

MAY 30, 1996

The sixth meeting of the Faculty Senate for 1995-96 was convened in 25 Law Building, Minneapolis campus, on Thursday, May 30, 1996, at 3:20 p.m. Checking or signing the roll as present were 138 voting faculty members, 2 ex officio members, and 3 nonmembers. Professor Roberta Humphreys, Vice Chair of the Faculty Senate, presided.

I. FACULTY AFFAIRS COMMITTEE
JUDICIAL COMMITTEE
TENURE SUBCOMMITTEE
Regulations Concerning Faculty Tenure
Action

MOTION:

To approve the following amendments to the "Regulations Concerning Faculty Tenure":

PREAMBLE TO MOTION A:

The following proposed amendments are considered to be "housekeeping" in nature. The 1985 Tenure Regulations provided that the Senior Vice President for Academic Affairs would be the final decision-maker on most individual cases relating to tenure. The 1995 reorganization of the University administration split that authority among the several chancellors and provosts, although the Vice President retains authority with respect to the units that report directly to him. The amendments in Motion A accommodate that reorganization, but do so in a way that will permit future presidents of the University to create new administrative structures. It allows the President to appoint one or more "senior administrative officers," who will have final authority regarding the granting of tenure, and to define the scope of their authority (one or more colleges, campuses, etc.) In the present structure these officers would be the three chancellors, the three provosts, and (for University Libraries and a few other special cases) the Vice President for Academic Affairs. The Vice President for Academic Affairs will, however, retain University-wide authority for the development of tenure policy, although not for its administration in individual cases. If approved by the Faculty Senate and accepted by the Board of Regents, these amendments will replace the current interpretation of this topic which expires June 30, 1996.

MOTION A:

To amend the "Regulations Concerning Faculty Tenure" as follows: (new language is in CAPS; language to be deleted is in [brackets])

[PLEASE NOTE: Additional amendments to Section 3 are being proposed; only the "housekeeping" amendments are included under Motion A.]

Section 3. Faculty Ranks and Types of Appointments

3.3 Non-regular Appointments. A non-regular appointment is date-specific; that is, the appointment terminates at the end of a period specified in the appointment without further notice to the appointee. The [Vice

President] SENIOR ADMINISTRATIVE OFFICER FOR THE CAMPUS OR AREA (footnote 3) must give every person appointed to a non-regular faculty position a statement in writing setting forth the conditions of the non-regular appointment, including the fact that it terminates without further notice. . . .

3.4 Limitation on Use of Non-Regular Appointments.

(j) A regular faculty member on a probationary appointment may transfer to non-regular status during enrollment in such a program if the faculty member and the [Vice President] SENIOR ACADEMIC ADMINISTRATOR agree. . . .

3.6 Special Contracts

. . . . It must be signed by the faculty member concerned, by the dean of the collegiate unit in which the faculty member will be employed and by the [Vice President] SENIOR ACADEMIC ADMINISTRATOR and must be authorized by the Board of Regents or its expressly authorized delegate. In addition, the [Vice President] SENIOR ACADEMIC ADMINISTRATOR will annually report to the Tenure Committee the terms of all special contracts and the reasons for their use. . . .

Section 7. Personnel Decisions Concerning Probationary Faculty

7.12 Departmental Statement

. . . . Each such document is subject to review by the dean or other appropriate academic administrator, by the [Vice President] SENIOR ACADEMIC ADMINISTRATOR AND BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS. . . .

7.63 Final Administrative Action

The University may not act contrary to the recommendation of the academic unit which made the initial recommendation except for substantive reasons which must be stated in writing by the [Vice President (or a person designated by the Vice President)] SENIOR ACADEMIC ADMINISTRATOR to the faculty member The [Vice President] SENIOR ACADEMIC ADMINISTRATOR takes the steps necessary to make the necessary appointment or to give notice of termination.

Section 11. Fiscal Emergency

11.53 Allocation of Shortfall

. . . . The colleges and campuses return their plans to the [Vice President] SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS, who prepares a comprehensive plan for the University The recommendations of the Senates and the SENIOR Vice President's plan will be presented to the President and the Board of Regents for action.

11.62 Priorities

(b) The SENIOR Vice President FOR ACADEMIC AFFAIRS must insure that for the University as a whole the plan which is submitted does not reduce the proportion of appointments with indefinite tenure held by women and minorities entitled to affirmative action,

Section 13. Judicial Committee

13.2 Procedures

. . . . In every case before the Judicial Committee the [Vice President] SENIOR ACADEMIC ADMINISTRATOR may designate the academic administrator who will represent the University as respondent. IF THE CASE

INVOLVES TWO OR MORE CAMPUSES OR AREAS, THE PRESIDENT OR THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS MAY DESIGNATE THE RESPONDENT.

Section 15. Appeals to the Judicial Committee

15.2 Procedure for Securing Review

. . . . Within 30 days of filing, the Chair of the Judicial Committee must send copies of the request to the head of the academic unit concerned and to the senior [Vice President] ACADEMIC ADMINISTRATOR.

15.6 Actions Requiring Reconsideration. If the Judicial Committee recommends reconsideration of an action, that reconsideration will be undertaken under the supervision of the [Vice President] SENIOR ACADEMIC ADMINISTRATOR, unless otherwise specified.

15.7 Recommendations for Changes in University Policies and Procedures

. . . . As a result of Judicial Committee proceedings, the Judicial Committee, the Tenure Committee or the SENIOR Vice President FOR ACADEMIC AFFAIRS may initiate steps to clarify or improve the University rules or policies involved.

Section 16. Tenure Committee

16.1 Membership

The [Tenure Committee] TENURE SUBCOMMITTEE OF THE SENATE FACULTY AFFAIRS COMMITTEE (REFERRED TO ELSEWHERE IN THESE REGULATIONS AS THE TENURE COMMITTEE) is composed of at least seven members of the faculty and such other persons as the University Senate Bylaws shall provide.

16.2 Interpretations

The SENIOR Vice President FOR ACADEMIC AFFAIRS and the Tenure Committee may propose formal interpretations of these regulations, consistent with their terms.

16.3 Procedures

The SENIOR Vice President FOR ACADEMIC AFFAIRS and the Tenure Committee may jointly adopt the procedures provided by Sections 7.4 and 7.61.

Footnotes

- 2 . . The "academic administrator" or "dean" of a collegiate unit is a dean[, provost,] or similar officer.

- 3 [As used in these Regulations, "Vice President" means the Vice President for Academic Affairs.] A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS TO HAVE RESPONSIBILITY FOR ACADEMIC MATTERS FOR ALL OR PART OF THE UNIVERSITY, AND WILL DEFINE THEIR RESPECTIVE JURISDICTIONS.

- 10 Because of the special mission of the Crookston [and Waseca] campus[es], disciplined inquiry in [their] ITS field of endeavor may be substituted for research in appraising faculty members there.

Committee Action

Approved by the: Tenure Subcommittee--May 3, 1996
Faculty Affairs Committee--May 9, 1996
Judicial Committee--May 11, 1996
(NOTE: JUDICIAL COMMITTEE APPROVAL IS SUBJECT TO REVIEW
BY MEMBERS WHO WERE UNABLE TO ATTEND THE MAY 11 MEETING.)

Footnote 3: Revised by the Tenure Subcommittee--May 17, 1996

DISCUSSION:

Professor Daniel Feeney, chair of the Faculty Affairs Committee, briefly recapped the tenure review process noting that motions A through G and Interpretation 1, after being presented for information at the May 16 Faculty Senate meeting, were now being presented for action. A second set of amendments (H-K) and an Interpretation 2 were being presented for discussion with action scheduled for June 6. All of the motions were reviewed by the Faculty Affairs Committee, the Tenure Subcommittee, and the Judicial Committee and the approval of each of those committees is noted, where appropriate, in the amendments. Professor Feeney thanked members of the three committees for their extraordinary efforts in responding to the Regents request to review the Tenure Code, to senators, and particularly to Professor Fred Morrison for his guidance and counsel. He then introduced Professor Mary Dempsey, chair of the Tenure Subcommittee, to present the motions.

Before turning to the specific motions, Professor Dempsey also expressed appreciation to the many individuals who have participated in the tenure review process.

Motion A was described by Professor Dempsey as a "housekeeping" amendment that will accommodate the chancellor and provostal structure at the University. It will provide not only for the current administrative structure but other structures that may come about in the future and it allows the President to appoint one or more "senior administrative officers" who will have final authority regarding the granting of tenure. In the present structure the officers would be the three chancellors, the three provosts and, in certain instances, the Vice President for Academic Affairs.

With little discussion Motion A was approved on a voice vote by a majority of members present and voting.

APPROVED

PREAMBLE TO MOTIONS B-G:

The Subsequent motions are presented to you on the assumption that Motion A is approved. If it is not, the words "vice president" should be reinserted in the appropriate places.

MOTION B:

To amend section 1.1 as follows: (new language is in CAPS; language to be deleted is in [brackets])

Section 1. Academic Freedom

1.1 Principles. Every member of the faculty is entitled to due process and academic freedom as established by academic tradition and the Constitutions and laws of the United States and the State of Minnesota and as amplified by Resolutions of the Board of Regents. The Board of Regents hereby reaffirms its [policies concerning] COMMITMENT TO academic freedom and tenure AS REFLECTED [announced] in its resolution of January 28, 1938, and IN the statement of December 14, 1963, which are set forth in the Appendix to these regulations. THE POLICIES OF THE BOARD OF REGENTS REGARDING ACADEMIC FREEDOM ARE CURRENTLY STATED IN THE BOARD'S STATEMENT OF SEPTEMBER 8, 1995, WHICH PROVIDES:

THE REGENTS OF THE UNIVERSITY OF MINNESOTA REAFFIRM THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THESE ARE ROOTED IN THE BELIEF THAT THE MIND IS ENNOBLED BY THE PURSUIT OF UNDERSTANDING AND THE SEARCH FOR TRUTH AND THE STATE WELL SERVED WHEN INSTRUCTION IS AVAILABLE TO ALL AT AN INSTITUTION DEDICATED TO THE ADVANCEMENT OF LEARNING. THESE PRINCIPLES ARE ALSO REFRESHED BY THE RECOLLECTION THAT THERE IS COMMUNE VINCULUM OMNIBUS ARTIBUS--A COMMON BOND THROUGH ALL THE ARTS.

