

# Tenure Evaluation Challenges

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# Today's Speakers

- Monica Barrett  
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# Agenda

- UE Tenure Claims Study
- Discrimination Claims
- Medical and Other Leaves of Absence
- Other Issues Impacting Tenure Reviews



# Tenure Claims Study

- Released July 2017
- 78 Tenure Denial Claims
- January 2011 - December 2015
- 18% of claims alleged Breach of Contract



**EduRisk**  
By United Educators

Risk Research Bulletin  
**Problems Arising From Tenure Denials:  
A Review of Recent Claims**

Tenure, permanent employment granted to a professor after a probationary period, is important to a thriving academic atmosphere, and remains the goal of most academics. As part-time faculty increase, and available tenure-track positions decline, achieving tenure has become even more crucial to those pursuing academic careers.

United Educators (UE) reviewed 78 tenure denial claims<sup>1</sup> received from 2011–2015. We analyzed each to determine common themes, costs, and lessons to help institutions avoid such claims or better navigate those they do face.

During this period, 18 percent of claimants alleged breach of contract for failure to follow the outlined tenure review process. These breach of contract claims (see "Snapshot of Tenure Claims") revolved around lack of clear tenure criteria or adding criteria at the time of the review, improper composition of the review committee, and failure to grant an appeal properly. Past common mistakes, such as seeking additional outside reviewers or not fully staffing the promotion and tenure committee, have been greatly reduced. This change indicates that institutions have absorbed past lessons about the importance of adhering to the prescribed process. Despite this progress, UE's review reveals that many long-time best practices regarding tenure remain relevant.

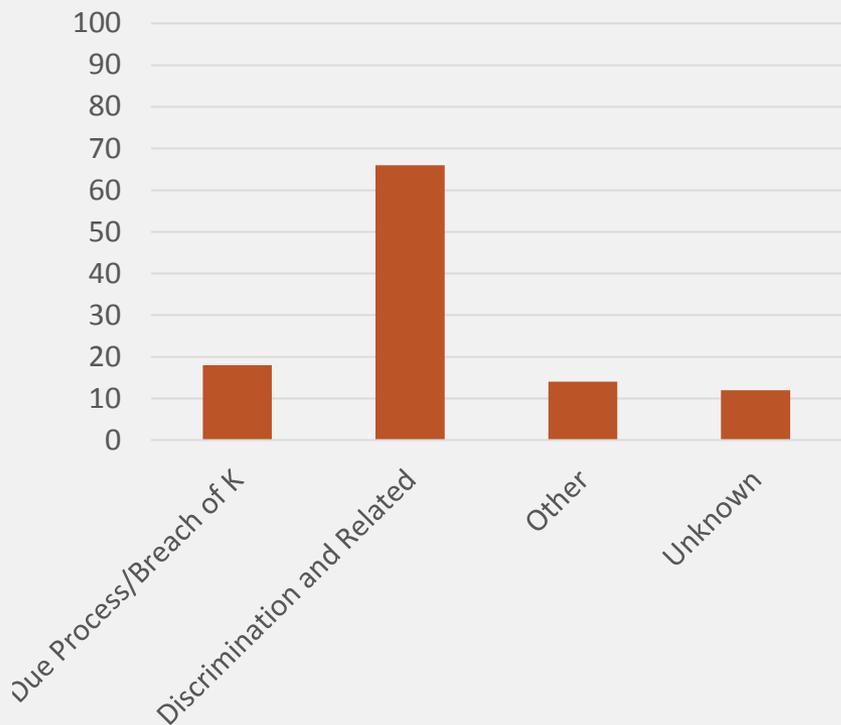
<sup>1</sup> Claims are defined as notice to the institution of the intent to hold it liable. Claims include attorney demand letters, Equal Employment Opportunity Commission (EEOC) or similar state agency charges, and lawsuits. Tenure denial claims are those involving allegations that stem from a faculty member completing the tenure review process but not being granted tenure. Claims may also include notice to UE of tenure denials that the institution believes may lead to a later legal claim.

