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**Tenure Committee**  
**Monday, February 16, 2004**  
**1:30 - 3:00**  
**238A Morrill Hall**

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

Absent: Dale Carpenter, Carol Carrier, Robert Jones, Carston Wagner

Guests: none

**1. Minutes**

Professor Akehurst convened the meeting at 1:30. The Committee unanimously approved the November 17 meeting minutes. Professor Akehurst said that he would follow up on the items noted in those minutes: ask the vice presidents if there is a need to develop procedures for Section 7A, ask Professor Duvall about the minutes of the task force on academic freedom, and write to the Academic Health Center Finance and Planning Committee about appointments of faculty who will work in the Translational Research Facility. These items will be on the agenda of the Committee later in the year.

**2. Review of Sections 4 and 5 of the Tenure Regulations**

The Committee reviewed sections 4 and 5 of the tenure code.

It had a question about the language in section 4.1 that provides "The notice is only evidence of the appointment; clerical or computer errors in a notice of appointment do not affect the terms of the appointment unless the faculty member reasonably relied upon the mistake and suffered an injustice because of that reliance." The Committee was uncertain of the need for the first clause and agreed to ask Professor Carpenter if it is simply boilerplate.

The Committee then focused on section 4.5:

4.5 Reduction Or Postponement Of Compensation. If the University or a collegiate unit is faced with financial stringency that does not amount to a fiscal emergency, the president may propose a temporary reduction or postponement in compensation to be allocated to faculty in accordance with a mathematical formula or similar device. If approved by the Faculty Senate or the appropriate collegiate assembly, respectively, and the Board of Regents, the recurring salary of all faculty members in the University or in the designated collegiate units shall be reduced temporarily in accordance with the formula or device. The reduction may not continue for longer than two years, unless renewed by the same procedure.

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Does the Faculty Senate need to approve the postponement of salary increases? Professor Clayton commented that it appears from events that salary freezes are not covered by this section of the code, even though compensation is being postponed. It appears that the President could impose salary freezes indefinitely without any vote by the Faculty Senate. Or, Professor Akehurst said, impose higher and higher fringe benefit costs on employees. Could the Faculty Senate have prevented the increase in employee health care costs? Professor Ehlke noted that the language says nothing about fringe benefits.

Professor Durfee said the language suggests that the Faculty Senate votes **ONLY** on recurring salaries, not total compensation; if that is the intent, the language needs to be clarified. The faculty took the salary freeze lying down this year, Professor Clayton said, but it is not self-evident it should have done so when a lot of universities did not feel an obligation to impose a freeze. He urged that a salary freeze should be included as a decision which the Faculty Senate should be required to approve; it postpones income and deprives people of compensation. If there is a reasonable argument for a freeze, the Faculty Senate will approve it; if there isn't such a reason, the proposal should not be made. If a freeze is included, the faculty must vote it on itself; if it is not, the faculty must roll over and play dead, Professor Akehurst commented.

Professor Durfee said there are two questions: (1) should the language also cover no change in compensation (a freeze) or only reductions in salaries? (2) does the language refer only to recurring salaries or to total compensation? The two are mixed together; if it is intended that it covers total compensation, then the Faculty Senate should have voted on the salary freeze. Professor Akehurst suggested it should cover the postponement (freeze on) or reduction of recurring salary, not fringe benefits. It would be precipitate to adopt changes to the code, however, without considered thought and discussion. It has been argued that section 4.5 should include salary freezes; it has also been argued (and largely agreed at the meeting) that the language should cover only recurring salaries, not fringe benefits. Professor Durfee said that including a salary freeze in section 4.5 would be a major change and could be a slippery slope; he said he would like the Committee to hear from those who must make the decisions. Professor Clayton agreed but said the Committee should not drop the matter.

The Committee decided to consider revisions to section 4.5 and, once it has agreed on them, to invite Professors Martin (FCC), Campbell (Finance and Planning), and Fossum (Faculty Affairs) to discuss the draft revisions.

Professor Durfee also noted the wording of Interpretation 2 of the tenure regulations:

## **2. Interpretation of Section 4.4: Definition of Recurring Salaries.**

It is expected that any salary increases normally will be added to recurring salary if recurring funds are available for that purpose. Section 4.4 does not give any specific faculty member a legal entitlement or right to an increase in recurring salary.

With respect to section 5, the Committee had questions about section 5.1:

**5.1 General Rule.** To give the University ample opportunity to determine the qualifications of those faculty members whom it is considering for regular appointments with indefinite tenure, the maximum period of probationary service of a faculty member is normally six academic years, whether consecutive or not. The faculty assembly of a collegiate unit may

propose to alter the maximum probationary period for all of that college, or for certain units within it, to no more than nine years.

May a unit SHORTEN the probationary period, after it has lengthened it, Professor Durfee asked? What if a unit extended the probationary period to nine years and then decided it wanted to go to seven; could it? And can a unit establish a probationary period shorter than six years? On the latter point, the Committee believed that a shorter period would violate AAUP standards; on the former point, it agreed first to inquire of Vice President Carrier if any unit other than the Medical School has established a probationary period longer than six years.

The Committee also considered section 5.5:

**5.5 Exception For New Parent Or Caregiver.** The maximum period of probationary service will be extended by one year at the request of a probationary faculty member:

1. On the occasion of the birth of that faculty member's child or adoptive/foster placement of a child with that faculty member; or
2. When the faculty member is a major caregiver for a family member[2] who has an extended serious illness, injury, or debilitating condition. A faculty member may use this provision no more than two times.

To whom is the request made, Professor Durfee asked? The Committee concluded that the language should be amended to include, after "request of a probationary faculty member" the phrase "to the senior academic administrator," who is defined by the policy to be the appropriate vice president, chancellor, or provost. It was noted that this is an entitlement, not something a University officer can deny.

The Committee also concluded that the second sentence of (2), limiting use of the exception, applied only to (2) and not to the occasion of the birth of a child.

The Committee considered the Interpretation that covers section 5.5:

**5. Interpretation of Subsection 5.5: Major Caregiver Responsibilities.**

A request for extension of the maximum probationary period for major caregiver responsibilities should be made only if those responsibilities are very substantial and continue over an extended period of time. The probationary faculty member must submit a written application to the head of the academic unit, who will forward it for action and approval through the appropriate University channels. If an administrator does not approve the request, the faculty member may file a grievance under applicable University policies.

Professor Akehurst said these items would be brought back at the next meeting and adjourned this one at 2:45.

-- Gary Engstrand