

The University Senate met in regular session at 3:00 p.m., Monday, April 8, 1974, in the Court Room of the Law Building. Chairman Smith presided. Members absent: Lawrence A. Allen, Lyle N. Back, Harry Barnard*, Charles E. Barnhart, Robert P. Belin*, Ben W. Black, Peter P. Bosomworth*, Robert N. Bostrom*, Garnett L. Bradford*, John M. Bryant, Joseph A. Bryant, John L. Butler*, Jamie Chase*, Alfred L. Crabb, M. Ward Crowe, T. Z. Csaky*, Donald F. Diedrich*, Bette J. Dollase*, Anthony Eardley, Roger Eichhorn*, Claude Farley, Elizabeth Finkenstaedt*, Juanita Fleming, Thomas R. Ford, Lawrence E. Forgy*, Michael B. Freeman*, James E. Funk*, Art Gallaher, John G. Gattozzi*, Milton E. Gellin*, Richard E. Gift*, Ward O. Griffen*, George W. Gunther, Jack B. Hall, Joseph Hamburg, Holman Hamilton*, J. Merrell Hansen*, George W. Hardy, Virgil W. Hays*, Ron Hill*, Nancy Holland*, Raymond R. Hornback, Raymon D. Johnson*, John J. Just*, William F. Kenkel, James B. Kincheloe*, Don Kirkendall*, Walter Langlois, David L. Larimore*, Robert L. Lester*, Albert S. Levy, Donald R. March*, Susan A. McEvoy*, Marion E. McKenna*, Michael P. McQuillen*, William G. Moody*, Alvin L. Morris*, Vernon A. Musselman, Paul Oberst, Elbert W. Ockerman*, Blaine F. Parker*, Harold F. Parks*, Doyle E. Peaslee, Carl Peter*, Jean Pival, William K. Plucknett*, James A. Prestridge*, Donald A. Ringe*, Wimberly C. Royster, Robert W. Rudd*, D. Milton Shuffett*, Otis A. Singletary*, David Spaeth*, Robert H. Spedding, Earl L. Steele, Marjorie S. Stewart, Andy Strickland, Louis J. Swift*, William C. Templeton*, Paul A. Thornton, Jacinto J. Vasquez*, John N. Walker*, M. Stanley Wall, Daniel L. Weiss*, Paul A. Willis, Miroslava B. Winer*, Ernest F. Witte*, Fred Zechman*.

The minutes of the regular meeting of March 11, 1974 were approved as circulated.

Chairman Smith made the following remarks to the Senate:

There are a number of matters to report to you from the Council Office. The first, of course, is to remind you that there will be a called meeting of the Senate on Monday, April 22, 1974, here at 3:00 o'clock, the usual meeting time. The agenda will include the annual report from the Ombudsman, the annual committee reports which will be circulated and you will have the opportunity to query the chairmen of the standing committees. There are a number of circulations, some of which we have on the agenda today, although we doubt that we will get to them, which will be forthcoming in the near future.

Another action which I might report to you is that the Committee on Admissions and Academic Standards was asked to explore two issues: one, the question of the 120 hour bachelor's degree, or first degree; and two, the status of SAT-ACT admissions tests. The Committee established sub-committees and conducted these studies. It has come to the conclusion, at the present time, that there is no particular benefit to be gained by having the Senate or the Senate Council continue to pursue the question of 120 hours for every degree. Their investigation shows that most of the degrees in most of the colleges are either 120 degree hours already or for those that are not, there are reasonably good reasons why they are not; for example, Colleges of Engineering, Pharmacy, etc. The question was raised about the use of ACT or SAT tests as admission documents. After having received considerable testimony examining various documents and reports, it was the conclusion of the Admissions and Academic Standards Committee that we continue to use the ACT tests the way we do now but it

*Absence explained

would be desirable to make an inclusion in our Catalog noting that students who do not have them or who had already taken the SATs may submit these. This will be taken care of so that there will be no action forthcoming on these items.

