

Notes*

**Tenure Committee
Monday, October 13, 2003
1:30 - 3:00
238A Morrill Hall**

Present: F. R. P. Akehurst (chair), Dale Carpenter, Carol Carrier, Tom Clayton, William Durfee, Nancy Ehlke, Robert Jones, Bernard Selzler, Jennifer Westendorf

Absent: Carston Wagner

Guests: Professor Les Block

1. Minutes

With a minor change, the minutes of the September meeting were approved.

2. Standard for Promotion to Full Professor

Professor Akehurst noted that the Committee had received a communication from Professor Les Block in the School of Public Health, along with a memo that he had prepared at the request of Professor Garrard, last year's chair of the Committee. Professor Block suggested that the Committee had not discussed sufficiently the issue of receiving external funding as a criterion for promotion, for positive merit reviews, and for post-tenure review. Professor Block will join the meeting later, Professor Akehurst said, and suggested Committee members discuss the issues first.

What is the gist of the issue, Vice President Carrier asked? The May 19 minutes of the Committee show that some aspects of Professor Block's report have been discussed, Professor Akehurst responded, but in spite of the reassuring words of two vice presidents, Professor Block believes there still may be a problem. The vice presidents told the Committee that if obtaining external funding is to be a criterion in the formal review of faculty, then such a requirement should be part of a department's 7.12 statement. They have reviewed all 7.12 statements and have seen no such requirement so this not be a problem. Professor Block, however, maintains that obtaining external funding WILL be part of the mix of requirements.

It has been said several times, Professor Akehurst recounted, that obtaining external funding will indeed be part of the mix of factors on which faculty are evaluated, whether that criterion is in the 7.12 statement or not, and Professor Block is worried that because that is so, his salary and position will be affected. This Committee is not supposed to deal with individual cases, only policy issues, but it can deal with specific problems that may be symptomatic of practices in departments. In this instance, faculty performance depends on research, which in turn may depend on external funding. The question is whether the Committee can write anything in the tenure code about promotion to full professor. Section

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7.12 addresses the issue, but that deals with probationary faculty and the awarding of tenure. Where does one look for guidance on promotion to full professor, he asked?

The Committee debated for a while what the language of several sections of the tenure code meant. (Vice President Carrier pointed out that the code contains language about procedures for the review of performance of probationary faculty and in that section there is also language about promotions.) The question, Professor Akehurst finally concluded, is what happens if the standards change--even if there is nothing in the 7.12 statement--such that a faculty member who met the standards for promotion to associate professor and the award of tenure is now unable to meet the standards for promotion to full professor or whose reviews may not be positive and who may be subject to post-tenure review as a result of the changes in the standards. Professor Selzler said that faculty member would have been part of the discussions of the standards and even if in a minority, would be subject to the new standards adopted by a department.

It is clear that probationary faculty have choice of which 7.12 statement they will be judged by, if the standards change between the time they are hired and the time of tenure and promotion decision. Whether the annual review can be done on the basis of the 7.12 statement the faculty member chose is not clear; it is an operational matter that may vary by department. Vice President Jones demurred, saying that probationary faculty can choose but senior faculty are ruled by the majority. The University gives the choice to probationary faculty because a department could change standards 3-4 years after a probationary faculty member is hired and it would not be fair to expect that person to meet new standards on such short notice. That is quite clear in the tenure code language. What is not stated but clearly implied is that there is a democratic process by which associate and full professors decide on standards--and all must abide by them.

Professor Westendorf noted that Section 7a.1 has language about faculty not fulfilling one part of the 7.12 statement so responsibilities may be shifted to other requirements. Senior Vice President Cerra spoke about that. Professor Akehurst agreed that 7a.1 was written to be flexible but many may not understand that. Dr. Jones said that if one is concerned about a change in the 7.12 statement, and that there may be an expectation of external support even if not mentioned in the statement, and if one's professional career has changed so that one does not obtain external funds, that would be part of post-tenure review. But the person would not necessarily lose his or her job because of a failure to obtain external funding; there would need to be an attempt to reach an agreement before anyone is removed for a failure to bring in grants.