1/18 Problems Arising From Tenure Denials: A Review of Recent Claims [EduRiskSolutions.org](http://EduRiskSolutions.org)

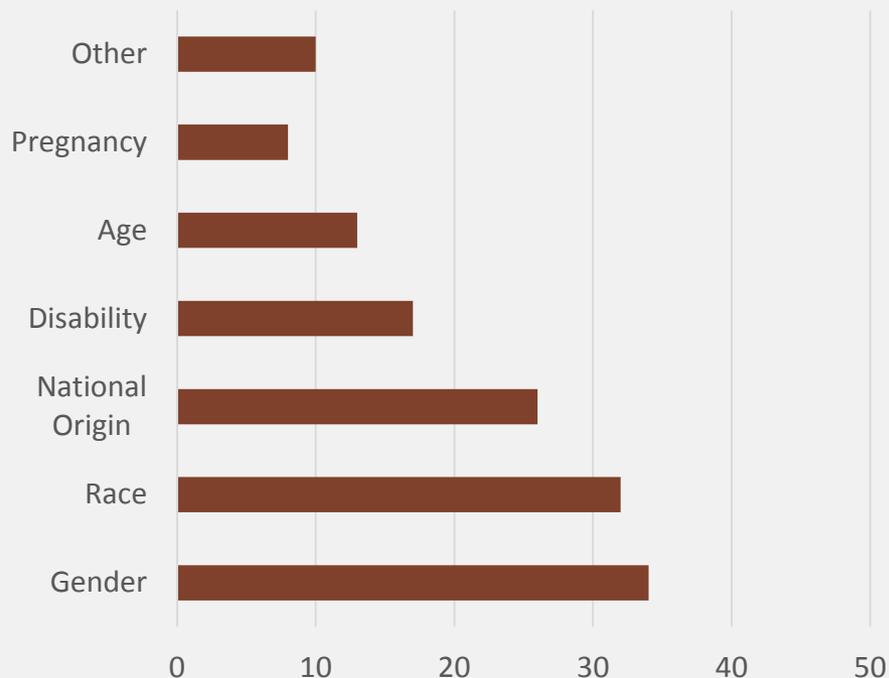


# Tenure Claims Study

Allegations



Discrimination-Related Claims

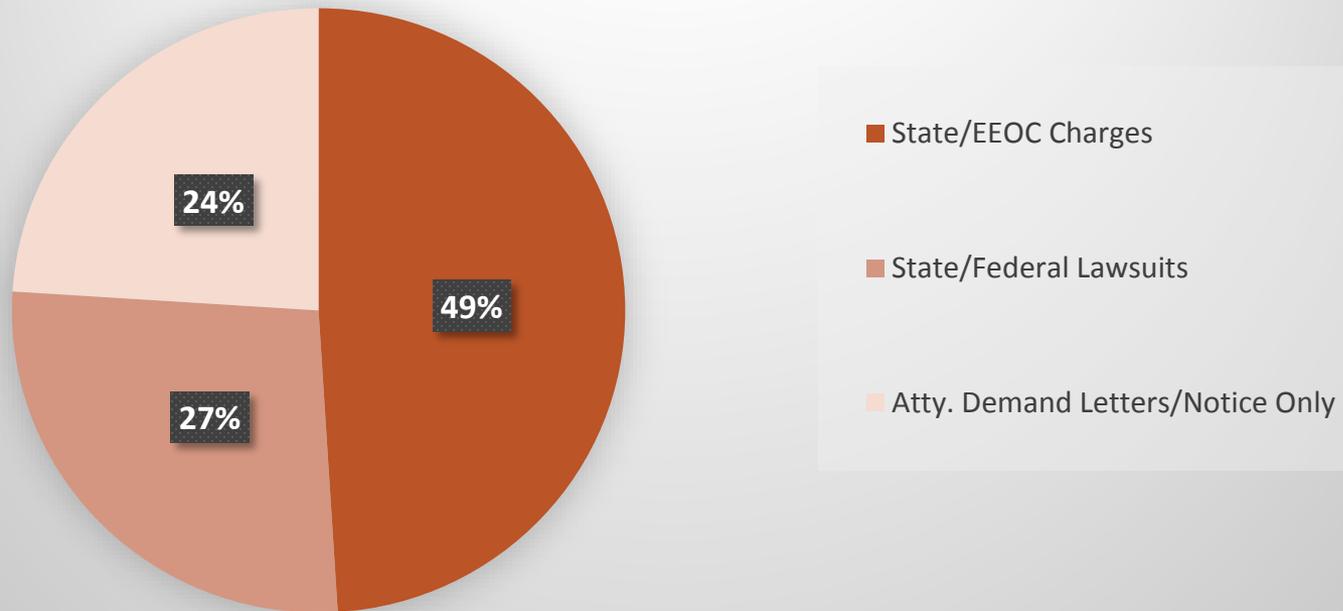


Retaliation claims: 31%



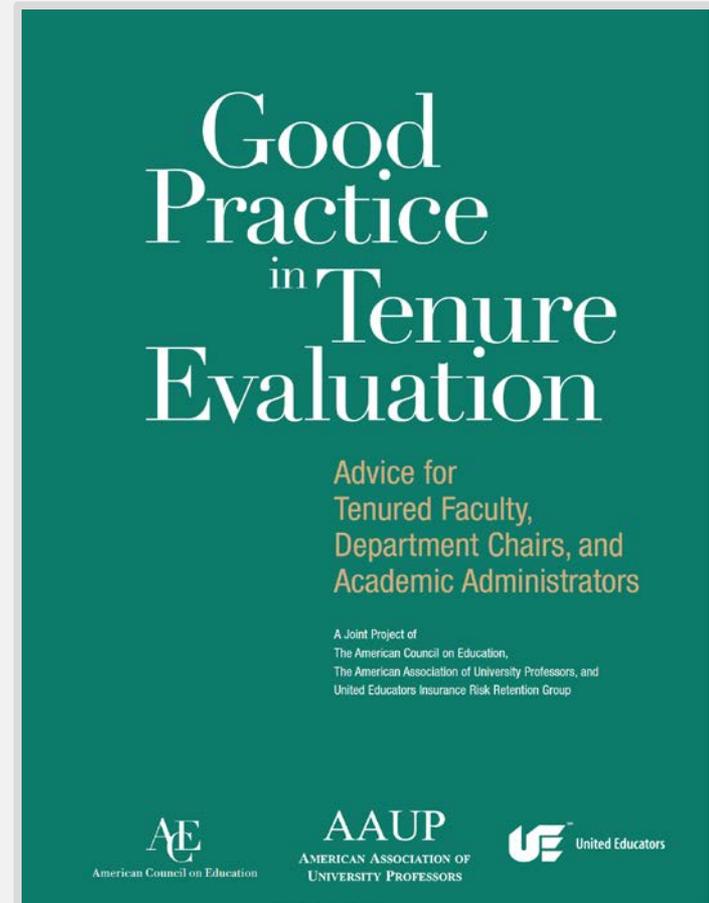
# Tenure Claims Study

Forms of Litigation



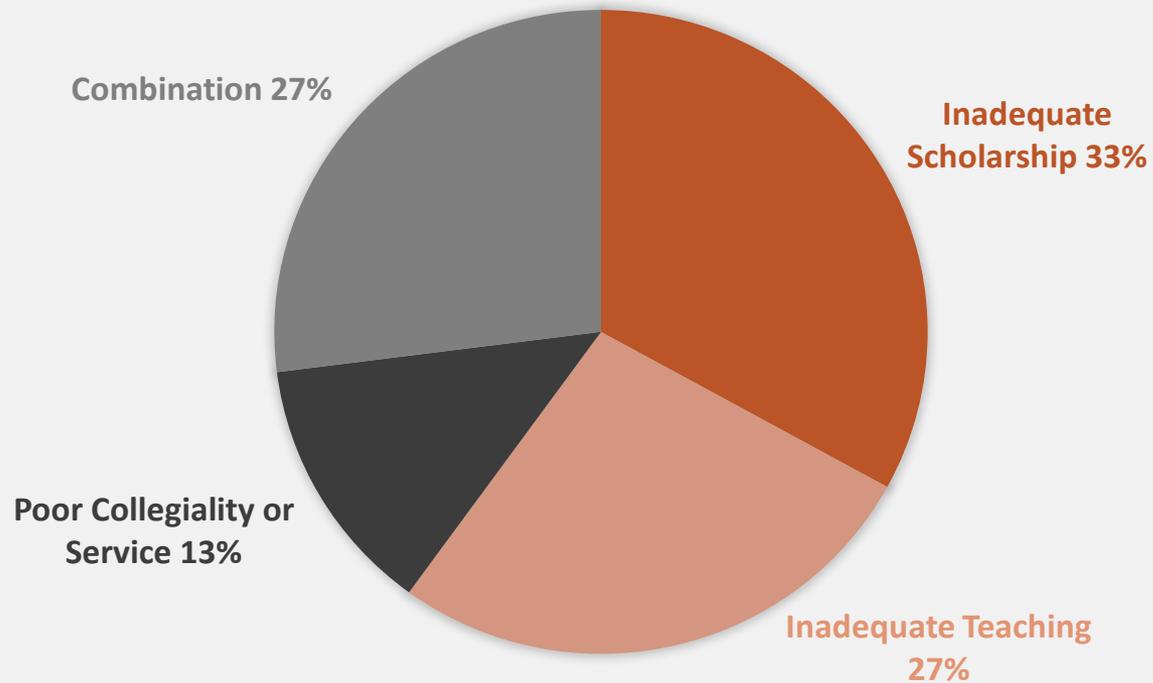
# The Four Cs

- Clarity
- Candor
- Consistency
- Caring



# Tenure Claims Study

## REASONS FOR TENURE DENIAL



# Discrimination Claims

- Allegations by candidate during tenure process
  - Who is the alleged bad actor?
  - Potential to impact tenure review
  - Need to conduct an investigation
  - How quickly can you adequately investigate?
- Should you stop the tenure review process?
- What does your policy say?



# Discrimination Claims

- Allegations made against the tenure candidate.
- Place a hold on or stop the tenure review?