ACADEMIC FREEDOM IS THE FREEDOM TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, TO EXPLORE ALL AVENUES OF SCHOLARSHIP, RESEARCH AND CREATIVE EXPRESSION AND TO SPEAK OR WRITE AS A PUBLIC CITIZEN WITHOUT INSTITUTIONAL DISCIPLINE OR RESTRAINT. ACADEMIC RESPONSIBILITY IMPLIES THE FAITHFUL PERFORMANCE OF ACADEMIC DUTIES AND OBLIGATIONS, THE RECOGNITION OF THE DEMANDS OF THE SCHOLARLY ENTERPRISE AND THE CANDOR TO MAKE IT CLEAR THAT THE INDIVIDUAL IS NOT SPEAKING FOR THE INSTITUTION IN MATTERS OF PUBLIC INTEREST.

Comment

This item incorporates into the Tenure Code the most recent statement of the Board of Regents with regard to academic freedom. The statements of 1938 and 1963 are retained in the appendix because of their importance in the interpretation of academic freedom at this University.

Committee Action

Approved by the: Tenure Subcommittee--May 3, 1996.
Faculty Affairs Committee--May 9, 1996
Judicial Committee--May 11, 1996 (See note to Motion A)

Comment: Revised by the Tenure Subcommittee--May 17, 1996

DISCUSSION:

Motion B incorporates into the Tenure Code the most recent statement of the Board of Regents with regard to academic freedom. The other two statements of 1938 and 1963 will be retained in the appendix because of their importance in the interpretation of academic freedom at the University.

In response to questions concerning specific language in the academic freedom statement, Professor Morrison clarified that the statement itself was not on the agenda for debate. The current statement, he reminded senators, was developed and approved by the Faculty Senate last year and subsequently approved by the Board of Regents. Motion B simply calls for the insertion of the statement into the Tenure Code.

With no further discussion Motion B was approved on a voice vote by a majority of members present and voting.

APPROVED

MOTION C:

To amend sections 3 and 8 of the Tenure Regulations (new language is in CAPS; language to be deleted is in [brackets])

Amend section 3 of the Tenure Regulations to read as follows:

Section 3. Faculty Ranks and Types of Appointments.

3.1 In General. The faculty ranks are Professor, Associate Professor, Assistant Professor, and Instructor. FACULTY APPOINTMENT IS APPROPRIATE ONLY IF THE INDIVIDUAL IS ENGAGED IN TEACHING OR RESEARCH AS DEFINED IN SECTION 7.11. Appointment at these ranks are either regular TENURED OR TENURE-TRACK APPOINTMENTS or [non-regular] TERM APPOINTMENTS. An appointment must be designated AS A regular or [non-regular] A TERM APPOINTMENT when it is made.

3.2 Regular TENURED OR TENURE-TRACK Appointments. A regular appointment is either with indefinite tenure or is probationary leading to a decision concerning indefinite tenure within a specified period of time. A faculty member with indefinite tenure is entitled to retain that position until retirement in accordance with University regulations or until the appointment is terminated pursuant to the provisions of Sections 10 or 11. A faculty member on probationary appointment (a) is entitled to consideration for indefinite tenure, and (b) is entitled to timely notice of termination in accordance with Section 6. A regular appointment may only be held in an academic unit(footnote 1) of a degree-granting college (footnote 2), or similar unit. A regular appointment must be for two-thirds time or more over the academic year.

3.3 [Non-regular] TERM Appointments. A [non-regular] TERM appointment is date-specific: that is, the appointment terminates at the end of a period specified in the notice of appointment without further notice to the appointee. The [Vice President] SENIOR ACADEMIC ADMINISTRATOR FOR THE CAMPUS OR AREA (FOOTNOTE 3) must give every person appointed to a [non-regular] TERM faculty position a statement in writing setting forth the conditions of the [non-regular] appointment, including the fact that it terminates without further notice. No number of renewals of a [non-regular] TERM appointment creates a right to further renewals or to a decision concerning tenure. Every renewal of a [non-regular] TERM appointment for the seventh or succeeding year must be reported to the Tenure Committee with a justification of the reasons for [non-regular] THE CONTINUATION OF TERM status.

3.4 [Limitation on Use of Non-Regular Appointments.] APPROPRIATE USES OF TERM APPOINTMENTS. [Faculty appointments must be regular (either probationary or with indefinite tenure) unless one or more of the following conditions is met, in which case the appointment may be classified as non-regular] TERM APPOINTMENTS ARE APPROPRIATE AND MAY BE USED PROVIDED ONE OR MORE OF THE FOLLOWING CONDITIONS IS MET:

- (a) The duration, the percentage of time, or both require less than service for two-thirds time for the academic year.
- (b) The appointment is designated as a Visiting appointment because the faculty member is from another educational institution or is a qualified professional from a government or private agency on a

leave of absence to accept a temporary assignment at this University.

- (c) The appointment is designated a Clinical appointment because the faculty member is a clinician in the community who gives service to the University part-time;
- (D) THE APPOINTMENT CONCERNS A FACULTY MEMBER WHO PRINCIPALLY IS ENGAGED IN AND PRIMARILY IS SUPPORTED BY CLINICAL ACTIVITIES OR BY DISCIPLINE-RELATED SERVICE (new footnote *).
- [(d)](E) The appointment is designated an Adjunct appointment because the faculty member's primary employment is outside the University or is in another unit of the University.
- [(e)](F) The appointment extends courtesy faculty rank without salary.
- [(f)](G) The position is subject to the joint control of the University and another institution.
- [(g)](H) The specific funding for the position is subject to the discretion of another agency.
- [(h)](I) The funding for the position is for a limited time.
- [(i)](J) The appointment is in a unit or program that is experimental or otherwise restricted in duration.
- [(j)](K) The person is enrolled in a University of Minnesota degree program. A regular faculty member on a probationary appointment may transfer to [non-regular] TERM status during enrollment in such a program if the faculty member and the [Vice President] SENIOR ACADEMIC ADMINISTRATOR agree. This transfer suspends the running of the maximum period of probationary service, but the faculty member retains other rights of regular appointment, including annual review, the right to timely notice and a terminal appointment period as provided in Section 6.

3.5 Administrators' Appointments. Academic administrators may hold regular or [non-regular] TERM faculty appointments. Administrative titles and duties are distinct and severable from such individual faculty appointments. Removal from an administrative position does not impair any rights the individual holds as a faculty member. UPON LEAVING AN ADMINISTRATIVE POSITION, THE INDIVIDUAL RETURNS TO FACULTY STATUS, WITH SALARY AND TERM OF APPOINTMENT REDUCED BY THE AMOUNT OF THE ADMINISTRATIVE AUGMENTATION, IF ANY.

Footnotes

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- (1) As used in these Regulations, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head, or director.
 - (2) As used in these Regulations, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute or campus. The "academic administrator" or "dean" of a collegiate unit is a dean [, provost,] or similar officer.
 - (3) [As used in these regulations, "Vice President" means the Vice President for Academic Affairs.] THE PRESIDENT WILL DESIGNATE ONE OF MORE SENIOR ACADEMIC ADMINISTRATORS (VICE PRESIDENTS, CHANCELLORS, PROVOSTS, ETC.) TO HAVE RESPONSIBILITY FOR ACADEMIC MATTERS FOR ALL OR PART OF THE UNIVERSITY, AND WILL DEFINE THEIR RESPECTIVE JURISDICTIONS.
 - (*) NEW FOOTNOTE TO ITEM 3.4(D): "SERVICE" MEANS PERFORMANCE WITHIN THE FACULTY MEMBER'S EXPERTISE, OTHER THAN TEACHING AND RESEARCH AS DEFINED IN SECTION 7.11.

And amend the title and introductory language of section 8 as follows:

Section 8. Improper Refusal of a New Appointment to a [Non-Regular] TERM

Faculty Member.

A person holding a [non-regular] TERM faculty appointment who has been refused a renewal of that appointment or has applied for and been refused a regular or a different [non-regular] TERM faculty appointment within six months of the end of that appointment may petition the Judicial Committee to review the refusal, but only on the ground that the decision was based in significant degree on one or more of the following: . . .

[remainder of text unchanged]

Comment

This proposal changes terminology in the Tenure regulations and also permits the University to employ clinical faculty on term contracts.

Many have felt that the terminology "nonregular" appointment carried a derogatory connotation. In order to eliminate that implication, the word "nonregular" has been changed to "term" throughout the Regulations. Term appointments are those which have a fixed duration and do not lead to probationary or tenured appointments.

Section 3(d) permits such appointments to be made for faculty whose principal commitment is to clinical or service duties and who are primarily supported by funds generated by those activities. This recognizes the variable funding of such clinical activities and does not commit the University to maintaining the income of future clinicians if the clinical revenues will not support them.

This section is prospective only. Faculty currently holding tenured or tenure-track appointments cannot be shifted to term appointments without their consent.

Committee action

Approved by the: Tenure Subcommittee--May 3, 1996
Faculty Affairs Committee--May 9, 1996
Judicial Committee--May 11, 1996 (See note to Motion A)

Section 3.4: Revised by the Tenure Subcommittee--May 17, 1996

DISCUSSION:

Motion C changes the title of "non-regular" appointments to "term" appointments and permits the University to employ clinical faculty on term contracts. Term appointments are those which have a fixed duration and do not lead to probationary or tenured appointments.

"Will there be annual reviews for individuals with 'term' appointments?" inquired a senator. Professor Feeney said there currently is no system in place to govern 'term' appointments, but if the amendment is approved, the

Faculty Affairs Committee has already discussed the importance of placing that item as a priority on its agenda next year.

With little further discussion Motion C was approved on a voice vote by a majority of members present and voting.

APPROVED

MOTION D:

To amend sections 4.1 and 4.3 and add a section 4.4, as follows: (new language is in CAPS; language to be deleted is in [brackets])

Amend section 4.1 as follows:

Section 4. Terms of Faculty Employment

4.1 Written notice of appointment. Each faculty appointment or change of status is specified in a written notice of appointment issued by or on behalf of the Board of Regents. The notice must specify the following:

- (1) whether the appointment is regular or [non-regular] TERM;
- (2) whether it is full or part-time and the percentage of time involved;
- (3) if for a fixed term, its expiration date;
- (4) if regular, whether it is probationary or with indefinite tenure;
- (5) whether it is on a twelve-month, academic year or other specified annual basis;
- (6) the rank of appointment;
- (7) the academic unit or units to which the individual is being appointed; [and]
- (8) the BASE salary; AND
- (9) OTHER COMPENSATION OR AUGMENTATION AS DESCRIBED IN SECTION 4.4.

Amend section 4.3 as follows:

4.3 Changes in Terms of Appointments. Except for raises in rank or BASE salary and except for action expressly authorized by these regulations, no changes of [any of the] items (1) THROUGH (8) listed in Subsection 4.1 may be made during the term of an appointment except with the agreement of the faculty member and the Board of Regents or its authorized delegate.

