

UNIVERSITY REVIEW COMMITTEE

Friday, April 18, 2014
9 a.m., Hovey 401D

MINUTES

Members present: Angela Bonnell, Diane Dean, Sheryl Jenkins, Domingo Joaquin, David Rubin, James Wolf, Sam Catanzaro (ex officio non-voting)

Members not attending: Phil Chidester, Doris Houston, Bill O'Donnell

Others present: Bruce Stoffel (recorder)

I. Call to order

Chairperson David Rubin called the meeting to order at 9:05 a.m.

II. Approval of minutes from the April 3, 2014, meeting

Domingo Joaquin moved and Angela Bonnell seconded approval of minutes from the April 3, 2014, meeting. Chairperson Rubin declared the minutes approved.

III. Old business: Suspension/dismissal policy (status update)

Sam Catanzaro reported having met with the Academic Affairs Committee of the Academic Senate regarding the proposed suspension and dismissal policy discussed earlier this spring by the University Review Committee. The Academic Affairs Committee has reviewed the draft of the policy first reviewed by URC but has not yet seen changes subsequently recommended by URC. Catanzaro plans to integrate all recommendations into a single document and then share that document with both the Academic Affairs Committee and the URC (likely in fall 2014).

Catanzaro reviewed issues raised by the Academic Affairs Committee in its discussion of the proposed policy. The Academic Affairs Committee recommended that several points be clarified: the situations to which the policy applies, when suspension without pay is warranted, how suspension affects the tenure clock if a faculty member is subsequently exonerated of charges, and the mechanics of identifying faculty members to serve on the panel of six. The Academic Affairs Committee asked that rights and responsibilities of the faculty member with respect to the policy be explicitly stated. The Academic Affairs Committee asked that timing and sequencing of suspension and dismissal be reviewed and, if appropriate, modified to ensure sufficient time for thorough vetting of the case and to provide ample opportunity for all parties to prepare. The Academic Affairs Committee expressed concern about a potential disadvantage faced by a faculty member when University administrators involved in a case are assisted or advised by a staff member who is also an attorney (e.g., general counsel). There has also been discussion about adding a provision for addressing circumstances that may warrant a letter of reprimand or admonishment rather than suspension or dismissal.

James Wolf recommended adding an allowance for a pre-tenure stop-the-clock mechanism to protect probationary faculty members from false accusations intended to prevent the faculty member from earning tenure and/or promotion. Rubin asked if correspondence in suspension or dismissal proceedings, such as letters of decision, is subject to public release pursuant to the

Freedom of Information Act (FOIA) and if the faculty member who is party to the proceedings receives a copy of decision letters before they are placed in the faculty member's personnel file. Catanzaro responded that letters of decision in suspension or dismissal proceedings will not be released publicly, since they relate to personnel matters exempted by the act from public disclosure. He said that letters of decision are addressed and delivered to the faculty member who is party to the proceedings.

Catanzaro explained that a decision has not yet been made regarding the body that will be asked to approve the proposed policy. If the policy is considered connected to ASPT policies, the Faculty Caucus of the Academic Senate will be asked to approve a revision to the ASPT document to incorporate the suspension and dismissal policy. If the policy is considered more broadly connected to University personnel policies, the Academic Senate will be asked to approve the policy as an addition to University Policies and Procedures. The ASPT document would then be revised to refer to the appropriate section of University Policies and Procedures. Rubin recommended incorporating the policy into the ASPT document to keep all policies related to tenure-line faculty in one document for easy access.

IV. Discussion item: Draft ASPT revisions

Chairperson Rubin asked for comments regarding ASPT revisions drafted by Catanzaro based on URC recommendations and advice from general counsel (see attachment).