In addition, the Senate Council has been engaged in a number of other activities and I might report them to you briefly. We dealt with a document which has been circulated to you which attempts to deal with the "not in class" problem. The University has a problem in which students sign up during advance registration, occasionally even show up and pay their bill, show up on class rolls, but are simply never there. We have great difficulty in finding them, getting them off the rolls, etc. In some cases, because they are there and they never show, they are given Es, Ws, etc. so we have some Rules changes coming attempting to address that problem.

We received a report from the Academic Facilities Committee dealing with a number of matters all of which have been handled in a manner satisfactory to everybody without coming to the floor. They ran the gamut from bicycle paths to input on new buildings, etc. and all of these matters are being dealt with in a fairly successful fashion.

The Senate Council had two meetings of a fairly lengthy nature, one of them with Dr. Zumwinkle, Jack Hall, Dr. Ockerman, relating to the question of the confidentiality of student records, particularly in the residence halls. The meetings were fruitful; we are making progress; and some guidelines are being prepared in those areas attempting to guarantee further improved confidentiality of student records; and when that activity is finalized, it will be publicized and circulated to you.

The Council also met with Vice President Cochran. We spent some time discussing the question of associate degrees, certificate programs, and other activities of an academic nature which are less than the conventional four-year degree graduate programs that we normally deal with within the University System; and we are continuing to explore that general area.

Two other activities the Council has embarked upon which may be of interest to you are the establishment, in conjunction with the Undergraduate and Graduate Councils, and activation of a joint study group to deal with various recommendations, generally known as Standard Nine of the Southern Association, dealing with extension credit, residence credit, and other matters. This will be a major item of business probably the first thing in the fall.

We have also requested the Academic Programs Committee to assume, and it has done so, responsibility for some very broad questions dealing with the question of the definition of "programs", not in the most limited sense, but in the broadest sense. In this context that Committee and the Council Office are working jointly with the Budget Office, with the Planning Commission headed by Dr. Paul Sears, and others to attempt to provide a comprehensive perspective which will allow all of us to deal with and discuss matters in a common context. It is one of those mechanical things which is a great deal of work which, hopefully, will be of great benefit but which somehow does not come on looking as spectacular; nevertheless it is very important.

This is the sum and substance of what has been going on in the Senate Council Office with one exception. As most of you know, there is a Recognition Dinner this evening honoring those people retiring from the University. There are approximately 300 people attending that dinner and the Council Office in the person of Ms. Cindy Todd has assumed a fantastic burden of making reservations, getting certificates prepared and a whole lot of work that has to be done by somebody somewhere. I would like to say on my behalf, Cindy, that we appreciate it. You don't get too much recognition around here sometimes. Ms. Todd was accorded a round of applause.

The Chairman stated that he would like to review two matters before embarking on the next item on the agenda, the Krislov Report, with the hope that they would expedite action on that Report.

The first matter is the parliamentary situation. There are 10 Recommendations in the Krislov Report. They will be handled individually. I will call on the Secretary of the Senate Council who will move, on behalf of the Council, whatever the motion in the circulation says. That will place the main motion, which is the Recommendation substantially as circulated and discussed in the past, with some changes, on the floor. Under the Rules of the University Senate we can circulate with the item amendments submitted in writing signed by two or more Senators; in several cases we have several amendments. The assumption that is made at this point is that the amendments have been received and are placed on the floor, and I will so announce, in the order in which we received them; therefore, the Secretary will move a motion, I will then announce that Amendment 1 is on the floor and is the item of business and we will immediately be discussing Amendment 1 of whatever Recommendation we are dealing with. At that point there are then two levels of motion on the floor -- the main motion and an amendment. You can only have one other amendment--a second rank amendment -- and that is an amendment to the amendment. So until we complete all of the circulated written amendments, it is not possible to have another first rank amendment to the main motion so until we get through with the amendments with each Recommendation, we will be talking about the amendments one at a time, and amendments to the amendments. Since we can never have more than two ranks of motions on the floor, in addition to the main motion, we can never have more than one more motion from the floor before we vote until we get through all the amendments to that particular recommendation and back to the main motion.

