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RULES AND PROCEDURES FOR ANNUAL AND SPECIAL POST-TENURE REVIEW

These Rules and Procedures are promulgated by the Tenure Subcommittee of the Senate Committee on Faculty Affairs pursuant to Section 7a.3 of the Tenure Code adopted by the Board of Regents in June 1997. They provide guidance to implement the requirements of Section 7a-- Review of Faculty Performance, which mandates a system of annual review and "special peer review in cases of alleged substandard performance by tenured faculty." "Post-tenure review" as used in these Rules and Procedures refers to the annual and special reviews contemplated by Section 7a.

What is the purpose of Post-Tenure Review?

The purpose of Post-Tenure Review as defined in Section 7a.2 is to give faculty members an opportunity for review in order to maintain and improve their performance in teaching, research, and service. It may also provide a means of assisting faculty members who are experiencing difficulties in achieving their expectations. Annual review of faculty members already takes place pursuant to the Faculty Compensation Policy in order to determine annual salary increases and to offer suggestions for enhancing productivity, where appropriate. Section 7a.2 contemplates a similar process of annual review for "salary adjustment and faculty development" and to form the basis for possible special review in cases of alleged substandard performance. Annual review pursuant to Section 7a.2 should be standard in each academic unit; only in cases of "alleged substandard performance" will an additional step of special review take place. Annual reviews under both the Compensation Policy and the Tenure Code may be accomplished in a single review process, as long as the process satisfies the requirements of both kinds of review. The review processes and standards described here are separate from the processes and standards used for purposes of promotion.

At what level does Post-Tenure Review take place?

Post tenure review takes place in the tenure home of the faculty member. As defined in the Tenure Code, the tenure home is usually an "Academic Unit", which is a department or similar unit. A school or college that is not further subdivided is also an academic unit. The Academic Unit for Post-Tenure Review is usually the same as the unit in which tenure decisions are made. In very small Academic Units in which faculty from other Academic Units participate in the tenure decisions, they should be added for Post-Tenure review purposes as well. Academic Units formally organized into divisions may designate those divisions as the units within which the annual review will take place. While review of individual faculty members takes place in departments or similar units, deans and collegiate governance bodies should ensure that such units adopt the documents necessary to establish standards and procedures for post-tenure review (see below) and that post-tenure review is taking place on an annual basis.

What needs to be done initially to implement Section 7a?

The faculty of each academic unit should adopt two policy statements. One is a statement of goals and expectations for all faculty members in that unit (Section 7a.1). The other is a statement of procedures for annual and special reviews (Sections 7a.2, 7a.3). Many Academic Units already have these (or similar) policies in place for compensation review purposes. If so, the faculty need only make any modifications it feels necessary and identify them as the policies applicable to post-tenure review pursuant to Section 7a.

The two policy statements must be adopted by vote of the faculty of the unit. If existing policies are being designated for this purpose, there should be a vote of the faculty designating them as such. The documents must be submitted for review to the dean, who is responsible for ensuring that every Academic Unit has adopted a policy that meets the standards of the University and of the collegiate unit. The dean may approve the policy statements or return them to the faculty with requests for change.

(1) Goals and expectations. Section 7a.1 indicates that the "faculty of each academic unit must establish 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 Academic Unit may already have goals and expectations in place as part of the Compensation Policy. If so, they should be reviewed to see if they are appropriate for the purpose of post-tenure review. If they are appropriate, the faculty of the unit (including both tenured and tenure-track faculty) should formally adopt them. If there are not already goals and expectations in place, the faculty should develop them. The Academic Unit's statement for granting of tenure, adopted under section 7.12 of the Tenure Regulations, may serve as a point of departure for this exercise.

As indicated in Section 7a.1, the statement should provide for flexible standards, recognizing changing career patterns. It need not provide a detailed catalogue. The post-tenure review statement may provide for flexibility in the annual review process to permit an Academic Unit head and faculty member to agree to "trade-offs" between aspects of the expectations. Thus it could allow the head and a faculty member to agree that the faculty member would increase commitment to institutional service (e.g., by becoming a director of graduate studies in a large program) in return for reduced teaching or scholarly expectations. Or the policy could permit the Academic Unit head and a faculty member to agree to shift the emphasis between the teaching and scholarly elements of the expectations, although over time there must be some balance of both elements to maintain academic competence. It could allow for strengths under one criterion to balance weaknesses under another.

(2) Procedures. The faculty of each Academic Unit must also adopt procedures for conduct of the annual reviews. Under the Compensation Policy some Academic Units have chosen to entrust the evaluation of individual faculty performance to the full faculty, to a committee, or to the Academic Unit head. Under Section 7a, Academic Units are also free to choose the format they prefer, so long as they provide for an elected faculty committee to review cases in which it appears that the faculty member's performance is "substantially below the goals and expectations of the unit."

What needs to be done annually?

Under both the Compensation Policy and Tenure Code Section 7A.2, each Academic Unit is required to review annually the performance of each faculty member who holds an appointment in that Academic Unit. Under both policies, the annual review process must give the faculty members an opportunity to provide relevant information and must provide them feedback about their performance. The Compensation Policy further requires that the department chair or unit leader meet at least annually with each individual faculty member in that unit to convey the substance of the reviews. Annual reviews under both the Compensation Policy and the Tenure Code may be accomplished in a single review process, as long as the process satisfies the requirements of both kinds of review.