Add a new subsection 4.4 to read as follows:

4.4 FACULTY COMPENSATION. EACH FACULTY MEMBER SHALL RECEIVE A BASE SALARY, WHICH SHALL NOT BE DECREASED EXCEPT AS EXPRESSLY AUTHORIZED IN THESE REGULATIONS. THE BASE SALARY SHALL CONSIST OF THE INITIAL BASE SALARY PLUS ANY SUBSEQUENT INCREASE IN BASE SALARY. IN GENERAL, IT IS EXPECTED THAT SALARY INCREASES WILL BE ADDED TO THE BASE. THE UNIVERSITY MAY ALSO PROVIDE A FACULTY MEMBER WITH ADDITIONAL COMPENSATION THAT IS NOT PART OF THE BASE SALARY. THE ADDITIONAL COMPENSATION MAY BE FOR SPECIAL AWARDS OR FOR ACTIVITIES IN ADDITION TO REGULAR FACULTY RESPONSIBILITIES SUCH AS CLINICAL PRACTICE, ADMINISTRATIVE SERVICE, OVERLOAD DUTIES, SUMMER SCHOOL TEACHING, AND SUMMER RESEARCH SUPPORT. THE FACULTY MEMBER DOES NOT HAVE A RIGHT TO

CONTINUATION OF THIS ADDITIONAL COMPENSATION BEYOND THE TIME FOR WHICH IT IS GRANTED.

AT THE TIME AN APPOINTMENT IS MADE, THE OFFER AND WRITTEN NOTICE OF APPOINTMENT SHALL SEPARATELY STATE THE BASE SALARY AND ANY ADDITIONAL COMPENSATION, AS DESCRIBED ABOVE, THAT THE FACULTY MEMBER WILL RECEIVE. (FOR FACULTY MEMBERS EMPLOYED AT THE TIME THIS SECTION TAKES EFFECT, THE INITIAL BASE SALARY SHALL BE THE SALARY GUARANTEED UNDER THESE REGULATIONS AT THE TIME THIS AMENDMENT TAKES EFFECT.) IN EACH SUBSEQUENT YEAR, THE FACULTY MEMBER SHALL BE PROVIDED WITH A WRITTEN NOTICE SEPARATELY STATING ANY INCREASE IN BASE SALARY AND ANY CHANGES IN THE ADDITIONAL COMPENSATION FOR THE FOLLOWING ACADEMIC YEAR. INCREASES WILL BE PRESUMED TO BE IN BASE SALARY UNLESS OTHERWISE IDENTIFIED.

Comment

Each faculty member will receive a base salary, but may be given additional incentive sums to reward temporary assignments, such as overload teaching, summer school, administrative service. Clinical compensation will also be outside of the base salary. While the base salary will be guaranteed from year to year, the additional payments will be subject to review and adjustment. Apart from raises, adjustments in base pay may be made only voluntarily or as provided in other sections of the Regulations.

Base salary will be identified in annual appointment documents for each faculty member. Base salary may only be changed as expressly provided in these Regulations. Other provisions permit reduction of base salary in case of financial exigency or disciplinary action.

Tenured or tenure-track faculty whose appointments are partially supported by grant funds will continue to hold their full base salaries.

The current base salary of faculty members will be guaranteed under this system. Salary increases would be either permanent (added to base) or temporary (for one year or a period of years only), as is already permissible. The change simply clarifies this practice and provides official language to describe it. New faculty members would have base and temporary elements of their salaries identified in the letter of offer and in the initial appointment documents.

The appropriate Senate committees will annually review the methods used to allocate salary increases between additions to base and temporary increases and will make necessary recommendations to the Senate and administration.

Committee action

Approved by the: Tenure Subcommittee--May 3, 1996
 Faculty Affairs Committee--May 9, 1996
 Judicial Committee--MAY 11, 1996 (Se note to Motion A)

Sections 4.3, 4.4 Revised by the Tenure Subcommittee--May 17, 1996
and Comment:

DISCUSSION:

Motion D, explained Professor Dempsey, clarifies what part of an individual's salary is guaranteed (i.e., base salary). Administrative augmentations, clinical compensation, incentive sums to reward temporary

assignments, and so on are not included in base salary. Annual salary increases would only be to the base salary, she said. For further clarification of the motion, she drew senators attention to the comment following the motion.

"What is a tenured faculty member's status if s/he is funded by an external endowment?" asked a senator. Professor Morrison responded that every faculty member who has a regular appointment has a base salary which the University guarantees no matter how it is paid. The motion does not address where the money comes from but rather what the minimum guaranteed salary is. The purpose of the motion is to reinforce that guarantee. It also allows for supplements, which are outlined. Whatever the base salary is now is guaranteed into the future. Finally, Professor Morrison said, there has been discussion to allow a cut in some base salaries, but that has been firmly rejected.

A suggestion was made to include a cross-reference to sections where a decrease in salary is permissible because a naive reader may not realize by reading Section 4.4 that a decrease can occur. A member of the Tenure Subcommittee said that could be accomplished with an addition to the comment. However, the cross references cannot be done until the section which allows for salary decreases is approved and that is not scheduled for action until June 6. Amendments can be offered at that time.

"What is the status of the comments and do they appear in the Tenure Code as such?" asked another. The comments, replied Professor Morrison, are a reference to legislative history. They are recorded in the Regents office and the Judicial Committee also has access to them. They are not, however, printed in the Code. Many people have complained that the University of Minnesota has one of the longest Tenure Codes in the country and including the comments would make it even longer. They do, however, provide some illustration and help if there is a controversy.

One person inquired about the legal status of the comments and suggested that if they have no legal standing, the statement "that tenured or tenure-track faculty whose appointments are partially supported by grant (substituting 'external' for 'grant') funds will continue to hold their full base salaries" be referenced in a footnote rather than in the comment in order to make it clear to the reader that this is, in fact, the case. Professor Morrison replied that he believes the language is clear in that no matter how the base salary is funded it is still the base salary.

Motion D was then approved on a voice vote by a majority of members present and voting.

APPROVED

MOTION E:

To amend section 5.1 as follows: (new language is in CAPS; language to be deleted is in [brackets])

Section 5. Maximum Period of Probationary Service

5.1 General rule. To give the University ample opportunity to determine the qualification of those faculty members whom it is considering for regular appointment 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. THE TENURED FACULTY OF A COLLEGE, BY SIMPLE MAJORITY VOTE TAKEN BY SECRET BALLOT, MAY ADOPT SUCH A CHANGE, WITH THE APPROVAL OF THE DEAN AND OF THE SENIOR ACADEMIC ADMINISTRATOR. ANY SUCH CHANGE IN THE MAXIMUM PROBATIONARY PERIOD APPLIES TO ALL PROBATIONARY FACULTY HIRED IN THAT COLLEGE (OR THOSE UNITS) AFTER THE DECISION, BUT ANY INCUMBENT PROBATIONARY FACULTY MEMBER MAY CHOOSE TO BE CONSIDERED UNDER THE NEW RULE. At the end of this [six-year] PROBATIONARY period, the faculty member must either be given a regular appointment with indefinite tenure or a one-year terminal appointment.

Comment

The amendment would formally permit collegiate units to extend the probationary period from six to nine years by general rule. Many colleges will wish to retain the current six-year maximum, while others may see advantages in a longer probationary period. It would thus recognize officially a practice which has been allowed by special interpretation of the Tenure Committee in the past few years. This recognizes the problems in some units of the University in which the ability to obtain external research support is a major consideration in the research element of the tenure decision. The design of research projects for which the probationary professor is to be a principal investigator and procurement of funding for them sometimes requires several years. The six-year probationary period is felt by many in those colleges to cut short the effective time for evaluation of the candidate's performance. The extension of time is believed to be necessary to permit full consideration of the candidates' qualifications.

A proposal to extend the probationary period would be made by the faculty assembly or similar body, and would require approval by the tenured faculty of the college, by its dean, and by the provost (or equivalent official). Current probationary faculty members could decide to be governed by the old or by the new rule.

A college could later decide to return to the general six-year pattern, following the same procedures. Again, incumbent probationary faculty could choose to be governed by the old system or the new one.

Other provisions of the current Tenure Regulations for "stopping the tenure clock," would not be affected. In those cases, the probationary faculty member would have an addition to the maximum probationary period for the collegiate unit as established under this section.

Committee action

Approved by the: Tenure Subcommittee--May 3, 1996
 Faculty Affairs Committee--May 9, 1996
 Judicial Committee--May 11, 1996 (See note to Motion A)

Section 5.1 Revised by the Tenure Subcommittee--May 17, 1996
and Comment:

DISCUSSION:

Motion E, if approved, would permit collegiate units to extend the probationary period from six to nine years. Current probationary faculty

would be given the option to choose which system they prefer to follow.

One person asked whether the probationary period could be decreased as well as increased and the answer was "yes," but senators were reminded that under the current Code a faculty member can be called up for a tenure review at any time and that units can use special contracts to shorten but not lengthen the maximum probationary period.

With no further discussion Motion E was approved on a voice vote by a majority of members present and voting.

APPROVED

MOTION F:

To add a new section 13.5 as follows: (entire text is new)

Section 13. Judicial Committee

13.5 LEGAL OFFICER. THE JUDICIAL COMMITTEE SHALL HAVE ITS OWN LEGAL OFFICER, APPOINTED BY THE JUDICIAL COMMITTEE IN CONSULTATION WITH THE PRESIDENT OR THE PRESIDENT'S DELEGATE. THE LEGAL OFFICER MAY NOT BE A MEMBER OF THE UNIVERSITY GENERAL COUNSEL'S OFFICE. THE LEGAL OFFICER ASSISTS THE JUDICIAL COMMITTEE IN THE EFFICIENT CONDUCT OF ITS WORK AND IN THE PREPARATION OF ITS REPORTS AND PERFORMS ADDITIONAL FUNCTIONS AS AUTHORIZED BY THE JUDICIAL COMMITTEE. THE LEGAL OFFICER MAY BE PRESENT AND PARTICIPATE IN THE DELIBERATION OF A PANEL, BUT SHALL HAVE NO VOTE. IN THE CASE OF THE ABSENCE OR DISQUALIFICATION OF THE LEGAL OFFICER, A DEPUTY MAY PERFORM THE FUNCTIONS OF THE OFFICE.

Comment

Over the past two decades, parties before the Judicial Committee have increasingly been represented by attorneys. As a result, the Committee has consulted with independent counsel to assist it in carrying out its functions. This amendment recognizes the position of a Legal Officer to assist the Judicial Committee in its work.

