

UW SYSTEM TENURE POLICY TASK FORCE

1220 Linden Drive, 1820 Van Hise Hall

Madison, WI

Monday, November 30, 2015

2:00 pm

Meeting Minutes

Present: Lopa Basu, John Behling, Greg Diemer, Dorothy Farrar Edwards, Sarah Mangelsdorf, Patricia McManus, Ken Menningen, Mittie Nimocks Den Herder (by phone), Steve Meyer, Regina Millner, Christine Roth, James Schmidt, Bradley Seebach, Robert Smith, Kristene Surerus, Alan White, and Greg Wise.

Unable to Attend: Dean Van Galen, Katy Heyning, Gary Miller, and Jonathan Shailor.

I. Welcome and Logistics

John Behling welcomed attendees and thanked them for their work. He also outlined the process moving forward, including his desire for the taskforce to report out.

II. Review of Discussion/Minutes from Last Meeting

Sarah Mangelsdorf clarified her comment on page 5 about how termination for cause and termination for program discontinuation are handled differently on her campus. The minutes should be corrected to say termination for cause and program discontinuation are handled differently, as there is no termination for program discontinuation yet.

Dorothy Farrar Edwards clarified that the committee she referenced was a university-wide one, not a department one.

Patricia McManus asked that the date be corrected.

III. Discussion of UW-Oshkosh Resolution

Christine Roth stated that the resolution was unanimously passed by the UW-Oshkosh Faculty Senate. The resolution suggests guiding principles for the tenure policy task force and the Board to consider as they develop a UW System policy on layoff.

Ken Menningen raised a question about a provision within the resolution limiting the times a tenured faculty member to situations when cause is found. Christine Roth said they decided that only cause could be the reason for termination.

IV. Discussion of UW-Madison draft policy FPP.

Dorothy Farrar Edwards indicated that their proposed policy on faculty layoff is consistent with both AAUP and Act 55 regulations. She stated the need to separate out program discontinuation from other programmatic changes. She also asked that the UW System policy recognize the differences from campus to campus. She added that their process respected tenure and the need to make staff and programmatic changes as necessary.

Lopa Basu asked if the UW-Madison policy was enacted yet and Dorothy Farrar Edwards responded that the Board must adopt the policy before it goes into place.

John Behling added that he appreciated UW-Madison's work and pointed out that this was a helpful tool in his work on this issue.

Ken Menningen asked whether there will be legal challenge to the language from UW-Madison's draft policy regarding no faculty being laid off for anything short of full program discontinuation and whether the UW System policy will have something similar to it. John Behling stated that he couldn't speak for the full board and Tom Stafford added that on this point, Act 55 is permissive and that this language would probably be allowed legally.

Lopa Basu asked if the task force could include that the language regarding programmatic changes from UW-Madison's draft policy in its list of recommendations. John Behling stated that we can discuss that later as part of the recommendations.

Bradley Seebach asked for clarification on the process moving forward. John Behling responded that the task force will issue a report that will be shared with campuses and Regents.

V. Discussion of Updated Draft Recommendations

1. UW System Policy on Faculty Layoffs

Introduction

Recommend including an introduction that contains the purpose and scope of the policy and that recognizes the importance of protecting academic freedom and the overall academic quality of the UW institutions. The introduction would include language stating the faculty layoff policy will be invoked only in extraordinary circumstances, and after other alternatives have been considered and found untenable. The section also would include specific language to the effect that no faculty member shall be laid off because of speech protected by the First Amendment or principles of academic freedom, and also would describe the legal sources of the Board's layoff authority.

Lopa Basu asked that stronger, AAUP-approved language be used on the reassignment of faculty.

Kristene Surerus stated that she felt uncomfortable with the fact that the task force will not be allowed to meet again for review the draft report or draft policy. Jeff Buhrandt clarified that the report will include draft policies. Greg Wise and Ken Menningen asked that the task force meet once more to review a draft policy before sending this to campuses.

Lopa Basu pointed out the difference between the first and second draft is significant and it's clear that John Behling and others are listening.

