

Talk to APA Justice – Oct. 5, 2021 – Louis J. Gross, UTK Faculty Senate President

First, this is to thank the leaders of APA Justice for their efforts and for this invitation to address you. I wish to make clear that any remarks I make are as an individual faculty member - I have no authority to speak for the University – that is assigned to the administration by the Board of Trustees.

Second, this is to express my personal chagrin that any UTK faculty colleague would have to go through the horrendous challenges that Dr. Hu and his family faced over the past years. It is difficult for me to comprehend the magnitude of impact to him and his family caused by the actions of an agency of our federal government, and this has been a common sentiment expressed to me by the many UTK colleagues who have been in contact with me.

Third, a long set of questions were posed to me by the leadership of APA Justice in the invitation letter for this meeting and I will start by providing some framing of my response as I am not at all certain that all listening are aware of the processes of shared governance that operate at UTK and, in a similar manner at most all other higher education institutions in the US. Shared governance in higher education refers to structures and processes through which faculty, professional staff, administration, governing boards and, sometimes, students and staff participate in the development of policies and in decision-making that affect the institution. To be clear, the faculty (and their representative body, the Faculty Senate), have no formal authority over any aspect of UTK except for approving courses and curricula and suggesting new degree programs, with final authority for formal degree programs held by the UT Board of Trustees and the Tennessee Higher Education Commission. The Faculty Senate develops and recommends policies regarding the educational objectives of the campus and provides input from a faculty perspective to the campus administration on many issues including: criteria for faculty appointment, dismissal, promotions, tenure, and retirement; criteria for the selection of the chief academic officer and other campus administrative officers; priorities for the University budget; priorities for the University development plan; policies regarding student life, rights, and responsibilities; and changes in physical facilities. In all of this, the Senate has no formal authority but acts to provide faculty input to the administration, who are charged by the Board of Trustees with all aspects of campus management.

There are two components to the Faculty Senate responses arising from the circumstances associated with Dr. Hu's suspension and subsequent loss of faculty position. One of these has been to consider whether the protections afforded to faculty as stated in the UTK Faculty Handbook were upheld, and the other has been to consider whether there are suggestions to potentially change University policies that come to light from the situation. On the first of these, the Faculty Handbook states that the chief academic officer should consult with the Faculty Senate leadership when suspension or termination of a tenured faculty is being considered. As has been documented through conversations with the President of the Faculty Senate at the time, the President was informed, not consulted. Upon discussion with the current Provost, in any situation that arises that the Handbook notes requires consultation, there is agreement that this will involve a process through which the Senate leadership can

provide meaningful input before a decision is made, though the decision clearly rests with the Provost and the University administration. A separate process is being undertaken by the Senate Faculty Affairs Committee to suggest clarifications to the Handbook on the nature of consultation and who among the Senate leadership are involved in such a consultation. Any suggested changes to the Faculty Handbook involves collaborative discussion between the Senate, the administration and University legal counsel, with any changes to the Handbook requiring approval from the Board of Trustees. Regarding other detailed aspects of the status of the University's handling of the case of Dr. Hu, these are personnel matters that the Senate has no authority to directly impact.

There were several questions posed about the release of personal information and I wish to first point out that the policy of the University is very clear regarding any information transmitted using University information technology resources: there shall be no expectation of privacy for any information transmitted or stored using University IT resources. The issue raised, not only by the case of Dr. Hu but by the many requests being submitted to the University for information that has been transmitted or stored through University IT resources, is two-fold: (i) under what circumstances is information released and to whom, and (ii) under what circumstances is a University employee notified that certain information (personnel information or other information stored or transmitted through University resources) is being released. For part (i) of this, there are a wide array of different means through which information can be requested, each of which has legal ramifications that I certainly have no expertise to address. Though I would personally expect that certain information, including those that involve the intellectual property rights of employees, would be protected as much as possible by the University, I cannot comment on any details of how these situations are handled except that it is my understanding that requests are handled on a case-by-case basis under the guidance of University legal staff. For part (ii) of this, discussion with the Provost at the Faculty Senate meeting has indicated that there is a need for further collaborative efforts to clarify how and when notification is allowable by law, and how it may be done. This is again part of the discussion ongoing by the Senate Faculty Affairs Committee in collaboration with the Provost and University legal counsel.

As noted above, this case has led the Faculty Senate to consider issues of data release, notification and consultation, and has suggested a need for greater clarity on these matters in ways that could lead to modifications of the Faculty Handbook. I fully expect that the full Senate will proceed, in collaboration with the appropriate University leadership, to suggest modifications. Any such modifications requires approval by the Board of Trustees.

I fully realize that I have not addressed all of the questions posed to me. I have little direct knowledge of the University response to the case, except those have already been disclosed publicly. My website includes a variety of information, including my opinion, based on my own experience, concerning certain aspects of the case. The Faculty Senate has not formally taken any action (e.g. no resolution has been passed), except through Senate Committees to consider policy implications arising from the case. Thus any comments I have made or will make are those of myself personally, not in my formal role as a representative of the faculty.