

Minutes\*

**Academic Freedom and Tenure Committee  
Friday, March 2, 2012  
10:00 – 12:00  
300 Morrill Hall**

Present: Barbara Elliott, Christine Marran (co-chairs), Arlene Carney, Joseph Gaugler, Jessica Larson, Gary Peter, Paul Porter, Terry Simon

Absent: Yusuf Abul-Hajj, William Craig, Teresa Kimberley, Paula O'Loughlin, Carol Wells

Guests: none

[In these minutes: (1) annual report on post-tenure review for faculty; (2) report to the P&A senate; (3) research funding and promotion and tenure]

**1. Annual Report on Post-Tenure Review for Faculty**

Professor Elliott convened the meeting at 10:00 and turned to Vice Provost Carney to review with the Committee her annual report to the Board of Regents on post-tenure review.

Dr. Carney presented the annual report for 2010 because there was no report made to the Board of Regents in fall 2011. A report on post-tenure review outcomes is likely to be combined with other aspects of faculty issues as the new leadership develops the plan for presentations with the Regents. . She and/or past Provost Sullivan have made the presentation to the Faculty, Staff, and Student Affairs Committee of the Board.

Dr. Carney noted the form that she sends to each college each year requesting information on post-tenure review outcomes: The number of annual reviews of tenured faculty (about 95% of faculty members have an annual review each year; it is not 100% because there are always some who are on sabbatical or medical leave or in the process of phased retirement), the number of cases where either the head/chair or the post-tenure review committee (faculty) or both found someone to be "substantially below the goals and expectations of the unit," the outcome of each case if the chair/head and the post-tenure review committee agreed, and a report on what happened with each individual who entered a performance improvement plan. She said that she has asked for the names of individuals because she does not otherwise know, from year to year, if the same people are in a performance improvement plan. This is only to keep track of what is happening and the information is kept in the provost's office; she emphasized that the provost's office does not conduct post-tenure reviews; it only collects the information for tracking purposes. The review is done at the unit level; special peer review is done at the collegiate level.

Dr. Carney reported that when she meets with the Board of Regents, she first explains the post-tenure review process: It is required by the Regents Policy on Faculty Tenure, section 7a (adopted in 1997); each unit develops a set of goals and expectations about teaching, research, and service that is

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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.

faculty-driven. The post-tenure goals and expectations are reviewed by the chairs, deans, chancellors, and central administration; most units have established new goals and expectations and some are undergoing change as part of the review of a unit's promotion-and-tenure criteria. She said she is glad to have a clear definition of what goals and expectations are in the new procedures because it helps explain the process to the Board and to the public. Sample goals and expectations for research might include publication of journal articles, books, or book chapters, presentations at professional meetings, production of works of art, or choreography of dance performances over a given time period (e.g. two years); for teaching they might include satisfactory student ratings, successful graduate-student advising, and curriculum development; and for service/outreach, they might include participation in department governance, work for a professional organization, and community engagement. Some faculty members may object to the requirement in the tenure regulations for setting goals and expectations, Dr. Carney observed, but it is not unreasonable for the faculty as a group in a unit to say what tenured faculty members should do. She pointed out that a single journal article could be the result of hundreds of hours of work; someone could be teaching a large number of students in labs; in the humanities someone might spend many hours in an archive translating works in another language. The work products of research can represent a huge amount of work and the University may need to do a better job of explaining that.

Professor Larson commented that with some legislators in some states attacking tenure in K-12 schools, universities could be next, and they need an appropriate response and explanation. Dr. Carney agreed and noted that universities do not have "time in place" criteria for tenure, unlike K-12 systems; one must go through a rigorous process to be approved, and teaching undergraduates as well as teaching and mentoring graduate students are important.

Professor Gaugler said that in discussions with President Kaler and a number of faculty members, the discussion touched on post-tenure review, and several of the faculty members wanted more rigorous post-tenure review. If the desire for a more rigorous process does not come from the faculty, it won't happen, Dr. Carney responded. Her job, she said, is to make that there are clear policies that are applied appropriately, but it is up to the units to establish clear goals and expectations so that people can be judged fairly (and so that evaluations are not a popularity contest). There is a compelling case to be made if the faculty can monitor themselves, and the problem is different from that in the K-12 system because in the latter there do not exist the same kinds of goals and expectations.

Professor Gaugler commented that he doesn't see any "dead wood" in his college but faculty members do take different roles once they are post-tenure; some help to keep things going in the department. In post-tenure review, it must be clear that faculty members do different things to hold a department together, and if one relies only on research, for example, the institution could terminate someone who is doing a great deal of work to keep a department going.