There are two other items of concern. One is what is known as "the question", "the previous question". In a parliamentary sense, a member of this body yelling "question" or standing up and being recognized and saying "question" is simply a request from that Senator that the Chair get on with it and try to get a vote. If you wish to cut off debate, cloture, stop debate, and vote on the motion on the floor, what you have to do is one of two things: in the older sense you "move the previous question". If you don't know what that means, there is a much better way of doing it and one that is recommended and that is to say "I move that we vote immediately". If that is moved and if it is seconded, it is a non-debatable motion. All we do is vote. It takes a two-thirds vote to pass. If that vote passes, there is no further debate and we immediately vote on the motion on the floor. Technically, there is only one motion in there that

you vote on. If you want to move to vote immediately on second rank amendment, we vote on that and then we go back to talking on the first rank amendment. If you want to vote on everything that is on the floor at the moment, you have to move to do that. I would suggest that you may not want to do that in most cases. Roll call votes, under the Rules of the University Senate, can be directed by the Chair or require a vote of 25 per cent of the members present and voting. I have received requests from a number of people present to speak and to make some clarifying comments and I will try and insert them as we go along.

The Chairman called on Ms. Constance Wilson, Secretary of the Senate Council, who moved to submit the following recommendation to the President for transmission to the Board of Trustees for inclusion in the Governing Regulations X-B.2 and for inclusion in the Administrative Regulations II 1.0-1.

Recommendation:

- (1) The applicability of prior work to the tenure criteria at the University of Kentucky shall be carefully reviewed on an individual basis by the prospective faculty member, the department chairman and the dean. The following questions shall be examined:
 - a) Did the institution of prior service have similar expectations regarding formal criteria for promotion and tenure as those which prevail at the University of Kentucky?
 - b) Were teaching and service loads at the institution of prior service arranged in order to assure faculty members adequate time for investigation and scholarly or creative productivity?
 - c) Were the measurable achievements of the faculty member at the institution of prior service such that they should be counted as part of the achievements to be evaluated by the University of Kentucky in consideration for promotion and tenure?
 - d) Did the faculty member utilize the same knowledge and skills and have the same career goals at the institution of prior service which he will be applying at the University of Kentucky?
 - e) Does employment at the University of Kentucky involve a change of career and, therefore, a change in the expectations which should be placed upon measurable achievements within a particular period of time?
- (2) In all cases where a period of prior service of a prospective faculty member involves significantly different institutional objectives or significantly different professional activity, all or part of the period of prior service may be eliminated from consideration in determining the period of review for tenure at the University of Kentucky.
- (3) Where it has been determined that all or part of the prior service shall be eliminated, a specific period of employment prior to tenure review shall be agreed on and a specific date for review stipulated in

writing by the faculty member, the department chairman, the dean and a committee composed of the Chairmen of the Area Committees before being reported to the appropriate vice president at the time of the faculty member's initial appointment.

Amendment (1), submitted by Professors Wagner and Goldman, became the next order of business, and reads as follows:

(1) It is moved that Recommendation 1 be amended in item (1) above, line 4, to read: ". . .department chairmen, a Committee composed of the Chairmen of the Area Committees, and the dean." Add next sentence: "Normally, the review by a Committee composed of the Chairmen of the Area Committees should be made as early as possible in the consideration of an applicant, preferably before and/or during the interviewing procedure."

The Chairman made the following remarks at this point:

This amendment and the second amendment which follows it deal with the question of where there is going to be a committee which does some review. The main motion also includes a statement as to where there is a committee which will do some review. At the present time in the main motion that review is in paragraph (3) and is done after somebody is hired. If you pass amendment (1), and (2), you will then have a committee which is contacted informally early in the hiring procedure and is also contacted for formal approval after the hiring is done. In other words, the amendments are such that you could have any possibility. You can have review at the beginning of the hiring period and not at the end; you can have review at the end and not at the beginning; you can have review at both; and you can wipe it out and have review at none. So the amendments are set up to give you all the possibilities.

At this point in the meeting Dr. Joseph Krislov rose to make the following correction of a statement he had made in the Senate meeting of March 11, 1974:

I would like to take the floor to correct a statement that I made regarding the review procedure. I think it is of some consequence.

