

Notes*

**Tenure Committee
Monday, November 17, 2003
1:30 - 3:00
238A Morrill Hall**

Present: F. R. P. Akehurst (chair), Dale Carpenter, Tom Clayton, William Durfee, Nancy Ehlke, Bernard Selzler, Carston Wagner, Jennifer Westendorf

Absent: Carol Carrier, Robert Jones

Guests: none

1. Minutes

Professor Akehurst convened the meeting at 1:30 and turned first to the minutes of the October 13 meeting. It was agreed to correct the misattribution of statements to Professor Block and to Vice President Carrier. It was also noted that Vice President Carrier's comments earlier and later may be contradictory.

The Committee approved the minutes with the changes.

2. Effect of Tenure on Treatment of Persons During a Strike

Professor Akehurst noted that there had been a number of circular letters to faculty and department chairs about the way to deal with the impending strike by clerical workers. If someone refuses to cross a picket line, that could be an illegal strike and one could be dismissed immediately. That seems like a draconian response and he said he did not know if the sanction would be enforced. The facts have been conveyed to the faculty, however, so they know the risks. One faculty member maintained that he could not be fired because he has tenure. His thought, Professor Akehurst said, was that because the language about the illegal strike is state law, the law would trump the tenure code.

Professor Carpenter said the interpretation would depend on whether the tenure regulations include a provision requiring compliance with state law. If they do, Professor Akehurst's interpretation is correct. If they do not, however, tenure is a contract between the faculty member and, effectively, the state, and a different analysis would result.

Professor Akehurst said he thought he should raise the issue when no one is at risk and that it would be a good idea to insert the Committee's findings in the rules. It was a powerful threat, Professor Carpenter observed, although he was not sure the message was that someone would be removed immediately. It did say that one would be subject to disciplinary action if one refused to cross a picket line. Two Law School faculty members held classes outside the law building.

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Professor Selzler said that people in a union have all kinds of laws governing them; the faculty do not in a union so the laws do not apply. Professor Akehurst pointed out that the state law (PELRA) covers both unionized and non-union employees and provides that one MUST cross a picket line if not on strike. The question is whether PELRA trumps the tenure code.

It was agreed that Professor Carpenter would look into the relationship between PELRA and the tenure code and report back at the next meeting. It would be useful to have this information in order to provide advice to the administration in the event of future strikes, Professor Durfee commented.

3. Translational Research Facility

Professor Akehurst next noted that minutes from the Academic Health Center Finance and Planning Committee made reference to hiring tenured faculty, 100% of whose time would be spent on research and who would have no teaching responsibilities. Faculty are hired on the basis of three activities, teaching, research, and service; the question is whether the Tenure Committee is concerned about these appointments.

This does raise the question, Professor Akehurst said, of a different kind of tenured faculty member, if the tenure is based only on two of the three criteria set out in the tenure code. Anyone hired would have to be hired by a department and under the provisions of the tenure code, Professor Durfee said. Professor Westendorf said such individuals would be hired into positions similar to hers, which is mostly committed to research. But even if she is not lecturing undergraduates, she is training graduate students and post-doctoral fellows. Professor Ehlke reported that her department hires faculty who are 100% research and who do a lot of outreach, but they also do training. People who fit this description are not novel, Professor Westendorf said. Professor Durfee said that Professor Westendorf's point is important: these people are teaching and must have a record of it in their dossier.

Is it possible that someone could do NO teaching, Professor Akehurst asked? They may not have formal classes, Professor Ehlke said; they may train graduate students, Professor Westendorf added. Units must be aware of expectations and include them in the annual review process, Professor Ehlke pointed out. There could be a liability problem, Professor Akehurst said, if a unit hires someone with no teaching experience and then the funding for that person is no longer available. Not all the onus is on the individual, Professor Selzler said; a department should KNOW it has that liability.

Professor Akehurst suggested that the Committee wait on this issue and ask the AHC Finance and Planning Committee if it resolved the issue or if there will be further discussion and whether it would like this Committee's advice. This is a contentious issue. It is only contentious if someone is hired on the basis of only two of the three tenure code criteria, Professor Durfee said, but if the only difference is that the teaching is not traditional teaching, that is not unusual. These individuals would be hired by departments in accord with the tenure regulations, Professor Westendorf said.

What if individuals are hired to do research 100% time, come up for tenure, and are denied tenure because they have done no teaching, Professor Akehurst inquired? Would their appointment document protect them? The department has an obligation to make the requirements known to the individual, Professor Ehlke said. If the appointment is 100% research, Professor Akehurst responded, no guarantee can or will be made to such persons. One wonders if there is a wink and a nod in a department when the person comes up for tenure, and they say the individual has met the requirements. If they want to hire the

individual, there may be, Professor Akehurst said, and if they do not, there is no protection for the individual.

A four-billion state budget deficit can lead to things happening, Professor Selzler said. In his case, some faculty do more research, some do more teaching. That is a case of more or less, Professor Akehurst said, not 100% time devoted to one activity.

Professor Durfee pointed out that Section 7.11 of the tenure regulations requires an individual to perform all three activities; one can ask if there should be a separate track for people who are hired for the sole purpose of conducting research. There is no escape from the fact that such individuals would not be ordinary tenured professors, Professor Akehurst said. What kind of person would be hired, Professor Westendorf asked? And why would they be given tenure, Professor Akehurst asked? They could be P&A appointments. He said he would write to the AHC Finance and Planning Committee to ask if they had reached any conclusions and to invite someone to this Committee to discuss the issues.

4. Discussion of Section 7A of the Tenure Regulations

The Committee reviewed the history of the development of Section 7A, which deals with post-tenure review. Professor Akehurst said he thought the provision did a good job--it is difficult to write legislation--and that the people most concerned about it may not have read the actual language. It is not intended to get rid of "dead wood." Part of the charge to this Committee is to review the tenure code and he suggested it start with this provision because it is a perennial irritant to faculty.

The Committee noted that the standard requires performance substantially below expectations, that an individual would be provided assistance rather than simply told to improve, and that there should be funds for training and mentoring.

It was noted that this Committee was charged with adopting rules and procedures for post-tenure review but that they have not been developed. Professor Akehurst said he would ask Vice Presidents Carrier and Jones if the Tenure Committee should develop the rules and procedures. He also concluded that the Committee would not recommend any changes in Section 7A; the Committee concurred.

5. Academic Freedom

Professor Clayton reported that the tenure code is concerned with academic freedom and that there is an ad hoc group working on the subject; its work should be of interest to this Committee. Professor Akehurst said he would write to Professor Duvall, chair of the ad hoc committee, to ask that their minutes be shared with the Tenure Committee.

6. Committee Name Change

Professor Akehurst noted that this Committee has been changed from the Subcommittee on Tenure to the Tenure Committee, but the "subcommittee" title is in a number of documents. They need to be changed.

Professor Akehurst adjourned the meeting at 2:40.

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-- Gary Engstrand

University of Minnesota