The Legal Officer gives legal advice to the Committee, independent of the legal advice supplied by the University's General Counsel Office to administrative officers in the proceedings. At the Committee's discretion, the Legal Officer may preside at hearings and perform other functions. The Committee will appoint a Deputy Legal Officer in case of the absence or disqualification of the Legal Officer.

The amendment makes clear that the Legal Officer does not vote and that decisions are made by members of the Committee. The function of the Legal Officer is to advise the Committee in making proceedings fair and efficient.

Committee action

Approved by the: Tenure Subcommittee--May 3, 1996
 Faculty Affairs Committee--May 9, 1996
 Judicial Committee--May 11, 1996

DISCUSSION:

Motion F allows for independent counsel for the Judicial Committee and confirms what is already the practice, said Professor Dempsey. A friendly amendment to substitute the word "may" for "shall" in the second sentence was accepted and hearing no further discussion Motion F was approved on a voice vote by a majority of members present and voting.

APPROVED

MOTION G:

To amend sections 14.1 through 14.5 as follows: (new language is in CAPS; language to be deleted is in [brackets])

Section 14. Procedures in Cases of Unrequested Leave of Absence or

Termination or Suspension of a Faculty Appointment for Cause.

14.1 Preliminary Proceedings. Only a dean (new footnote **) or an academic administrator specially designated by the SENIOR Vice President FOR ACADEMIC AFFAIRS OR BY THE SENIOR ACADEMIC ADMINISTRATOR may initiate proceedings leading to unrequested leave of absence or to suspension or removal OR TO TEMPORARY OR PERMANENT REDUCTION IN SALARY OR RANK. The [administrator] DEAN must first attempt to discuss and resolve the matter with the faculty member involved.

The [administrator] DEAN must then submit the matter to the tenured faculty of the academic unit involved for their recommendation. [(The tenured faculty may decide to submit the issue to the entire faculty of the unit.)]

If the SENIOR Vice President FOR ACADEMIC AFFAIRS and the Faculty Senate have expressly approved the submission of allegations of the violation of a specified policy to another body for preliminary recommendation in place of submission to the tenured faculty of the academic unit, the [administrator] DEAN must submit the matter to that body for its recommendation.

Both the [administrator] DEAN and the faculty member may submit their views, in person or in writing, to the body making the recommendation, but neither of them may participate in the deliberation or vote. The body making the recommendation DOES SO BY SECRET BALLOT AND makes a written report to the [administrator] DEAN within 40 days of the submission of the issue to it, indicating the number of votes for and against the proposed action and the reasons articulated. [Within 15 days after receiving the report, the administrator makes a written recommendation to the Vice President. After receiving the report the administrator makes a written recommendation to the Vice President. The recommendation must include a copy of the report of the panel or of the tenured faculty, as the case may be.] A copy of the report must be sent to the SENIOR ACADEMIC ADMINISTRATOR AND TO THE faculty member.

14.2 Formal action. [After receiving the administrator's recommendation and giving the faculty member an opportunity to comment, the Vice President will decide whether to proceed.] WITHIN 40 DAYS AFTER RECEIVING THE RECOMMENDATION OF THE TENURED FACULTY OR OTHER BODY, THE DEAN WILL DECIDE WHETHER TO PROCEED WITH FORMAL ACTION. BEFORE TAKING FORMAL ACTION, THE DEAN WILL CONSULT WITH THE SENIOR ACADEMIC ADMINISTRATOR. If the [Vice President] DEAN does not proceed within 40 days, the charges are dropped and the faculty member and the academic unit are so notified in writing. If the [Vice President] DEAN decides to proceed with formal action, the [Vice President] DEAN must give written notice to the faculty member. The notice must specify the action proposed, identify the specific grounds upon

which it has been taken, and summarize the evidence in support. It must inform the faculty member of the right to request a hearing before the Judicial Committee and advise the faculty member of the applicable time limit for making such a request.

If the faculty member does not request a hearing within 30 days, the President may take the action proposed in the [Vice President's] DEAN'S notice, without further right to a hearing.

14.3 Judicial Committee Hearing. The faculty member may request a hearing before the Judicial Committee by written request to the Secretary of the Committee, filed within 30 days of the notice. The Judicial Committee may extend the 30 day period for good cause. The [Vice President designates the administrator who] DEAN will [present] BE RESPONSIBLE FOR PRESENTING the case. The [administrator] DEAN has the burden of proving the case for the proposed action by clear and convincing evidence and also has the burden of demonstrating the appropriateness of the proposed action, rather than some lesser measure.

The Judicial Committee makes written findings of fact, conclusions, and a recommendation for the disposition of the case. If the Committee finds that action is warranted, it may recommend action [which] THAT is less severe than that requested in the written notice, INCLUDING, BUT NOT LIMITED TO, PERMANENT OR TEMPORARY REDUCTION IN SALARY OR RANK [including action which does not involve the termination or suspension of an appointment]. It may not recommend more severe measures than those proposed in the [Vice President's] DEAN'S notice.

The Judicial Committee sends its report to the President with copies to the faculty member [and the administrator], THE DEAN AND THE SENIOR ACADEMIC ADMINISTRATOR.

14.4 Action by the President. The President must give the faculty member and the [administrator] DEAN the opportunity to submit written comments on the report [and to make oral presentations]. In determining what action to take, the President may consult privately with any administrators, including attorneys, who have had no previous responsibility for the decision at issue in the case and have not participated in the presentation of the matter to the Judicial Committee. The President may not discuss the case with any administrator who was responsible for the decision at issue or who participated in the presentation of the matter to the Judicial Committee. Such administrators may communicate with the President in writing, but only if the full text of the communication is given to the faculty member and the faculty member is given a reasonable opportunity to respond to it.

The President shall not take action materially different from that recommended by the panel unless, prior to the action, the President has consulted with the committee. The parties and their representatives shall not be present at any meeting between the president and the committee nor shall their consent be required for such meeting.

In addition, the President may request the Judicial Committee to make further findings of fact, to clarify its recommendations or to reconsider its interpretation. The reconsideration will be made by those who have heard all of the evidence in the case, but the full Judicial Committee may 91 consult with them on questions of general policy.

The President may impose the action recommended by the Committee, or any lesser measure which appears to be appropriate. The President may impose action less favorable to the faculty member only for compelling reasons, which must be stated in writing, with specific detailed reference to the report of the Judicial Committee, the evidence presented, and the policies involved. The President's written statement must be given to the faculty member and to the Judicial Committee. Unless the faculty member requests confidentiality, its full text must be published in the next docket of the Faculty Senate; if the faculty member requests confidentiality a summary of the relevant

considerations must be so published without identification of the faculty member.

14.5 [Appeal] REPORT to the Board of Regents. THE PRESIDENT SHALL REPORT ANY ACTION WHICH INVOLVES THE TERMINATION OR SUSPENSION OF AN APPOINTMENT FOR CAUSE OR AN UNREQUESTED LEAVE OF ABSENCE TO THE BOARD OF REGENTS, AND SHALL INCLUDE THE REPORT OF THE JUDICIAL COMMITTEE. [If the action involves removal or if the action involves a sanction more severe than that recommended by the Judicial Committee, the faculty member may appeal to the Board of Regents. In cases in which the President imposes a sanction more severe than that recommended by the Judicial Committee, the faculty member and the President may present to the Board evidence with respect to issues on which the President differs from the recommendation of the Judicial Committee. The request for a hearing must be made to the Secretary of the Board within 10 days of the President's action.]

Footnote

(**) NEW FOOTNOTE TO ITEM SECTION 14.1: THROUGHOUT THIS SECTION THE WORD "DEAN" MEANS THE DEAN OF THE COLLEGIATE UNIT OR OTHER EQUIVALENT OFFICER OR AN ACADEMIC ADMINISTRATOR SPECIALLY DESIGNATED FOR THIS PURPOSE BY THE SENIOR ACADEMIC ADMINISTRATOR OR BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS.

Comment

This amendment is intended to simplify proceedings for unrequested leaves of absence, suspensions, or terminations. Many believe that these proceedings are unduly time-consuming and cumbersome as presently designed.

Under the present policy, before a dean's decision to seek termination or suspension of a faculty member can be made effective, that decision must be reviewed by (1) the tenured faculty of the department, (2) the Vice President (in the future: the Provost or Chancellor), (3) by the Judicial Committee, (4) by the President, and finally (5) by the Board of Regents. This five-step procedure builds so many safeguards into the process that serious cases may be jeopardized.

This proposal eliminates steps (2) and (5).

The new version retains the processes which we believe to be most important: (1) review of the proposal by the tenured faculty of the unit, (2) review by the Judicial Committee and all-University panel of tenured faculty who will hear all of the evidence, and (3) final action by the President. We believe that three steps of review is sufficient within the University system. Both of the steps that have been deleted simply contributed to unnecessary delay.

The new version places administrative responsibility for pursuing the case in the hands of the dean. While retaining overall responsibility for the conduct of the case, the dean may delegate to others the duty of presenting it before the tenured faculty and the Judicial Committee.

The new version also clarifies the authority of the Judicial Committee to recommend sanctions less severe than suspension or removal, if it finds that a faculty member charged with misconduct is culpable, but that the extreme sanctions of removal or suspension are disproportionate to the offense.

Committee action

Approved by the: Tenure Subcommittee--May 3, 1996
Faculty Affairs Committee--May 9, 1996
Judicial Committee--May 11, 1996 (See note to Motion A)

Section 14.1 Revised by the Tenure Subcommittee--May 17, 1996
and Comment:

DISCUSSION:

Motion G simplifies the process for unrequested leaves of absence, suspensions, or terminations but still protects the rights of the faculty member. Currently, said Professor Dempsey, there are five steps involved and the proposal eliminates two of those. She then called senators attention to the comment following the motion which describes the proposal in greater detail.

A friendly amendment to change the words "will" to "must" in the first two sentences of Section 14.2 was accepted by the Tenure Subcommittee, after which Motion G was approved on a voice vote by a majority of members present and voting.

APPROVED

INTERPRETATION 1:

The Tenure Subcommittee proposes to adopt the following formal Interpretation of Section 10.2. It does not require formal Faculty Senate action.