The question that was addressed to me was how this review procedure came into the proposal. I indicated correctly that the ad hoc committee had voted five to four against it. It then went to the Senate Council. There was considerable discussion of the review procedure in the Council, largely following the AAUP suggestion of a review. We then discussed this with the President and I think I indicated that the review procedure came in, largely because of the President's interest in it. That is not accurate. I have discussed it with the President. Although we spent a good deal of time talking about this, he has indicated that he does not wish to be counted on either side of the issue and he would like you to make your decision uninfluenced by any predilection of his. I apologize for the error and if I have mislead any of you, I again state that the President has not taken a position on this and I would urge you to consider it solely and completely on its merits.

Chairman Smith stated that two additional amendments had been received after the circulation of the March 22, 1974 Krislov Report with its amendments; namely,

an additional amendment to Recommendation 1 and an additional amendment to Recommendation 3; that these two additional amendments were handed to Senators as they entered the meeting, and that he would interject them at the pertinent places as the consideration progressed.

By a hand count of 46 to 42 the Senate approved amendment (1) to Recommendation 1. That paragraph as amended and approved now reads:

(1) The applicability of prior work to the tenure criteria at the University of Kentucky shall be carefully reviewed on an individual basis by the prospective faculty member, the department chairman, a Committee composed of the Chairmen of the Area Committees, and the dean. Normally, the review by a Committee composed of the Chairmen of the Area Committees should be made as early as possible in the consideration of an applicant, preferably before and/or during the interviewing procedure.

Amendment (2), submitted by Professors Wagner and Goldman, became the next order of business and reads as follows:

(2) It is moved that Recommendation 1 be amended in item (3), lines 5-6, by deleting the following: ". . .and a committee composed of the Chairmen of the Area Committees . . ."

Chairman Smith remarked that this proposed amendment would have the effect of placing the review on an informal basis in paragraph (1) of Recommendation 1 and if the Senate deleted the wording as proposed in amendment (2), there would be no formal review later on.

The Senate then voted to approve amendment (2) to delete ". . .and a committee composed of the Chairmen of the Area Committees . . ." from item (3). Item (3) as amended now reads:

(3) Where it has been determined that all or part of the prior service shall be eliminated, a specific period of employment prior to tenure review shall be agreed on and a specific date for review stipulated in writing by the faculty member, the department chairman, and the dean before being reported to the appropriate vice president at the time of the faculty member's initial appointment.

The amendment on the floor became amendment (3) submitted by Dr. Goldman and Mr. Damon Harrison, to add a paragraph (4) to Recommendation 1 to read:

(4) In the case of (2) above, the faculty member shall, for one year from the date of the contract of appointment, have the right to reinstate all or part of the period of prior service which was eliminated from consideration in determining the period of tenure review. Such reinstatement must be by a signed letter to the dean submitted through the department chairman.

Dr. Bruce Westley rose to speak in opposition to amendment (3). He stated that it was the AAUP Chapter that raised the question of whether the faculty approved of paragraph (1) of the Krislov Report and at the same time they had the opportunity to check with the national office about this. He stated that what was stressed in their conversations with the national office was that an early determination be made of the maximum number of years of probation that would

be allowed, that it be stated in writing, and that it be arrived at at the earliest possible moment. He stated that approval of amendment (3) to add the additional paragraph (4) would prohibit this and he did not think the national office would smile on this action.

Dr. Goldman responded that the proposed amendment did not, in any way, affect the fixing of the maximum probationary time; that what it would do is give the professor, during his first year here, an opportunity to reduce the amount of probationary time; that it could be reduced but not lengthened and that the lengthening is the action that must be of the most concern to the national office.

Question was asked of whether the faculty member would have to justify a change of mind. The Chairman responded with a "No."

Dr. Reedy asked how many times during that first year the individual would be allowed to change his mind. The Chairman responded "Presumably once"; that one would have the right to reinstate all or part of the period of prior service but that once it is reinstated, it is reinstated; that he had already had the option once of not having it count and that being wishy-washy would be prohibited.

By a hand count of 51 to 50 the Senate voted to disapprove the inclusion of the additional paragraph (4) in Recommendation #1.