The point Professor Gaugler makes is exactly why units must be careful in setting goals and expectations, Dr. Carney responded. One of the Twin Cities colleges, for example, has done an excellent job in establishing goals and expectations. They do post-tenure review with annual reviews and have an evaluation system that allows faculty members to take on different roles within the unit (e.g., someone might be outstanding in teaching and service but not as great in research; as long as someone does not score below average in more than one of the three categories, they are not subject to post-tenure review). Other units may take a different position. She does not say what units should do, Dr. Carney related, she only insists that they have goals and expectations that work and that are reasonable.

Professor Larson asked if an MOU (Memorandum of Understanding) is a way for faculty members to protect themselves if their work does not fit the regular pattern. Dr. Carney said that MOUs are more for faculty members at the end of their careers (for example, someone has always received external funding, then research priorities change so the individual is no longer able to do so, and agrees instead to take on additional teaching and service responsibilities). She said she would not support customizing the arrangements with every faculty member; MOUs should be rare but they work in specific cases. She would not, for example, want to see an MOU that permits a newly-tenured faculty member to opt out of doing research. There is now a requirement in the new *Procedures* for MOUs that document changes in a faculty member's goals and expectations relative to that of the tenured faculty of the unit

It could be that someone goes into the administration, Professor Larson said. Dr. Carney agreed and pointed out that she is a tenured faculty member whose faculty work is in abeyance while she serves in a P&A role in the administration. There are a number of situations like that. But an MOU is really for writing down special situations that the chair/head sees so that the next person serving as chair/head knows about the arrangements and the faculty member is protected.

Dr. Carney outlined the post-tenure review process established by section 7a of the tenure code and then reported on the outcomes for 2008-09 (and told the Committee that the numbers for 2009-10 were similar).

-- There were 2361 tenured faculty members system wide; 2192 (92%) received annual reviews. That percentage varies little from year to year.

-- There were four individuals identified as "substantially below goals and expectations" by the unit head, four by the faculty committee, and three by both (those were not 11 individuals—there were 4. Professor Simon recalled that Dr. Carney has in the past reported that some members of the Board of Regents were surprised at how low these numbers are. Dr. Carney said that she presents the data and some Board members do say it seems improbable that the numbers are so low; she then explains how difficult it is to obtain tenure and how hard the faculty work. When someone is identified as falling below goals and expectations, it does not mean they will be fired—it means they will be given a performance improvement plan. The response to a probationary faculty member who is not meeting expectations is fairly quick; it is not when someone is tenured. Professor Gaugler said it is only reasonable to talk about post-tenure review when one also talks about the attrition that occurs among probationary faculty members before they ever achieve tenure.

Professor Elliott inquired if the number of cases has been identified for next year. It remains a very small number, Dr. Carney said. Professor Larson speculated that that may in part be because some unit heads/chairs do not have the stamina to take post-tenure review to the next level. Their need for stamina is less obvious if they have clear goals and expectations and unit procedures, Dr. Carney responded. If someone does not meet the established goals and expectations, he or she should be taken to the next step of performance improvement and the subsequent review of that performance. . Some faculty have said that this is so subjective it is difficult to decide; if that is so, Dr. Carney commented, and if the faculty members in a unit cannot decide if someone is performing up to the goals and expectations, what does that say about the faculty?

In terms of faculty members "bristling," Professor Marran said, one reads many articles in *The Chronicle of Higher Education* and hears in the postdoc world criticisms of tenure. The postdocs say it is not fair because they are being held to standards that those who are already tenured never had to meet. It

seems that they do not understand the importance of tenure. She asked if faculty members who are going through a performance improvement plan or special review can continue to vote on promotion and tenure. If someone is tenured, he or she can vote, even if on phased retirement or in special review (), Dr. Carney said. Faculty members hold the cards in terms of protection; asking a faculty member to go through a performance improvement plan is not unreasonable. If someone has been unproductive for a long time (no research, not a good teacher, unwilling to do administrative work), why should the University pay them? Others must take on additional work to make up for the failure to perform. Units must do something much earlier with a faculty member who is becoming unproductive. There has to be intervention when someone starts slipping and not let the situation get to the point where the department relieves someone of teaching and advising.