FACULTY MEMBERS ARE FREE TO CHOOSE TOPICS FOR RESEARCH OR OUTREACH AND TO DISCUSS ALL RELEVANT MATTERS IN THE CLASSROOM, IN ACCORDANCE WITH THE PRINCIPLES OF ACADEMIC FREEDOM AND RESPONSIBILITY. THE HEAD OF THE ACADEMIC UNIT WILL ASSIGN INDIVIDUAL FACULTY MEMBERS TO TEACH SPECIFIC COURSES IN ACCORDANCE WITH THE ACADEMIC WORKLOAD STATEMENT AND OTHER POLICIES ADOPTED BY THE FACULTY OF THAT UNIT. A FACULTY MEMBER MAY CHALLENGE AN ASSIGNMENT BY SHOWING THAT IT IS UNREASONABLE. AN ASSIGNMENT IS UNREASONABLE IF: (A) TAKEN AS A WHOLE, IT EXCEEDS THE WORKLOAD EXPECTED IN THE WORKLOAD STATEMENT OF THAT UNIT, (B) THE FACULTY MEMBER LACKS THE BASIC QUALIFICATIONS TO TEACH THE COURSE, OR (C) THE ASSIGNMENT WAS MADE IN VIOLATION OF THE FACULTY MEMBER'S ACADEMIC FREEDOM OR IN VIOLATION OF ANOTHER SPECIFIC UNIVERSITY POLICY. THE FACULTY MEMBER SHOULD CARRY OUT THE TEACHING ASSIGNMENT PENDING RESOLUTION OF ANY GRIEVANCE, UNLESS THE RESPONSIBLE GRIEVANCE OR HEARING OFFICER OR PANEL INDICATES THAT PROVISIONAL MEASURES ARE APPROPRIATE.

Comment

This Interpretation is intended to reinforce the common understanding that faculty members must cooperate in the ongoing work of the department or other academic unit. The department head (or equivalent officer) has the responsibility to assign faculty members to particular teaching assignments. In doing so the skills, experience, and interest of faculty members should be taken into account, but the department head has the duty and responsibility to distribute equitably the workload among all faculty members in accordance with the policies formally adopted in the unit. A faculty member has the obligation to teach the courses assigned, as long as the assignment is reasonable.

Disagreements about assignment should be resolved informally, if possible. Otherwise, a formal grievance may be filed. The faculty member should carry out the assigned duty pending resolution of that grievance, unless provisional measures are indicated.

DISCUSSION:

Interpretation 1, explained Professor Dempsey, reinforces the understanding that the head of the academic unit has the responsibility to assign individual faculty members to teach specific courses but that faculty members are free to choose topics for research or outreach. It also reaffirms that the faculty member has the responsibility to comply with a teaching assignment unless he/she can show that it is unreasonable.

Professor Dempsey reminded senators that while action by the Faculty Senate is not required on interpretations to the Tenure Code, the Tenure Subcommittee would welcome faculty input on this item. Hearing no discussion of Interpretation 1, Vice Chair Humphreys moved to the next item of business.

II. FACULTY AFFAIRS COMMITTEE
JUDICIAL COMMITTEE
TENURE SUBCOMMITTEE
Regulations Concerning Faculty Tenure
Discussion

MOTION H:

To add a new section 7A and amend Section 15.1, as follows: (New language is in CAPS)

SECTION 7A. PEER REVIEW OF FACULTY PERFORMANCE

7A.1. GOALS AND EXPECTATIONS. THE FACULTY OF EACH ACADEMIC UNIT ESTABLISHES GOALS AND EXPECTATIONS FOR ALL FACULTY MEMBERS, INCLUDING GOALS AND EXPECTATIONS REGARDING TEACHING, SCHOLARLY PRODUCTIVITY, AND CONTRIBUTIONS TO THE SERVICE AND OUTREACH FUNCTIONS OF THE UNIT. THE FACTORS TO BE CONSIDERED WILL PARALLEL THOSE USED BY THE UNIT IN THE GRANTING OF TENURE, BUT WILL TAKE INTO ACCOUNT THE DIFFERENT STAGES OF PROFESSIONAL DEVELOPMENT OF FACULTY. THE GOALS AND EXPECTATIONS WILL BE ESTABLISHED IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE UNIVERSITY SENATE. THEY CAN PROVIDE FOR FLEXIBILITY, SO THAT SOME FACULTY MEMBERS CAN CONTRIBUTE MORE HEAVILY TO THE ACCOMPLISHMENT OF ONE MISSION OF THE UNIT AND OTHERS TO THE ACCOMPLISHMENT OF OTHER MISSIONS. THE GOALS AND EXPECTATIONS MAY NOT VIOLATE THE INDIVIDUAL FACULTY MEMBER'S ACADEMIC FREEDOM IN INSTRUCTION OR IN THE SELECTION OF TOPICS FOR RESEARCH. THEY SHOULD INCLUDE REASONABLE INDICES OF ACCEPTABLE PERFORMANCE IN EACH OF THE AREAS (E.G., TEACHING CONTRIBUTIONS AND EVALUATIONS, SCHOLARLY PRODUCTIVITY, SERVICE AND OUTREACH ACTIVITIES). THE DEAN REVIEWS THE GOALS AND EXPECTATIONS OF EACH UNIT AND MAY REQUEST CHANGES TO MEET THE STANDARDS OF THE UNIVERSITY AND OF THE COLLEGIATE UNIT.

7A.2. ANNUAL REVIEW. EACH ACADEMIC UNIT, THROUGH ITS MERIT REVIEW PROCESS (ESTABLISHED IN ACCORDANCE WITH THE STANDARDS ADOPTED BY THE SENATE), ANNUALLY REVIEWS WITH EACH FACULTY MEMBER THE PERFORMANCE OF THAT FACULTY MEMBER IN LIGHT OF THE GOALS AND EXPECTATIONS OF THE ACADEMIC UNIT. THIS REVIEW IS USED FOR SALARY ADJUSTMENT, PROMOTION, AND OTHER DECISIONS WITHIN THE UNIT. THE FACULTY MEMBER WILL BE ADVISED OF ANY STEPS THAT SHOULD BE

TAKEN TO IMPROVE PERFORMANCE TO MEET EXPECTATIONS AND WILL BE PROVIDED ASSISTANCE IN THAT EFFORT. IF THE HEAD OF THE UNIT AND AN ELECTED PEER MERIT REVIEW BODY BOTH FIND THE FACULTY MEMBER'S PERFORMANCE TO BE SUBSTANTIALLY BELOW EXPECTATIONS, THEY SHALL ADVISE THE FACULTY MEMBER IN WRITING, INCLUDING SUGGESTIONS FOR IMPROVING PERFORMANCE.

7A.3. SPECIAL PEER REVIEW IN CASES OF ALLEGED SUBSTANDARD PERFORMANCE. IF A FACULTY MEMBER'S PERFORMANCE IS SUBSTANTIALLY BELOW THE GOALS AND EXPECTATIONS ESTABLISHED AS PROVIDED IN SECTION 7A.2, AND THERE HAS NOT BEEN A SUFFICIENT IMPROVEMENT IN PERFORMANCE WITHIN THE NEXT ACADEMIC YEAR, THE HEAD OF THE ACADEMIC UNIT AND THE PEER REVIEW BODY OF THE UNIT MAY JOINTLY INITIATE A SPECIAL REVIEW OF THE FACULTY MEMBER'S CONTINUING PERFORMANCE. THE SPECIAL REVIEW SHALL BE CONDUCTED BY A COMMITTEE CONSISTING OF FOUR TENURED FACULTY MEMBERS ELECTED BY SECRET BALLOT BY THE TENURED FACULTY OF THE UNIT TO REVIEW THAT INDIVIDUAL AND ONE TENURED MEMBER SELECTED BY THE FACULTY MEMBER UNDER REVIEW, IF THE FACULTY MEMBER SO CHOOSES. THE MEMBERS OF THE SPECIAL REVIEW COMMITTEE MUST BE OF EQUIVALENT RANK OR HIGHER, BUT NEED NOT BE MEMBERS OF THE UNIT. THE SPECIAL REVIEW COMMITTEE SHALL PROVIDE ADEQUATE OPPORTUNITY FOR THE FACULTY MEMBER TO PARTICIPATE IN THE REVIEW PROCESS, AND SHALL CONSIDER ALTERNATIVE MEASURES THAT WOULD ASSIST THE FACULTY MEMBER TO IMPROVE PERFORMANCE. THE SPECIAL REVIEW BODY SHALL PREPARE A REPORT ON THE TEACHING, SCHOLARSHIP, SERVICE AND OUTREACH PERFORMANCE OF THE FACULTY MEMBER. IT WILL ALSO IDENTIFY ANY SUPPORTING SERVICE OR ACCOMMODATION THAT THE ACADEMIC UNIT SHOULD PROVIDE TO ENABLE THE FACULTY MEMBER TO IMPROVE PERFORMANCE. IT WILL SEND THE REPORT TO THE HEAD OF THE ACADEMIC UNIT AND TO THE FACULTY MEMBER. DEPENDING ON ITS FINDINGS, THE COMMITTEE MAY RECOMMEND (A) THAT THE PERFORMANCE IS ADEQUATE TO MEET STANDARDS AND THAT THE REVIEW BE CONCLUDED, (B) THAT THE FACULTY MEMBER UNDERTAKE CERTAIN STEPS TO IMPROVE PERFORMANCE SUBJECT ONLY TO FUTURE REGULAR ANNUAL REVIEWS, (C) THAT THE FACULTY MEMBER UNDERTAKE CERTAIN STEPS TO IMPROVE PERFORMANCE, SUBJECT TO A SUBSEQUENT SPECIAL REVIEW TO BE CONDUCTED AT A SPECIFIED TIME, (D) THAT THE PERFORMANCE IS SO INADEQUATE AS TO JUSTIFY LIMITED REDUCTIONS OF SALARY (AS PROVIDED IN SECTION 7A.4), OR (E) THAT THE PERFORMANCE IS SO INADEQUATE THAT THE UNIT ADMINISTRATOR SHOULD REQUEST THE COMMENCEMENT OF FORMAL PROCEEDINGS AS PROVIDED IN SECTIONS 10 AND 14. WITHIN 30 WORK DAYS OF RECEIVING THE REPORT, THE FACULTY MEMBER MAY APPEAL TO THE JUDICIAL COMMITTEE WHICH SHALL REVIEW IT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 17).

7A.4. SALARY REDUCTIONS. IF THE SPECIAL REVIEW PANEL RECOMMENDS THAT THE FACULTY MEMBER'S PERFORMANCE IS SO INADEQUATE AS TO JUSTIFY LIMITED REDUCTIONS OF BASE SALARY, THE HEAD OF THE ACADEMIC UNIT, WITH THE APPROVAL OF THE DEAN, MAY REDUCE THE FACULTY MEMBER'S BASE PAY, SUBJECT TO THE FOLLOWING LIMITATIONS:

- (A) THE AMOUNT OF THE DECREASE WILL NOT EXCEED 10% OF THE FACULTY MEMBER'S BASE SALARY ON THE BASIS OF ANY ONE SPECIAL REVIEW;
- (B) BASE SALARY MAY NOT BE REDUCED BY MORE THAN 25% FROM THE HIGHEST LEVEL OF BASE PAY EVER HELD BY THE FACULTY MEMBER;
- (C) AT LEAST SIX MONTHS' NOTICE OF THE DECREASE MUST BE GIVEN.
- (D) ANY DECREASE IN SALARY MAY BE RESTORED BY THE ANNUAL REVIEW PROCESS AS PROVIDED IN SECTION 7A.2.

