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Task Force Formed to Protect Faculty, Academic Freedom

August 3, 2023 By Faculty Affairs

Task Force Charge as of August 3, 2023

This is the official charge for the task force on academic freedom and faculty protection. Please reach out directly to any of the members below with comments, concerns, or suggestions. You can also email facultyaffairs@tamu.edu (<mailto:facultyaffairs@tamu.edu>). Updates will be added at the bottom of this page as the task force meets.

Institutions of higher learning exist for the common good, and protecting the academic freedom of our faculty is essential

(<https://president.tamu.edu/messages/our-commitment-to-academic-freedom.html>) to maintaining that responsibility. At the request of Interim President Welsh, a task force has been charged with developing recommendations to create university procedures that protect faculty and their academic freedom in pursuing knowledge, educating students and reinforcing our Aggie core values.

The task force includes the following faculty and campus community members from across Texas A&M University:

- Dale Rice (APT Faculty) and Andrew Klein (Tenured Faculty), Faculty Senate

- Catherine Eckel, Senior Faculty Advisory Group
- Thomas McDonald, elected faculty serving on the Committee for Academic Freedom, Responsibility and Tenure
- Malinda Seymore, elected serving on the University Grievance Committee
- Claire Katz, Department Head Council Steering Committee
- Mark Zoran, Council of Deans
- Heather Lench, Faculty Affairs
- Michael Johnson, Office of the Provost
- Kevin McGinnis, Office of Risk, Ethics and Compliance
- Ellie Richter, Executive Vice President of the Student Body

While the task force initiates their review, effective immediately (Aug. 2, 2023), any office that receives a faculty-related complaint and any recommendations for associated actions, including investigations, recommendations for leave or sanctions, must send a notification to Faculty Affairs. This is to ensure that Faculty Affairs can advise academic administrators about university processes and their responsibilities and ensure faculty members are aware of the formal processes and their rights to appeal. University processes have already been changed so that offer letters to potential faculty are not official until signed by the vice president for faculty affairs.

The task force is specifically charged with reviewing existing Texas A&M University System and Texas A&M University policy and procedures on faculty protections in cases related to academic freedom, investigations of alleged faculty misconduct, administrative sanctions of faculty members, directed administrative leave or suspension of a faculty member and faculty hiring, and making recommendations on necessary additions or revisions.

At minimum, the task force will: 1) add a section to Rule 12.01.99.M01, consistent with Texas A&M System Policy 12.01, that specifies the procedures for leave with pay during an investigation, including the conditions that warrant a leave and procedures for appeal; 2) recommend processes for how complaints against faculty members are directed within the university; 3) review current hiring processes to ensure that candidate offers are grounded

in the best interests of faculty success and the institution; 3) identify procedures for directing faculty to support for questions and issues they encounter; 4) develop a faculty code of conduct that defines unprofessional behavior and distinguishes this from behavior that is professional within an academic environment; 5) recommend university guidelines and training for department heads/supervisors regarding how to respond to complaints about faculty behavior; and 6) identify best practices to include within departments and/or colleges/schools for faculty support.

August 8, 2023: Task Force Update

- Task force members reviewed the charge and the current context
- Identified areas of faculty life where academic freedom and processes/procedures are relevant, including hiring, reappointment, P&T decisions, faculty conduct complaints. Also identified were areas of faculty life where academic freedom is relevant, including teaching, research, service within their academic roles, public/media statements and talks related to expertise, personal statements on social media or in other areas
- Within these areas, identified issues of immediate concern due to salience and impact as we enter fall semester and prioritized these issues. These are a) develop wording to include in the university rule on academic freedom, tenure, and responsibility, that specifies procedures around administrative leave; b) develop a definition of academic freedom that can guide procedures, discussion, training, and decision making, c) develop near-term recommendations for how to address complaints against faculty for topics in the classroom, in public speeches, and in research, that offer some assurance as we move into fall about process and university support, d) work with the faculty senate to develop a statement related to academic freedom within the context of the classroom to include in syllabi, that defines what it is and what it is not, and what students should expect of their instructors in terms of professionalism and respect

August 18, 2023: Task Force Update

- A draft syllabus statement regarding academic freedom and the role of the university was created for instructors to have the option to include in their syllabus. We recognize the importance of gathering feedback from faculty and continuing to refine this statement, but felt it was important to have available for fall 2023: Available [here](#). The draft is currently under review by the faculty

senate. Interim President Welsh, Provost Alan Sams, and VP for Faculty Affairs Anand have supported the statement and the stance on academic freedom and the role of the university.