Regina Millner added that we were forced to start late and that has impacted our work. She added that what we want is ideas not wordsmithing and that the desire was to move expeditiously but still want input. Sarah Mangelsdorf added that is important to get this done quickly, but is important to get it done right. Christine Roth said that idea generating and wordsmithing are one in the same.

Sarah Mangelsdorf stated that comparable schools' policies open with a paragraph that includes a description of what tenure is and how is the keystone to academic freedom. Alan White agreed that this new lead paragraph be included in both policies.

Definitions

Recommend including definitions of key terms that are used in the policy, including definitions of "academic program," "department," "layoff," "termination," "discontinuance," "curtailment," "modification," "redirection," "educational considerations," and "financial emergency."

Recommend that these definitions be consistent with those used in applicable statutes and administrative code provisions.

Ken Menningen stated that whatever definitions we write should be consistent with AAUP. Tom Stafford responded that some definitions are already in statute. Christine Roth asked a definition of cause be included as well.

Layoff Due to Financial Emergency

Recommend that this section of the policy reference and follow the procedures set forth in Chapter UWS 5 of the Wisconsin Administrative Code (Layoff and Termination for Reasons of Financial Emergency,) specifically UWS 5.01 through UWS 5.06, and the procedures set forth in Wis. Stats., Section 36.22.

This would include a description of the institution's procedures that could lead to a chancellor's recommendation to the Board that a financial emergency be declared by the Board for a specific institution, as well as the procedures and protections available to faculty who are laid off following a Board declaration of a financial emergency for an institution.

Tom Stafford updated that task force about the fact that parts of Chapter UWS 5 survive and that parts of UWS 5 were reenacted in state statute.

Patricia McManus asked that more AAUP language be utilized here. Tom Stafford repeated that code already includes much of that language.

Greg Wise asked why the word “could” is used here. Tom Staff clarified that the Chancellor does not have to recommend that the Board declares financial emergency.

Layoff Due to Budget or Program Decision Requiring Program Discontinuance, Curtailment, Modification, or Redirection

Recommend that this section of the policy include the following elements:

- 1. A statement that a proposal to discontinue, curtail, modify, or redirect an academic program due to educational considerations that results in faculty layoff may be brought forward by faculty in the affected department, faculty in the affected college, the dean, the provost, or the chancellor.*

Greg Wise added that UW-Madison offers some excellent guidance on this section and added that he would like to see program discontinuation be separated from the other programmatic changes. Bradely Seebach agreed.

John Behling asked if there was a need for three policies to reflect this issue and Dorothy Farrar-Edwards responded that it was an issue of process that that UW-Madison sees discontinuation as completely different from the other changes, but the legislative language somehow lumps all of them as one.

John Behling asked Tom Stafford for clarification on what is included in other universities’ policies on layoff. Tom Stafford responded that some policies have language on financial emergency and program discontinuation only, but some do have language on modifications and reductions.

Bradley Seebach stated that discontinuance is not something faculty would inflict on themselves, while redirect and modification should be led by faculty. Greg Wise agreed and added that not separating them would reduce the kind of modification our campuses need.

Tom Stafford asked if the group was comfortable using the UW-Madison definition of educational considerations. The group responded yes.

- 2. A statement that a proposal to discontinue, curtail, modify or redirect an academic program that will not result in faculty lay off will follow the academic program review process currently in place on each campus, and will not be required to follow the process outlined in this policy.*

3. *Criteria that will guide the determination of whether educational considerations require academic program discontinuance, curtailment, modification, or redirection that will result in faculty layoff. Examples of criteria may be found in the layoff policies of other universities, including the University of Michigan, University of Maryland, and University of Utah.*
4. *A description of the shared governance process that will be followed to review and arrive at a recommendation regarding a proposal that an academic program should be discontinued, curtailed, modified, or redirected, resulting in faculty layoff. The process shall include requirements regarding information that must be included with the initial proposal. The process also shall include review and recommendations from: (1) the faculty of the department in which layoffs are being considered; (2) faculty of the college that contains that department; (3) the faculty senate; (4) the students in the program or student governance; (5) the dean of the affected college; (6) the provost; (7) and other individuals or bodies as deemed appropriate by individual institutions. The process shall include written reports, holding of a public meeting(s), provision for receipt of written comments, the sharing of appropriate financial or programmatic information, consultation with the chancellor, and other means necessary to making a careful and deliberate recommendation to the chancellor on the proposal. The process shall include a statement that every effort shall be made to reach consensus on the matter.*

Bradley Seebach stated that AAUP and the UW-Madison draft policy include examples of what kind of information should be included.

