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**Tenure Subcommittee  
Senate Committee on Faculty Affairs  
Monday, December 16, 2002  
Room 238A Morrill Hall**

Present: William Garrard (chair), Ron Akehurst, Kent Bales, Tom Clayton, Amos Deinard, Nancy Ehlke, Robert Jones, Cleon Melsa, Carston Wagner

Absent: Carol Carrier, Dale Carpenter

Guests: none

Professor Garrard convened the meeting at 1:15

**1. Policy on Voting**

The subcommittee took up again the policy on voting, which had been referred back from the Faculty Senate a second time. Among the comments made about voting on candidates for tenure and/or promotion were these:

- If a written, secret ballot is required, the policy may not be needed. But people involved in the deliberations can have a substantial impact.
- It is difficult to have a candid discussion if non-tenured/non-faculty individuals are present, especially if the decision is critical.
- Does the Minnesota Data Practices Act bar those who do not have a vote on a recommendation from seeing a personnel file? If so, those people should not be at a meeting when a candidate is discussed.
- If the rules are not followed, the University will lose a grievance. It is not worth a piece of messy tenure litigation to keep people happy by allowing them to participate in tenure and promotion decisions. This is not a common law jurisdiction, where long practice becomes law; if the tenure code says something must be done, then it must be done.

The applicable language of the tenure regulations is as follows:

**7.4 Procedures For Taking Formal Action.** The academic unit must observe University procedures established as provided in subsection 16.3. These procedures will provide the following:

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(b) The decision is made by vote, by written unsigned secret ballot, at a meeting of the regular faculty who have indefinite tenure in the academic unit. The rules may provide for absentee ballots by informed absent faculty members.

It is the job of the Executive Vice President to let the deans know how things are supposed to be done, Dr. Jones said. He said he would be very uncomfortable allowing colleges to vary from the provisions of the tenure code. There may be a need for P&T workshops for the whole system; he said he would get this issue on the agenda of the deans.

It was agreed that Professor Garrard would write to Executive Vice President and Provost Maziar transmitting the view of the Subcommittee that it is her job to enforce the provisions of the tenure code, and that the code does not permit non-tenured faculty, or non-faculty, to participate in deliberations on promotion and tenure decisions or to vote on these questions. It was suggested that Dr. Maziar be asked to request of the deans and departments who was at the meetings and who voted. If it appears that a department is violating the tenure code, she can take appropriate action.

## **2. Voting if not Present**

The question is how faculty, absent from a Promotion and Tenure meeting where a vote will be taken, can vote. The tenure regulations allow an absentee ballot. Rule 15 of the Procedures for Reviewing the Performance of Probationary Faculty stipulates that a written, unsigned secret ballot be used. Proxy vote or telephone vote are not permitted. The current question is whether a facsimile copy or an email may be used.

Professor Akehurst said that an absent faculty member should be required to affirm he or she is informed about the candidate.

The Subcommittee agreed to revisit this issue in January.

-- Gary Engstrand