- We have begun a draft of a statement regarding academic freedom and its value, including information from AAUP documents as well as PEN America. That draft is undergoing revision, and will be shared broadly for feedback when available.
- We reviewed current procedures for placing faculty members on academic leave with pay pending an investigation. We discussed criteria that should be used for making this decision, including severity of risk to students, faculty, and staff. We have included an appeal process for administrative leave through the university grievance committee (this is an elected body of faculty charged with hearing grievances related to conduct across campus). Formerly appeals to leaves were heard by the Senior Associate Vice President for Faculty Affairs. We are finalizing the wording to be included in University Rule 12.01.99.M1. This draft will be posted on the intranet for comments and faculty feedback for two weeks prior to routing the language for further review through the rule process. The availability of the document for review will be announced here, as well as in the faculty spotlight sent to all faculty members monthly.
- We reviewed how complaints about faculty conduct are received by the university, which includes approximately ten mechanisms where complaints are reported in different university offices. We recommended that complaints about faculty be sent to one office in Faculty Affairs, regardless of how the complaint is received. Faculty Affairs would then close the complaint or refer it to the appropriate investigative office. This will permit complaints to be responded to in a clear and consistent manner, and for complaints to be tracked over time. We recommend that Faculty Affairs notify the faculty member regarding the complaint, and provide them with information regarding their rights and the process as part of the notification, as well as information about who to contact if they have questions or concerns. We recommend that the process associated with receiving and responding to complaints be written, clear, transparent, and available. Interim President Welsh has supported this recommendation, and it is moving to implementation.
- We recommend the creation of written guidance regarding support for faculty who encounter harassing or threatening situations because of their role within the university. This should include guidance for the faculty member

regarding how to respond and the support available, as well as guidance for administrators (heads, deans, faculty affairs, provost, marketing & communications) regarding how to respond and support the faculty member. The guide should include resources for multiple types of situations encountered by faculty members. We are working to develop this as soon as possible.

August 25, 2023: Task Force Update

- We reviewed the draft language for administrative leave with pay to be included in University Rule 12.01.99.M1. Additional issues discussed included the process for appeals and final decision making, and clarity about the types of issues that would warrant an administrative leave. The draft will be posted for comment within one week.
- We discussed revision of TAMU System regulation 12.01 to remove subjective language that would require a university official to make a determination about faculty speech (e.g., “controversial matter”, “no relation to the classroom subject”, “appropriate restraint”), a recommendation to broaden descriptors to clarify that academic freedom is not limited to people with faculty titles, to specify the priority of governing boards to preserve institutional independence (Texas Ed Code 51.352), and to offer similar protections to T/TT faculty and APT faculty (distinct from temporary/part-time). The recommendations to be drafted within one week.
- We discussed the process for handling complaints against faculty members within the university. The task force has previously recommended that all complaints against faculty be sent to one office in faculty affairs, for reasons outlined above (August 18). In this discussion, we reviewed whether this process would create complications for offices charged with investigations for specific types of allegations. The task force continues the recommendation that all complaints against faculty be sent to one office in faculty affairs, with an acknowledgement that the process will need to consider federal and local regulations around some types of complaints.

September 1, 2023: Task Force Update

- Wording for administrative leave with pay to be included in University Rule 12.01.99.M1 has been finalized. The document will be posted on the intranet shortly and will be available for faculty comment and feedback (just this section available [here](#)). A notice will be sent about availability through this page, faculty spotlight, and department heads.

- The recommendation related to TAMU system regulation 12.01 noted in the August 25 update has been finalized. It will be shared with leadership.
- Written guidance for faculty members who are targets of threats or harassment has been drafted, and has been shared with offices that can offer support and resources during these situations for their feedback and recommendations (IT, Communications, HROE, CREI; draft available [here](#)).

September 8, 2023: Task Force Update

- We discussed whether and when faculty members should be notified when complaints are received about them. For low level complaints that, if true, do not violate any rules, regulations, or laws, and do not indicate performance issues, some members felt the faculty member does not need to be notified; others expressed the faculty member should be notified but with an express note that there is no issue and offer of support as useful. For high level complaints that, if true, do violate rules, regulations, or laws or indicate serious performance issues, some members felt the faculty member should not be notified until after the investigatory office completes an inquiry into statements from witnesses and/or evidence; others expressed the faculty member should be notified immediately with information about process, resources, and notices against retaliation or contact. This issue was moved to a vote to put forward with recommendations.
- We discussed expectations for faculty affairs when complaints against faculty are received. Other units and institutions use a multi-level approach to determine the type of response warranted based on severity of the issue alleged in the complaint. We agreed to develop a draft of this level approach using examples from others, and will discuss at the next meeting.
- A statement on academic freedom for faculty and for students has been drafted. We began a preliminary review of this statement, and will discuss further in the next meeting.

