

UCSF Committee on Privilege & Tenure FAQs

The Committee on Privilege and Tenure is a standing committee of the Academic Senate of University of California San Francisco. This document has been prepared to assist in providing information about the P&T Committee and to perhaps offer insight into the types and levels of assistance available through the Privilege and Tenure Committee. The following answers to frequently asked questions should not be interpreted as anything more than an attempt to provide helpful information to the faculty. In all cases where there is an apparent or actual conflict with University policy, the University of California Academic Personnel Manual, the University of California Academic Senate Bylaws and other relevant University policies shall control. P&T has tried to answer these questions to the best of its ability and in accordance with Senate Bylaws governing P&T proceedings. This document should be used for informational purposes only.

What are the types of matters that P&T handles?

There are three types: (1) Senate faculty grievances; (2) Senate faculty disciplinary cases; and (3) Early termination cases where a Senate or non-Senate faculty member challenges whether there is good cause for his or her early termination. See UC Academic Senate Bylaw 334(A). <http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl334>

GRIEVANCES

How can a Senate faculty member get advice or information on the available relief in case of a potential grievance?

A Senate faculty member has the following resources available: 1) Review SBL 335 (<http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl335>), which governs Privilege and Tenure grievance proceedings to learn about the process; 2) Contact the Chair of the UCSF Privilege and Tenure Committee, for referral to a special Ad Hoc Advisory Committee of former P&T members available to advise faculty members on potential grievances; or (3) Contact the Director of the Senate Office at 476-3808 for referral to the Ad Hoc Advisory Committee.

Who is on the Privilege and Tenure Ad Hoc Advisory Committee?

The Ad Hoc Advisory Committee consists of former P&T members and may change from year to year. Any faculty member who needs advice regarding a potential grievance may be referred to a member of this Ad Hoc Committee by the Chair of the P&T Committee, by the Senate Office or by self referral using the contact information available on the Academic Senate website: <http://www.ucsf.edu/senate/0-committee/k-pat.html>.

How does a faculty member know that confidentiality will be maintained?

Members of the Ad Hoc Advisory Committee shall maintain full confidentiality to the extent allowable by law. Thus, an aggrieved Senate member may consult with Ad Hoc Advisory Committee members with the understanding that the grievance will not be disclosed and that the consultation shall not constitute notice of the grievance to the campus or University administration.

Can current P&T members give advice to a faculty member considering filing a grievance?

Although this is not expressly prohibited, the better course of action is for the P&T member to refer the faculty member to someone on the Ad Hoc Advisory Committee.

What are P&T's responsibilities once a grievance is filed?

P&T's responsibilities with regard to grievances are set forth in Senate Bylaw 335. In short, P&T, acting as a full committee, must first determine, based only upon the written grievance and no other information, whether the Senate member has made out a prima facie case.

What is a 'prima facie' case?

A prima facie case shall be deemed established if the P&T Committee concludes that the allegations as stated in the written grievance, if true, would constitute a violation of the faculty member's rights and privileges.

What happens if P&T concludes that a 'prima facie' case has been established?

P&T may then conduct a preliminary review of the evidence to determine whether there is sufficient reason to believe that a right or privilege of the grievant may have been violated.

What can be involved in a preliminary review of the evidence?

P&T provides the grievant with the opportunity to discuss his or her allegations with the Committee, either orally or in writing. P&T may request files and documents under the control of the Administration, including the grievant's personnel files and confidential documents contained therein. (Note that such confidential documents must remain confidential within the committee unless disclosure is required by law). P&T may also ask other persons involved in the vents that gave rise to the grievance, including the department chair, to appear before or provide information to P&T.

When, if at all, does P&T have to contact the Administration about the grievance?

After P&T has determined that a prima facie case exists, P&T may, during the preliminary review stage, give the administrator with authority to offer a remedy notice of the grievance and an opportunity to respond. P&T must advise the Chancellor's designee of the grievance if the P&T determines that the grievant has made a prima facie case and that there is sufficient reason to believe that the grievant's rights and privileges may have been violated.

What does P&T do if it finds either that a 'prima facie' case has not been established, or that, after a preliminary review, there is not sufficient reason to believe that the grievant's rights and privileges may have been violated?

P&T shall advise the grievant to that effect in a written communication stating the reasons for its conclusion.

What happens if P&T does find that there is sufficient reason to believe the grievant's rights and privileges have been violated?

In addition to advising the Chancellor's designee, P&T must make an attempt to promote a resolution of the controversy between the grievant and the administrative officer, officer, or other persons concerned. If no resolution can be reached, then P&T shall conduct a hearing in accordance with the procedures set forth in Senate Bylaw 335(D).

What alternatives to a hearing are available?

Any party may attempt to resolve the grievance informally through negotiation at any stage of the proceedings. Such negotiations may have the assistance of impartial third parties, including one or more P&T members. P&T should be advised in writing of any such informal resolution.

In addition, the grievance may be resolved through mediation if that is acceptable to the administration and the grievant. With the consent of both, P&T may assist in the selection of an appropriate mediator.

DISCIPLINARY ACTIONS

SBL 336. Privilege and Tenure: Divisional Committees – Disciplinary Actions:
<http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336>

Are there any time limits on initiation of a disciplinary action?

SBL 336(B)(4) states in relevant part that no disciplinary action may commence if more than three years have passed between the time when the Chancellor or the Chancellor's designee knew or should have known about the alleged violation of the Code of Conduct, and the delivery of the notice of proposed disciplinary action.

