

Senate Advisory Committee on Privilege and Tenure

Annual Report

2010-2011

The Senate Advisory Committee on Privilege and Tenure (SACPT) held ten formal meetings during the previous year, on August 24, September 9, 17, 2010; and on January 10, February 11, 18, April 29, August 22, and September 1 2011. Eight appeals involving denial of tenure and promotion to Associate Professor were received by the committee, as well as two issues pertaining to privilege. Below we summarize the appeals and privilege issues, and provide recommendations regarding promotion and tenure procedures.

1. Appeals to the SACPT

Appeal 1 was based on an acknowledged procedural error. The faculty member had elected the comprehensive tenure review. At the levels of the educational unit, college advisory committee, dean, and academic area advisory committee, the comprehensive review of appellant's dossier was conducted in accordance with the policies and procedures described in AR 2:1-1. In contrast to these ARs, however, the Provost did not forward the negative recommendation regarding tenure to the President. As a result, the President neither made a positive recommendation to the Board of Trustees nor accepted the negative recommendation and informed the Provost. The negative recommendation of the Provost was communicated to the appellant in writing by the educational unit administrator with a copy to the dean, instead of by the dean with a copy to the educational unit administrator. An additional procedural error was that the appellant failed to initiate an appeal within sixty days of being notified of the disapproval of the recommendation to promote and grant tenure. The members of the SACPT recommended that the comprehensive tenure review of the appellant's dossier be completed as provided in AR 2:1-1. This includes forwarding of the Provost's written recommendation to the President, who may make a positive recommendation to the Board of Trustees for final action or disapprove of the awarding of tenure, stop the tenure review, and inform the Provost in writing. In the event of the latter decision, the Provost shall inform the dean in writing, who shall notify the candidate in writing with a copy to the educational unit administrator. The SACPT did not recommend additional remedies beyond completion of the comprehensive tenure review. (Independently, the appellant filed an administrative appeal to the Provost, claiming that AR 2:1-1 entitled the candidate to be conferred a terminal contract after, and not prior to, the President's final negative decision. The Provost provided the appellant with a terminal contract dated after the President's final decision, replacing the terminal contract the candidate had previously been placed on at the stage of the Provost's decision).

Appeal 2 alleged numerous incidents of procedural matters, violations of academic privilege, violations of academic freedom, and creation of a hostile discriminatory work environment. The members of the SACPT did not find evidence of procedural errors or violations in Governing Regulations related to the termination of the petitioner's employment with the University. The committee did find evidence of a brief violation of academic privilege, which was quickly resolved. Additional concerns, while not constituting violations of academic privilege, were noted in three areas. These included the handling of the petitioner's visa extension, the vague wording of a departmental procedural rule in which faculty under consideration for reappointment or termination "may request" to present their case to the full faculty, and the lack of evidence of efforts to improve the apparently dysfunctional relationship between the petitioner and the department chair. No remedies were proposed or recommended.

Appeal 3 alleged that the comprehensive tenure review of the petitioner's dossier only contained a recommendation regarding promotion and failed to make a written recommendation regarding tenure. The SACPT concluded that the Provost's recommendation to the President referred to both promotion and tenure, and that the meaning of this letter was sufficiently clear. No additional action was recommended.

Appeal 4 alleged that a college-level APT Committee had not used the appropriate departmental guidelines for review of his promotion and tenure request. The SACPT determined that the departmental guidelines should not have been used in this case and that proper procedures had been followed.

Appeal 5 alleged violations of the University policies and directives based on efforts by a faculty member to negatively influence the department chair, lack of a departmental policy on evidence for tenure and promotion, and that some of the internal evaluation letters included in the dossier contained judgments based on inaccuracies and non-existent policies that resulted in a denial of academic privilege. The SACPT carefully considered the above allegations but did not find evidence to support violations of procedure, privilege, or academic freedom.

Appeal 6 alleged that a faculty member was terminated without sufficient notification of non-renewal of appointment. This issue was resolved by the petitioner and the department/college prior to the appeal being considered by the SACPT.

Appeal 7 alleged several violations of procedure and privilege in the preparation and consideration of the dossier which included: 1. The dossier did not contain a bibliography of citations to the research provided by the candidate; 2. The dossier did not include updates to the vita provided by the candidate; 3. Departmental guidelines were provided to external reviewers, although these were adopted subsequent to

appellant's faculty appointment; 4. Information was not provided to reviewers regarding the extension of the probationary period for the faculty member; 5. Annual and tenure progress reviews failed to signal warnings of insufficient progress; 6. Lower levels were not informed of the Area Committee's negative recommendation; 7. Some internal letters contained factual errors, which were subsequently cited by the Area Committee as reasons for not supporting promotion and tenure. The SACPT found evidence in support of allegations 3,4, and 7. Based on the harm resulting from these errors and the difficulty in correcting the errors without harm or bias to the candidate, the SACPT recommended that the appellant be promoted to tenured associate professor.

