



October 3, 2022

Delivered via email to sabrina.conza@thefire.org

Sabrina Conza
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Foundation for Individual Rights and Expression
510 Walnut Street, Suite 1250
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RE: September 21, 2022, Letter Regarding University of Arizona Committee on Academic Freedom and Tenure

Dear Ms. Conza:

Thank you for your letter of September 21, 2022, to the University of Arizona expressing your concerns regarding the Faculty Senate's process and procedures for preparing the slate of candidates for service on the Committee on Academic Freedom and Tenure (CAFT). The President of the University of Arizona, Dr. Robert C. Robbins, has asked me to respond to your letter on behalf of the University. As you know, we appreciate the opportunity to engage with the Foundation for Individual Rights and Expression (FIRE) on matters that relate to expressive activities at the University and have done so in a positive fashion in the past. We look forward to continuing the positive relationship that has developed between UA and FIRE. Towards that end, we want to clarify the misperceptions and erroneous assumptions that are in your letter.

First, to be quite clear, the University has not, does not, and will not exclude any eligible faculty member from participating in any aspect of shared governance, including in the selection of candidates for service on CAFT. The conclusory assumption that we have done so, as reflected throughout your letter, is simply incorrect and inaccurate. The University has repeatedly demonstrated its respect for and commitment to freedom of expression and academic freedom for our entire community, including our faculty.

The ability of faculty to participate and engage in faculty governance activities, such as the Faculty Senate or CAFT, has never been dictated by the University administration and has never been premised upon any kind of expressive activity. For you or others to suggest otherwise in your letter with unfounded presumptive assertions like "its administrators seize control of the committee selection process to exclude faculty they dislike" and "given that administrators excluded the professors from the ballot by continuously subverting the nominating committee" suggests that FIRE has already drawn unwarranted and erroneous conclusions with respect to

these allegations. While we hope this is not the case, it is quite troubling to us, as you can imagine, particularly in light of our positive and respectful relationship.

Faculty governance at the UA includes the Faculty Bylaws that are created, adopted, and enforced by the faculty themselves. *See* <https://arizona.app.box.com/s/5o4s3pu146efd0h6gffskjs9kdmuapbn>. The Faculty Bylaws include how membership on various faculty governance committees is determined and established by the faculty. Contrary to what certain individuals may have claimed in their allegations to you, this is in no way dictated or determined by the University's administrative leadership. The faculty, not University administration, are responsible for implementing, adhering to, and administering their Bylaws and the processes and procedures that are integral to them.

As you can see in the Faculty Bylaws, the Nominating Committee is comprised of faculty and elected by them. *See* UA Faculty Bylaws, Article V, Section 3. Per these Bylaws, the Nominating Committee prepares an initial list of names to serve as possible candidates to stand for election to CAFT. *See* UA Faculty Bylaws, Article V, Section 9(a). The Nominating Committee then consults with the Chair of the Faculty Senate and the President of the University on these possible candidates. Ultimately, it is the Nominating Committee, not the President of the University, not any member of the administration of the University, and certainly not a Program Coordinator who provides support to the Faculty Senate, that makes the final decision on which individuals appear on the election slate. The Nominating Committee is completely within its authority and discretion to fully accept, partially accept, or reject altogether any recommendations or suggestions arising from the consultation with the Chair and President in determining the slate of candidates for CAFT. The decision and authority regarding the final slate of candidates for election to CAFT, as well as the process for arriving at that slate, rests entirely and solely with the Nominating Committee and not the University's administrative leadership.

Following the 2021-2022 faculty elections, questions and concerns regarding the process used by the Nominating Committee were brought to the attention of the Committee's Chair as well as the Chair of the Faculty Senate. The Chair of the Nominating Committee conducted a review of the Committee's practices. The review determined that, for a number of years, the Nominating Committee's process of seeking consultation from the Chair of the Faculty and the President did not align with the Faculty Bylaws. The Nominating Committee acknowledged this error and determined that its practice and processes going forward will fully align with the language of the Bylaws.

The Nominating Committee's review also acknowledged that a non-elected, non-faculty staff member offered additional information about the eligibility of potential candidates. Importantly, the review concluded that, "[a]ll members and decisions about eligibility were *only* based on the specific criteria stated in the Faculty Bylaws." Thus, the allegation that Professors Abraham, Maggert, and Lin were "blacklisted" by the administration was already carefully assessed by the

Faculty Senate and found to be untrue. The Nominating Committee properly determined eligibility for CAFT membership by consulting the Faculty Bylaws and will continue to do so for future elections. The suggestion that a single staff member, whose role is to provide administrative support to the Committee, overrode the decision of six respected faculty members and influenced the slate of candidates is unsubstantiated and simply lacks credibility.

It is notable and commendable that Faculty Senate leadership recognized and acknowledged the issues and concerns with its inherited practices. Faculty Senate exercised leadership and took ownership of the issues and immediately implemented steps to address the concerns. In other words, the faculty engaged in and exercised their shared governance activities independent of any influence or direction by the University administration to address concerns that had arisen from their practices. The assertions, suggestions, and implications in your September 21, 2022, letter that this was not the case are simply unfounded and incorrect.

To conclude, the University has not, did not, and will not exclude any eligible faculty member, including Professors Abraham, Lin, and Maggert, from participating in shared governance activities, such as serving on faculty committees, because of their expressive activities. Faculty participation in shared governance activities, functions, and responsibilities at the University is not contingent or conditioned upon any form of expressive activity.

The University's commitment to the expressive rights of its entire community, including our faculty, is a fundamental part of our core values and we will continue to protect those rights. We appreciate FIRE's interest and assistance in bringing these types of concerns to us and we hope that FIRE will return to a fair and balanced perspective and approach in connection with these important issues.

Sincerely,



Art M. Lee
Vice President and Deputy General Counsel

- c: Dr. Robert C. Robbins, President, University of Arizona
Dr. Leila Hudson, Chair, University of Arizona Faculty Senate
Dr. Amelia M. Kraehe, Chair, Nominating Committee, University of Arizona Faculty Senate
Dr. Andrea Romero, Associate Vice Provost for Faculty Affairs, University of Arizona