

Minutes\*

**SENATE COMMITTEE ON FACULTY AFFAIRS**  
**Thursday, January 4, 1996**  
**3:15 - 5:00**  
**Dale Shephard Room**

Present: Dan Feeney (chair), Carole Bland, Carol Carrier, Mary Dempsey, Robert Fahnhorst, Richard Goldstein, Roland Guyotte, Richard McGehee, Carol Miller, Sam Myers, Kevin O'Laughlin, George Seltzer, Bernard Selzler,

Regrets: Carol Chomsky, Judith Gaston, Kinley Larntz,

Absent: Cheryl Coryea, James Stone, Yang Wang

Guests: John Adams (Chair, Tenure Liaison Committee), Fred Morrison (SCFP Chair), Paul Quie (Tenure Liaison Committee/FCC), Naomi Scheman (EEOWC Chair)

Other: Martha Kvanbeck

[In these minutes in discussion on the proposed changes to the Tenure Code.]

**1. APPROVAL OF THE AGENDA**

The committee unanimously approved the agenda.

**2. CHAIR'S REPORT**

Academic Misconduct Policy - FCC has asked SCFA to look into this issue in cooperation with Professor Gail Yates and the Scholastic Standards Group.

Payroll Policy - FCC has asked SCFA to continue reviewing the merger of payroll systems. The review will include examining the possibility of stretching payments for a nine month appointment over a twelve month period without the use of external credit unions.

Tenure - The Physics faculty meeting on tenure (not affiliated with the University Senate) was scheduled for the following day. FCC expressed that it was not planning to be officially involved although anyone was welcome to attend the meeting. Professor John Adams said that he and some other faculty governance members and administrators were planning to attend the meeting and explain and/or clarify some of the related issues.

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Administrative Review - Professor Carol Chomsky will present a procedural document on administrative review at the January 18 SCFA meeting.

Tenure Forums - In addition to the January 11 University Senate meeting, tenure forums have been set for January 25, 3-5 p.m., Cowles Auditorium, Humphrey Center, Twin Cities Campus, and February 8, 2-4 p.m. same location. All meetings will have telephone conferencing with the coordinate campuses. Attendance of SCFA members is encouraged.

### **3. APPROVAL OF THE MINUTES**

The December 14, 1995 minutes were unanimously approved.

### **4. TENURE DISCUSSION**

The group merged into a conversation on tenure while reviewing the related points made in the Chair's report. Professor Feeney explained that the issue at hand was to discuss the draft tenure discussion document assembled by Professor Adams. The general response to the document was that it should not steer the discussion in a prescribed manner, should elaborate on the pros and cons to alternative approaches, and should include a preamble that places this discussion in a broader context -- human resource policies, administrative review processes, and academic personnel appointments, explained Professor Adams. The issue can best be addressed by:

- \* reviewing the issues,
- \* explain how they are interconnected,
- \* suggest some modifications that seem appropriate, and
- \* discuss the pros and cons of alternative ways to implement the recommended changes in an open forum.

Professor Adams asked the committee for assistance in constructing the discussion. He especially encouraged the SCFA members to provide written responses to the document for the purpose of redrafting. As soft money declines, the Academic Health Center will be one of the hardest hit areas. The University needs to deal with this given the tools that are available to respond. The Regents are hoping that the faculty will have a position to report this coming summer. It behooves the faculty to respond to this request in the tradition of strong faculty governance at the University rather than have the changes and discussion dictated by external forces. It also must be understood that the tenure issue is being handled in the context of budget planning with a short term emphasis, and curricular reform related to the change to semesters.

Professor Fred Morrison, noted expert on the Tenure Code, explained that the University is facing a number of crises at this time. The dimensions of these problems are unclear. The Administration is reporting that this is especially the case in the Academic Health Center, although no specific details are being provided. This is most likely due to the fast changing environment in health care, the proposed merger with Fairview Riverside Medical Center, etc.

He continued by saying that there are a number of issues in the tenure which need to be fine-tuned:

- \* The University's removal for cause procedures are probably too complicated.
- \* There is also a need for the procedures to be administered better.

- \* There are procedures in the tenure granting process that are too detailed.

There two main issues about the Code are evident in recent discussions. One is identifying the locus of tenure - Is it in the department, the college, the provostal area, or the University? This is a non-issue according to Professor Morrison. He said that the University is obligated to retain a tenured faculty member under the present regulations, no matter where the tenure is located. Even if the budget shrinks, the University cannot "lay-off" the tenured faculty. The actual issue is whether or not changes should be developed to allow termination for programmatic change. The faculty are obligated to face this issue head-on especially since the University is discussing reducing its number of programs. The details, procedures, re-employment support mechanisms all need to be discussed about this issue.

The Administration made promises to the faculty approximately a decade ago which it now wishes to exchange, added Professor Morrison. Section 12 of the current Code which details this promise to protect tenured faculty.

The second major point is related to the reduction base pay for tenured faculty members from year to year. Professor Morrison said that this is a false issue in the Health Sciences because the provost says that this is a big problem while the dean says it is not a problem at all. The Provost sees this as a problem because theoretically it constrains his movement. In fact, the Tenure Code does not constrain his ability to utilize practice payments which currently are not being fully utilized.

In both of these areas is the idea of uncoupling tenure and compensation. Professor Morrison said that Dan Farber recently produced a letter which stated if this type of uncoupling was to take place it should be conducted in a way similar to the arrangements of an adjustable rate mortgage: It can only go down a certain percent per year and down a maximum over the life of the faculty member's tenure.

Procedures and controls need to be established if changes in the Tenure Code are to be made. This is especially necessary because there have been cases where administrators (department heads, deans) have made arbitrary decisions. Protection against these actions have been provided through the Tenure Code. Therefore, some type of mechanism would need to be developed to protect against arbitrary decisions if the Tenure Code was changed, added Professor Morrison.