WITHIN 30 WORK DAYS OF NOTICE OF THE DECREASE, THE FACULTY MEMBER MAY APPEAL THIS ACTION TO THE JUDICIAL COMMITTEE, WHICH SHALL REVIEW IT IN A MANNER ANALOGOUS TO THE REVIEW OF TENURE DECISIONS (SEE SECTION 7.7). THIS REVIEW MAY NOT RECONSIDER MATTERS ALREADY DECIDED BY THE JUDICIAL COMMITTEE UNDER SECTION 7A.3. ANY DECREASE IN BASE PAY BEYOND THE LIMITS SPECIFIED IN THIS SUBSECTION CAN ONLY BE IMPOSED PURSUANT TO SECTIONS 10 AND 14.

15.1. Right to Review. Any faculty member who claims that his or her rights or status under these regulations have been adversely affected without his or her consent may seek review before the Judicial Committee. Cases arising under Sections 7, 7A (new), 10, or 11 may be brought directly to the Judicial Committee. In other cases the faculty member must exhaust all other available University remedies before bringing the case to the Judicial Committee; the Judicial Committee will not proceed with such a case until the appropriate University body has either decided it or has refused to consider it.

Comment

This amendment makes formal provision for review of faculty performance. The section provides for two forms of review: annual review of every faculty member and special review of faculty members whose performance is substantially below the goals and expectations adopted by the faculty of the department.

This system of post-tenure review builds on the existing system of peer review described in the current Compensation Policy. That review involves establishment of departmental standards by the faculty of the unit and peer review of individual faculty members in conjunction with the head of the unit. This system of annual review may be further elaborated by the Senate and University administration. It is a critical element of this process and must be carefully followed in all units.

Under this proposal, this regular annual review will be the basic post-tenure review. More intensive special reviews will be reserved for those instances in which - the regular review process reveals serious deficiencies in the faculty member's performance and the deficiencies are not corrected.

If such special review is necessary, the faculty member will be notified and given an opportunity to name a member of the review panel and to participate in the review. The review will be conducted by a panel of faculty elected by the tenured faculty of the unit, together with one member selected by the faculty member under review. Appropriate Senate committees can establish more detailed procedural guidelines for such special review committees. The review could reaffirm the quality of the faculty member's performance or could identify shortcomings which the faculty member ought to address. It may also identify short assistance or accommodation that may be necessary to enable the faculty member to provide the best service possible to the University. The review is intended as a positive and proactive measure that can assist faculty members in realizing their full potential.

This form of review is intended to deal primarily with cases of substandard, but not totally inadequate, performance. In cases of substandard performance, the post-tenure review could lead to a salary reduction for the individual, subject to some limitations. In response to a special review recommendation, the department could begin proceedings to terminate the appointment for "failure to perform reasonably assigned duties adequately" as provided in sections 10 and 14. This provision does not, however, limit the direct applicability of sections 10 and 14 without resorting to special review, if the facts justify that action.

The regularity of the review is subject to appeal to the Judicial Committee under section 15. As in tenure denial cases, the Judicial Committee will review the proceedings to ensure procedural regularity, absence of discrimination, and the protection of academic freedom, but will not substitute its judgment on the merits.

Committee action

Approved by the: Tenure Subcommittee--May 17, 1996
 Faculty Affairs Committee--May 23, 1996
 Judicial Committee--May 23, 1996

DISCUSSION:

Professors Feeney and Dempsey introduced motions H-K and reminded senators that they were on the agenda for discussion with action scheduled for June 6.

Motion H makes formal provision for review of faculty performance by providing for two forms of review: annual review of every faculty member and special review of faculty members whose performance is substantially below the goals and expectations adopted by the faculty of the department. Professor Dempsey detailed the proposal and reviewed the comments following the motion.

The Tenure Subcommittee was asked whether they had reviewed the practices of other institutions and one member responded that they had; however, it was found that peer review is not well developed in a number of places. It is actively under consideration at many institutions and is currently being implemented in some. There appear to be two different patterns. One involves a periodic review for the entire faculty. The sense of the Subcommittee is that that approach would inefficiently consume a lot of resources as well as a lot of faculty time and energy and would not be productive. The solution was then to take an alternate approach which would involve identifying problem cases and limit intensive reviews just to those cases. The other part would build on annual review, which is already in place at the University.

"Is this proposal then designed for problem cases?" asked a senator. Professor Morrison replied that Section 7A.2 builds on the annual review for everyone. Section 7A.3 is designed for problem cases which are identified in the annual review for those people who are significantly below the norm and require some special attention. The assumption is that this will involve a small number of individuals, but there is still some kind of intervention and assistance if it is needed.

Some faculty expressed concern about the enormous time and energy that will be required to evaluate all faculty. However, a member of the Tenure Subcommittee pointed out that this is already the practice under the Compensation Policy.

"Would this eliminate a need for post-tenure review since the annual reviews would trigger substandard performance?" asked one individual. Again, a member of the Subcommittee replied that the annual review is intended to serve as the basic post-tenure review and that more extensive review will be reserved for those instances in which the regular review process reveals serious deficiencies in the faculty member's performance.

The Subcommittee was encouraged to examine the University of Wisconsin policy in which reviews are conducted every five years rather than on an annual basis, and to consider including a safeguard mechanism to prevent misuse of reviews. Instead of inserting a punitive sanction for misuse of reviews, said Professor Morrison, a gate mechanism was inserted that would mean the department head's claim of substandard performance could not stand by itself. Two years of questionable performance must take place before there is

a review of this type. The elected faculty body must approve this twice before an intensive review occurs. That kind of a gate-keeping mechanism is better than a threat that a false allegation of substandard performance will lead to sanctions against the department head.

Clarification of the meaning of the phrase "substantially below the goals and expectations" in Motion H was requested and senators were directed to Section 7A.1 in which the meaning of goals and expectations are addressed.

One person noted the potential for having an even number of members on the special review committee outlined in Section 7A.3 if the faculty member chooses not to appoint someone and urged the Tenure Subcommittee to correct that possibility.

Another senator suggested the Tenure Subcommittee clarify in Section 7A.2 which merit review is to be used for salary adjustment and for promotion and tenure decisions because in some units there are two completely separate review processes, an annual review that determines the merit salary adjustment, which does not require external letters, and another more extensive review used for promotion and tenure decisions. The Subcommittee agreed to make that clarification.

It was further suggested that the Tenure Subcommittee include appropriate timelines in Section 7A.3.

There were varying opinions expressed about whether annual reviews were an appropriate means of measuring faculty performance, some urging endorsement of the proposal and others not.

One senator suggested including in Section 7A.3 the options for flexibility included in Section 7A.1.

In response to a question about the "election" of the annual merit review committees, Professor Morrison explained that that language came from the Compensation Policy approved by the Faculty Senate in February 1993. It reads in part ". . . With the administrator of each unit, the faculty must have the opportunity to develop the criteria for, and the format of, the process which annual salary increases are determined.² (footnote 2: The process determined through consultation may include faculty participation in the judgments regarding compensation changes as a committee of the whole or through a salary committee consisting in whole or in part of elected members."

In response, several senators commented that the processes used in their departments do not appear to adhere to University policy.

It was then clarified that Section 7A.3 applies to tenured faculty only. Given that, some senators thought that should be noted in the heading.

One person argued that the proposed system has great potential for abuse in departments that are highly politicized. Goals and expectations can be written which have hidden meanings so not all will be met and tying this to the annual review makes it worse. More safeguards should be inserted. For example, the words "or methods of research" could be inserted in the fourth sentence of Section 7A.1.

"If someone does receive a salary decrease, where does that extra money go?" inquired one individual. Professor Dempsey said the money should stay within the department in case the salary is restored as provided for in Section 7A.4.

Several senators asked for further clarification of the trigger mechanism for a special review. Professor Feeney responded that it involves the finding in year one by the department head and the elected peer review committee that a faculty member's performance is substandard and requires improvement. Next, there must be another finding in year two that the performance is still substandard and has not improved. At that point, the department head and the peer review committee may, but need not, trigger the special review mechanism. There are many reasons for not triggering the review mechanism, including valid efforts made by the individual to improve his/her performance. It narrows the focus onto those who are having problems rather than on the majority who are performing up to standard.

One person pointed out that in the Compensation Policy it states ". . .for the purposes of salary discussion and determination, the relevant academic unit is the departmental or budgetary unit, whichever is smaller" and wondered if a budgetary unit becomes a focus group how salary will be determined. Professor Morrison replied that the Tenure Regulations define academic unit as the department. If that is the case, responded the senator, there should be better clarification in the documents.

Some senators wondered how the AHC would be affected by the changes since some of the schools in the AHC are eliminating their departments. Professor Morrison said there would be consequences because the school then becomes the tenure unit and tenure decisions must be voted upon by all tenured faculty in that school.

The Tenure Subcommittee was asked to elaborate on the relationship between the goals and expectations document and section 7.12 noted in the Compensation Policy which is the guide for merit review. A member of the Subcommittee responded that the goals and expectations should be similar.

"If a department chair conducts a review by him/herself, does he/she have to establish an elected committee to establish the same findings of substandard performance?" Yes.

In order to ensure fairness, particularly in a situation where a department head and a faculty member do not get along, it was recommended that the dean be asked to independently review the file to determine that a special review is warranted. The Subcommittee agreed with the suggestion and will incorporate it into the proposal.

"If the head of the unit and the elected review committee both find substandard performance, is the special peer review committee to be an elected group?" asked a senator. Professor Dempsey replied that it was and that, again, the Subcommittee will clarify that in the proposal.

MOTION I:

To amend section 7.11 as follows: (New language is in CAPS; language to be deleted is in [brackets]. Footnotes will be renumbered to conform to the remainder of the Regulations.)

Section 7. Personnel Decisions Concerning Probationary Faculty

7.11 General Criteria. The basis for awarding indefinite tenure is the determination that the achievements of an individual have demonstrated the individual's potential to continue to contribute significantly to the mission of the University, INCLUDING OUTREACH (FOOTNOTE 1), and to its programs of

teaching, research, and service, over the course of the faculty member's academic career. (footnote 2) The primary (footnote 3) criteria for demonstrating this potential are effectiveness in teaching (footnote 4) and professional distinction in research (footnote 5); outstanding discipline-related service (footnote 6) [contributions] will also be taken into account where they are an integral part of the mission of the academic unit. The relative importance of the criteria may vary in different academic units, but each of the criteria must be considered in every decision. (footnote 7)

The individual's participation in the governance of the institution and other services to the University and service to the academic unit may be taken into consideration, but are not themselves bases for awarding tenure.