The amendment on the floor became amendment (4) submitted by Doctors Gabbard and Cox and received after the circulation of March 22, 1974, to wit:

Move to amend paragraph (3) by deleting the words ". . . and reviewed by a committee composed of the Chairmen of the Area Committees. . ."

Since the substance of this motion was the same as amendment (2) which had already been approved by the Senate, Professors Gabbard and Cox withdrew amendment (4).

Dr. Fletcher Gabbard presented the following amendment to amendment (1) of Recommendation 1, to add:

A part of the charge to the Committee composed of the Chairmen of the Area Committees, in performing this review function, shall be to study the necessity for the review procedure within the community of the University of Kentucky. In conducting this study, the Committee should consult department chairmen, and other persons, officials, and groups, as the Committee deems appropriate, to determine if this review function is necessary. By the end of the Fall Semester, 1974-75, the Committee shall recommend to the President of the University of Kentucky as to whether this function shall be continued or not.

Question was asked of whether this was a primary or secondary amendment. The Chairman responded that it was a first rank amendment and is subject to an amendment to the amendment.

Motion was then made to amend the amendment to replace the words "the President" in line 8 to "the Senate". Dr. Gabbard and Dr. Sears, the seconder, accepted this change without taking a vote.

Motion was made to amend the amendment to change the date from 1974-75 to 1975-76.

Following limited discussion the Senate voted to change the date of implementation to 1975-76.

The amendment to amendment (1) of Recommendation 1 to add a paragraph, amended twice, now reads:

A part of the charge of the Committee composed of the Chairmen of the Area Committees, in performing this review function, shall be to study the necessity for the review procedure within the community of the University of Kentucky. In conducting this study, the Committee should consult department chairmen, and other persons, officials, and groups, as the Committee deems appropriate, to determine if this review function is necessary. By the end of the Fall Semester, 1975-76, the Committee shall recommend to the University Senate as to whether this function shall be continued or not.

Dr. Sears referred to the words "tenure criteria" in line 1 of item (1) in Recommendation 1. He presented a motion that these words be deleted and the words "probationary period" be substituted. He referred further to the words "criteria" in line 2 and "tenure" in line 3 of item (1) a). He stated that criteria for tenure is inappropriate; that we have criteria for ranks but not for tenure; and that this paragraph could be cleaned up by deletion of the words "and tenure" from the third line of item (1) a). The Senate then voted to substitute the words "probationary period" in the first line of item (1) and to delete the words "and tenure" from line 3 of subparagraph a).

The Senate then voted to submit Recommendation 1, as amended, to the President for transmission to the Board of Trustees for inclusion in the Governing Regulations, X-B.2 and for inclusion in the Administrative Regulations, II 1.0-1.

Recommendation 1, as amended and approved, reads as follows:

Recommendation 1: Prior Service Rule

- (1) The applicability of prior work to the probationary period at the University of Kentucky shall be carefully reviewed on an individual basis by the prospective faculty member, the department chairman, a Committee composed of the Chairmen of the Area Committees, and the dean. Normally, the review by a Committee composed of the Chairmen of the Area Committees should be made as early as possible in the consideration of an applicant, preferably before and/or during the interviewing procedure. The following questions shall be examined:
- a) Did the institution of prior service have similar expectations regarding formal criteria for promotion as those which prevail at the University of Kentucky?
 - b) Were teaching and service loads at the institution of prior service arranged in order to assure faculty members adequate time for investigation and scholarly or creative productivity?

- c) Were the measurable achievements of the faculty member at the institution of prior service such that they should be counted as part of the achievements to be evaluated by the University of Kentucky in consideration for promotion and tenure?
- d) Did the faculty member utilize the same knowledge and skills and have the same career goals at the institution of prior service which he will be applying at the University of Kentucky?
- e) Does employment at the University of Kentucky involve a change of career and, therefore, a change in the expectations which should be placed upon measurable achievements within a particular period of time?

A part of the charge to the Committee composed of the Chairmen of the Area Committees, in performing this review function, shall be to study the necessity for the review procedure within the community of the University of Kentucky. In conducting this study, the Committee should consult department chairmen, and other persons, officials, and groups, as the Committee deems appropriate, to determine if this review function is necessary. By the end of the Fall Semester, 1975-76, the Committee shall recommend to the University Senate as to whether this function shall be continued or not.

