

University of Washington

Report of the Adjudication Panel, 2009-2010

One of us (Andrews) was Chair of the Adjudication Panel from June 1, 2009-December 31, 2009 and the other (Vaughn) from January 1, 2010-June 30, 2010. Consequently this Report is being filed by us jointly.

Five petitions for adjudication were filed in 2009-2010. Each is addressed below.

(1) In this petition, a part-time faculty member complained that a decision was made not to reappoint him as a Lecturer for improper reasons. This petition was subsequently withdrawn before a decision was made whether it was timely and proper.

(2) The second petition was filed by a faculty member alleging that a UCIRO investigation into complaints about him had been instituted before informing him of the allegations and offering to discuss it with him, and that discipline had been instituted against him without beginning an adjudication. A hearing panel was appointed and the petitioner moved for partial summary judgment, while the respondents moved for summary judgment. The panel denied the respondents' motion for summary judgment and granted the petitioner's motion for partial summary judgment in part, concluding that the respondent had improperly initiated a UCIRO investigation before the required preliminary steps were taken. In view of its determination, the panel concluded that a comprehensive adjudication was premature and dismissed the petition insofar as it had not granted summary judgment. The petitioner filed an appeal of this determination on the last day of this reporting period (June 30).

(3) In the third petition, a faculty member alleged that respondents had violated the faculty code in responding to allegations against him of inappropriate behavior towards students and faculty colleagues. Concerns were raised about the timeliness of the petition, and in February, a special panel was appointed to consider the issue of timeliness. On 7 March 2010, the special panel unanimously dismissed the petition, concluding that it was untimely filed. The panel reasoned that the delay was excessive, and that the petitioner did not provide any reason that would constitute "gross injustice."

(4) This faculty petition alleged *Faculty Code* violations in the denial of tenure. Prior to the actual adjudication, there were several procedural motions. The respondent's motion for dismissal due to a lack of timeliness was denied, and a panel was appointed. The petitioner's motion, made by counsel, to dismiss a member of the hearing panel, however, was granted. The adjudication panel, composed of four faculty members and a hearing officer, was ongoing at the end of the reporting period.

(5) A fifth petition was filed by a faculty member who had been terminated, alleging that the University had improperly considered him for promotion and for merit salary increases during his time at the University. This petition was pending at the end of the reporting period (June 30).

In addition to the foregoing, there were developments in adjudications commenced in prior years. First, a petition that had alleged misconduct in the administrative treatment of the petitioner in

connection with a foreign study program for which the petitioner had responsibility, having been dismissed last year by a hearing panel on the ground that the petitioner was not a faculty member entitled to take advantage of the adjudication procedures, was appealed to the President, who denied the appeal. Second, a decision made by a hearing panel in 2008 and affirmed by the President, which the petitioner had taken to court, was reversed by the Washington Court of Appeals and remanded to the University. As of June 30, 2010, this matter was pending before the President. Third, two related petitions filed in the academic year (2007-08) were decided by a hearing panel and the President. One of these was a petition by the Provost alleging scientific misconduct. The other was a petition filed by the faculty member charged with scientific misconduct challenging the scientific misconduct investigation. The hearing panel concluded that the faculty member had proven violations of the faculty code in the scientific misconduct investigation and that the Provost had failed to prove the faculty member had engaged in scientific misconduct or incompetence and neglect of duty. The President reversed the panel's determination as arbitrary and capricious and further concluded that the procedures followed by the hearing panel in reaching its decision were not in accordance with the law or University rules and regulations. He remanded the matter to the hearing panel for further proceedings. The hearing panel denied the President's request and reaffirmed its earlier decision. In view of this, the President concluded (again) that the hearing panel's decision was arbitrary, capricious, and not in accordance with the law or University rules and regulations. He ordered the dismissal of the petitioning faculty member. The petitioner asked the President to reconsider but the request was denied. The petitioner then filed a complaint in superior court seeking to overturn the President's decision and seeking a preliminary injunction to enjoin the University from terminating his employment. The court denied the request for a preliminary injunction and set the case for trial after the end of this reporting year. Thus, the petitioner was dismissed and awaited his day in court at the end of the reporting period.

Submitted by Adjudication Panel Chairs

Thomas R. Andrews, Professor, Law (July 1, 2009-December 31, 2009)

Lea Vaughn, Professor, Law (January 1, 2010-June 30, 2010)