Minutes*

Academic Freedom and Tenure Committee
Friday, October 28, 2011
10:00 – 12:00
300 Morrill Hall

Present: Barbara Elliott, Christine Marran (co-chairs), Arlene Carney, William Craig, Joseph Gaugler, Jessica Larson, Paula O'Loughlin, Gary Peter, Terry Simon

Absent: Yusuf Abul-Hajj, Teresa Kimberley, Carol Wells

Guests: Professor Carol Chomsky

[In these minutes: (1) academic freedom statement for parents and families; (2) faculty rights and online materials; (3) proposed changes to the procedure "Reviewing Candidates for Tenure and/or Promotion: Tenure-Track and Tenured Faculty"]

1. Academic Freedom Statement for Parents and Families

Professor Elliott convened the meeting and asked Committee members to review the draft statement on academic freedom that would be provided to parents and families (e.g., during Welcome Week or Freshman Orientation). This is an agenda item left over from last year that was not finished; the first draft was prepared by Professor Miksch and reflects edits from her and from Professor Chomsky.

Committee members spent time editing the draft. Professor O'Loughlin emphasized that the statement must speak to academic responsibility as well as academic freedom. Vice Provost Carney suggested that Vice Provosts McMaster and Rinehart review the draft. Dr. Craig noted that there are things students are expected to learn in a course and that classes are not just for open discussion; the Committee concurred and imported language from the syllabus statement on academic freedom.

The statement is to be disseminated to parents of students on all campuses. There could also be an all-faculty email alerting faculty members that the statement will be provided to parents. The statement will also be provided to the Senate before it is disseminated. It should also be provided to advisers, Professor Marran said.

The Committee agreed on the following statement:

Academic Freedom and Responsibility Information for Parents and Families

Academic freedom is a cornerstone of a university. At the University of Minnesota more broadly, it means the freedom to explore all avenues of scholarship, research, and creative expression, and to speak or write on matters of public concern.

* 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.

In the classroom, academic freedom includes the freedom to discuss all relevant matters in the classroom and may include presentation and/or discussion of diverse viewpoints on controversial matters.

Along with this freedom comes the responsibility to exercise academic freedom respectfully and to show consideration for the academic freedom of others. Students are always responsible for learning the content of any course of study for which they are enrolled, and the learning process includes discussion about and reflection on varying points of view as part of the University's mission to seek truth. Students and instructors should expect their views to be challenged and everyone—students and instructors alike—has a responsibility to be respectful, fair, and civil to each other in discussing divergent points of view.

Academic freedom and academic responsibility are taken seriously, and there are individuals and offices available if you have questions or concerns. Your student should contact their instructor, their department chair, or their adviser.

2. Faculty Rights and Online Course Materials

Professor Elliott next noted another item left over from last year: Questions about faculty rights and online course materials. The Committee had, some time ago, been presented with several questions.

1. Who owns course materials for which institutional resources are used during development? For example, do instructional designers or graphic artists who collaborate in the development of course materials act in an academic professional role in support of the educational mission, i.e., as faculty? If so, under what circumstances do these individuals have a claim of ownership? Does the University have ownership rights to such materials?

2. When does a faculty member surrender (perhaps inadvertently) at least partial ownership of course materials? Who has the responsibility to inform a faculty member of these impending situations (assuming the faculty member is to be informed before, rather than after, the fact)? Can actions by a faculty member that unintentionally surrender ownership (complete or partial) to the University be interpreted as consent?

3. Do course materials belong (at least in part) to the university ONLY if a signed intellectual property agreement was executed in advance of the work becoming available? Here, ownership refers to the rights to make reproductions of the work, distribute copies of the work, make derivative works, make public displays and/or digital recordings of the work, and take the work to another institution to compete with the University in the marketplace of online education. (This is especially troublesome in cases where the faculty member and the University can both claim ownership.)

4. In the absence of a formal, written agreement, can the faculty member always assume he/she has complete and exclusive ownership of course materials? Can the University assert a claim of ownership retroactively?

5. What happens to course materials if the faculty member dies or leaves the university?

Professor Elliott asked Committee members to review the questions again. Professor Marran observed that there are websites on copyright; the Committee should determine if it believes they provide answers to the questions.