Sarah Mangelsdorf said there is a need to separate program discontinuance from other program changes.

5. *A description of the process that a chancellor will follow if the chancellor decides to recommend to the Board of Regents a program change that will result in faculty layoff. The process will describe what information, in the form of a report to the Board, will accompany the chancellor's recommendation.*

Christine Roth said that this is another point where faculty governance is included clearly in this process. Alan White reiterated that this process included faculty input as well. Christine Roth asked that we look to AAUP language on how faculty input is accepted here.

6. *A statement that approval of the Board of Regents shall be required to discontinue, curtail, modify, or redirect an academic program if faculty layoff will result from those actions.*

7. *A reference to, and summary of, the due process procedures and other faculty rights set forth in Wis. Stats., Section 36.22 that apply to individual faculty facing layoff as the result of the Board's programmatic decision. This would include:*
- *Establishing faculty seniority determinations for purposes of layoff*
 - *Describing layoff notice periods*
 - *Describing the due process, hearing and appeal rights available to faculty facing layoff*
 - *Describing faculty retraining and reappointment rights*
 - *Describing the reasonable efforts that will be made to place faculty facing layoff in suitable positions at their institution and at other institutions within the UW System*

Lopa Basu asked that a route for full appeal to the board is included as discussed earlier.

Safeguards for Students

Recommend that a section be included setting out certain procedures to protect and assist students impacted by a programmatic decision under this policy.

Sarah Mangelsdorf pointed to example policies from other schools and Bradly Seebach stated that his campus may approach this differently than others.

2. UW System Policy on Post Tenure Review

Introduction

Recommend including an introduction stating that the purpose and scope of post-tenure review is to recognize and to reward a sustained level of solid performance, and to identify and to remedy deficiencies through a supportive and developmental process.

Sarah Mangelsdorf asked whether we can uncouple this policy from the other tenure layoff. Ken Menningen stated that his fellow faculty at UW-Stevens Point asked that the tenure review task force stop working on Post Tenure Review altogether until merit pay is available System-wide.

John Behling asked members to weigh in on post tenure review on their campus.

Sarah Mangelsdorf stated that she was in favor of post tenure review including merit because it should not just be punitive. Dorothy Farrar-Edwards said this topic generated considerable consternation on campus.

Steve Meyer said the post tenure/merit review is a significant process that takes 4 nights and over 40 hours to complete for each faculty member every three years. No incentive makes the process even more cumbersome.

Patricia McManus said this is already occurring and that morale is an issue.

James Schmidt said on his campus, everyone who goes through post tenure review gets some sort of funding as a reward. He believes there needs to be some sort of reward.

Kristene Surerus stated that the word merit is simply a loaded word and that additional compensation or resources could be added.

Robert Smith stated that trying to standardize what merit means across individuals and programs that are hard to compare.

Bradely Seebach would welcome a more unified and consistent post tenure review process but expressed concerns whether this task force can properly address this issue.

Alan White added that clarity is needed between annual, merit and post tenure review.

John Behling said merit would be included in the language on post tenure review in the draft policy being worked on.

Recommend that the introduction state that tenured faculty currently are reviewed annually, that the annual review process will continue, and that post-tenure review may substitute for the annual review in the year a faculty member is up for post-tenure review.

Sarah Mangelsdorf stated again the introduction should include a reinforcement of what tenure is and why it is important.

Lopa Basu stated that we should make it clear that this is not re-earning of tenure. Steve Meyer agreed.

Tom Stafford mentioned that the policy needs to reflect that case that faculty is not reviewed each year at every campus. He added that he will look into whether an annual review was required by policy or state law.