(2) In all cases where a period of prior service of a prospective faculty member involves significantly different institutional objectives or significantly different professional activity, all or part of the period of prior service may be eliminated from consideration in determining the period of review for tenure at the University of Kentucky.

(3) Where it has been determined that all or part of the prior service shall be eliminated, a specific period of employment prior to tenure review shall be agreed on and a specific date for review stipulated in writing by the faculty member, the department chairman, and the dean before being reported to the appropriate vice president at the time of the faculty member's initial appointment.

The Chairman called on Ms. Wilson who moved to submit the following recommendations to the President for inclusion in the Administrative Regulations or other appropriate implementation.

Recommendation:

(1) The following guidelines are suggested for faculty files to be maintained jointly by the Chairman and the individual faculty member, because all considerations of promotion and tenure require thorough documentation of the faculty member's record of pertinent activities in the University as well as all relevant actions involving the individual's faculty status.

- a) A statement specifying whether the chairman has or has not recommended the faculty member for tenure or promotion.

- b) All correspondence between chairman and faculty member concerning appointment or faculty status.
- c) A curriculum vitae which shall be updated at least annually.
- d) Copies of publications and published reviews or letters concerning publications.
- e) Copies of faculty performance reviews.

This file shall be available to the faculty member, except for letters of recommendation and written judgments obtained under conditions of confidentiality.

Amendment (1), submitted by Professors Westley and Tipton, became the next order of business and reads as follows:

- (1) It is moved to amend by replacing the word "suggested" with the word "established" in item (1), line 1.

The Senate approved this amendment.

Amendment (2), submitted by Professors Westley and Tipton, became the next order of business and reads as follows:

- (2) It is moved to amend by replacing the word "chairman" with the word "department" in subparagraph a), line 1.

Chairman Smith stated that the Senate Council had disapproved this proposed amendment because it is inconsistent with the phraseology in the remainder of the Governing Regulations; that the Chair had suggested to Professor Westley that he might wish to withdraw this amendment. Professors Westley and Tipton indicated they were agreeable to withdrawing this amendment and it was so done.

Amendment (3), submitted by Professors Cox, Govindarajulu, and Freeman became the next order of business and reads as follows:

- (3) It is moved to amend by deleting subparagraph a) and redesignating the remaining paragraphs.

Dr. Longyear, speaking for Dr. Morgan, School of Music, stated that Dr. Morgan interpreted this paragraph to be a redesignation of the role of the department chairman and he raised the question of whether the interpretation of chairman in this paragraph was that of a faculty member serving a definite short term or was he an administrator, a head, as in some more authoritarian institutions; that that faculty member had to live with his colleagues after his term of office was over and this placed him in a very tenuous position with his colleagues.

Dr. Smith stated that in his discussions with Dr. Morgan he had expressed a concern to Dr. Smith that this would provide a breach of confidentiality and that it would reveal the position of the tenured faculty member who was chairman where that would not be the case for the other tenured faculty members who would be voting on the issue. Dr. Smith stated that his response to Dr. Morgan's concern was that the chairman would be recording the official action of the department which might or might not be the way the chairman had voted; that his understanding of the motion before the Senate was that it required a record of the official action, which is the Chairman's recommendation, on behalf of the department.

Professor Weil asked Dr. Krislov what the intent of the Committee was.

Professor Krislov responded that he thought Chairman Smith had stated it quite accurately.

Further discussion continued on the role of "chairman" as opposed to "head".

Dr. Gesund rose to speak against the amendment taking the position that he thought the faculty member should know whether he was or was not recommended for promotion and tenure; that he had the right to be told where the action initiated.

On question of whether this paragraph meant that the files will be open to the faculty member, Chairman Smith responded that it specified that there will be a file maintained jointly by the faculty member and the department chairman and that it will contain a record of the official action or recommendation. He stated further that prior discussion and interpretation in the Senate had been that the file would not contain written judgments from tenured faculty, it would not include the rationale from the chairman; that it would simply state that of such and such a date, that faculty member had been granted appointment for next year, promoted, or whatever.

