee, was that requiring a tenured faculty member to pursue only certain lines of inquiry in research and to publish only in certain peer-reviewed journals represents an unacceptable and egregious restriction of academic freedom.

### Committee Bylaws

Bylaws for the committee were adopted on May 1, 2019.

### CAFR Membership 2018-2019

	<b>College</b>	<b>Term Ends</b>
Donald O. Mutti, OD, PhD, Chair	Optometry	2019
Korie L. Edwards, PhD	Arts and Sciences	2019
Sandra A. Metzler, DSc, PE	Engineering	2019
Melvin A. Pascall, PhD	Food, Agriculture, and Environmental Sciences	2020
Scott R. Schricker, PhD	Dentistry	2020
Jennifer Suchland, PhD	Arts and Sciences	2021
Katja R. Turner, MD	Medicine	2019
Michael Koenig, BS	Medicine	2019

Drs. Mutti, Edwards, Metzler, and Turner will be leaving the committee following Summer semester 2019. Drs. Suzanne Bartle-Haring (College of Education and Human Ecology), Zahn Bozanic (Fisher College of Business), and Curtis Haugtvedt (Fisher College of Business and College of Arts and Sciences) will fill those slots beginning in Summer 2019. One faculty slot remains to be filled in addition to one graduate teaching, research, or administrative associate.