Professor Gaugler commented that the post-tenure system at the University of Texas does not look very different from the one at the Minnesota; it seems to be faculty-based. It is, Dr. Carney said; they have a very good system; some institutions mandate post-tenure review every five years, for example; Minnesota and many others do not (the exception for the UM is the School of Public Health.). And it is possible to look at a department and conclude that everyone is above the line in terms of goals and expectations. One wants to see an annual review during the decision about merit salary increases, with each person evaluated relative to the unit goals and expectations before decisions are made about raises. Someone who is below the goals and expectations should not receive a merit raise, Dr. Carney opined. People in departments must have discussions about the goals and expectations, and if they are clear, that takes the personal element out of a decision about merit increase. But if the faculty in a unit say they will not make a decision about their own faculty, nothing will change. Faculty do this all the time with probationary faculty members—in those cases they are very good at describing how someone is not meeting the standards.

Vice Provost Carney provided anonymous examples of five faculty members who went through post-tenure review. One retired after not completing a performance improvement plan successfully, one is currently completing a plan, one went on phased retirement, one successfully completed a plan and then went on phased retirement, and one has completed the special review process and the case was continuing—but then the person left the University. Many times, when a department chair/head talks to a faculty member about a performance improvement plan, the person simply chooses to retire. Those cases would not appear in any of the information she has provided in her reports to the Board of Regents. She does do an informal poll of associate deans each year and learns that there are perhaps another dozen or so cases of faculty members who chose to retire rather than face a performance improvement plan. (Dr. Carney reminded the Committee that not everyone on phased retirement is a non-performer—it is quite the opposite; most on phased retirement were high-performing faculty members.)

Dr. Carney commented that there are times when a faculty member may be non-productive for a period—because of a divorce, a sick child, sick parents, and so on. Which is why she prefers a three-year rolling review of performance, Professor Marran responded. Dr. Carney agreed. That smooths out the ups and downs (although even that can be trickier in book-based disciplines, but there are other measures that can be used in those fields). In the case of the sciences, when one has a grant, if one collects the money but does nothing, one will not retain the grant. Dr. Carney said she was reluctant to approve the post-tenure review standards for one unit because they called for three peer-reviewed papers every year; that seemed pretty difficult. Her research, for example, involved longitudinal studies; it took a long time to gather data but then the results would come in briskly. As a tenured faculty member, she could afford to do those long-term studies, but she was also presenting data and doing other work in the meantime. Moreover, if one is doing something innovative, that can take longer to get into the journals. She said she

prefers to see the three-year rolling average that a number of departments use; that also allows one to see citations and reviews later for the book or article.

Dr. Carney observed no one has ever had his or her salary reduced as a result of special post-tenure review, so the faculty fear of post-tenure review is not born out. Nor has anyone been terminated. Professor Elliott said that Dr. Carney's point reminded her of the discussion with Professor Morrison, who pointed out that a unit head can move to dismiss a faculty member for cause under the provisions of section 10 of the tenure code, Unrequested Leave of Absence for Disability and Disciplinary Action. But there must be cause, Dr. Carney said, and the language of section 10 is still vague: What is a "sustained refusal or failure to perform reasonably assigned duties adequately"? Does that include a failure to attend meetings? It is for that reason, for example, that she encourages departments to include governance duties in their 7.12 statements: Come to faculty meetings, take on reasonable assignments. The first indication there is trouble is often when someone stops coming to meetings.

Professor Porter said he was amazed that someone could go on phased retirement, after a period of non-performance, and continue to not perform during phased retirement. It is preferable for faculty to make this type of choice than to go through a specific performance improvement process, Dr. Carney said. Did she say that there are 40 or 50 such cases, Professor Porter asked Dr. Carney. Over the seven years she has been in the position, perhaps, Dr. Carney said, there may have been a number close to that across the University; she does not have an exact tally because some of these decisions are made at the collegiate level without a specific discussion of non-performance. She reminds departments that the process is to be developmental and that they should intervene early so that faculty keep their high performance levels happening.

Professor Gaugler said that Professor Porter is right; phased retirement can be used to escape condemnation. Should the policy say that phased retirement cannot be used as an exit from post-tenure review? That would be a big change in the tenure policy, Dr. Carney commented. It is a discussion the faculty need to have among themselves; higher education is under the gun and faculty need to say that they must have high standards and hold to them.