Under Section 7a.2, the faculty of the Academic Unit must also elect a peer faculty review committee every year (unless Academic Unit procedures call for the full faculty to review performance, in which case all review functions described here for the elected committee would be conducted by the full faculty). The Academic Unit may choose to involve the elected review committee in both compensation and post-tenure review decisions or to involve the elected review committee only in the annual post-tenure review but not in compensation reviews. Although the head of the Academic Unit must review each faculty member annually, the Academic Unit may choose to involve the elected committee in all or only some of those annual reviews. Thus, the role of the elected committee in the annual post-tenure review may involve reviewing each faculty member annually, or reviewing a portion of the faculty annually on a rotating basis, or reviewing only those cases that the Academic Unit head refers to them. The elected committee must review cases in which the Academic Unit head believes that performance is "substantially below the goals and expectations of the unit," but its role may be limited to this aspect. The Procedures statement adopted by the faculty of the Academic Unit should specify the role of the elected faculty review committee.

Terms for members of the elected faculty review committee may be staggered, multi-year terms, if the Academic Unit so chooses. The Academic Unit may designate an existing elected committee for this purpose. As indicated above, if the Academic Unit procedures call for the full faculty, sitting as a Committee of the Whole, to review performance, no election is necessary. The Procedures should specify the election process or indicate that the full faculty will perform the specified review role.

If, during the annual review, both the Academic Unit head and the elected faculty review committee find a faculty member's performance to be "substantially below the goals and expectations of the unit," they must send a letter or memorandum to the faculty member, stating that finding. The letter must be signed both by the Academic Unit head and by the chair of the committee, must specify the deficiencies, and must set a time period (usually by the next annual review) during which the faculty member should address the identified problems. Both the Academic Unit head and the elected committee should work with the faculty member to improve performance during that time. If the post-tenure review process is to achieve its purposes, efforts must be made at this point in the process to assist the faculty member in remedying perceived deficiencies.

At the end of the specified time, both the Academic Unit head and the elected faculty review committee should again review the performance. If they again find that performance is "substantially below the goals and expectations of the unit," they can ask the dean to initiate special review. To do so, they should send a letter or memorandum to the dean and to the faculty member, setting out their findings with a copy of the documents they have reviewed. (If the Academic Unit is also a collegiate unit, the notice and request for review should be sent to the responsible senior academic administrator for the collegiate unit. Each mention of the "dean" below should be understood to refer to the responsible senior academic administrator for that unit in such a case.)

When does annual review take place?

The rules do not specify a time, but annual review will normally take place in the spring, in the context of the annual compensation review.

What is "special review"?

Special review is an intensive review of an individual faculty member. It can be initiated only after the steps above have been taken, and only after the dean has independently reviewed the file and determined that special review is appropriate.

Special review is not a judicial or quasi-judicial proceeding; it is not an accusatory process. It is a further academic inquiry by colleagues to review performance.

How is the special review panel selected?

The special review panel is designated for each case separately. Section 7a.3 specifies that the review panel consist of five tenured faculty members of equal or higher rank than the individual being reviewed; they need not be members of the Academic Unit conducting the review. The dean will ask the faculty member being reviewed to designate one member of the panel within a specified time (e.g., one week). The faculty member may choose any faculty member in the University (other than himself/herself). If the faculty member does not designate anyone within the specified time, the faculty member waives the right to appoint a member. The remaining members (four, or all five, if the faculty member has not chosen one) are elected by secret ballot of the tenured faculty of the Academic Unit in a meeting convened by the Academic Unit head at the request of the dean. The tenured faculty may choose for the panel faculty members from other units who have the necessary expertise.

How does the special review panel conduct its review?

The faculty member should be invited to supply a resume and any other relevant information at the beginning of the

process and to suggest the names of persons who could comment on performance. The faculty member should be given a reasonable time (e.g., two weeks) to submit this information. The dean and Academic Unit head also should provide the panel with information they have that reflects on the faculty member's performance. The panel may review the scholarly work of the faculty member, teaching evaluations, and other evidence of performance. It may seek internal and external reviews. Any documents received should be placed in the file; a memorandum should be made of any oral comments received and should also be placed in the file.

When all of the information has been assembled, the faculty member must be given a reasonable time (e.g., two weeks) to review it and an opportunity to make a statement to the review panel. The statement can be oral or written, as the faculty member chooses. After reviewing the collected information and any statement the faculty member has chosen to make, the panel will then prepare its report and recommendations.

A special review panel should be thorough in its work, but need not extend the process unduly. It should normally be possible to reach a conclusion within two to three months after the panel is selected. This would allow approximately two weeks for the faculty member and administrators to submit the initial information, another month for the committee to gather and complete a file, another two weeks for the faculty member to review that information and to make a presentation, and a period for deliberation and preparation of the report.