Regarding the proposed timeline for appeals to CFSC of non-reappointment recommendations on procedural grounds, Catanzaro clarified that the maximum length of the process would be 35 days rather than 40 days as stated in row five of the table. Committee members recommended providing the full 40 days by allowing up to 15 business days for a CFSC to complete its review of an appeal (an increase from 10 business days in the draft timeline). Committee members also discussed where the timeline should be inserted into the ASPT document. Catanzaro explained that he intended the timeline to be inserted into Section A of Appendix 1 (on page 57 of the document) and then referenced in Section XIII.A (on page 45). Rubin suggested inserting the timeline as a new part G of Appendix 1 (on page 61). Wolf recommended placing the timeline elsewhere, because other parts of Appendix 1 refer to specific dates.

Committee members concurred with wording of a new article I.E regarding the quality of evidence.

Catanzaro explained that in redrafting XIII.A.2 he deleted the phrase "during an academic year," because he was uncertain why that phrase had been included in prior editions of the ASPT document. He expressed concern that there may be unforeseen implications resulting from its exclusion and said that he intends to research the matter further. Catanzaro noted that the phrase may have been particularly intended to relate to faculty members on 12-month contracts, primarily faculty members whose locus of tenure is Milner Library. Bonnell said that she is unsure of the intent of the phrase and how it may have been applied. She commented that, with or without the phrase, the section as redrafted is much clearer.

Rubin asked about the meaning of the last sentence in the redraft of XIII.A ("an informal resolution may be effected after a formal meeting has been requested"). Catanzaro explained that the sentence is intended to allow for informal resolution at any time during the appeals process, even after a formal meeting has been requested or a formal appeal has been filed. Joaquin suggested placing the sentence after the second sentence in XIII.A rather than at the end of that passage. Committee members agreed.

Wolf commented that the redraft of XIII.D.4 seems harsher than the original version. Catanzaro explained that the intent is to be clear that a CFSC does not have the option of following rules of evidence as required in a court of law. The revised wording has been recommended by general counsel.

There were no comments from committee members regarding revised XIII.J.5.

V. Discussion item: Any other ASPT sections identified by committee members

Catanzaro said that he has kept notes of ASPT passages that have been the subject of questions or requests for interpretation since he started in his current role with the Provost's office. He will organize his notes and share them with URC members. He said he will also share with the committee any findings of his research into XIII.A.2.

VI. Other business

There was none.

VII. Adjournment

Wolf moved and Sheryl Jenkins seconded adjournment of the meeting. Chairperson Rubin declared the meeting adjourned at 9:55 a.m.

Respectfully submitted,
Angela Bonnell, Secretary
Bruce Stoffel, Recorder

Attachment: Draft ASPT Revisions for 4-18-14 University Review Committee meeting (from Sam Catanzaro)

Draft ASPT Revisions
For 4-18-14 University Review Committee meeting

Proposed Timeline for Appeals to CFSC of Non-Reappointment Recommendations on Procedural Grounds

I.E (new section on quality of evidence)

XI.A.2 (non-reappointment deadlines)

XIII.A (definition of informal resolution)

XIII.D.4 (clearer language about rules of evidence)

XIII.J.5 (explanation of OEOEA's role)

Proposed Timeline for Appeals to CFSC* of Non-Reappointment Recommendations on Procedural Grounds

Action	Timeline	Comments
Faculty member notifies Chair of appropriate CFSC in writing of intention to file an appeal.	Within five (5) business days of receipt of DFSC/SFSC recommendation	Same time frame for P & T appeals
Chair of appropriate CFSC responds in writing to faculty member, confirming receipt of intention to appeal, copying Chair of DFSC/SFSC and Provost.	Within five (5) business days of receipt of faculty member's intention to appeal	
Faculty member submits written information supporting the basis of the appeal, stating the argument that adequate due process was not provided.	Within ten (10) business days of receipt of DFSC/SFSC recommendation	Same time frame for P & T appeals
CFSC completes its review of whether adequate due process was provided. Communicates decision to faculty member, Chair of DFSC/SFSC, and Provost.	Within ten (10) business days of receipt of written information supporting the basis of the appeal	
If CFSC refers the decision for re-evaluation, DFSC/SFSC reassesses the merits remedying any inadequacies of the prior process and informs faculty member and all other parties.	Within ten (10) business days of receipt of CFSC decision by Chair of DFSC/SFSC	Process takes 40 business days (8 weeks) if every activity is completed on last possible day.

