

Draft of Recommendations to Senate:

The Committee on Academic Freedom was recently asked to review an Academic Freedom case presented to us by faculty member according to the guidelines outlined in the UTSA Handbook of Operating Procedures Section 2.34, III (C).

These guidelines state that:

*Disputes involving administrative actions or decisions which limit the academic freedom of an individual faculty member shall be subject to interpretation under Regents' Rule 31004 "Rights and Responsibilities of Faculty Members," and consistent with the American Association of University Professors' 1940 Statement on Academic Freedom. All disputes involving academic freedom are governed solely by the process outlined in this section (C).*

*Such disputes shall be reviewed by the Committee on Academic Freedom and Tenure (CAFT) to determine whether the complaint involves a limitation of academic freedom, as it is specified above.*

*If the CAFT affirms a finding of academic freedom infringement, it shall forward a recommendation for resolution to the Dean within twenty (20) work days of receiving a complaint. If the Dean is the Respondent in an academic freedom complaint, the recommendation shall be forwarded to the Vice Provost.*

*The Dean or Vice Provost shall review the recommendation of the CAFT and make a final decision concerning resolution of the complaint. Such resolution shall be communicated in writing to both the Grievant and Respondent within fifteen (15) work days and shall conclude the complaint.*

*If the CAFT does not affirm a finding of academic freedom infringement, it shall notify the Grievant in writing why the complaint does not meet the applicable standard. This shall conclude the complaint review process.*

The committee, chaired by Mary McNaughton-Cassill, received the initial request October 4, 2010 and submitted a report to the faculty member's Dean on November 1. On the basis of the Guidelines detailed in the HOP section 2.34 III C the committee concluded that a series of decisions made by the Institutional Review Board (IRB) at UTSA had infringed on the Academic Freedom of the faculty member. However, the committee also acknowledged that the IRB process is governed by legal and ethical guidelines designed to protect research subjects, and that such concerns can impact research design and implementation. As a result, the Committee did not find that they have the necessary information or expertise to determine whether the infringement was justified. The committee offered to review the case in greater detail if resources were made available to consult IRB experts and if the faculty member's tenure clock were stopped during the proceedings.

However, in a formal response to the committee's report, Dr. Frederick asserted that the IRB does have the legal right to operate independently and is "not subject to review, appeal, or other alternative action by the university or its administrators" under federal guidelines. He did however, state that although the decisions made by the IRB are not subject to review, he would encourage the CAFT to address concerns they had about "the processes" followed by the IRB regarding how best to "serve the needs of our faculty researchers to pursue free inquiry, while observing our moral, ethical, and legal obligations." Consequently, the CAFT committee would like to recommend that the Senate form an independent committee to review and address faculty concerns about the IRB process, and how best to insure that the process allows faculty members to conduct cutting edge, Tier 1 level research while staying within Federal ethical and legal guidelines, and making reasonable progress towards promotion and tenure. The CAFT committee would like to suggest that the IRB review process be conducted with the goal of helping faculty find ways to meet IRB guidelines rather than being punitive, and believes this request is consistent with the IRB's stated goal of providing guidance to professors in their research endeavors (<http://vpr.utsa.edu/oric/irb/>).

Finally, the CAFT found it extremely difficult to review this case, meet as a committee, and draft a report in 20 days as required by the guidelines set forth in the HOP section 2.34, III C. Therefore, we would like to recommend that the time frame be increased to a minimum of 30 days in order to ensure that every case receives the attention it deserves.