On question from a Senator of whether or not there was another file that contained such things as letters of recommendation, etc. Chairman Smith responded affirmatively. He stated that there was a running misnomer that there is a file; that there was no such thing; that there are computer printouts, there are lists in payroll offices, there are files of materials that contain written judgments that deal with promotions, there are department files of publications, etc. He stated that what was being said in this paragraph under debate is simply that there should be a file maintained jointly by the faculty member and presumably available to people which would include these items.

On question of the effect this paragraph would have on the appeals procedure Chairman Smith responded that nothing in the Krislov Report would change any of the appeals procedures available to anybody anywhere; that this paragraph merely established a record.

The Senate voted to disapprove amendment (3) which was a recommendation to delete subparagraph a) under item (1) of Recommendation 2.

Motion was made and seconded that amendment (2), submitted by Professors Westley and Tipton, which had been withdrawn by them, be returned and voted upon. This amendment had recommended that the word "chairman" in subparagraph a), line 1, be replaced with the word "department".

Following some further interpretations of the implications of this proposal the Senate voted to disapprove this amendment by a hand count of 50 to 43.

Dr. Thurlow Robe presented a motion to amend paragraph a) of item (1) to read:

- a) A statement by the chairman specifying whether the department has or has not recommended the faculty member for tenure or promotion should be included in the file in cases when the file is to be forwarded to the Dean.

Dr. Lienhard presented an amendment to Professor Robe's amendment to substitute the following for the motion on the floor:

- a) Any statements by the chairman specifying whether the department has or has not recommended the faculty member for tenure or promotion.

Dr. Robe agreed to accept Dr. Lienhard's amendment which thus placed Dr. Lienhard's amendment as the only amendment on the floor.

On question of whether the motion was in order, the Parliamentarian ruled that it was in order.

It was moved and seconded that they vote immediately on the question which was not debatable and required a two-thirds vote by the Senators. Following the taking of a voice vote which was an incorrect vote, a division of the house was called and by a hand count of 44 to 36 the Senate voted to vote on the question immediately. The Senate then disapproved the amendment on the floor.

The Senate then voted to approve Recommendation 2, as amended, for submission to the President for inclusion in the Administrative Regulations or other appropriate implementation. Recommendation 2, as amended and approved, reads as follows:

Recommendation 2: Faculty Files

(1) The following guidelines are established for faculty files to be maintained jointly by the Chairman and the individual faculty member, because all considerations of promotion and tenure require thorough documentation of the faculty member's record of pertinent activities in the University as well as all relevant actions involving the individual's faculty status.

- a) A statement specifying whether the chairman has or has not recommended the faculty member for tenure or promotion.
- b) All correspondence between chairman and faculty member concerning appointment or faculty status.
- c) A curriculum vitae which shall be updated at least annually.
- d) Copies of publications and published reviews or letters concerning publications.
- e) Copies of faculty performance reviews.

This file shall be available to the faculty member, except for letters of recommendation and written judgments obtained under conditions of confidentiality.

The Chairman called on Ms. Wilson who moved to submit the following recommendation to the President for inclusion in the Administrative Regulations.

Recommendation:

It is recommended that it be the responsibility of the department chairman to arrange each new faculty member (within one month of the beginning of his/her employment) be provided with, or access to, a copy of (1) the

Governing Regulations of the University, (2) the Administrative Regulations of the University, (3) the Rules of the University Senate, in particular the Faculty Code, (4) the rules of his/her College, (5) the rules and regulations of his/her Department, and (6) the Student Rights and Responsibilities.

Amendment (1), submitted by Professors Westley and Tipton, became the next order of business on the floor and reads as follows:

- (1) It is moved to amend by deleting the words "It is recommended that it be the responsibility of the department chairman to . . ." and replacing them with "The department chairman shall . . .".

Without discussion the Senate approved amendment (1).