- What does your policy say?
- Obtain candidate agreement



# Questions & Answers

## Session #1



# When Candidates Take Leave

- Medical or Family Leave
- AAUP *Statement of Principles on Family and Academic Work*, updated 2014
- Approval of Leave
- ADA Implications: interactive process
- Honest evaluations



# When Candidates Take Leave

- Stopping or Extending the Tenure Clock
  - Automatic
  - By Request
  - Pros/Cons
  
- Limits on Leave



# Questions & Answers

Session #2





# Other Issues Impacting Tenure

- Collegiality
  - Defending a legal case with “collegiality” as a deciding factor
  - AAUP position on Collegiality

## On Collegiality as a Criterion for Faculty Evaluation

(2016 REVISION)

*The statement that follows was approved by the Association's Committee A on Academic Freedom and Tenure and adopted by the Association's Council in November 1999. Committee A revised the statement in 2016.*

# Other Issues Impacting Tenure

- Confidentiality
  - What is confidential in the process?
  - Records retention
  - Tracking information without personal identifiers
  
- #MeToo & #Time'sUp Movements



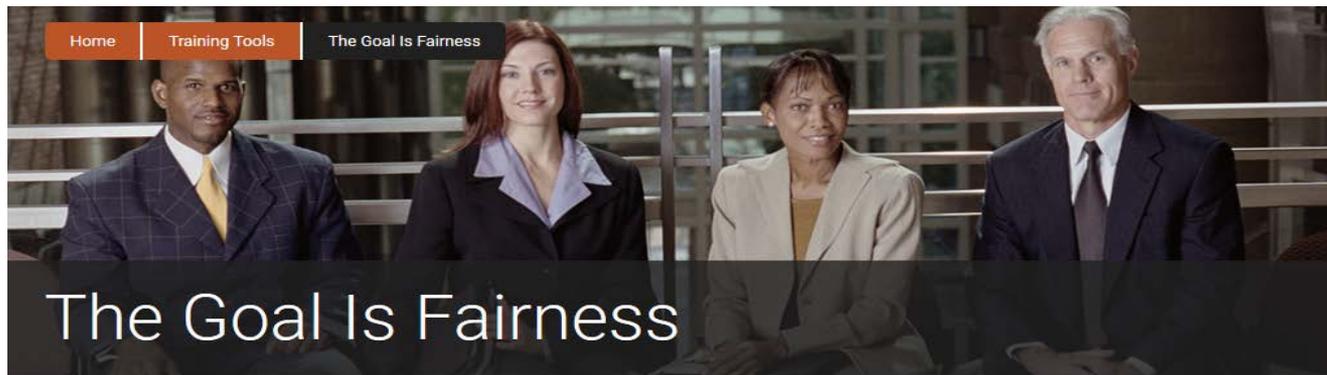
# Questions & Answers

Session #3



# Conclusion

- The Goal is Fairness - 2017



### About This Learning Program

The Goal Is Fairness includes the resources necessary to have a hands-on tenure evaluation workshop emphasizing the importance of clarity, consistency, candor, and caring. A short video, PowerPoint presentation, and facilitator's guide make it easy for you to deliver this session to those involved in the tenure review process at your institution. Optional scenarios can be used to spur further discussion on applicability of these concepts to your specific situation.



Please visit  
[www.EduRiskSolutions.org](http://www.EduRiskSolutions.org)  
for more information on tenure  
and other risk management topics.