

## **PANEL: PREPARING and PRESENTING GRIEVANCES IN ARBITRATION**

### **Hypo 1 - Rene Swagg Pompei**

Non-tenure line faculty at University of Prestige are represented by the Fight for Your Right Union. There are approximately 400 employees in the bargaining unit and their terms and conditions of employment are contained in the UP and FYRU collective-bargaining agreement (“CBA”). The CBA contains a provision on reappointments (below) as well as a grievance and arbitration provision. With exception of the due process policy, the University’s academic policy handbook does not apply to the bargaining-unit.

Rene Swagg Pompei is a professor of English and Comparative Literature in the Classical Studies Department in the College of Arts and Sciences. Pompei, an esteemed yet controversial scholar earned undergraduate, graduate, and doctorate degrees from Harvard, Oxford, and Columbia respectfully.

Pompi is also one who enjoys the spotlight. Pompei has regular appearances on national media outlets and hosts a nationally broadcasted podcast that focuses on racial and social justice issues in the United States and globally. Pompei is known to get into very public spats with lawmakers, scholars, and University administrators. Pompei’s behavior draws much unwanted attention to the University, and many of Pompei’s colleagues have expressed embarrassment by Pompei’s behavior. Last summer, Pompei was the subject of an internal investigation after two Lecturers filed complaints alleging abusive and offensive behavior during an encounter at a restaurant inside on University Square. A student captured the incident on cell phone video and also reported it to the University.

At the end of the investigation, the University concluded that while Pompei’s tone during the encounter could have been more respectful, that Pompei was merely engaged in Pompei’s freedom of expression during a heated debate with colleagues.

One-year later, Pompei, just completed a second six-year appointment and was up for reappointment consideration. A faculty committee composed of professors from the Classical Studies Department was tasked with evaluating Pompei’s scholarship and teaching activity for reappointment to a non-tenured Professor post. Professors are considered for reappointment by the committee every six years. The department’s faculty appointment procedures are considered confidential and not publicly disclosed. The committee issued a report recommending Pompei for reappointment based on “excellent and impressive scholarship and teaching activity.”

The University denied Pompei’s reappointment. In doing so, the University noted Pompei’s “outrageous and undisciplined conduct” that has exposed the University to much criticism and embarrassment. The Union filed a grievance alleging that the University violated the CBA by not following the FAC’s recommendation; failing to give good faith consideration to reappointing Pompei, and failing to give Pompei due process. The Parties are unable to resolve their dispute and the Union has demanded arbitration.

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### **CBA Provision on Reappointments**

1. All appointments will be made by the Dean upon the recommendation of the Department's Faculty Appointments Committee ("FAC"). The FAC shall review and evaluate the faculty member's scholarship and teaching activity for reappointment.
2. Appointments will depend on the current and emerging needs of the department or program.
3. The University shall in good faith consider reappointing faculty who already teach at the University.
4. Re-appointment may be denied, reduced, or subsequently cancelled in the following circumstances:
  - a. Elimination or downsizing of a department or program, or a reduction in the number of courses or sections
  - b. Cancellation of a courses due to under enrollment, based on a predetermined standard for minimum enrollment
  - c. Elimination or decrease in courses due to changes in General Curriculum requirements or major or minor or program offerings;
  - d. Poor performance by the faculty member, provided that the faculty member has been given a reasonable opportunity to demonstrate performance improvement and re-evaluated.
  - e. Discharge or serious misconduct including, but not limited to, violation of University policies such as the University's anti-harassment and anti-discrimination policies and its code of conduct,
  - f. Or for any other reason where the faculty member has comported her/himself in a manner that reflects unfavorably on the faculty member or the University, that results in the faculty member being no longer qualified to teach in the University's reasonable discretion.
5. Student complaints alone shall not be used as the exclusive basis to deny, reduce, or subsequently cancel an appointment or reappointment.
6. The University shall adhere to standards of Due Process provided in the academic employee policy handbook.