

ILLUSTRATION BY HANZ PACHECO

# SJSU faculty left unheard

## Professors claim grievance process is unjust

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SENIOR STAFF WRITER

When San Jose State music professor Gwendolyn Mok was removed from her position as coordinator of keyboard area for reasons she said are unjust, the ones who were most affected, she said, were her students.

After filing a grievance and attending an 11-hour-long level 2 statutory hearing to get her position back, she said she's now left feeling alone in a fight against the university, something she said many faculty members at SJSU experience.

"I sometimes get the feeling that this university treats the faculty like second-class citizens," Mok said over the phone. "The students are, of course, very important to us . . . but this is not like a corporation where there are clients. We are the faculty, we're the ones who define each of these different departments and you have a lot of talented faculty on this campus."

Mok's Oct. 29, 2020 hearing is one of two recent cases that sparked concerns regarding the faculty grievance process.

The second case involved justice studies associate professor Sang Kil's Nov. 23 grievance hearing where she was denied promotion to full professor in the 2019-20 academic year.

Kil was one of seven women of color who were denied tenure or promotion during the 2018-19 Retention, Tenure and Promotion process.

Mok, who is a tenured full professor, said she feels faculty members are being silenced.

"I am outraged. I am furious, I am incredibly gutted," she said. "I'm really concerned now, also, for the other faculty who want to file a grievance and need to be heard and will not be heard in a fair environment."

### The grievance process

Faculty grievances are defined by the California Faculty Association as allegations made by employees stating they were wronged when it comes to their

job classification benefits, working conditions, appointment, reappointment, tenure, promotion or reassignment.

After filing, the grievant must go through four levels of hearings, according to a CFA grievance flowchart. Grievants can choose between a statutory process, that would take place on campus, or a contractual process that would take place off campus.

The first level of meetings determine whether the grievance has a case or not. This is where the grievant fully presents their case with all their arguments and if they cannot resolve the matter, then they will receive a denial response.

Mok and Kil both chose a statutory process and both cases were rejected in the level one meeting.

The second level gives rejected grievants like Mok and Kil a chance to appeal their cases to a Faculty Hearing Committee. This committee is composed of three impartial faculty members serving as a jury to give recommendations for a course of action.

A key component to the process is the approval of SJSU President Mary Papazian, who has the final say in any grievance hearing.

After both Mok and Kil made their cases at the second level of hearings Papazian rejected their grievances, despite unanimous support from each of the different hearing committees.

"Of course as the president you have that legal right to do that because you are the president," Mok said in regards to Papazian having the final decision in matters such as grievances. "But what kind of respect does that show you, as a president towards your own faculty? It doesn't show a lot of respect to the faculty."

If faculty members get rejected by the president, they can still choose to appeal and take the case to arbitration where a final decision will be made. Arbitration is another form of alternative dispute resolution similar to a court hearing.

Mok said she's planning to take her case to arbitration and Kil recently finished filing her paperwork to proceed as well.

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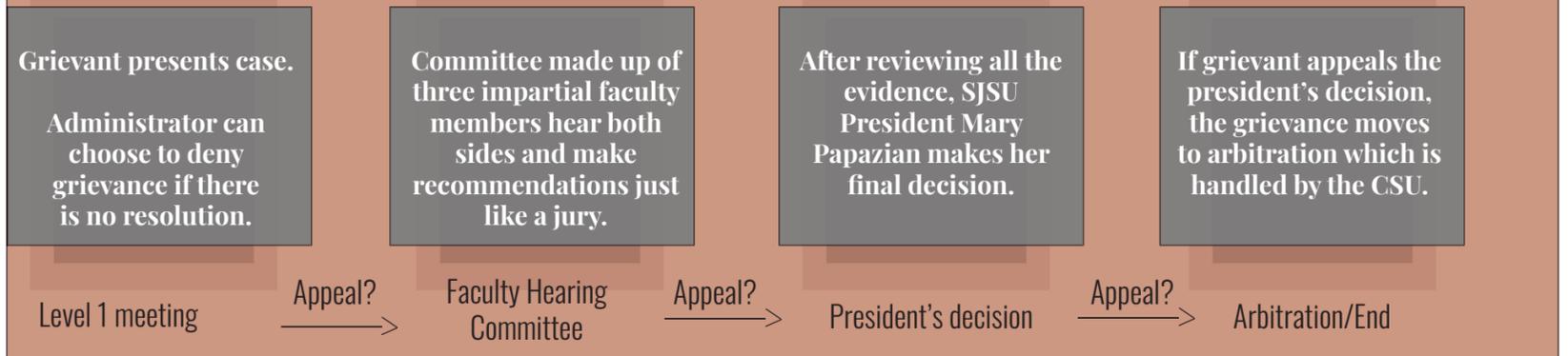


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# Statutory Grievance Hearing Procedure



SOURCE: CALIFORNIA FACULTY ASSOCIATION GRIEVANCE FLOWCHART; COLLECTIVE BARGAINING AGREEMENT; INFOGRAPHIC BY CHRISTIAN TRUJANO

## GRIEVANCES

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Kenneth Mashinchi, senior director of media relations, stated in a Feb. 3 email that the university declined to comment on specific grievance cases.