Recommend that the introduction also specifically state that this policy is not intended to change the current rules addressing faculty termination for cause as set forth in Chapter UWS 4 of the Wisconsin Administrative Code, and that Chapter UWS 4 remains the exclusive procedure to effect for cause termination of faculty for performance reasons.

No comments.

Definitions

Recommend including definitions of “post-tenure review,” “merit review,” and other applicable terms.

No comments.

Elements of the Review

1. *Recommend that post-tenure review be required at a set interval, and at least every five years after the granting of tenure, with exceptions for faculty undergoing evaluation for promotion that falls within the cycle. Post-tenure review may substitute for annual review.*

Lopa Basu emphasized that the review is primarily done by faculty, not administration.

Sarah Mangelsdorf stated that each campus functions differently and the policy needs to reflect that. Regina Millner agreed.

2. *Recommend that the criteria applied to conduct the review shall be teaching, research, and service. The relative importance of these criteria shall be established at the institutional level, and shall reflect the mission of the institution, as well as the mission of various units within an institution, such as departments, schools, and colleges. The criteria shall be sufficiently flexible to allow for shifts in the professional emphasis of faculty.*

Greg Wise asked why we don't reference the appointment letter, which reflects what a faculty member agreed to do as a member of faculty. Tom Stafford and John Behling both stated that the recommendations were drafted in a way to allow campuses to continue best practices.

3. *Recommend that the process for conducting the review be developed at each campus, and that the process shall describe how the review will be conducted, who will conduct the review, and what will constitute the review file.*

Regina Millner stated that moving #3 to the top of this list and directly referencing the FPP's role in enacting this on campuses. Tom Stafford mentioned that scholarship could summarize much of the criteria and Regina Millner stressed that scholarship should be defined if used.

4. *Recommend that the review shall include both peer and student evaluations, shall provide for review by the department and may provide for review by other appropriate groups.*

5. *Recommend that language be included stating that the review shall respect the First Amendment rights and academic freedom of tenured faculty.*
6. *Recommend that review designations of “unsatisfactory,” “satisfactory,” and “excellent” be used by the department and any other reviewing group.*

Patricia McManus raised concerns about the distinction between “satisfactory” and “excellent”. She stated that the categories could be better managed at the institution level.

Lopa Basu asked whether alternatives words to “satisfactory” or “unsatisfactory” can be used. She added that on her campus “satisfactory” is seen as a C, and that this should acknowledge campus differences. She added that her campus has clear standards to reach “excellent”.

Bradley Seabach stated that having satisfactory versus unsatisfactory makes more sense because three categories will create disharmony at institutions.

Dorothy Farrar-Edwards pointed out that in UW-Madison’s draft policy includes more substantial feedback, including calls for remediation where necessary.

Bradley Seebach said that allowing campuses to decide what the grades should be in this section. Regina Millner stated that the narrative will help address this issue.

John Behling stated that he would prefer the three tier system but that he is willing to allow campuses to decide how best to implement this.

James Schmidt stated that there may be a desire to have some system consistency for data, but flexibility is important.

7. *Recommend that tenured faculty receiving “satisfactory” and “excellent” reviews from the department, and from any other reviewing group, be eligible for a merit reward that can include a base salary adjustment, a non-base (one time) pay adjustment, reassigned time for professional activities, provision of equipment or other tangible forms of support for professional activities, or a combination of the foregoing. The availability, magnitude, and distribution of merit awards may vary by institution as determined by the chancellor in consultation with faculty shared governance.*
8. *Recommend that tenured faculty receiving an “unsatisfactory” review from the department be provided an opportunity to file a written response to the review with the dean and be provided an opportunity for a meeting with the dean and a faculty member(s) representing the department to discuss any concerns the faculty member may have relating to the review.*

9. *Recommend that if the dean concurs with the department's "unsatisfactory" review of the faculty member, the dean shall forward to the provost a recommendation to implement performance remediation to assist the faculty member to improve his or her performance. The provost (or designee) shall make the decision on whether to implement performance remediation for a tenured faculty member under this policy. This decision shall be final and not subject to institutional grievance processes.*

Christine Roth stated that institution policies would be given flexibilities in enacting these policies. John Behling agreed on #'s through 7, but 8 and 9 may be treated differently.