*When CFSC makes the non-reappointment recommendation because there is no DFSC, FRC is the appeal body.

NOTES (4-4-14)

1. If a requirement of a formal meeting prior to appeal is added, there needs to be a timeline for that as well. Suggest 5 business days, and shorten one of the 10-day periods to 5.
2. Timelines refer to DFSC/SFSC recommendation, not official notification from Provost. Official notification from Provost includes language that recognizes final termination is pending outcome of any appeal as provided for by ASPT XIII.J.

DRAFT ASPT Article I.E--Entirely New

- E. All committees and officials within the faculty status system process will make every possible effort to obtain the most reliable information available for use in their deliberations.

NOTE: This addition, suggested by URC Spring 2014, is based on language from the AAUP (2009) *Recommended Institutional Regulations on Academic Freedom and Tenure*, specifically with respect to dismissal proceedings.

XI. Termination of Appointment of Probationary and Tenured Faculty

A. Probationary Faculty:

1. A recommendation for the nonreappointment of a faculty member during the probationary period must follow the regulations of the Board of Trustees. Recommendations for nonreappointment prior to a tenure decision shall be made by the DFSC/SFSC in consultation with the Dean and the Provost. The Chairperson/Director of the DFSC/SFSC shall communicate the recommendation of nonreappointment in writing to the faculty member, the Dean, and the Provost. Nonreappointment can also be the result of a negative tenure recommendation. Official notices of nonreappointment, whether issued prior to a tenure decision or as a result of a negative tenure decision, are issued from the Office of the Provost.
2. Notice of termination shall be given as follows:
 - a. For 9-month (academic year) appointments, not later than March 1 of the first academic year of service; not later than February 1 of the second academic year of service; and at least twelve months before the termination of an appointment after two or more years of service.
 - a.b. For 12-month or, if a one-year appointment, terminates during an academic year, at least three months in advance of its termination during the first year of service; not later than February 1 of the second academic year of service; or, if the appointment terminates during an academic year, at least six months in advance of its termination during the second year of service; and at least twelve months before the termination of an appointment after two or more years of service.

Comment [c1]: No deadlines are being changed. The text has been reorganized to enhance clarity.

Compare to current version:

2. Notice of termination shall be given not later than March 1 of the first academic year of service; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination; not later than February 1 of the second academic year of service; or, if the appointment terminates during an academic year, at least six months in advance of its termination; at least twelve months before the termination of an appointment after two or more years of service.

XIII. Appeals Policies and Procedures

- A. Illinois State University encourages the fair and equitable resolution of appeals. Informal resolution of issues is encouraged at the DFSC/SFSC and CFSC levels prior to formal meetings and/or appeals. In contrast to formal meetings as defined in XIII.B, informal resolution of issues can be accomplished through communications that address questions and concerns through provision of information or clarification. An informal resolution may be effected after a formal meeting has been requested.

Time requirements and deadlines for filing appeals and for other processes are found in Appendix I to these Policies.

- B. The Nature of Formal Meetings with DFSCs/SFSCs and CFSCs
1. A formal meeting with a DFSC/SFSC or CFSC is a preliminary step in all appeals. A formal meeting must be requested by a faculty member following a negative recommendation by the DFSC/SFSC or CFSC for promotion and/or tenure prior to appeal to the Faculty Review Committee (FRC). A formal meeting with a DFSC/SFSC must also be requested by a faculty member prior to an appeal of a recommendation for performance evaluation or post-tenure review to the CFSC.
 2. Formal meetings must be requested by the faculty member in writing within 5 business days of receipt of the recommendation. Faculty members must state clearly in the written request their reasons for the meeting.
 3. All formal meetings with a DFSC/SFSC or CFSC will be conducted in accordance with XIII D.