Does this issue need to be aired before the Faculty Senate, Professor Akehurst asked? The Committee may not wish to bring a statement but perhaps the issue needs to be discussed.

Professor Akehurst now welcomed Professor Block to the meeting, whom the Committee had invited to follow up on the previous discussion. There has been a concern that one or more departments may be trying to require tenured faculty to bring in external funds that amount to at least 50-60% of their salary.

Professor Block emphasized at the beginning that he separated his position as an individual from the policy issue and that he was not present at the meeting to talk about himself. The Committee must stick to policy matters, which is his focus as well. His report to the Committee last year contained observations about how the system is operating.

It is his view that if there is post-tenure review, and the 7.12 statement is not policy, faculty do not know what is and the issue should be under Tenure Committee review, Professor Block said. He raises several issues:

- the role of Senate committees in interpreting the tenure code
- using different standards raises questions about academic freedom and about age-ism
- the Tenure Committee was told by two vice presidents that any requirement that one raise external funds would have to be in writing in the 7.12 statement and that they had seen no such requirement, but some have talked about the existence of such a requirement.

Professor Block noted that he had made no claim that there were any 7.12 statements that included a requirement of raising external funds, but he knew that there were units on the way to using such criteria and it may be that some incorporated it in their 7.12 statements.

This is not just about the 7.12 statements, Professor Block told the Committee. It involves age discrimination, academic freedom, misinterpretation of the post-tenure review process, standards across colleges, the use of post-tenure review to get rid of "dead wood," standards to be used in promotion, and the extent to which faculty should be provided support for change. Tenure is granted at the University, he noted, and there should be institutional standards. There are no minimum standards or overarching guidelines to ensure equitable treatment.

Professor Akehurst thanked Professor Block for his comments and asked if there were questions.

Does the tenure code as it stands prevent a department from requiring external grants as part of its 7.12 statement, Professor Carpenter asked? Professor Block said he did not believe it did. Executive Vice President Maziar has said no department has done so. This Committee the last few years has said it should not be done. There are general criteria, Professor Carpenter pointed out; do any prevent the adoption of some minimum? A department probably could, Professor Block said; does this Committee wish that to be done? Earlier it said it did not and a number of people were upset that it might be. What is to be done with someone who is well-respected in his or her field who is suddenly told to bring in 50-60% of salary? What if there is no 7.12 requirement but then the department changes the requirement? Probationary faculty were not expected to meet the standard but they would later for the purposes of post-tenure review--they would be given tenure and then expected to meet a new set of criteria the next day. That does not seem right, Professor Block said.

Dr. Jones said it must be recalled that the Committee was presented with the assertion that there WAS a department 7.12 statement that required a faculty member to raise external funds. Professor Block said he was told there are such statements. That is why a lot of statements at meetings have been as if that were a confirmed fact, but Drs. Cerra and Maziar told the Committee that departments use a lot of criteria, not all of which are spelled out in the 7.12 statement.

What if one is evaluated by a division statement, not a 7.12 statement but a quasi-7.12 statement? There are schools that have talked about using external funds as a criterion, Professor Block said, even if they have not yet adopted it; will this Committee wait until it is done? And what is the Committee's view on changing the 7.12 standards? What is a division, Professor Akehurst inquired? They act as departments, Professor Block said; in his college, for example, there is one 7.12 statement, but the college

is divided into divisions that have separate standards that are written down. They are not 7.12 statements, but they are statements. One requires that faculty raise 50-60% of their salary in external funds-- it is not an official 7.12 statement but it ACTS like a 7.12 statement.

Dr. Jones pointed out that the Senate and this Committee were involved in establishing the guidelines for post-tenure review; he worked with Professor Dempsey in setting them up. Professor Block said that some standards were adopted quickly and people may not realize what is in them. A number of Committee members (e.g., as noted in the minutes of the Senate Committee on Faculty Affairs in earlier years) have made comments that they felt things allowed now should not be; he said he did not know if all at the meeting would agree.