Appeal 8 regarding a denial of promotion and tenure decision was initiated by letter indicating intent to appeal received on 10 May 2011 with the full appeal received on 2 September 2011. This appeal will be considered during the 2011-2012 academic year by the SACPT.

2. Academic Privilege

The SACPT was requested to look into the new Administrative Regulations regarding the maximal teaching load of nine credit hours per semester for faculty in the Lecturer Series as compared to twelve credit hours for faculty in the Regular Title Series and Special Title Series. It was suggested that the difference in maximal teaching loads among the various faculty title series presents a possible issue regarding fairness and equity. This issue was discussed at the September 17, 2010 meeting of the SACPT. In view of the different responsibilities, expectations, and salaries of faculty in the Lecturer Series as compared to the Regular and Special Title series, the committee did not view the differences in the ARs pertaining to maximal teaching loads as an equity or fairness issue, and did not see this as pertaining to faculty privilege and tenure.

The SACPT was also requested by Davy Jones, Chair, Senate Rules and Elections Committee to provide input regarding regulations regarding faculty transfers to different academic units. Individual opinions were provided by two SACPT members.

3. Recommendations

There has been an increase in the number of appeals to the SACPT citing procedural errors. This is the result, at least in part, of the increased complexity of the Administrative Regulations with the addition of comprehensive tenure review and departmental statements of evidences. For example, there are three versions of AR2:1 (AR2:1-1 7/1/2011; AR2:1-1 7/1/2009; and AR 2:1-2 7/1/2008). The members of the SACPT therefore recommend that:

Dossiers indicate which version of AR2:1 is applicable for the candidate being considered for appointment, reappointment, promotion, and the granting of tenure.

Educational Unit Administrators and Deans receive annual updates and refreshers on reappointment, promotion and tenure procedures including the importance of accurate and consistent pre-tenure faculty performance reviews and the use of departmental statements of evidences in promotion and tenure proceedings.

Consulted faculty in the educational unit should be informed that they are “expected to read and consider the contents of the dossier including the outside letters, on matters of appointment, reappointment, promotion and/or the granting of tenure, before providing individual written judgments to the educational unit administrator.” (AR2:1-1.VII.G.3)

In one appeal, neither the candidate nor the educational unit administrator and unit staff appeared to be aware of the rights of a candidate to view the dossier. The members of the SACPT therefore recommend that candidates under consideration for appointment, reappointment, promotion, and the granting of tenure receive information on their rights and responsibilities including their right to review their standard personnel file, their dossier prior to the inclusion of letters, and upon request to review all letters placed in the dossier.

In at least two of the above appeals, there was evidence of friction between the candidate and the educational unit administrator and/or between faculty within the educational unit. The members of the SACPT strongly support the establishment of an Ombud Office to provide informal and impartial dispute resolution services for faculty.

With regard to concerns raised in Appeal 2, the members of the SACPT recommend that faculty visa applications should be handled independently from consideration of faculty promotion and the granting of tenure.

As a follow-up to Appeal 3, the members of the SACPT recommend that letters from educational unit administrators, deans, the Provost, and the President explicitly state whether the action is one of promotion, or tenure, or promotion with tenure, and whether the final decision is to approve or disapprove, rather than using wording such as ‘does not support the advancement.’

At present the Administrative Regulations (AR 2:1-1. XI, page 16) state that an appeal to the SACPT “shall be *initiated [emphasis added]* in writing by the concerned faculty member within sixty (60) days after being notified in writing by the dean about non-

renewal of appointment.” Similar wording is contained in the Governing Regulations (GR.X.B.1.e). Previously, submission of a brief statement indicating intent to appeal was sufficient to satisfy the “initiated” requirement. There was not a deadline for submitting the full appeal following such notification. A 27 November 2007 letter from Hollie Swanson (Chair, SACPT) to Barbara Jones, General Counsel, conveyed the decision of the SACPT to approve a motion that “the appellants be required to submit a full letter of appeal that describes the case in detail to the SACPT within fifteen days following the initial notification of appeal by the faculty member.” This motion was forwarded to the Provost, the Dean of the Graduate School and the Chair of the Senate Council. With lengthy delays continuing to occur between the notification of intent to appeal and the submission of the full letter of appeal, the members of the SACPT recommend that the Senate Rules be revised to state that “an initiated appeal to the SACPT shall be completely submitted within 75 days after the faculty member being notified by the dean regarding disapproval of promotion and/or tenure.”

Submitted on behalf of the 2010-2011 SACPT members Tricia Browne-Ferrigno, Deborah Crooks, Scott Prince, Peter Sawaya, Catherine Seago, Bruce Swetnam, Grzegorz Wasilkowski, Craig Wood, and James Geddes (Chair).