### Mok's grievance hearing

Mok said she was removed from the coordinator of keyboard area position unfairly because the university failed to uphold her appointment letter.

Appointment letters are official documents that confirm an organization appointed a person for a specific position and includes what the position encompasses. Mok said it was agreed she was going to be keyboard coordinator when she first got her letter in 2006.

"We [faculty] see [appointment letters] as a contract or a promise to say, 'When we hire you, you're going to coordinate this particular area,'" Mok said. "Anything that comes up in your appointment letter is seen as a promise. It's like a contract to the faculty that they are offering the job to."

The School of Music and Dance hired Mok in 2006 to teach studio piano, graduate seminars, advise and retain students and more, but she said she was specifically hired as keyboard coordinator.

Mok's assertions were confirmed by the grievance decision letter from Papazian that stated Mok was hired for that position.

Mok said the keyboard coordinator is responsible for recruiting and mentoring students in the program.

However, Papazian stated in the decision letter that at "any given time, the composition of [Mok's] duties and assignments can change" but her main assignment of focusing on piano at the School of Music and Dance has not changed.

Kenneth Peter, chair of the Professional Standards Committee, said in a Jan. 4 email statement that if SJSU rescinds promises it makes in appointment letters, then desirable faculty recruits may be discouraged from accepting job offers from SJSU.

"I testified on behalf of Professor Mok because I wished to defend a principle that is vital to the University's ability to attract excellent faculty: the University should keep the written promises it makes to faculty when it hires them," Peter said. "[The university] made such a promise to Professor Mok when it hired her to be the Coordinator of Keyboard [Area], and then broke this promise when it removed her from this position without her consent."

He added that dismissing appointment letters can have a damaging impact on the university beyond Mok's case.

However, according to Mok's 18-page-long Faculty Hearing Committee decision letter, Senior Associate Vice President Joanne Wright argued during the hearing that Mok's academic assignment wasn't changed, only her voluntary work as coordinator.

The coordinator position is not a paid position, but Mok said it's not just service work such as serving on a SJSU committee like the Academic Senate which isn't paid work either. She said the responsibilities as keyboard coordinator are vast, but it's work she enjoys doing and work she was hired to do.

But why was she removed in the first place? According to a letter to the SJSU campus community from professor emeritus Chris Jochim, it was in response to multiple serious mistakes in handling the admission application of a transfer applicant referred to as Jane Doe.

Doe applied for admission as a transfer student in November 2019 and was granted provisional admission to SJSU in December 2019. Mok said because competition with other universities is high, she sent Doe an email offering her a scholarship, which Mok explained is standard recruiting procedure for coordinators such as herself.

During Mok's hearing, Wright said that Mok exposed the university to a possible lawsuit by offering Doe a \$5,000 scholarship for committing to SJSU when the student wasn't technically admitted.

According to Mok's Faculty Hearing Committee decision letter, Doe's transcript was from an unaccredited two-year college so SJSU had to reject the student's provisional admission.

Mok said she wasn't responsible and the issue was a lack of communication between the admissions office and

her department.

"The Faculty Hearing Committee found [Mok] not at fault for the treatment of this applicant," Jochim stated in his letter to the community. "Why was [Mok] removed as Coordinator of Keyboard Studies, while other SJSU employees were not held accountable?"

Jochim stated in his letter to the campus community that it's important to the admissions office and Mok's department accountable for mishandling the transfer admission application of the applicant known as Jane Doe.

Mok's email to Jane Doe was the main reason why Shannon Miller, dean of the College of the Humanities and the Arts, said SJSU was exposed to legal issues because Doe wasn't technically a student and she was offered a scholarship, according to Papazian's final decision letter.

Papazian said Mok's removal from her position is justified because Miller is a dean with the university and is entrusted to make such decisions.

But the Faculty Hearing Committee determined Miller should have sought legal advice in making the decision. "[Miller] is not in any position to have made that determination and should have done her due diligence and contacted the CSU Office of General Counsel," according to the Faculty Hearing Committee notes from Mok's hearing.

When asked about this matter, Hazel Kelly, public affairs manager at the California State University (CSU) chancellor's office said the Office of General Counsel couldn't comment "either due to a lack of direct knowledge of the incident or matters being covered by attorney-client privilege."