Indefinite tenure may be granted at any time when the candidate has satisfied the requirements. A probationary appointment must be terminated when the appointee fails to satisfy the criteria in the last year of probationary service and may be terminated earlier if it appears that the appointee is not making satisfactory progress toward meeting the criteria within that period.

Footnotes

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- (1) "OUTREACH" IS AN ACTIVITY THAT EXTENDS FACULTY MEMBER'S TEACHING, RESEARCH AND SERVICE BEYOND THE CAMPUS OR TO NONTRADITIONAL GROUPS OF STUDENTS AND CITIZENS. NOT EVERY FACULTY MEMBER WILL HAVE OUTREACH ACTIVITIES.
 - (2) For interpretation and possible applications, see the interpretative comment that will be provided in accordance with the provisions of Section 16.2.
 - (3) Criteria other than those expressly listed in this sentence must be explicitly stated and justified in terms of the mission of the University. Such additional criteria may not impinge upon the academic freedom of the probationary faculty member.
 - (4) "Teaching" is not limited to credit-producing classroom instruction. It encompasses other forms of communication of knowledge (both to students registered in the University and to other persons in the community) as well as the supervision or advising of individual graduate or undergraduate students.
 - (5) "Research" is not limited to the publication of scholarly works. It includes activities which lead to the public availability of products or practices which have a significance to society, such as artistic production or the development of new technology or scientific procedures.
 - (6) "Service" means performance within the faculty member's academic expertise and the mission of the academic unit. It does not include performance of quasi-administrative functions such as membership on faculty or Senate committees or other similar activities; those activities are relevant only to the limited extent set forth in the following paragraph OF THE TEXT.

Where service is not an integral part of the mission of the academic unit, a faculty member's service may be considered, but is not a prerequisite to the awarding of tenure.

- (7) Because of the special mission of the Crookston [and Waseca campuses]

CAMPUS, disciplined inquiry in their field of endeavor may be substituted for research in appraising faculty members there.

Other exceptions may be made only in exceptional circumstances by means of special contract, as provided in section 3.6.

Comment

This amendment formally recognizes the outreach mission of the University and includes it in the qualifications for tenure. As the footnote indicates, outreach can be part of the teaching, research, or service functions of the University. It is important to note that our mission is not only campus-based, nor is it limited to our traditional academic environments, but can also involve communication of teaching, research, and service throughout the community that we serve.

While this amendment recognizes the outreach mission of the University, it does not require any faculty member to add outreach to other functions performed. Many faculty members have outreach activities and will continue to do so; others will continue to function entirely in more traditional teaching, research, and service.

Committee action

Approved by the: Tenure Subcommittee--May 17, 1996
 Faculty Affairs Committee--May 23, 1996
 Judicial Committee--May 23, 1996

DISCUSSION:

Motion I formally recognizes the outreach mission of the University and includes it in the qualifications for tenure.

A suggestion was made that the Subcommittee clarify in Section 7.11 that involvement in outreach may not be appropriate for all faculty. Currently, it was noted, the language in the motion and the comment conflict.

MOTION J:

To add the following paragraphs at the beginning of the document: (The entire item is new.)

PREAMBLE

THE BOARD OF REGENTS ADOPTS THESE REGULATIONS WITH THE CONVICTION THAT A WELL-DEFINED STATEMENT OF RULES IS ESSENTIAL TO THE PROTECTION OF ACADEMIC FREEDOM AND TO THE PROMOTION OF EXCELLENCE IN THIS UNIVERSITY. A WELL-DESIGNED PROMOTION AND TENURE SYSTEM ENSURES THAT CONSIDERATIONS OF ACADEMIC QUALITY WILL BE THE BASIS FOR ACADEMIC PERSONNEL DECISIONS, AND THUS PROVIDES THE FOUNDATION FOR ACADEMIC EXCELLENCE.

TENURE IS THE KEYSTONE FOR ACADEMIC FREEDOM; IT IS ESSENTIAL FOR SAFEGUARDING THE RIGHT OF FREE EXPRESSION AND FOR ENCOURAGING RISK-TAKING INQUIRY AT THE FRONTIERS OF KNOWLEDGE. BOTH TENURE AND ACADEMIC FREEDOM ARE PART OF AN IMPLICIT SOCIAL COMPACT, WHICH RECOGNIZES THAT TENURE SERVES IMPORTANT PUBLIC PURPOSES AND BENEFITS SOCIETY. THE PEOPLE OF MINNESOTA ARE

BEST SERVED WHEN FACULTY ARE FREE TO TEACH, CONDUCT RESEARCH, AND PROVIDE SERVICE WITHOUT FEAR OF REPRISAL AND TO PURSUE THOSE ACTIVITIES WITH REGARD FOR LONG TERM BENEFITS TO SOCIETY RATHER THAN SHORT TERM REWARDS. IN RETURN, FACULTY HAVE THE RESPONSIBILITY OF FURTHERING THE INSTITUTION'S PROGRAMS OF RESEARCH, TEACHING, AND SERVICE, AND ARE ACCOUNTABLE FOR THEIR PERFORMANCE OF THESE RESPONSIBILITIES. ADDITIONALLY, A WELL-DESIGNED TENURE SYSTEM ATTRACTS CAPABLE AND HIGHLY QUALIFIED INDIVIDUALS AS FACULTY MEMBERS, STRENGTHENS INSTITUTIONAL STABILITY BY ENHANCING FACULTY MEMBERS' INSTITUTIONAL LOYALTY, AND ENCOURAGES ACADEMIC EXCELLENCE BY RETAINING AND REWARDING THE MOST ABLE PEOPLE. TENURE AND PROMOTION IMPLY SELECTIVITY AND CHOICE; THEY ARE AWARDED FOR ACADEMIC AND PROFESSIONAL MERIT, NOT FOR SENIORITY. THE LENGTH AND INTENSITY OF THE REVIEW LEADING TO THE GRANT OF TENURE ENSURES THE RETENTION ONLY OF WELL-QUALIFIED FACULTY COMMITTED TO THE UNIVERSITY'S MISSION.

THE IDEAL ATTRIBUTES OF THE COLLECTIVE FACULTY OF ANY UNIT ARE SCHOLARLY CREATIVITY, PROFESSIONAL COMPETENCE AND LEADERSHIP, INTELLECTUAL DIVERSITY, THE ABILITY AND DESIRE TO TEACH EFFECTIVELY AND THE WILLINGNESS TO COOPERATE WITH OTHER UNITS IN PROMOTING THE WORK AND WELFARE OF THE UNIVERSITY AS A WHOLE. THE ADMINISTRATION AND FACULTY SHOULD ENSURE, WITHIN EACH UNIT, NOT ONLY A PROPER BALANCE AMONG THESE ACTIVITIES BUT ALSO THE MAINTENANCE OF EACH AT THE HIGHEST LEVEL, TOGETHER WITH ACCOUNTABILITY AND SUITABLE RECOGNITION OF INDIVIDUAL ACHIEVEMENT AND SERVICE.

THE TENURE REGULATIONS PROVIDE A COMPREHENSIVE SET OF POLICIES DEALING WITH THE RELATIONSHIP BETWEEN THE UNIVERSITY AND ITS FACULTY. THE REGULATIONS CLASSIFY THE FACULTY AS TENURED, PROBATIONARY AND TERM CATEGORIES. THEY PROVIDE FOR ANNUAL PERFORMANCE REVIEWS OF ALL FACULTY, AS WELL AS ESPECIALLY THOROUGH REVIEWS BEFORE THE GRANTING OF TENURE, ON PROMOTION IN RANK, AND WHEN THE PERFORMANCE OF A TENURED FACULTY MEMBER IS ALLEGED TO BE SUBSTANDARD. THEY PROVIDE FOR THE REASSIGNMENT OF FACULTY IN CASE OF THE REORGANIZATION OF THE UNIVERSITY OR CHANGES IN ITS SCHOLARLY DIRECTION, AND FOR DISCIPLINE WHEN A FACULTY MEMBER FAILS TO MEET PRESCRIBED STANDARDS OF CONDUCT.

Comment

This amendment adds a preamble to the Tenure Regulations. The preamble sets forth, in general terms, the purposes and benefits of tenure. This provides a general introduction to the Regulations and provides members of the public who read those Regulations with an understanding of the importance of this institution. (We have heard from many sources that members of the public do not understand that purpose at present.)

The first two paragraphs of the proposal are drawn from ideas articulated in the Tenure Regulations of Penn State University; the third paragraph is adapted from the MIT Code. The final paragraph provides an introduction and description for these University of Minnesota Tenure Regulations.

Committee Action

Approved by the: Tenure Subcommittee--May 17, 1996
 Faculty Affairs Committee--May 23, 1996
 Judicial Committee--pending

DISCUSSION:

Motion J, explained Professor Dempsey, adds a preamble to the Tenure Regulations to provide a general introduction and to provide members of the public who read the Regulations with an understanding of the importance of the institution.

There were no comments from the floor regarding this motion.

MOTION K:

To add a new section 2.3 and delete current footnotes 1, 2, 3 (as amended) and 11, as follows: (New language is in CAPS; language to be deleted is in [brackets])

Section 2. Applicability of Regulations and Continuity of Appointments

- SECTION 2.3 DEFINITIONS. AS USED IN THESE REGULATIONS,
- (A) AN "ACADEMIC UNIT" IS A DEPARTMENT OR OTHER BASIC UNIT IN WHICH TENURE IS GRANTED. IT MAY BE A DIVISION, SCHOOL OR COLLEGE WHICH IS NOT FURTHER SUBDIVIDED.
 - (B) THE "HEAD" OF AN ACADEMIC UNIT IS THE ACADEMIC ADMINISTRATOR IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A CHAIR, HEAD OR DIRECTOR.
 - (C) A "COLLEGIATE UNIT" OR "COLLEGE" IS A MAJOR ACADEMIC ENTITY OF THE UNIVERSITY. IT MAY BE A COLLEGE, SCHOOL, INSTITUTE OR CAMPUS.
 - (D) THE "DEAN" OF A COLLEGIATE UNIT IS THE ACADEMIC ADMINISTRATOR IMMEDIATELY RESPONSIBLE FOR IT, SUCH AS A DEAN OR DIRECTOR OR (ON A CAMPUS THAT IS NOT SUBDIVIDED INTO COLLEGES) A VICE-CHANCELLOR.
 - (E) A "SENIOR ACADEMIC ADMINISTRATOR" IS AN OFFICER WHO HAS FINAL ADMINISTRATIVE REVIEW AUTHORITY ON ACADEMIC PERSONNEL DECISIONS, AND WHO REPORTS DIRECTLY TO THE PRESIDENT AND REGENTS, SUCH AS A VICE PRESIDENT, CHANCELLOR, OR PROVOST. THE PRESIDENT WILL DESIGNATE ONE OR MORE SENIOR ACADEMIC ADMINISTRATORS AND DEFINE THEIR RESPECTIVE JURISDICTIONS.
 - (F) THE "SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS" IS THE OFFICER (OF WHATEVER TITLE) HOLDING PRIMARY RESPONSIBILITY FOR THE DEVELOPMENT OF UNIVERSITY-WIDE ACADEMIC POLICY. THIS OFFICER MAY ALSO SERVE AS SENIOR ACADEMIC ADMINISTRATOR FOR SOME OR ALL OF THE UNIVERSITY, IF SO DESIGNATED BY THE PRESIDENT.
 - (G) "TENURED FACULTY" ARE THOSE FACULTY WHO HOLD INDEFINITE TENURE.

