

Minutes\*

**Academic Freedom and Tenure Committee**  
**Friday, April 6, 2007**  
**9:30 – 11:00**  
**300 Morrill Hall**

Present: Tom Clayton (chair), Tracey Anderson, Arlene Carney, William Doherty, Joseph Gaugler, Karen Miksch, John Mowitt, Paul Porter, Terry Simon

Absent: Yusuf Abul-Hajj, James Farr, Candace Kruttschnitt

Guests: none

[In these minutes: (1) Senate action on tenure code amendments; (2) potential academic freedom issue; (3) continued revision of the Procedures]

**1. Senate Action**

Professor Clayton convened the meeting at 9:30 and announced that the revisions of the four sections of the tenure code on which the Committee worked at such length over the last several months passed unanimously "and with considerable dispatch" by the Faculty Senate. There were no questions or comments on the floor of the Senate meeting. The people entitled to the most credit are the members of this Committee, he said, and especially Vice Provost Carney; the Committee could not have done its work without her contributions. Most of the work the Committee has done is for the better, it protects the faculty, and it explains to them what the situation is.

It was noted that the Faculty Senate gave this Committee a round of applause. What especially helped make it possible to get the changes through the Senate unanimously, Professor Clayton said, was the process used: the Committee went to the Faculty Senate twice with revisions-to-date, it responded to Senators' questions and concerns—and the concerns of anyone else who voiced them. Review by the Faculty Consultative Committee also helped.

**2. A Potential Academic Freedom Issue**

Professor Clayton distributed copies of a contract between the University (a department) and a faculty member that "sets forth the terms under which the University has directed you to prepare the curriculum and content for a technology-enhanced learning product. . . ." The contract provides that the University owns the work completely, except that the individual may use the work in classroom teaching at the University and may include the work or portions of it in scholarly paper, presentation, article, etc. The faculty member, Professor Clayton summarized, basically surrenders all intellectual property rights to the University. Some might suspect that the idea is to put courses on line and eliminate faculty positions; the model is the University of Phoenix, which hires "content experts" every few years to update the content of its courses.

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\* These minutes reflect discussion and debate at a meeting of a committee of the University of Minnesota Senate; none of the comments, conclusions, or actions reported in these minutes represents the views of, nor are they binding on, the Senate, the Administration, or the Board of Regents.

Vice Provost Carney said she would be stunned to see the University move to a University of Phoenix model. She said she would make inquiries about the form and bring information back to the Committee.

### **3. Procedures for Reviewing the Performance of Tenure-Track Probationary Faculty**

The Committee returned to a review of the Procedures.

The question left over from the last meeting was the number or percentage of external-review letters to require for the file of a candidate for tenure and promotion. Vice Provost Carney said she thought for a long time about how to deal with this problem, given widely disparate practices in the colleges. IT requires 12 letters, 6 of which must be from "arm's-length" reviewers and 6 of which may be from people who know or have worked with the candidate. Other colleges have different standards. There is no University standard, and it would be possible for a unit to have NO arm's-length reviewers. She proposed setting a minimum standard: candidates must have at least four external arm's-length reviews. Units, colleges, and campuses could set higher standards if they wished.

Professor Mowitt said he would prefer that ALL the reviews be arm's-length. Professor Clayton said the arm's-length reviews should be at least half of the letters and there should be no fewer than 4. (This specification requires no more than four letters in all, but if there were only four, all would be arm's-length. Fewer than four letters would be too few except in very rare cases.) Dr. Carney said the latter would impose a hardship on small fields because it would require 8 letters, which might be difficult to do. Individual units, colleges, and campuses should define their own standards that may be more stringent.

Professor Mowitt said that there are two issues: the number of external reviews and the number that must be arm's length. The Committee can't speak to the former issue. What it can say, Dr. Carney said, is that external reviews are important pieces of information for making the tenure decision; University policies are silent on the value. Professor Anderson asked if there has been a problem. Dr Carney said that on occasion there is a questionable dossier that may go through with few external letters; another file, with stronger external letters, may be in trouble because the unit used higher standards to judge it.

Once a minimum standard has been set, Professor Clayton commented, a unit can do what they wish about any other letters they require—they may come from people who know or have worked with the candidate if that is the unit policy.

The next question was the definition of "arm's length"; the current language provides that there can be "no documented relationship with the candidate (for example, they should not be former advisors or mentors or co-authors on previous work)." Knowing someone peripherally is acceptable, Dr. Carney said; if one is active in one's field and attends professional meetings, for example, it is difficult to be unknown to people in the field. Professor Mowitt suggested language which the Committee accepted: "individuals with no direct professional or personal interest in the advancement of the candidate's career."

The Committee could not reach a consensus on the number of letters from external reviewers that should be required, so Professor Clayton called for a vote. The Committee voted 5-2 to require 4 external arm's-length review letters. The pertinent section of the Procedures would read as follows after the Committee's decisions:

"The head of the unit (or designated committee) has the responsibility for seeing that a file is prepared for each candidate, containing relevant information on teaching, scholarly research and other creative work, and service, and on other factors relevant to the decision, including outside evaluations of the candidate's contributions to scholarship and other creative work. The department should seek appraisals both from persons suggested by the candidate and from other recognized scholars in the field. Units may determine a minimum number of external appraisals that they require. At least four of the external reviews obtained must be from individuals ~~who have no documented relationship with no direct professional or personal interest in the advancement of the candidate's career~~ (for example, they should not be former advisors or mentors or co-authors or co-investigators on previous work). The file must specify clearly the relationship of the external reviewers to the candidate. Further, the file should contain a description of each external reviewer and his or her credentials to enable subsequent faculty on collegiate review committees and collegiate and central administrators to interpret reviews more fully. Referees must be informed that their evaluations will not be held confidential, since state law permits the candidate to inspect them. Referees must be told if a candidate has stopped the tenure clock and what the time period of the stopped clock has been. The referees are not provided with information regarding the reason that the tenure clock was stopped."