3. Proposed Changes to the Procedure "Reviewing Candidates for Tenure and/or Promotion: Tenure-Track and Tenured Faculty"

Professor Elliott welcomed Professor Chomsky to the meeting and said she wished to acknowledge the amount of work done by Professors Chomsky and O'Loughlin and Vice Provost Carney in developing proposed changes to the Procedures document.

Professor Chomsky began by saying that the discussion today is not intended to be the Committee's final discussion because Dr. Carney has asked for feedback on the proposed revisions from the associate deans for faculty affairs and Professor Morrison has also provided comments that have not yet been reviewed. Additional feedback will be received. Dr. Carney reported that she also sent the proposal to a small group of chairs in order to obtain their perspective. Ultimately the revisions must go to the Board of Regents and Faculty Senate for information. The timeline, Professor Elliott said, is that they will go to both groups in early December.

Professor Chomsky turned to the revisions and said that there had been changes made as a result of the discussion at the last meeting of this Committee. They also drafted an appendix that outlines the changes in the pertinent sections of the tenure regulations from 2001 to 2011, which will help those applying the tenure regulations understand the complexities of using multiple versions of the tenure code.

Committee members discussed with Professors Chomsky and O'Loughlin and Vice Provost Carney a number of issues in the draft revisions. Some of the points discussed follow.

-- The effective dates of various documents. Changes in the tenure procedures are effective immediately for everyone once they have been approved. Which version of the tenure regulations and the unit's 7.12 statement apply to individual faculty members depends on the date they were appointed, and a Memorandum of Understanding (MOU) must be signed when there are choices to be made. The new Procedures will apply to all promotion-and-tenure cases that have not begun by the time the revisions have been adopted; the existing Procedures will apply to reviews that have already begun this year.

-- If a probationary faculty member withdraws from consideration for promotion and tenure, which requires a written request, the faculty member is entitled to a "terminal year." That is true whether the faculty member withdraws in the decision (usually sixth) year, or earlier, and mirrors the result if tenure is denied at the end of the process (in which case the faculty member is entitled to a seventh terminal year). The University's policy is generous, recognizing the need for the faculty member to look for alternative employment in the usual cycle of hiring, but in the vast majority of the cases the person leaves before the terminal year is completed. The University's practice is to treat withdrawal the same as a denial of tenure; the option of withdrawal gives people a graceful way to resign and look for another job. It has been the practice for years.

-- Language was changed in one provision to reflect that unit heads are expected to be members of the tenured faculty (and all currently are), but if any unit ever decides to have a head who is

probationary, the Procedures make it clear that he or she may not vote on tenure for probationary faculty members.

-- The Committee discussed the extent of consultation required when, for small departments, faculty members from other University departments are brought in to vote on promotion and tenure for probationary faculty members. The discussion also focused on the process to be used. Decisions about when to bring in outside faculty members are on a case-by-case basis. In general, the decision will be made by the unit head and dean in consultation with the faculty members in the unit, with reasonable time for the Provost to approve and a probationary faculty candidate to know what is occurring. Candidates for promotion and tenure would have the same rights of challenge that are provided for in the tenure regulations.

-- Language restricting tenure-voting by administration officials refers to faculty members who have administrative appointments outside the department (e.g., college, provost's office) and who are in the line of decision-making before a final decision is made. For example, Dr. Carney may not vote on candidates in her department because the files come to her for review and advice to the Provost.

-- The language is now clearer that only the Provost may terminate a probationary faculty member, not a unit or a college.

-- Changes to the Procedures that cover section 12 of the tenure regulations (when departments or colleges are moved or closed) will be brought to the next meeting of the Committee. There is no problem with tenured faculty members, who are offered the opportunity to move or adjust their work, but it is not clear how to treat probationary faculty members—are they to be asked to train in a new field if their department is closed? [In later meetings, it was decided that more time is necessary to develop the procedures related to section 12, so they will not be part of the current round of changes brought for decision at the next meeting of this Committee.]

Committee members made suggestions about the formatting and use of the Appendix.

Professor Elliott adjourned the meeting at 12:05.

-- Gary Engstrand

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