

From: APAFT Committee

To: Executive Committee

Date: Mar 22, 2011

Re: Report on Charge 3 of the APAFT Committee

Charge 3: Check the consistency of policies PPM 8-20D and 9-17A regarding dismissal of tenure track faculty during the probationary period.

PPM 8.20. D. Action by the Provost - Candidates in Other Probationary Years of Tenure

In the third or other specially requested interim years' evaluations, the provost will only be made aware of the candidates' status of progress toward achieving tenure but shall not act unless the provost grants a petition for review by the candidate or undertakes such review on their own initiative.

PPM 9.17. II. A. Termination of Non-Tenured Faculty and Appeal of Tenure Denial Decision

Non-tenured faculty members have all of the professional rights and responsibilities described in PPMs 9-2 through 9-8, except that they do not possess tenure in any form. Prior to being awarded tenure by the University, a non-tenured faculty member may be terminated with or without cause at the sole discretion of the University. "Cause," as defined in PPM 9-16, Termination for Other Cause or Change in Status, includes violation of the responsibilities stated in this code (PPMs 9-2 through 9-8), medical incapacity, financial exigency or bona fide discontinuance of a program, service unit or department of instruction.

Discussion: PPM 8.20-D does not specify what will be the consequence of an unsatisfactory progress toward tenure and in the case the provost undertakes a review on his/her own initiative the termination regulation is spelled out in PPM 8.10-II which in its A2 part states "A faculty member is terminated during the probationary appointment at the end of a contract period by administrative action in accordance with the academic tenure policies." PPM 8.26 states the required advance notice of termination which during the first academic year is no later than March 1, during the second academic year is no later than December 15, after two or more years is at least twelve months in advance of the termination, and that the termination during the regular academic year is to be avoided if possible. The contract period in PPM 8.10-II-A2 is not specified. However, there is an implicit assumption that the contract is for one year while termination notice in PPM 8.26 seems to imply that the initial contract is for one year, renewed for another year and after that the contract is for two years.

The committee also believes that new non-tenured faculty members are not aware that they can be terminated for no cause and in such an event the current termination notice of March 1 or December 15 in the first year, or the second year, respectively, seems unfair since it does not give

sufficient time for faculty to look for a new position. It should be also noted that termination without cause and the fact that the provost and president are not bound by committee recommendations seem to be in conflict with due process, the opportunity to raise competency and the faculty right to be judged by their colleagues.

Conclusions: Policies PPM 8-20D and 9-17A do not completely specify dismissal of tenure track faculty during the probationary period.

- A. The consequence of unsatisfactory progress toward tenure should be spelled out. Here is a suggestion:
 1. In any interim tenure review (third year or later), if the conclusion of reviews by the Department Ranking Tenure Evaluation Committee, College Ranking Tenure Evaluation Committee and dean is unsatisfactory progress toward tenure, then the faculty will be terminated, pending possible review by the University Ranking Tenure Evaluation Committee, if requested by the candidate, and the review by the provost, if he/she elects to do so.
 2. In the third year interim tenure review, if the reviews by the Department Ranking Tenure Evaluation Committee, College Ranking Tenure Evaluation Committee and dean result in different conclusions, then, in addition to the review by the provost that year, another review is to be done the following year. Faculty will not be terminated on the basis of these reviews.
 3. In the fourth year interim review, if exactly two of the conclusions of reviews by the Department Ranking Tenure Evaluation Committee, College Ranking Tenure Evaluation Committee and dean are unsatisfactory progress toward tenure, then the faculty will be terminated if the provost comes to the same conclusion in his/her review. Otherwise, in the case of not identical conclusions, a review will be done the following year.
 4. If in the fifth year, still the conclusion of the Department Ranking Tenure Evaluation Committee, College Ranking Tenure Evaluation Committee and dean are not the same, then, both the university Ranking Tenure Evaluation Committee and the provost will conduct a review. If a majority of conclusions is unsatisfactory progress toward the tenure, then the faculty will be terminated
- B. The committee suggests that the termination notice at any year to be given at least twelve months in advance of the termination, and that the termination during the regular academic year is to be avoided if possible. We also recommend that new faculty to be made aware of both no cause termination and tenure/promotion policies in their letters of appointment.