Professor Elliott reported that her dean hesitates to approve phased retirements because of a concern about the maintaining the community of faculty. Deans handle phased retirement differently, Dr. Carney said, but the phased retirement policy allows a five-year phased retirement; many faculty members who take the five-year plan opt to retire after three years. A recent discussion at the Senate Committee on Faculty Affairs (SCFA) included the point that some faculty members cannot imagine life without the faculty role—some people have no other interests—while others think about retirement for a long time. That is why the University offers the ENCORE program, to help people think about life after the academy. Some faculty members have great fear of retirement, and one suggestion at SCFA was to allow people to change their mind within the first year of a phased-retirement agreement. The RECESS agreement allows someone to reduce the number of hours they work to try out retirement; they retain full benefits (except that retirement-plan contributions are linked to salary).

If someone is on a five-year retirement, how does that affect tenure-track lines, Professor Marran asked? It does have an impact, Dr. Carney said, and there was a time when deans had more flexible resources so could provide bridge funds to a department to hire someone new while someone else was on phased retirement. The line stays in the department until the person retires, however, Professor Elliott said. Dr. Carney agreed that this is typical. So a unit may need to hire adjunct faculty in the meantime,

Professor Marran said. Or contract faculty or P&A instructors, Dr. Carney added. That is one reason why departments hire contract faculty, and those numbers might increase as baby boomer faculty age.

Professor Marran said that five years is a long time and that three-year phased retirements might be better. What about offering health benefits instead of salary? That was the RIO program, Dr. Carney said: Retire immediately and receive two years of health care coverage.

Professor Marran noted the language in the subsection 7a of the tenure regulations indicating that a department head may reassign responsibilities. Vice Provost Carney indicated that this is why MOUs are important to document these reassignments for information of future unit heads and faculty who are reviewing a person relative to goals and expectations. The bottom line is that the University has a reasonable expectation that faculty members will work for the salary they draw.

Professor Elliott thanked Dr. Carney for the report.

## **2. Report to the P&A Senate**

Dr. Peter reported that he and Dr. Craig were invited to give a presentation to the P&A Senate about their work on this Committee and how its mission relates to P&A employees. Some of the members of the P&A Senate were very interested in the white paper on academic freedom and wished to know where they could find a copy. Professor Elliott said that in the message that she and Professor Marran sent to Provost Hanson, they informed her that they thought the white paper would be a link from the provost's website. There is also the possibility that something could be submitted from the Committee for publication.

## **3. Research Funding and Promotion and Tenure**

Professor Elliott noted that Professor Wells could not be at the meeting because she was at NIH and recalled that Professor Marran had agreed to draft a statement about the issues raised in the discussion at the last meeting about research funding and promotion and tenure requirements. First, however, Professor Marran wanted the discussion about these issues to include Vice Provost Carney.

Dr. Carney said that Professor Wells had raised an interesting issue. As she has reviewed proposed 7.12 statements from the Medical School, she has asked each department to be clear about what they mean with respect to external funding—and that is not an issue peculiar to the Medical School; it arises in departments in CLA, CSE, and CBS as well. The issue is whether receiving external funding is required, encouraged, or something else. She said she wants departments to be sure they understand what the working of their 7.12 statements means. She said she tries out tenure-denial cases in her mind to test the language. Does "should have" mean must have external funding at the time of the tenure decision? Or does it mean "has or should have had"? She wants departments to think about what their language means and to be clear about expectations

Dr. Carney said that the Barbara McClintock example that Professor Wells cited was from a long time ago and in a different environment, so she is not sure it is applicable to current circumstances.

One question was whether someone had to have two R01 grants, Professor Elliott recalled. A department cannot have covert standards, Dr. Carney said. If a department recommends against granting tenure because someone does not have two R01 grants, but a requirement for two R01 grants is not in the

7.12 statement, the provost will likely overturn the recommendation from the department for a tenure denial if the lack of dual R01 funding is the basis for the denial.

Dr. Carney said that another and related problem is faculty members who say nothing about a candidate but vote "no" on granting tenure and promotion, so the probationary faculty member has no way to rebut the reasons for the negative vote. The report from the department is to summarize the department view, but the problem is that people do not speak out, for a variety of reasons.

If a 7.12 statement provides that someone "should have had" external funding, one should not vote against the candidate because he or she does not have funding at the time of the vote, Dr. Carney said. In the case of one department in the Medical School, for example, the 7.12 statement provides that external funding can be considered in evaluating a candidate for promotion and tenure and such funding will be considered positive. Other units may require current funding. These standards are very field-specific.