Is it a requirement or an expectation that one bring in 50-60% of salary in external funds, Professor Westendorf asked? It is an expectation but one is in trouble if one does not meet it, Professor Block said. There is a difference between the two, Professor Westendorf said; an expectation is a goal one wants to achieve. Professor Block said he did not see that there was much difference between the two. Would a failure to achieve the expectation be backed up by a sanction, Professor Akehurst asked? It appears it would be, Professor Block said. It appears to be official policy that 7.12 statements must be submitted to the vice president, Professor Akehurst said, and if it is not approved, it is not policy. If a division policy is not submitted anywhere, it is not official policy. Professor Carpenter agreed. The division statement never reaches a vice president's office, Professor Block said, but he was told that was no problem, that it could be adopted by majority vote of the faculty.

Professor Akehurst thanked Professor Block for joining the meeting and for his report, which he promised would be read.

3. Tenure and Green Cards

Professor Akehurst next recalled that he had distributed to the Committee earlier a question raised by one of the colleges: How should they treat faculty members who have been granted tenure but who have not yet been granted their "green cards" for permanent U.S. residence.

Vice President Carrier said she had spoken with the General Counsel about the issue and concluded that individuals in that situation had all the normal rights of tenure, unless the green card could not be obtained, in which case the University could terminate the tenure. If the tenure is given and then taken away, did the person ever have it, Professor Akehurst asked? What if a person is given tenure, unable to obtain a green card, subsequently terminated, but in the meantime had voted on the tenure decision of another individual and that vote broke a tie; is the tenure granted on that vote taken away?

It is not, Dr. Jones said. Tenure is an employment contract; one keeps the position as long as one meets the conditions of the contract. Faculty know the conditions--they cannot commit crimes, cannot harm the University--and one other condition is that one must obtain a green card. The answer to the question from the college is that the person has all the rights of any faculty member with tenure even if the application for a green card is pending.

There is an expectation, spelled out in the contract, that if granted tenure one will apply for a green card if needed, Dr. Jones said. This is to protect both parties, Dr. Carrier said; the University grants the position because it has been earned, but the individual must leave if state and federal laws do not

allow him or her to remain in the country. It might be useful to have a statement that a second person's tenure is not jeopardized because of a vote by someone who subsequently had to leave, Professor Akehurst suggested, because there may be some misgivings about whether the person had tenure. Dr. Jones said the individual HAS TENURE until he or she fails to meet the criteria spelled out in the contract, and while possessing tenure has all the rights and obligations of the tenured faculty, including voting on promotion and tenure cases. As written, however, the issue may not be stated clearly and could cause concern, Dr. Jones agreed.

4. 7.12 Statements

The Committee members returned to the topic they had discussed with Professor Block.

Professor Selzler said there had been a lot of assertions made and he would like to see data on what departments are doing. Professor Akehurst said that the division "mini-statements" were being done improperly and should be stopped; the units may believe they can write criteria any way they wish. Should Senior Vice President Cerra look into this, he asked?

There is a difference between expectations and standards, Professor Westendorf repeated. In the Medical School it is not uncommon for letters of appointment to contain expectations of raising at least 50% of one's salary. And if that expectation is not met, Professor Clayton asked? One does not make it in this business, Professor Westendorf replied.

In the case of someone who did not meet the expectation, Professor Selzler said, they would be expected to teach a lot, according to Professor Block. That kind of flexibility is in accord with Section 7a.1 of the tenure code, but he would need a definition of "a lot" before he could reach any conclusions.

The problem with external funding is that a unit may not receive enough money to pay faculty salaries so it must find external funds to pay them. If one person must be paid out of institutional funds, that means less for other faculty in the unit. This is not true for all colleges so a policy would not apply to all.

What does the Committee wish to do, Professor Akehurst asked? Adopt a resolution or a statement? Have something on the record? Some Committee members expressed a reluctance to do so. Professor Selzler said he heard a number of interesting issues from Professor Block that the Committee should keep in mind as it reviews the tenure code. So this discussion will be the end of it, Professor Akehurst asked? Does the Committee want to consider guidelines on writing 7.12 statements? Procedures are in place to address individual problems and they are not in the purview of the Committee. Professor Carpenter said he believed the Committee needed something more concrete to deal with or it would be in the position of issuing advisory opinions about hypothetical future events, which he did not believe to be a good idea. Professor Akehurst concurred.

Professor Akehurst adjourned the meeting at 2:55.

-- Gary Engstrand

