

Minutes*

Academic Freedom and Tenure Committee
Friday, February 2, 2007
9:30 – 11:00
300 Morrill Hall

Present: Tom Clayton (chair), Tracey Anderson (not present because of technology difficulties so not counted as absent), Arlene Carney, Candace Kruttschnitt, Karen Miksch, John Mowitt, Paul Porter

Absent: Yusuf Abul-Hajj, Carol Carrier, William Doherty, James Farr, Terry Simon, Jianyi Zhang

Guests: none

[In these minutes: (1) procedures for associate professors; (2) tenure code section 7.12; (3) tenure code section 9.2; (4) Procedures for Reviewing the Performance of Tenure-Track Probationary Faculty]

1. Procedures for Associate Professors

Professor Clayton convened the meeting at 9:35. Vice Provost Carney suggested that it will be necessary to have a separate "Procedures" document to guide departments in evaluating candidates for promotion from associate professor to professor. She has received a large number of calls raising good questions about various procedural issues related to these promotions and would like to see a set of procedures that provides guidance in answering them. It is evident that departments have been dealing with these issues on an ad hoc basis for some time; it is time to help them with guidelines.

2. Tenure Code Section 7.12

At the suggestion of Professor Clayton, in response to comments made at the Faculty Consultative Committee meeting on February 1, the Committee voted to approve a changes to section 7.12 as follows (new language is underlined; language to be deleted is ~~struck out~~):

7.12 Departmental Statement (fn 1). Each department or equivalent academic unit must have a document that specifies (1) the indices and standards that will be used to determine whether candidates meet the threshold criteria of subsection 7.11 ("General Criteria" for the awarding of indefinite tenure) and (2) the indices and standards that will be used to determine whether candidates meet the threshold criteria of subsection 9.2 ("Criteria for Promotion to Professor"). The document must contain as an appendix the text and footnotes of subsections 7.11 and 9.2 (~~"Criteria for Promotion to Professor"~~), and must be consistent with the criteria given there but may exceed them. Each departmental statement must be approved by a faculty vote (including both tenured and probationary members), the dean, and other appropriate academic administrators, including the Senior Vice President for Academic Affairs and Provost. The chair or head of each academic unit must provide each of its probationary faculty members with a copy of the Departmental Statement at the beginning of the probationary service.

* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

(fn 1) "Departmental" refers to an academic department or its equivalent, such as division, institute, or unit.

This addition, he explained, makes it clear that the department 7.12 statement must also contain the information associate professors need in order to prepare themselves for promotion to professor.

Professor Clayton then read prepared remarks about the need for flexibility that he had read at the Faculty Consultative Committee the day before this meeting. "AF&T" refers to the Academic Freedom and Tenure Committee.

"I have a few concerns of my own about what AF&T is doing that I haven't aired yet with the committee but I shall air one concern tomorrow and FCC today, and that is flexibility. Our charge as we have been discharging it is spelling out the specifics of professional activity and advancement as fully and accurately as possible, leaving nothing to chance or open to doubt. We continue to add details as they are suggested, most recently diversity. But no code can cover all contingencies, even with a queue of the vigilant to keep fetching in details, and one of the limitations of tight and tidy packaging is that it has no explicit room for the extraordinary. But the extraordinary is exactly what we should want and be looking for, and it doesn't always come conventionally well-behaved in traversing the signposted paths in the usual ways only faster and with greater production. Everyone knows persons like this, and sometimes, when we're lucky, we get them and keep them: here, the late Rutherford Aris was just such a find for Chemical Engineering and contributed signally to making that department for a time if not for all time the best in the world. He also contributed much to the University at large and to the Center for Ancient Studies, the Department of Classical and Near Eastern Studies, and the Classical Civilization Program. He wasn't hired for all that (and much else), and the extras of his contribution to the University might not even have been appreciated in many quarters other than those receiving the immediate benefit, but it is just such breadth, depth, and the unexpected that differentiate a really first-rate university from super-success in the predefined and ordinary ways.

"Perhaps we don't need explicit provisions for the extraordinary in the tenure code, but I for one would be a lot more comfortable if they were there, because the identification, care, and feeding of unconventional genius is what a university that would be great should be looking for for sure, if not above all. It is rare enough that there must be rules for the rest of us, but there should be more than those, in my view."

What is there in the draft language that would prevent a department from doing as he recommended, Dr. Carney inquired. It is the tenor of the code as well as the list of specifics in sections 7.11 and 9.2: as soon as those items are listed in the code, they take on a life of their own and become of cardinal importance, things a candidate must do: they "will be considered." The code will not be amended again soon; it is important for the Committee to think not only about the present but about the next ten years and beyond.

(The "list" to which Professor Clayton referred is from section 7.11: **7.11 General Criteria**. . . . Interdisciplinary work, public engagement, international activities and initiatives, attention to questions of diversity, and technology transfer will be taken into consideration in evaluating the candidate's satisfaction of criteria. . . .")

Professor Mowitt asked whether the list is needed at all. It seems to create a list of "demands." Dr. Carney said it is needed, especially for recognition of interdisciplinary work. Several members of the

Faculty Consultative Committee, in discussing the language the previous day, suggested that it should be made clear that candidates are not REQUIRED to engage in the activities on the list (that purely disciplinary work should be sufficient to qualify someone for tenure), but that such work must be considered where it is appropriate. Professor Miksch commented that one learns in statutory interpretation that if a list is not exclusive, it is suggestive: it is acceptable to do these things or things like this, but not necessarily JUST these things.

The Committee agreed that the list would be put in a footnote and the appropriate modifying language added.