Can anyone other than Senate faculty members have a P&T hearing in a disciplinary action?

No. In disciplinary proceedings only Senate faculty members are entitled to a hearing before P&T.

At what point in a disciplinary action does P&T become involved?

SBL 336 governs P&T's involvement in disciplinary actions of Senate faculty members.
<http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336>. P&T becomes involved once the Chancellor or Chancellor's designee has forwarded written disciplinary charges against a Senate faculty member to P&T. The Chancellor or Chancellor's designee initiates disciplinary proceedings before P&T only after a determination that probable cause has been established. Procedures regarding the establishment of probable cause are governed by APM 015/016 and the UCSF Procedures for the Investigation of Faculty Misconduct and the Administration of Discipline.

What is P&T's next step after receiving a copy of the written charges from the Chancellor or Chancellor's designee?

P&T must then promptly deliver a copy of the charges to the accused faculty member or send it by registered mail to the last known place of residence of the accused.

What does P&T do after the accused faculty member has received the charges?

The accused faculty member has 21 calendar days from the date of receipt of the charges to provide an answer to the charges in writing to P&T. P&T must provide a copy of the answer to the Chancellor or Chancellor's designee. P&T shall then consider the matter within 21 calendar days after receipt of the answer, or, if no answer is received, after the deadline for receipt of an answer.

What does it mean for P&T to 'consider' the matter?

P&T evaluates the case and establishes a time frame for all subsequent procedures. P&T may decide to refer the case to mediation if mediation is acceptable both to the administration and the accused (SBL 336(C)), or may appoint a hearing committee (SBL 336(D)). P&T must appoint a hearing committee if the matter is not resolved through a negotiated resolution or mediation. (SBL 336(D)(1)). <http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336>.

If P&T appoints a hearing committee rather than referring the case to mediation, are there guidelines regarding the time frame for the hearing?

As a general guide, P&T should attempt, where feasible, to schedule a prehearing conference (described in SBL 336(D)(2)) within 30 calendar days and a hearing within 90 calendar days after the appointment of the hearing committee. <http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336>

Are there any other time limits P&T should follow regarding a hearing?

P&T must either deliver to the accused personally or by registered mail notice of the time and place of the hearing at least 10 calendar days in advance of the hearing.

Who is on a Hearing Committee?

The Hearing Committee must consist of at least three Division members. This minimum of three shall include at least two members of the Divisional P&T, one of whom shall chair the Hearing Committee.

What if one of the Hearing Committee members has a potential conflict?

P&T may not appoint anyone to the Hearing Committee who is a member of the department or equivalent administrative unit of any of the parties. In addition, Hearing Committee members must disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate.

What if one of the Hearing Committee members cannot be present for all the proceedings?

The Hearing Committee may conduct business if at least half (but not less than three) of its members are present and one of those present is a P&T member.

Are there procedures that govern a hearing in a disciplinary matter?

Yes. Please see SBL 336(D)(1-12) and (E). <http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl336>

What alternatives to a hearing are available?

The Chancellor or Chancellor's designee and the accused may attempt to resolve the disciplinary charges informally through negotiation at any stage of the proceedings. Such negotiations may have the assistance of impartial third parties, including one or more P&T members. P&T should be advised in writing of any such informal resolution.

In addition, the disciplinary charges may be resolved through mediation if that is acceptable to the administration and the accused. With the consent of both, P&T may assist in the selection of an appropriate mediator.

Once charges have been filed with P&T, however, the Chair of P&T should request that the Chancellor or Chancellor's designee consult with P&T or its chair prior to completion of any early resolution.

EARLY TERMINATION CASES

SBL 337. Privilege and Tenure: Divisional Committees – Early Termination Cases:
<http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl337>

Under what circumstances is a faculty member entitled to request a hearing in front of P&T for an early termination case?

A Senate or non-Senate faculty member may request a P&T hearing: in cases of proposed termination before the expiration of the faculty member's appointment; in cases where a tenure faculty member faces termination for incompetent performance; or for other faculty members whose right to a hearing before a senate committee is given by Section 103.9 or Section 103.10 of the Standing Orders of The Regents.

<http://www.universityofcalifornia.edu/regents/bylaws/so1039.html>

and <http://www.universityofcalifornia.edu/regents/bylaws/so10310.html>.

What if a P&T hearing has not started by the time a faculty member's term of appointment ends?

No Senate or non-Senate faculty member may be terminated prior to the expiration of an appointment without having an opportunity for a hearing before P&T. However, if the hearing has not commenced by the end of the faculty member's term of appointment, the faculty member no longer has a right to an early termination hearing pursuant to Senate Bylaw 337. Instead, the faculty member may seek a grievance hearing by grieving the non-reappointment, either pursuant to Academic Senate Bylaw 335 in the case of Senate faculty, or pursuant to Academic Personnel Manual (APM) 140, in the case of non-Senate faculty.

If P&T conducts a hearing regarding an early termination, what is it determining?

P&T shall determine whether, in its judgment, the proposed early termination is 1) for good cause, and 2) has been recommended in accordance with a procedure that does not violate the privileges of the faculty member.

Are there procedures that govern an early termination hearing?

Yes. Please see SBL 337(B)(1-10). <http://www.universityofcalifornia.edu/senate/manual/blpart3.html#bl337>.