Part 1: TIPS for Avoiding Liability and Enhancing Effectiveness in Faculty Matters
The Role of the Department Chair

- Changes and challenges
  - Short term service
  - New structural role
  - The vortex theory

- Resources and partners
  - Departmental resources and partners
  - Campus resources and partners
  - External resources and partners
The Role of a Chair at UCI

- Legal status and protections
- Duty to take reasonable steps to ensure compliance with policy
  - Duty to know policy
  - Duty to respond to and correct deficiencies
  - Duties generally
- Roles
  - Creator and supervisor of tasks
  - Counselor
  - Communicator of expectations
  - Coach and motivator
  - Correctional officer
5 Basic Employment Law Concepts That Lead to Good Decisions

- The equality principle
  - Brest v. Fiss
  - Affirmative action distinguished
- The due process principle
- The accommodation principle: protections for disability, family rights and workplace injuries
- The principle principle
- The dignity principle
  - protection of reputation
  - protection of privacy
5 Administrative Tips that Lead to Good and Defensible Decisions

- Find the rules and follow them
- Understand privilege
  - Discoverability: Fenner’s Rule
    - Avoiding Email suicide
    - Under and over communication
    - Sharp, pointed and personal language
    - Alternatives
  - Privilege: The exception
- Limiting discussion to the need to know
- Be hard on the facts, not the people
- Show your process and rationale
Applying these ideas in key stages of the relationship

- Hiring Faculty
- **Managing Faculty**
  - Behavioral
  - Developmental and Professional
  - Managing Dissent and Criticism
- Performance, Evaluation and Promotion
- Managing Disabilities
- Redeployment
Faculty Behavioral Management

Core Issues:

- Acting up
- Dropping out
- Dropping off
- Disability management (January, 2016)
- Politics and politicking
- Compliance related complaints, see below
Acting up, dropping out, dropping off

- **Acting up**: Faculty become emotionally wrapped up in conflict, stirring tensions.
  - Examples for discussion
    - Doe v. University A; Roe v. University B
    - Free speech or actionable poor behavior?
  - Tips and strategies

- **Dropping out and dropping off**
  - Examples for discussion
    - Doe 1 v. University C; Roe 1 v. University D
  - Tips and strategies
Faculty Behavioral Management – Best Practices

- Spot, articulate and categorize these problems early
- Don’t ignore it; be sensitive to other faculty who are affected
  - How do you address rumors?
- Continue to articulate expectations
- Get help in perceived disability cases
- Examples and tips from your peers
Departmental Professional Tensions

Some recent issues:

- Managing schisms and polarity: Professional and personal
- The role of collegiality
  - Discussion: Unequal contributors
- Changing department standards or directions
- Emerging, new or unstated criteria
- Avoid confusion about process
Dealing with Departmental Tensions—Best Practices

- As Chair, chart your own course
- Be clear on department standards and applicable rules, and enforce the
- If standards/enforcement change, be clear on how they apply and to whom
- Manage collegiality like any other issue, but separate form from substance
- Articulate principles in writing and in detail, early and often, if needed
Managing Gossip and Complaints

- This applies to complaints by faculty, staff, and students
- The University’s commitment to open criticism and protection of the right to protest is substantial, but has limits
- Key: Embrace dissent, frown on whining, and turn conflict into energy for change and growth
- Key: Avoid the reality, or perception, of punishing the messenger, but
- Key: Do not become a dumping ground for unresolved griping. The UCSD Com’s Rule
Compliance complaints and Whistleblowing

- The problems

- Common Issues:
  - What triggers the need for WB analysis?
  - WB speech or just talk?
    - Examples
  - Who investigates?
  - How do I manage surly protest?
Complainers and Whistleblowers – Best Practices

- Take a broad view of what qualifies
- The Sunshine strategy
- Don’t take it personally
- Don’t ignore it
- Get help in assessing what it is
- Continue to run your department – whistleblowing is not a free pass on duty
The highest risk areas: Accusations affecting integrity and career

- What contexts?
  - Research integrity
  - Professional disputes and rivalries
  - Letters of evaluation or comment

- What are the best strategies?
  - Keep an eye on areas of possible tension
  - Beware of high principles; they may be right but sometimes are a cover for other motives
  - Avoid email sniping or venting
  - Get help
Overall Best Practices

- Good investigations
- Documentation
- Presentation
- Motivation

- Avoid email suicide
- Eliminate carping
- Use of counsel
- Use of outsiders