In review, the two major issues are:

1. Can people be laid-off if there is a programmatic change?
2. Can compensation be reduced?

Some alternative considerations include:

- \* Do tenured faculty have to be full-time?
- \* Should the University introduce a tenure quota such that some probationary faculty would not be able to enter in tenured positions?

Other points to consider according to Professor Morrison:

- \* Professor Adams's paper calls for improvements in management at the University. Faculty records demonstrate that inappropriate managerial actions are not decreasing.

- \* The Tenure Code was written under the assumption of mandatory retirement which no longer exists. Peak compensation may not be most appropriate for all faculty at later stages of their careers.
- \* Principles and procedures being separated is not a wise idea. The procedures are what make the principles work.

Professor Naomi Scheman said that as we consider changing the Tenure Code, there is an inherent link between this review and the possibility of interfering with Academic Freedom. This needs to be made explicit in the Draft Discussion Document. She also asked how the undergraduate student experience and the University as a whole would be changed if the majority of undergraduate courses were taught by non-tenured or tenure-track faculty.

Committee member comments:

- \* There is a significant difference between fine-tuning the current Tenure Code and implementing radical change.
- \* A rationale for the swiftness of the current review process needs to be made explicit.
- \* SCFA made a mistake agreeing with a one year amendment to the Tenure Code given the new provostal structure. A longer period would have allowed more time for the current re-examination of the Code.

Questions addressed to Professors Adams and Morrison by SCFA:

Q Could you please provide a historical perspective on the location of tenure?

A The 1945 Tenure Code Regulations said that the Regents could close a department possibly providing one year of severance pay for affected faculty. Between 1945 to the early 1980s, the Administration made efforts to re-assign affected faculty, although it was not obligated. This became a significant issue during the tenure debates in the early 1980's. The regulations presented in 1982 contained much more flexible provisions which were rejected by the Faculty Senate. The Senate approved a rigid position which stated that no faculty would be laid off if a department/etc. was closed. The Board of Regents discussed this position and sent the document back to the Senate with comments in order to reach a compromise. The final decision in detail is Section 12 as it currently exists stating that a tenured faculty member must be willing to accept re-assignment if a department/etc. is closed. The University agreed to retain affected faculty and allow them to continue their related research.

Q How did Section 12 related to the closing of the Waseca campus?

A The University was flexible with faculty at the campus, allowing them to veto assignments that were offered them at other campuses, and providing them with alternative assignments. Note that the faculty were re-assigned to "responsibilities" which were not necessarily teaching-related (although they were allowed to continue their research). Receiving departments were also able to veto assignments. This became a problem when affected faculty were unwilling to go anywhere else.

Q What would happen if the Faculty Senate could not come to an agreement and the Regents changed the Tenure Code by decree?

- A Then we would have a new Tenure Code. In this case, the University would need to deal with the relevance of the "Amendment Clause" in faculty contracts. This would likely lead to a lengthy law suit between the administration and the faculty.

SCFA comments:

- \* This seems to be an inappropriate time to examine the minute details of the Tenure Code. This is the right time to send a signal to the Regents that the faculty are dealing with a number of pressing issues at this time ("many alligators in the water"), and do not wish to address such a significant matter under these conditions.
- \* Can we deal with the some of the revisions without tampering with the essence of tenure as it currently exists? Whatever we do, there would need to be a sunset clause.
- \* Senior administration has said that there is no funding available to provide early retirement buy-outs for the purpose of dealing with the overload of faculty in certain departments.
- \* Keeping the Tenure Code while beginning to circulate an increasing number of non-tenure-track people might not provide the protection needed for these individuals.
- \* Two tiered systems which "grandfather" tenured and tenure track faculty have not been particularly successful to date.
- \* A two tiered system exists at the University through the use of teaching assistants, non-tenured instructors, etc.
- \* There are many interesting ideas being considered (e.g. tenured part-time positions). Nevertheless, the existing code should remain as it stands while the experimentation occurs.
- \* The problem that the University is experiencing may be due to the awarding of tenure to faculty retained with soft money. This may be the case of the University Hospital.
- \* The situation in the Academic Health Center is triggering a conversation that must occur as the University plans its course over the next ten+ years.
- \* The removal of mandatory retirement has created a new set of dynamics by which faculty employment practices must be conducted.

The committee continued discussing tenure, repeating some of the issues listed above or elaborating further on them. Several SCFA members agreed that the central issue that is driving the discussion is if the University will obtain the ability to "lay off" tenured faculty. The issue is not being addressed for the sake of a philosophical discussion. The Administration is trying to determine how it can relieve some of the huge financial pressures by down-sizing the number of faculty through the revision of the Tenure Code, added a committee member. SCFA is in a difficult position in that it is being asked to develop a mechanism by which some of the faculty can be eliminated.

Additional points:

- \* Section 11 in the Tenure Code, covering issues related to Financial Emergency, explicitly details the circumstances to by which the University can eliminate faculty positions in severe financial situations.
- \* The University needs to develop a proper mechanism to deal with ineffective faculty.
- \* Maybe the University should begin to only tenure those are primarily responsible in the area of teaching.

Professor Feeney summarized the discussion, pointing out that SCFA would need to take a position on the four main issues related to tenure (in favor, against, or present an alternative):

- \* Examining "Laying-off" faculty,
- \* Determining the locus of tenure
- \* Reducing of base pay, and
- \* Changing the percentage of appointment that can be tenured.

He recommended that the committee commit the tenure discussion at the January 18 meeting to the subject of "lay-offs." This would allow the committee to present a position at the upcoming Faculty Forum on Tenure.

-- Kevin Gormley

University of Minnesota