Later in the meeting Professor Clayton adverted to the list again and said he would not like to have to answer the question "what does 'attention to questions of diversity' mean?" Professor Mowitt recalled that it was his phrase and that it was inserted because the Committee did not find the suggested "intercultural work" to be understood and "multicultural" was not appropriate. It is a way to draw attention to the issue; this part of the tenure code points to indices for assessing, one of which is diversity. This is diversity as the object of study, not of department practice, Professor Clayton confirmed. Professor Miksch noted that the faculty culture task force had recommended including diversity but that the Provost had removed it from the draft section 7.11 because including it might infringe on academic freedom; "attention to" does not pose that threat because it does not require that the attention be positive. The critical idea, Professor Mowitt said, is that if diversity in the object of study makes a difference, then attention (whether positive or negative) to it becomes of scholarly importance.

3. Tenure Code Section 9.2

Professor Clayton next reported that the suggestion had been made, at the Faculty Consultative Committee meeting the previous day, that promotion to professor should be based not on teaching, only on scholarship. This question was posed at the FCC meeting: Would a department not promote someone who was a "rainmaker," who brought in millions of dollars in external funding but was not a good teacher? One FCC member said his department will not promote someone who is not a good teacher, even if he or she does bring in a lot of grant money.

That would send a very strong message, Dr. Carney cautioned. Professor Miksch pointed out that teaching is defined very broadly; teaching does not have to be in the classroom, as the tenure code itself says. Dr. Carney reported that that will depend on what the department 7.12 statement says. Many 7.12s do not mention teaching in evaluation of candidates for promotion to professor. In some cases, the assumption may be that a faculty member became a good teacher by the time he or she was granted tenure. Professor Clayton agreed that teaching effectiveness can be defined in a number of ways and departments can interpret it in ways they see fit. Dr. Carney commented that it is rare that someone whose scholarship is extraordinary is not promoted, particularly with the existing 7.12 statements; more often, the question is about someone whose scholarship is modest but whose teaching is outstanding.

4. Continued Discussion, "Procedures for Reviewing the Performance of Tenure-Track Probationary Faculty"

Professor Clayton turned to Dr. Carney, who wished to raise a point about "alternative voting rules." The current language reads as follows (in pertinent part): "Ordinarily, a majority of those present and voting on a personnel question will take action for a department, if a quorum is present." How are

abstentions to be treated, Dr. Carney asked? There is nothing in the Procedures that defines how to count votes. If a department has 20 voting faculty, 10 vote yes, 7 vote no, and 3 abstain, what is the denominator? Is the vote 10 out of 20 in favor or 10 out of 17? Some departments count an abstention as a "no" vote; others don't count abstentions at all. There needs to be a statement so that all departments count abstentions the same way (or a candidate in one department will receive a negative vote while another candidate in a different department, with the same numbers of votes, will receive a favorable vote).

What is the motivation for abstaining, Professor Kruttschnitt asked? The Committee distinguished between an abstention and a recusal; the latter is justified, use in a situation where a vote would be unethical (e.g., when the candidate is a spouse or close relative). In some cases faculty members may be using the abstention to send a message (e.g., to the dean), which is reprehensible, but it is not possible to compel people to vote. And what is the Provost's office to make of a case where the vote might be 3 in favor, none opposed, and 8 abstentions? The point of the Procedures, Dr. Carney said, is to help departments handle things transparently and efficiently.

Professor Mowitt asked if there are not minority reports when a department is split. Dr. Carney said there are very few minority reports in the case of split votes. She said she would like to see, in the Procedures, a strong encouragement to write minority reports if there is a substantial difference of opinion. The chair may be at a loss to explain a divided vote if there is little negative discussion in the deliberations about a candidate. Professor Kruttschnitt said the reason there are so few minority reports is that people do not want to be on record saying someone's scholarship is poor; they are prepared to vote on tenure and promotion in private, but not make a public statement. Authors of a minority report may be anonymous, Dr. Carney observed, but if one agrees to write the report, one is identified. The view of the chair is known to the dean because the chair writes a letter, but the chair may not know the reasons for contrary views.

Professor Clayton suggested that the Committee approve a statement in the Procedures requiring that abstentions count in the denominator. That allows those who wish to do so to exercise their right to abstain and have the vote counted; an abstention, he observed, is a negative vote, in effect. Committee members concurred. The important point, Professor Miksch said, is that everyone is clear on what an abstention means.

Another question, Dr. Carney said, is whether the Procedures should require a separate letter from the chair. In CLA, any member of the faculty can write the summary report on the department's recommendation, and the chair writes a separate letter. In some other colleges, the department chair writes the department report but his or her letter is only a brief section of the department report. Should a separate chair's letter be required?

What about proxy voting, Professor Porter asked? At present, the Procedures require that the vote be by signed, sealed, written ballot. Telephone votes are not allowed; one question frequently asked is whether email votes are acceptable. That question, in turn, raises the matter of electronic dossiers. The University has not accepted these yet. There are security and confidentiality issues associated with electronic dossiers (e.g., violations of the Minnesota Data Practices Act). Careful departments will guard the confidentiality of dossiers. Dr. Carney cited a number of situations that have arisen where voting (who and how) became problematic. The Committee was interested in the possibility of email ballots, but such a vote is "public" and the identity of the voter is legally discoverable (which is not the case with

anonymous secret written ballots in a department vote). Dr. Carney said she would talk with the General Counsel's office about the matter and report back to the Committee.

The Committee agreed that a new section of the Procedures should be prepared on voting rules. It was also agreed without objection that, for the sake of complete clarity, a quorum would be described as 50% plus 1.

Professor Clayton adjourned the meeting at 11:02.

-- Gary Engstrand

University of Minnesota