Professor Marran asked if some departments could require an R01 grant in their 7.12 statements. Dr. Carney said she would not approve such a specific grant requirement. The statement could require a federal grant, for example. Very few 7.12 statements actually have numbers in them. Would she approve such a requirement, Professor Elliott asked? It would have to be special and she would only do so reluctantly, Dr. Carney said. It is not a great idea. If a statement called for "more than one grant from various sources," that would be acceptable, as would "one must have a current grant at the time of the vote."

The kind of grant someone has is judged, Professor Marran observed. Dr. Carney said that the Medical School indicates the kind of agencies one should look to for grants (NIH, March of Dimes, American Cancer Society, etc.), and statements might identify the kinds of journals in which faculty members should seek to publish. The problem with publishing in high-impact journals is that doing so says nothing about quality, Professor Gaugler commented. The article may only be cited four or five times. Dr. Carney concurred and added that it could report innovative work that will start in a lower-reputation journal before it takes off. Professor Gaugler said he looks at citations.

Professor Marran cited language from another Big Ten university as an example of a funding requirement. Dr. Carney said that in her college (CLA), a few departments mention funding, but it is not typically as obligatory as some departments in other colleges because of the nature of the disciplines in CLA. And it is not an issue if the funding is internal. One Medical School department mentions a combination of internal and external funding, something she has asked about because she reads it with an eye to borderline cases and potential complaints to the Senate Judicial Committee.

Dr. Carney next noted another discussion item on the meeting agenda: Computer-based discourse, alternative publications, and consideration for promotion and tenure. The tenure regulations and 7.12 statements already allow for computer-based, digital, and new media scholarship. Should departments rethink their 7.12 statements if they don't allow for such work, Professor Marran asked? That kind of scholarship or "publication" may not have existed when a department wrote its 7.12 statement, Dr. Carney said, and it might wish to change it if such vehicles have begun to be used in the field, but unless a statement forbids reliance on such scholarship, it is not a crisis. "Peer-reviewed" could be an electronic journal. If everyone in a department agrees, that's fine, but if there is disagreement, then the unit should discuss or change its 7.12 statement. Most CLA departments have some language covering new media, she said.

Professor Elliott commented that both Professors Larson and Marran are in fields that can be more digital; how is that acknowledged? In her discipline, Professor Larson said, it is another medium, but one is still expected to have a show (i.e., art) in a physical space. Dr. Carney said she had not heard of a juried show online—but events could be moving in that direction. That would be more populist, Professor Larson said, and one is still expected to seek traditional means of getting one's work out there and in journals. Dr. Carney said that she wants departments to see the 7.12 statements as living documents that can change with the times, and added that she believes departments are now more open to seeing them that way than they have been in the past.

Dr. Carney related that she had recently met with the Faculty Consultative Committee and talked about the example of two departments that were merged when the Wave One college rearrangements took place. The two departments had very different cultures; she met with them several times, thought they had a difficult problem, and then found that they came up with an outstanding 7.12 statement that became a unifying document for the new department. When groups come together, writing the 7.12 statement can be a unifying experience; in other departments, writing the statement can help to clarify values. She said she just wants to be sure that departments follow their own statements in making promotion and tenure recommendations.

Faculty members must speak up if there is discussion about criteria that are not in the 7.12 statement, Professor Gaugler said. Dr. Carney said that she tells departments that policies and procedures are their friend, because if they are challenged, they have the policies and procedures to back them up. Some do not like the policies and procedures and want things to be more vague, but with the clearer documents it allows people to be held accountable.

Professor Gaugler said he finds it interesting that some units also look at collegiality and ask faculty members to rate candidates on that factor. Dr. Carney said that collegiality is what all aspire to; in her view, departments should consider collegiality at the time of hire. Once someone is hired, collegiality is not part of the policy. It is also very subjective, Professor Marran said.

Professor Elliott inquired how things stand across the University with respect to 7.12 statements. Most are finished, Dr. Carney said. What about the Academic Health Center, Professor Elliott asked? Dr. Carney reported on the status of 7.12 statements in the various AHC colleges. Is there anything this Committee should know from the discussion with FCC about these concerns, Professor Elliott asked? Sometimes things are slowed down because departments take a long time to get back to her, Dr. Carney reported, for various reasons, and sometimes they edit a different version than the most recent one, which causes confusion. Sometimes they also want to vote on policy names, which is not something subject to a vote. During spring semester, the approval of 7.12 statements competes with reading P & T files and that does slow her down. There is considerable back-and-forth, but no one, she assured the Committee, wants the 7.12 statements done more than she does.

Professor Elliott adjourned the meeting at 12:00.

-- Gary Engstrand