September 15, 2023: Task Force Update

- The draft of a statement on the value of academic freedom for institutions of higher education, and specifically for Texas A&M university and our missions, was discussed. Several items were noted as important to develop and include in the statement, including an explicit statement about academic freedom for librarians. Members of the committee agreed to develop these sections before the next meeting.

- A multi level approach to determine the response that is appropriate for different types of complaints against faculty was developed and reviewed at the meeting. The draft recommendation ranges from a level 1 complaint to Level 5 complaint. Level 1 complaints are those that do not involve violation of rules, regulations, or laws, and do not indicate issues with performance or workplace disruption, such as disliking someone's color choice on slides, or protected activity such as speaking in area of expertise. Draft process would include a notice to the faculty member that notes complaints are common, there does not appear to be an issue, and resources if they have concerns. Level 5 complaints are those that involve serious misconduct, such as fraud or falsification of research. Draft process would include a notice to the faculty member that the issue is being referred for investigation and what to expect in the process, resources available, and notification that there should be no contact with the complainant and that retaliation is prohibited.
- Written guidance for faculty members who are targets of threat or harassment has been finalized with the different campus offices involved (e.g., HROE, CREI, IT, communications), and is being formatted to make available for use.

September 22, 2023: Task Force Update

- The updated statement on the value of academic freedom was reviewed by the committee, and several additional changes were noted. A committee member agreed to develop the next iteration of the statement and make available to the group for comment, which we anticipate will be the final review.
- Agenda items for the next meeting include a final review of the complaint process, and review of the university saps, rules, and procedures associated with responding to complaints from faculty and complaints about faculty to develop recommendations for changes to ensure academic freedom is a protected appropriately.

September 27, 2023: Task Force Update

- The committee completed a final review of the statement on the value of academic freedom and its role in the university as a final draft, [available here](#). This document will be sent to marketing and communications for review for inclusion on university websites. Syllabi, policies, and rules can link to this statement.

- The committee completed a final review of the complaint process for faculty affairs to manage complaints against faculty. That draft process is available here: [Complaints Process Guide](#).

October 2, 2023: Task Force Update

- The guidelines for faculty members who are targets of threat or harassment has been finalized and is available [here](#).

October 6, 2023: Task Force Update

- We began review of University Rule 12.01.99.01, University Statement on Academic Freedom, Responsibility, Tenure, and Promotion. Preliminary recommended changes include: 1) clarifying the opening statement – although the rule is focused on faculty (as it is a faculty rule in the 12 category), we suggest the opening statement clarify that academic freedom extends to librarians and to staff and students who are engaged in scholarship and instruction within their role in the institution, 2) examine inclusion of faculty rights under academic freedom in the rule; the rule currently lists multiple examples of academic responsibility of faculty members, but there is no specific information provided about academic freedom, 3) include academic responsibility item for research integrity and ethics (not currently included), 4) where relevant, broaden definitions of scholarship to include creative expression and performances.

October 13, 2023: Task Force Update

- We continued the discussion of University Rule 12.01.99.01, focusing on section 6. This included discussions and recommendations regarding the following: 1) 6.3.5 which includes “moral turpitude”. This is defined as gross misconduct, which appears to be covered under other specific items in this section, and it is not clear that an additional, more vague item that lists moral turpitude as a reason for loss of tenure is useful and could be interpreted more broadly than intended. 2) 6.3.6 lists as a cause for loss of tenure violation of system policies, system regulations, system academic institution rules, or laws substantially related to performance of faculty duties. The concerns discussed included that there are multiple rules and regulations that do not appear to warrant dismissal/loss of tenure, such as a delay in completing system mandated training. This is definitely a requirement of employment in the state and should be completed in a timely manner, but

does not appear to rise to the level of dismissing a faculty member for cause. Some laws can also be challenging to interpret, particularly new state statutes that do not have case law behind their interpretation currently, such as SB17 and SB12. We discussed adding “knowingly violated” to clarify. 3) section 6 does not include information about research misconduct, which seems like a situation that could warrant loss of tenure and/or dismissal.

- Previous documents have included statements clarifying that librarians and staff/students who are engaged in scholarship or instructions do have academic freedom within the institution. However, it is not clear that there is a process or employment practice that helps to support and protect academic freedom in these cases. We discussed the challenges involved in this issue, and are following up with HROE to determine what options might be possible and what factors should be considered given hiring practice requirements or constraints for employees.