The Committee turned next to the itemization of the contents of the file prepared for the tenure review. Discussion focused briefly on one point:

"vii. Evaluations of the candidate's teaching, research, or other scholarly contributions by persons inside and outside of the University."

Vice Provost Carney explained that most Twin Cities campus departments only seek external reviews of scholarship, not teaching or service. Some coordinate campus programs, however, do ask for reviews of teaching as well, and individual units elsewhere may require it. There is a distinction between an external review of research and on-campus teaching, Professor Clayton pointed out. Some units ask for the external review of teaching, Dr. Carney repeated, and she suggested the Procedures not preclude that practice.

The "Report of Action" section of the Procedures next came up for review. The Committee voted to include a new first sentence: "All reports must carry their release date." Vice Provost Carney reported that sometimes reports are not dated, which can make it confusing to figure out which reports are final and which are drafts. She said that the units should prepare a draft report with recommendations, for unit review. The number of minority reports is small, even when there is a large number of negative votes. In some departments one person writes the majority report, another person writes the minority report (without revealing the vote), and both drafts are circulated to the faculty for review. In some cases, there are no negative comments. Another possibility, Professor Clayton suggested, is anonymous post-meeting comments. Getting people to make negative comments when they are in the minority, and they know it, is difficult. The problem with no negative comments, just negative votes, is that the candidate has nothing to respond to, Dr. Carney commented. At the same time, people cannot be made to write negative comments.

Other modifications in the section were modest, noted below.

### **"Report of action"**

"All reports must carry their release date.

"If the department recommends (a) promotion and/or tenure, or (b) termination of the appointment, or (c) continuation of the appointment because a simple majority, but not a required exceptional majority, favored tenure, the unit must make a report and forward the report and the candidate's file to the dean for review. The dean may require the department to do this in other cases.

"The department head (or the designated tenured faculty member or committee) prepares a draft report that states the faculty's recommendation, specifies all votes taken, summarizes the candidate's file, and gives the reasons for the action expressed at the meeting of the tenured faculty, including any minority views expressed at the meeting that had substantial support.

"Serving in the capacity of the initial academic administrator, the department head also prepares an additional statement of his or her agreement of disagreement with the department's recommendation, including the reasons for any disagreement.

"The draft report is made available to tenured faculty members, who may comment and suggest changes, and may file separate reports if they believe that their views are not adequately reflected in the departmental report. Copies of such separate reports must be given to the department head and to the candidate. The submission of such reports is the only appropriate way for faculty members to present their separate views to the dean or to the collegiate or University review bodies.

"The department head informs the candidate of the department's recommendation and of the department head's own recommendation. The department head also gives the candidate a copy of the final report ~~if the candidate requests it~~. [The Committee believed that the candidate must receive a copy of the report.]

"The candidate has the right to submit a supplementary statement to the dean and college-review committee. Copies of the statement must be given to the head of the department and distributed to the tenured faculty.

"The department forwards to the dean for review (1) the file, (2) the ~~departmental unit report and recommendation, including the record of the vote,~~ (3) the department head's recommendation, ~~(4) the departmental report,~~ ~~(5)~~ (4) any separate statements by members of the tenured faculty, and ~~(6)~~ (5) any supplementary statement of the candidate. (Note that copies of the candidate's scholarly works are not to be forwarded, unless the reviewing authorities request them.)"

The Committee turned next to the section titled "Review by college" and made several amendments.

### **"Review by dean of college"**

~~"Review by dean of college."~~ The recommendation is forwarded to the college office, where it is reviewed by the dean, who may be advised by a collegiate review committee. The dean may also

consult with other persons before making decisions, but each such consultation or review shall be recorded in the candidate's file.

~~"In collegiate units where the college is not subdivided into departments, the recommendation is forwarded directly to the senior academic administrator. (See part 24 of these Procedures.) [Vice Provost Carney will draft language referring to the all-University committee for colleges that have no collegiate committee.]~~

#### **"College review committee**

~~"The collegiate review committee is composed of members of the tenured faculty of the college. A college may designate two or more review committees for different fields of emphasis. The membership of the committee is public. The committee is advisory to the dean. The tenure code provides that a faculty member may not serve on a higher review committee if that faculty member participated in the initial recommendation. Since faculty members have an obligation to participate in the departmental recommendation and ordinarily participate in evaluation of the candidate throughout the probationary period, a member of a department cannot properly participate in the higher level review of that department's recommendation. who serves on a collegiate-level review committee may not participate in the discussion of or vote on a candidate from his or her own department. A committee member also may not participate in a review in circumstances in which that committee member would have been disqualified by part 44 2(b) of these Procedures (because of some relationship with the candidate) from participating in an initial decision on the candidate.~~

~~"The review committee must review the matter on the basis of the file and other documents that are forwarded to the dean. It may not seek additional information either from members of the department or from others. If it finds that the file contains insufficient information for it to make an informed judgment, or if there are matters on which the committee would like clarification from the department or the candidate, the committee may return the file to the dean with a request that the department and candidate be asked to provide the additional information necessary."~~

Dr. Carney noted two points about the preceding provisions. One, some departments have faculty with a tenure home in one college and some faculty with a tenure home in another college; in those units, candidates are reviewed by two deans and two promotion-and-tenure committees, with one of them primary. Two, the review committee may seek additional information on a candidate beyond what is in the file from the unit (for example, there could questions about academic integrity, which the revised tenure code now permits as an appropriate question to raise about a candidate).

Professor Clayton adjourned the meeting at 11:05.

-- Gary Engstrand

University of Minnesota

