

Faculty Handbooks: 5 Common Problems and Recommended Solutions 10.19.15

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Leftover Questions from the Webcast

Question: What could the University in our Webinar hypothetical have done to head off the potential need to dismiss Professor Peter, which would have involved using outdated and unworkable procedures?

Response: This is a summary of the responses from the Webinar participants, which we did not get to discuss at length and which raise great points:

- Proper definitions of essential terms within the Handbook would have clarified for the Chair that “academic freedom” did not necessarily attach to Professor Peter’s inappropriate classroom statements. Academic freedom as originally defined by the AAUP protected the content of teaching and also research and writings about research. (See AAUP’s 1940 Statement, which clarifies the true purpose and nature of academic freedom as originally defined). Academic freedom was never intended to protect faculty members from any limitations or discipline simply because they are “academics” but many academic affairs administrators are afraid to intervene in any fashion because they lack understanding of the limits of academic freedom – and think that “academic freedom” is unlimited.
- For the same reason, it would be extremely helpful to have an enumeration in the Handbook of appropriate professional behavior, as well as examples of inappropriate behavior or misconduct, including but not limited to harassment, discrimination, violation of University procedure, retaliation, academic integrity violations, and other well-known bases for discipline. This would allow academic supervisors, such as the Chair, to understand that conduct like that of Professor Peter can be disciplined.
- Coupled with this, the university should clarify that its academic supervisors and Deans can engage in progressive discipline or remediation of performance issues – and, specifically, that dismissal for cause is not the only option. This also encourages early intervention to head off developing issues.
- University policy, particularly in the age of Title IX compliance, should make an attempt to clarify the boundaries with regard to sexual innuendo or culturally insensitive remarks. This can be controversial and even raise first amendment or academic freedom issues, but it is something that the faculty and academic affairs side should discuss. In religious institutions, it may be even more necessary to discuss these issues because the concept of “academic freedom” may be limited by religious precepts; and, moreover, sexual conduct standards may be more restrictive.

- This is difficult to do, but institutions should consider adopting policies regarding speech outside the classroom (including on social media sites). There are substantial free speech and also labor relations issues involved in addressing off-campus, on-social-media speech; but, as many commenters noted during the Webinar, this is a developing area of serious concern.
- Final comment from Ellen: all of these points are great, and I would emphasize the need to assist academic administrators (particularly new Chairs) in learning how to critique fellow faculty and address these issues. It is critical to give faculty members tools (including instructions on how to critique, discuss, and investigate potential concerns). No one learns these skills in graduate school!

Question: What options are available to address misconduct before it turns “toxic?”

Response: Options can include (1) meetings with the faculty member, followed by written confirmation of what was said and expectations going forward; (2) critical performance evaluations and specific suggestions for improvement; (3) reprimand, warning, or final warning; (4) required training or facilitation; (5) formal performance plan; (6) required classroom or other observation by mentor or department representative; (7) modified assignments; (8) temporary forfeiture of right to overloads or additional teaching opportunities; (9) removal of chaired appointment or honor; (10) salary freeze or reduction; (11) temporary suspension of right to apply for promotion; (12) suspension; (13) reduction in rank; (14) dismissal. These are just examples of options, some of which are extreme or may be inconsistent with the culture of the institution or legal constraints in a particular jurisdiction or under the terms of a handbook.

The important takeaway is that academic administrators and chairs need to understand that there *are* options and that early intervention and articulation of expectations is the most effective way to prevent significant issues. Avoiding any such issues until dismissal is the only option should be the culture or practice of any institution.

Question: How should faculty handbooks address behavior of the faculty on social media?

Response: as noted in the Webinar, social media policies should hew as closely as possible to what the institution would address if speech occurred in person or in traditional media. The difference between social media speech and other forms of speech really lies in the speed and scope of dissemination of the information, more than in what is said. Harassing speech is harassing speech; if it occurs online, that is as bad or worse than if it occurs in the school newspaper or in person.

There's also an issue, when speech occurs on a private social media site (that is to say, one not occurring on a university-sponsored platform), whether this constitutes speech over which the institution should be exercising jurisdiction. The university's policies (not just the Faculty

Handbook but all policies) should articulate when the university will exercise jurisdiction over off-campus conduct of any kind, including social media. Institutions vary on this, but generally the institution will want to investigate and address conduct, including speech, that has a certain level of direct effect upon the campus community or operations.

Useful examples of Faculty Handbooks and Policies:

James Madison

University: <http://www.jmu.edu/facultysenate/facultyhandbook.#sthash.XYyJiGld.dpuf>

University of Michigan: <http://provost.umich.edu/faculty/handbook/index.html>