October 20, 2023: Task Force Update

- We continued the discussion of University Rule 12.01.99.01. We reviewed section 9, associated with CAFRT. This section was evaluated as offering strong protection for faculty, including an elected faculty committee that evaluates situations where faculty are dismissed for cause, tenure-track non tenured faculty whose appointments are not renewed or whose tenure is unsuccessful.
- We reviewed section 5 of the rule, related to rights of non tenured faculty. We reviewed a recommendation to include a minimum timeframe for notice of nonrenewal of academic professional track faculty appointments after 1 year of service and before 5 years (at which point the rule already requires a one year notice). A minimum timeframe of 30 days notice was discussed, and we noted that need to balance timely notification to the faculty member with the scheduling and enrollment timeline of units. We discussed at length the challenge posed for apt faculty in the current rule limiting the ability to appeal a decision of non-renewal to the dean only. We discussed options to permit an appeal to CAFRT in these cases, particularly in situations where the faculty member believes the nonrenewal represents a violation of academic freedom, or to compose a committee that is specifically charged with issues of academic freedom. We identified universities that have different structures for this type of review, and will research their practices, as well as AAUP committee A recommendations before the next meeting.

October 27, 2023: Task Force Update

- In reviewing Rule 12.01.99.M1, task force identified as an issue that there is no clear procedure to appeal the non renewal of APT faculty appointments for issues related to academic freedom. Task force developed recommendation that there is an appeal path for these issues. Also for denial of promotion (previously drafted in rule revision).
- Task force discussed the potential benefits of adding a committee charged with issues of academic freedom on campus. Group will review AAUP policies, as well as other examples in the state for such committees.

November 3, 2023: Task Force Update

- Reviewed proposal for the development of a standing committee focused on academic freedom issues specifically. Discussion with HROE was that academic freedom processes for librarians and research scientists (whose primary duties involve scholarship and education), as well as staff teaching in excess (off duty responsibilities in education) would be supported by such a committee, whose evaluation would inform employment decisions. Proposal includes elected representatives, training in issues, representation from librarians, research scientists, and APT faculty.
- The task force developed a recommendation that Academic Professional Track Faculty have representation for UGC and CAFRT (if decisions related to APTF are made as part of CAFRT).

November 10, 2023: Task Force Update

- Reviewed the revised draft describing the scope and charge of an Academic Freedom Council. We reviewed the relationship between the proposed process around grievances related to academic freedom and the existing CAFRT and UGC committees. The task force evaluated that there was value in having an AF Council that is specifically trained and charged with evaluating academic freedom issues. In most cases, this evaluation would be provided as part of established practices for either faculty or staff. The task force also evaluates value in an AF Council that can advise university administration on local and national issues related to academic freedom and responsibility.
- HROE and OREC were contacted regarding this proposal and agreed that the evaluation from the AF Council would be valuable and fits into established process, including for issues related to upcoming implementation of SB17.

- Meeting ended with agreement to move forward the AF Council by consulting procedures for existing committees and clarifying interactions among the processes.
- Next meeting will focus on remaining items, including code of conduct (drafted by faculty committee previously), the review process related to conduct for department heads (drafted by faculty committee previously), and the university hiring process for faculty.

December 1, 2023: Task Force Update

- The task force discussed the code of conduct previously drafted by a faculty committee and updated by a faculty committee. There was a recommendation that the wording be streamlined to simplify the document as much as possible. The benefits of the document included better differentiation of unprofessional conduct from conduct that is reasonable in an academic setting (e.g., dissenting or disagreeing passionately does not constitute unprofessional behavior), as well as holding faculty accountable for disruptive behaviors. Concerns were raised that the document could be misappropriately applied to penalize faculty; to reduce the likelihood of this, there was a preference to keep the document as maintained by and for the faculty, rather than as a rule or sap. Committee members will edit the document and circulate for comments/feedback.
- The task force discussed the guideline for addressing faculty conduct issues. There was general support for the document, as it aligns with current standard operating procedure but provides more clarity for department heads and faculty around responses to disruptive behaviors or unprofessional conduct. Recommendations were made to clarify that the process does not relate to guilt/innocence, but only addressing behaviors, determination about whether the results can be released with permission, and a question about whether a faculty member can request a review of issues even if their supervisor does not believe a review is warranted. This document will be revised and circulated for comments/feedback.
- The task force reviewed SAP 12.99.99.M0.04 on Faculty Employment Practices. It was noted that this document mostly specifies compliance and regulatory issues, and does not include information about best practices or expectations regarding decision making in offering positions to faculty or in the hiring process. Wording to this effect will be developed and circulated for comments/feedback.

- This was set as the last meeting of the task force, as all tasks have been completed or are near completion. The remaining documents will be finalized, and pending documents will be reviewed by the provost for distribution, routing, or approval. A website will be developed that houses the final recommendations of the task force, and faculty will be directed to that website and provided with a mechanism for feedback on any and all of the recommendations. The task force could potentially be called together for the purpose of re-evaluating the documents in light of this feedback, and to host presentations/sessions with faculty around the recommendations.

Faculty General