Footnotes

- [1 As used in these Regulations, "academic unit" means a department or other basic unit in which tenure is held. It may be a division, school, or college which is not further subdivided. The "head" of an academic unit is the academic administrator immediately responsible for it, such as a chair, head or director.
- 2 As used in these Regulations, "collegiate unit" or "college" means a major academic entity of the University. It may be a college, school, institute or campus. The "academic administrator" or "dean" of a collegiate unit is a dean, provost, or similar officer.
- 3 A "Senior Academic Administrator" is an officer who has final review authority on academic personnel decisions, and who reports directly to the president and Regents, such as a vice president, chancellor or provost. The president will designate one or more senior academic administrators to have responsibility for academic matters for all or part of the University, and will define their respective jurisdictions.
- 11 As used in these Regulations, "tenured faculty" means those members of the faculty who hold indefinite tenure.]

Comment

This housekeeping amendment places the definitions in the text, close to the beginning of the Regulations, rather than in footnotes. This should make it easier for readers to understand the Regulations.

Committee action

Approved by the: Tenure Subcommittee--May 17, 1996
 Faculty Affairs Committee--May 23, 1996
 Judicial Committee--pending

DISCUSSION:

Motion K is considered "housekeeping" in nature, said Professor Dempsey, and places the definitions in the text.

One senator asked why the Code states that tenure is granted in the unit. Professor Morrison replied that the old rules used "held," whereas the new rules use "granted." The Subcommittee will review that issue as well as the others that were suggested.

INTERPRETATION 2:

To adopt the following Interpretation of Section 12: (The entire text is new.)

SECTION 12.2 OF THE TENURE REGULATIONS RECORDS AN UNDERSTANDING THAT BETWEEN THE UNIVERSITY AND THE FACULTY UNDER WHICH, IN CASE OF PROGRAMMATIC CHANGE, "THE UNIVERSITY RECOGNIZES ITS OBLIGATION TO CONTINUE THE EMPLOYMENT OF REGULAR FACULTY IN ACCORDANCE WITH THE TERMS OF THEIR EMPLOYMENT" AND "REGULAR FACULTY MEMBERS WHO ARE SO RETAINED HAVE THE RESPONSIBILITY TO ACCEPT TEACHING OR OTHER ASSIGNMENTS FOR WHICH THEY ARE QUALIFIED." THIS INTERPRETATION CLARIFIES THE PROCESSES TO BE FOLLOWED TO EFFECTUATE SECTION 12.2.

IN CASE OF PROGRAMMATIC CHANGE THAT LEADS TO THE DISCONTINUATION OF A PROGRAM, THE ASSIGNMENT OF NEW RESPONSIBILITIES WILL BE MADE BY A UNIVERSITY OFFICER DESIGNATED BY THE PRESIDENT. THE OFFICER WILL CONSULT WITH THE FACULTY MEMBER AND THE POTENTIAL RECEIVING UNIT AND WILL SEEK A MUTUALLY SATISFACTORY ASSIGNMENT.

IF AGREEMENT CANNOT BE REACHED, THE UNIVERSITY OFFICER WILL ASSIGN NEW RESPONSIBILITIES AFTER CONSULTATION WITH THE INDIVIDUAL. THE ASSIGNMENT WILL BE AS CLOSELY RELATED TO THE ORIGINAL APPOINTMENT AS PRACTICABLE. THE FORMAL ASSIGNMENT WILL BE IN WRITING AND WILL INDICATE THE CONTINUING NATURE OF THE FACULTY MEMBER'S TENURE.

FOR FIVE YEARS AFTER THE REASSIGNMENT, THE FACULTY MEMBER WILL BE INFORMED OF VACANCIES IN HIS/HER ORIGINAL DEPARTMENT (OR IN SUCCESSOR OR RELATED DEPARTMENTS) AND WILL BE GIVEN PREFERENCE IN FILLING ANY SUCH POSITIONS FOR WHICH HE/SHE IS QUALIFIED.

EVERY EFFORT SHOULD BE MADE TO SEEK A SATISFACTORY PERMANENT ASSIGNMENT. IF THIS CANNOT BE ACCOMPLISHED, TEMPORARY ASSIGNMENTS CAN BE MADE.

AS PROVIDED IN SECTION 12.2, THE UNIVERSITY MAY GIVE THE FACULTY MEMBER "OTHER ASSIGNMENTS" ONLY IF ASSIGNMENTS TO TEACHING IN THE FACULTY MEMBER'S DISCIPLINE ARE NOT FEASIBLE. FOR EXAMPLE, FACULTY MIGHT BE ASSIGNED

- TO TEACH IN ANOTHER FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED, BUT WHICH IS NOT WITHIN THE AREA OF ORIGINAL TENURE.
- TO PERFORM PROFESSIONAL OR ADMINISTRATIVE DUTIES, INCLUDING PROFESSIONAL PRACTICE IN A FIELD IN WHICH THE INDIVIDUAL IS QUALIFIED.
- TO TRANSFER EFFORT BY ASSIGNMENT IN A SUITABLE PROFESSIONAL CAPACITY AT ANOTHER EDUCATIONAL INSTITUTION OR SIMILAR ENTITY, WHILE RETAINING UNIVERSITY TENURE, COMPENSATION, AND BENEFITS.
- TO UNDERTAKE EDUCATIONAL OR TRAINING PROGRAMS TO DEVELOP OR REFINE SKILLS THAT LATER MAY BE USEFUL TO THE UNIVERSITY; THE COSTS OF SUCH PROGRAMS WILL BE BORNE BY THE UNIVERSITY.

IF SUCH ASSIGNMENTS ARE MADE, THE UNIVERSITY WILL PROVIDE AN OPPORTUNITY FOR THE FACULTY MEMBER TO CONTINUE RESEARCH IN THE ORIGINAL FIELD.

IT WILL NOT ALWAYS BE POSSIBLE TO IDENTIFY MUTUALLY AGREEABLE ASSIGNMENTS. IF THE FACULTY MEMBER BELIEVES (I) THAT HE OR SHE IS UNABLE TO PERFORM THE ASSIGNED DUTIES OR (II) THAT HE OR SHE IS QUALIFIED FOR SOME OTHER OPEN POSITION THAT IS MORE CLOSELY RELATED TO HIS OR HER ORIGINAL APPOINTMENT, THE FACULTY MEMBER SHOULD INFORM IN WRITING THE UNIVERSITY OFFICER MAKING THE ASSIGNMENT. IF THEY CANNOT REACH AGREEMENT, THE FACULTY 49 MEMBER MAY FILE A FORMAL GRIEVANCE ON THESE ISSUES.

IF THE ASSIGNED RESPONSIBILITIES ARE LOCATED A SUBSTANTIAL DISTANCE AWAY FROM THE PREVIOUS WORK LOCATION, THE UNIVERSITY WILL PROVIDE FOR TRAVEL EXPENSES (IF TEMPORARY) OR MOVING EXPENSES (IF PERMANENT).

THE UNIVERSITY MAY ALSO OFFER INDUCEMENTS TO FACULTY MEMBERS TO SEEK THEIR VOLUNTARY SEPARATION FROM THE UNIVERSITY. THESE MAY INCLUDE:

- EARLY RETIREMENT PACKAGES;
- REDUCED TIME APPOINTMENTS;
- SEVERANCE AGREEMENTS, INCLUDING CONTINUATION OF BENEFITS.

THE UNIVERSITY MAY MAKE THESE OPTIONS AVAILABLE ON A SELECTIVE BASIS, AND NEED NOT EXTEND THE SAME OFFER TO ALL MEMBERS OF THE FACULTY.

Comment

This interpretation clarifies the consequences of the understanding recorded in section 12.2 of the Tenure Regulations. Faculty members make extensive and long-term commitments to the development of their academic disciplines. In order to encourage that commitment, the University makes a similar long-term commitment to the faculty members. Both of them recognize that scientific and social changes may lead to changes in the programs that the University can offer. In order to increase the benefit for both parties, the University agrees to offer other appropriate employment to faculty members whose programs are discontinued, and the faculty members agree to be flexible in accepting alternative assignments.

This issue was extensively considered by the Board of Regents when the Tenure Regulations were adopted. The Board then accepted the importance of guaranteeing tenure appointments.

This solution presents neither the extreme of abandoning by lay-offs individuals who have invested heavily in the development of the academic stature of the University nor the opposite extreme of lifetime employment in an unwanted field. Rather, it seeks an intermediate solution in which both parties seek in good faith to accommodate their mutual expectations to changing circumstances.

The interpretation seeks to clarify the procedures that will be used to make reassignments of faculty effort in cases of programmatic change.

DISCUSSION:

Interpretation 2 clarifies the duties and responsibilities of both administrators and faculty in the case of programmatic change.

One person asked how advancements will be made if a department that eliminates a program to move on to new areas is obligated to hire those from the old areas. In response, Professor Morrison said the section is parallel to the protection of financial exigency cases, which means those who have been laid off from the University have the right to hold another job at the University as long as they are qualified to fill the position. Those individuals should have some priority.

Some senators said they would like to see more safeguards added to the section on programmatic change.

As a final comment, a member of the Subcommittee said that the interpretation allows for time so that continuation of scholarship may occur in a faculty member's original field, if they wish. The proposal seeks to accommodate the mutual expectations of the individual and the institution during times of change.

III. OLD BUSINESS

NONE

IV. NEW BUSINESS

NONE

V. ADJOURNMENT

The meeting was adjourned at 5:00 p.m.

Martha Kvanbeck
Abstractor