XIII. Appeals Policies and Procedures

D. Procedures Common to Formal Meetings and all Appeals before the CFSC

1. Faculty members must be afforded a reasonable time to present arguments. The faculty member who believes that relevant factors or materials have been ignored or misinterpreted shall be entitled to present arguments and supplement his or her materials before final recommendation by the DFSC/SFSC or CFSC. Information not originally presented in applications for tenure/promotion or annual evaluation materials may be considered at the discretion of the DFSC/SFSC or CFSC.
2. Faculty members may be accompanied by a faculty advocate. The advocate may be present to advise the faculty member only and not to address the committee. Although witnesses to specific facts or occurrences or to provide perspective regarding teaching, scholarly or creative productivity or service will not ordinarily be necessary, faculty members will be allowed a reasonable number of witnesses. The DFSC/SFSC or CFSC shall have the discretion to limit the number of witnesses at a formal meeting or appeal hearing.
3. Formal meetings or appeals hearings with the CFSC will be closed to all but the DFSC/SFSC and CFSC, the faculty member, and the faculty advocate. The faculty member shall be provided, if requested by the faculty member, a meeting with the CFSC without members of the DFSC/SFSC present. Subsequent to that meeting the CFSC shall meet with the DFSC/SFSC. Students shall be called as witnesses only in extraordinary circumstances.
4. Formal meetings will not follow rules of evidence as required in a court of law ~~will not be followed~~. Reasonable time should be allowed for formal meetings or appeals hearings.
5. Following the formal meeting or appeal hearing, the DFSC/SFSC or CFSC will meet to reconsider the earlier decision and will promptly issue a communication either (a) affirming the prior recommendation or (b) changing the prior recommendation. If changes to the prior recommendation are made, no reference will be made to the nature of the prior recommendation. The faculty member will be notified in writing of the decision promptly and informed of any further rights of appeal.

Comment [c1]: Attempt at more clear and succinct phrasing.

DRAFT update to ASPT Policy XIII.J

XIII.J. Initiation of a Non-Reappointment Recommendation Appeal:

1. A recommendation for non-reappointment of a probationary faculty member may be appealed to the CFSC to consider whether the DFSC/SFSC provided adequate due process to the non-reappointment decision. In instances when a non-reappointment recommendation is made by a CFSC because of the absence of a DFSC/SFSC, the probationary faculty member may appeal to the FRC.
2. In determining whether adequate due process was provided, the CFSC shall restrict its inquiry to procedural issues related to the manner in which the review was conducted. The CFSC shall not substitute its judgment for that of the DFSC/SFSC on the merits of whether the candidate should be reappointed.
3. If, using the preponderance of the evidence (more likely than not) test as the standard of review, the CFSC determines due process errors that substantially affected the non-reappointment decision, the CFSC shall refer the recommendation back to the DFSC/SFSC to reassess the merits, remedying any inadequacies of the prior process.
4. If a faculty member believes that the basis for non-reappointment was an academic freedom or ethics violation, the faculty member may request a review by the Academic Freedom, Ethics and Grievance Committee. In order to allow a final decision prior to the end of the faculty member's appointment, the faculty member must file a complaint as required by Academic Freedom, Ethics and Grievance Committee within five (5) business days (days when University offices are open to the public) of the date that the faculty member received the official notification of non-reappointment from the Provost. The Academic Freedom, Ethics, and Grievance Committee must submit its report by May 1 of the academic year in which the appointment terminates.
5. If a faculty member believes that the basis for non-reappointment was a violation of the University's Policy on [Anti-Harassment](#) and [Non-Discrimination](#), he/she may seek relief through the Office of Equal Opportunity, Ethics and Access, [which will follow its standard procedures for addressing such complaints](#).