John Behling stated that while he strongly believes in a robust appeal process at the termination phase, but that he has concerns with adding one at the point of a poor review triggering remediation.

Sarah Mangelsdorf stated that not allowing an appeal at the remediation phase puts too much pressure on the provost. She offered that rewording this section to reflect that the provost can decide if a remediation is warranted. This would clarify intent.

Lopa Basu and Dorothy Farrar-Edwards said that there is a need for grievance or appeal at the point of the poor review. Faculty can be targeted for poor reasons and a poor review may not be accurate. Patricia McManus and Alan White concurred that a chance for grievance at the point of a poor review is critical to our ability to attract faculty.

Bradley Seebach said that building a termination process on to this makes adding a grievance at this point even more important. Dorothy Farrar-Edwards added that a grievance/appeal process should be under a limited timeline.

Christine Roth said that departmental politics can play a huge role and that a weakened tenure policy will cost us money.

John Behling responded that we have to be able to respond to the concerns that poor performers will have far too many appeal processes before they get to work improving their performance.

Dorothy Farrar-Edwards stated that there is so little understanding about the life of a faculty member. The review process needs to reflect how difficult the existing processes are. John Behling agreed.

James Schmidt asked the task force if there is some support for an alternate review panel on a limited timetable. Dorothy Farrar-Edwards and Sarah Mangelsdorf said having some form of second review is the key.

Alan White asked if the provost decided against remediation could that trigger termination or would it only be used to reject an unsatisfactory review.

Remediation/Development Process

1. *Recommend that a faculty member receiving an unsatisfactory review for whom performance remediation is to be implemented be informed in writing of the area(s) of underperformance and of performance expectations. In consultation with the department, the faculty member must develop a written remediation plan to address the area(s) of underperformance and submit that plan for approval by the department and the dean.*
2. *Recommend that performance remediation be a developmental process and that the faculty member receive appropriate support from the department, dean, and other university units to address area(s) of underperformance.*
3. *Recommend that the dean, in consultation with the department and the faculty member, review the written remediation plan and determine progress at least once each semester. The dean will document progress, or lack thereof, through a letter to be placed in the faculty member's personnel file.*
4. *Recommend that a remediation plan must be successfully completed within a reasonable time as determined by the dean in consultation with the department or by institutional policy.*

Steve Meyer stated that a remediation process may force a faculty member to make significant changes to how they teach or research to just avoid remediation.

Alan White asked if we need a clear set of criterion for each campus. Tom Stafford and John Behling stated that the campuses should be empowered here.

5. *Recommend that if the dean, after consultation with the faculty member and the department, determines the faculty member has successfully completed the remediation plan, the faculty member shall be notified of this decision, and the remediation plan shall be considered concluded.*
6. *Recommend that a provision be included referencing appropriate disciplinary processes under Chapters UWS 4 and UWS 6 of the Wisconsin Administrative Code, and related campus policies, in the event that a tenured faculty member fails to improve his or her performance following an unsatisfactory review.*

Ken Menningen stated that a single unsatisfactory review triggering remediation seems too severe. James Schmidt stated that the annual reviews held post-

remediation would allow for multiple poor reviews to play a role beyond the initial one.

Recordkeeping and Accountability Measures

1. *Recommend that a written record be created containing the results of an individual faculty member's post-tenure review, and that the written record be provided to the dean and the provost.*
2. *Recommend that department chairs be required to report annually to the dean and provost to confirm that all tenured faculty in that annual cycle have been reviewed.*

Christine Roth raised concerns about collecting data on dismissal. Tom Stafford clarified that while the process is confidential, the Board does vote on a dismissal and that information is public information.

3. Review of Existing UW Policy and Possible Changes

No comments.

VI. Meeting Summary

John Behling thanked the group and their input.

VII. Upcoming Meeting(s)

The Next meeting will on December 23, 2015 in the afternoon. Notice as to the time will be sent out to the group.

VIII. Adjourn