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**Nikos Mourtos**

SJSU California Faculty Association union president

However, Jochim said that even if Miller did not seek legal counsel, she should have followed the appropriate procedures when addressing the problem by sitting down with Mok to discuss removing her from the position. According to the Collective Bargaining Agreement Article 20.2 a, there must be consultation with a professor and/or the department to change one's duties or responsibilities.

A Collective Bargaining Agreement (CBA) is a legal contract between an employer and a union that represents employees.

Mok said Dean Miller never consulted with her about this change in her duties.

### Kil's grievance hearing

Justice studies professor Sang Kil's case arose after she was denied promotion to full professor, which she said is unjust because the university didn't evaluate her work holistically.

According to the November 2020 Campus Climate Survey results, 25% of faculty and staff respondents indicated they had observed promotion, tenure, reappointment and reclassification practices at SJSU to be unjust.

While faculty respondents expressed similar concerns about bias in tenure denials, one respondent said promotion doesn't exist for faculty of color.

"In my department, the only people that have been promoted are those who are the administrator's favorites or white people, never anyone of color," the comment stated.

During her hearing, Kil said she initially expressed concern to the hearing committee over the former chair of the justice studies department, James Lee, being involved in her promotion evaluation after hearing allegations and complaints against Lee for disability discrimination.

She said the conflict-of-interest policy set by the Retention, Tenure and Promotion (RTP) committee does not protect anyone.

In her opening statement during her hearing, Kil described a "hostile departmental climate" within the

Department of Justice Studies and said she has been a victim of "whistleblowing retaliation."

Kil pointed out problems in how her Student Opinion of Teaching Effectiveness surveys (SOTEs) were handled in her RTP process. She said the university RTP committee, the provost and university president "all failed to provide a holistic evaluation of [her]my teaching effectiveness."

She said her SOTEs were "actually very good" with an average of 4.1 out of 5 rating. She said that negative student evaluations from a single academic year were "cherry picked" and used as the sole basis for evaluating her teaching.

According to the Rate My Professors website, Kil has a 4.3 based on 121 ratings.

Akin to Mok's case, Papazian stated in her final decision there was no evidence that members of the RTP Committee failed to conduct an objective evaluation of Kil's dossier after the Faculty Hearing Committee unanimously voted in Kil's favor.

However, Wright argued during Kil's grievance hearing that according to Article 10 of the CBA, it is not the job of the Faculty Hearing Committee to use their own judgment to determine whether or not Kil deserves promotion to full professor.

"Promotion to professor requires a continuing pattern of good teaching and, normally, increasing effectiveness in the other aspects of academic assignment [such as] significant contributions to university collegial governance or other appropriate service," Wright said during the hearing.

Mashinchi stated in the email that SJSU fully complies with the agreed upon CBA between the California Faculty Association (CFA) and the CSU system, which includes the grievance process.

Mashinchi said the current contract expires Jun. 30 and negotiations for a successor CBA are underway between the CFA and CSU, discussing urgent proposals on both sides.

### Issues with grievance process

With both Mok and Kil's Faculty Hearing Committee recommendations being rejected, their cases have bigger implications on the effectiveness of the grievance process and whether faculty members will be heard or not.

Nikos Mourtos, SJSU's CFA union president, said in a Zoom meeting that 34 faculty members filed grievances last year, which he said was almost a record high.

Mourtos said the fact that a large number of faculty members went to level two hearings speaks volumes about the fact that they are not able to resolve these grievances through a "collegial process."

"Apparently there is no desire on the part of administration to carry out such a collegial process, sit down with the faculty and try to resolve everything," Mourtos said. "They immediately turn to a disciplinary approach."

Mourtos said he doesn't think there is a problem with the grievance process, he's mainly disappointed with President Papazian and her decision to go against the Faculty Hearing Committee recommendations in both cases.

Jochim said he feels SJSU's administration is creating an environment where faculty members know they can't win in these grievance cases.

"The strategy now is if a faculty member complains about something, [the university] figure[s] out a way to shut them down," he said.

However, Jochim and Mourtos agreed the demographic most affected by all of this are the students.

Mok said there was no attempt by her department or the college to facilitate a resolution even though she's the only tenure track, full-time professor with experience and expertise in keyboarding.

Mok said the current person filling in as keyboard coordinator is a composer coordinator and not a keyboard player. She said because keyboards aren't his focus, he won't be able to best serve the students.

"I am ready to sit down with any administrator with the spirit of finding a solution that will help the students . . . the university in general and the faculty member involved as well," Mourtos said. "It's just a matter of whether the SJSU administration can master the same attitude and be willing to sit down and talk to us."