The faculty member may have the assistance of a faculty adviser or advocate throughout the review process. Indeed, the faculty member should be encouraged to have the counsel of a trusted colleague to put the issues into perspective. Since this is a performance review process, and not an accusatory judicial proceeding, a faculty colleague may be the most effective adviser. The adviser need not be a faculty member at the University.

If the faculty member chooses not to participate in the special review process, the panel may reach a conclusion based on the information otherwise obtained. The failure to participate may be taken into account in reaching its conclusions.

The members of the review panel and all others concerned should be reminded that information collected in this process is primarily "private data" under the Minnesota Data Practices Act. It should be made freely available to the faculty member under review, but may not be revealed to others (even to other members of the Academic Unit) except as required for the conduct of official business.

The report must be written and signed by the panel. The panel should send it to the faculty member, to the Academic Unit head, and to the dean.

What actions may the panel recommend?

The actions that the panel may recommend are listed in section 7a.3 of the Tenure Regulations. They include:

- terminate review this is appropriate if the panel finds that the faculty member's performance meets the goals and expectations of the unit
- alter allocation of effort if the panel determines that the faculty member's strengths are not being fully utilized, it might suggest that the allocation of effort between teaching, research, and service be altered so as to maximize the faculty member's contributions to the University
- suggested improvements if the faculty member's performance is likely to be improved by specific steps, and that process can adequately be monitored by further regular annual reviews, the panel can suggest that those steps be taken and remit the case to the annual review process
- continued special review if specific steps might improve the faculty member's performance, but active monitoring of that progress is needed, the panel can suggest that those steps be taken and that another special review panel be convened at a later date (usually one year later)
- salary reduction if the faculty member's performance has declined in such a way as no longer to warrant the base salary that is attached to the position, the panel can recommend a reduction in base salary of up to 10% (see

details below).

--dismissal if the faculty member's performance has fallen below the standard of Section 10.21(a), "sustained refusal or failure to perform reasonably assigned duties adequately," it can recommend the commencement of proceedings for termination of appointment or involuntary leave of absence (see details below).

The panel may also recommend a combination of these measures.

Who implements the decision?

In general, the Academic Unit head has the primary responsibility for implementing the decision, but should consult with the dean before doing so. (The cases of pay reductions or termination of appointment are discussed separately below.) The Academic Unit head need not implement all of the recommendations, but may not impose additional or more severe measures without following proper procedures. The Academic Unit head may implement alternative measures, if the faculty member agrees. For example, a panel might recommend a shift in allocation of effort from teaching to research, but the Academic Unit head and the faculty member might agree on a shift from teaching to departmental service.

How are pay reductions implemented?

One possible action is reduction of pay. The Academic Unit head may reduce pay only if the special review panel recommends this action and the dean concurs in this recommendation. Section 7a.4 limits pay reductions to 10% on the basis of any one special review (and a 25% overall maximum). Six months' notice of the reduction must be given. If the performance is restored to appropriate levels, the head of the Academic Unit may restore the pay to the original level.

Can a faculty member be fired or suspended?

Post-tenure review pursuant to Section 7a and these Rules cannot itself result in dismissal or suspension. The review committee may, however, recommend that the dean begin proceedings under Sections 10 and 14 of the Tenure Regulations for dismissal or suspension (or for involuntary leave of absence). The most probable reason would be "sustained refusal or failure to perform reasonably assigned duties adequately." (Section 10.21(a).) The dean would need to follow the entire process mandated by section 14, including presentation of the case to the tenured faculty of the Academic Unit.

Post-tenure review is not a prerequisite to initiating proceedings under sections 10 and 14. The dean may initiate a proceeding to dismiss a faculty member (or to seek involuntary leave of absence) whenever a faculty member engages in "sustained refusal or failure to perform reasonably assigned duties adequately" or in other conduct forbidden by section 10.21 without using this post-tenure review process.

May the faculty member appeal the decision of the special review panel?

The faculty member may appeal the recommendations of the special review panel to the Judicial Committee by filing an appeal with the Committee within 30 days after the report. The Judicial Committee will hear the case in a manner analogous to the hearing of a tenure denial appeal. It will not substitute its judgment for that of the special review panel, but will examine whether due process was provided and required procedures were followed.

The faculty member may also appeal a pay cut to the Judicial Committee by filing an appeal within 30 days after being given notice of the pay cut by the dean or Academic Unit head. The Judicial Committee will not, however, hear the same issues twice; issues decided in a previous Judicial Committee hearing will not be decided again.

If a dean initiates proceedings for termination or suspension of appointment (or for involuntary leave of absence), the

faculty member may appeal to the Judicial Committee, as provided in sections 10 and 14.

What is the "Peer Review Option"?

Section 7a.5 of the Tenure Code permits the dean and faculty of a college to ask the Faculty Senate to approve a different post-tenure review procedure for that college. It leaves the design of that review process up to the dean and faculty of the college. The only limitations are (a) the proposal must include an effective system for post-tenure review, (b) the proposal must be approved by a vote of the faculty of the college (or by a vote of the elected faculty assembly of the college), and (c) the proposal must be approved by the dean. The Faculty Senate will consider the proposal and take appropriate action on it.

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