Amendment (2), submitted by Professors Parker and Walker, and which had been submitted after the March 22, 1974 circulation had been distributed, became the next order of business on the floor and reads as follows:

- (2) Either before or at the time of interview of an individual for an appointment in the professorial series, the Chairman shall provide the individual a copy of the Governing Regulations, and that part of the Administrative Regulations dealing with appointment, promotion, and tenure.

Chairman Smith reported that Dr. Parker could not be present at the meeting and was proposing this motion because he felt that these two documents should be available to anyone who was attempting to make a decision as to whether he or she should come here or not.

A Senator stated that this would require the supplying of these Regulations twice, once before the prospective faculty member came to the University and again after he was here. The Chairman stated that if this amendment were passed, he thought it would be acceptable to all parties to strike it later on since it had already been provided.

By a hand count of 55 to 41 the Senate voted to approve amendment (2).

Professor Conti raised the question of what the policy is in a College that has no departments (e.g., Pharmacy, Law). Who assumes the responsibility to furnish the publications outlined in Recommendation 3?

Chairman Smith responded that the Dean of the College would assume this responsibility.

The Senate then voted to approve Recommendation 3, as amended, for submission to the President for inclusion in the Administrative Regulations.

Recommendation 3, as amended and approved, reads as follows:

Recommendation 3: Information for New Faculty Members

- (1) Either before or at the time of interview of an individual for an appointment in the professorial series, the Chairman shall provide

the individual a copy of the Governing Regulations, and that part of the Administrative Regulations dealing with appointment, promotion, and tenure.

(2) The department chairman shall arrange that each new faculty member (within one month of the beginning of his/her employment) be provided with, or access to, a copy of (1) the Administrative Regulations of the University, (2) the Rules of the University Senate, in particular the Faculty Code, (3) the rules of his/her College, (4) the rules and regulations of his/her Department, and (5) the Student Rights and Responsibilities.

The Chairman called on Ms. Wilson who moved to submit the following recommendations to the President for inclusion in the Administrative Regulations or other appropriate implementation.

Recommendation:

- (1) At the time of appointment, an individual shall be informed regarding tenure standards and prospects by the department chairman.
- (2) An individual who is hired with the prospects of becoming a tenured faculty member shall be assigned duties by the department commensurate with making due progress towards meeting requirements (of the department, college and area) for tenure.
- (3) The annual performance review of non-tenured faculty shall include some discussion with the department chairman of the individual's progress toward tenure in terms of departmental expectations.
- (4) A department chairman shall consult with the tenured members of the faculty regarding the individual's progress toward achievement of tenure. These discussions should occur at the end of the non-tenured faculty member's second and fourth years, but may occur more frequently at the chairman's discretion. The results of that discussion should be communicated to the individual and reduced to writing and maintained in the individual's file.

Amendment (1), submitted by Professors Westley and Tipton, became the next order of business on the floor and reads as follows:

- (1) It is moved to amend paragraph (1), line 2, by deleting the words "and prospects."

In support of his amendment Dr. Westley stated that he did not understand how the chairman could discuss a person's prospects before he had put in one day on the job.

Professor Longyear stated that the words "tenure prospects" implied to him the imposition of tenure quotas and since the University did not have tenure quotas he saw no reason why it should have tenure prospects and he strongly supported Professor Westley's amendment.

Professors Olshewsky and High rose to support the amendment.

The Senate voted to approve amendment (1).

Amendment (2), submitted by Professor Goldman and Mr. Damon Harrison, became the next order of business on the floor and reads as follows:

It is moved that Recommendation 4 be amended to add a paragraph (5) to read:

(5) The review of tenure may be conducted separate from or in conjunction with the review of academic rank. The choice of whether tenure and promotion shall be considered separately shall be made by the recommending tenured faculty.

Professor Goldman reported that since submitting this amendment he had had an astonishing number of members from different departments raise questions about it. He stated that his key concern had been the fact that some colleges in the University were able to separate tenure and promotion in some situations so that promotion to associate professor could precede consideration for tenure; that Professor Gesund on a couple of occasions on the floor of the Senate had indicated that it was his understanding of the situation in Engineering that there are times when it is desirable to have the reverse sequence, that is, that tenure be determined before the determination on promotion to associate professor; that all the commentary he had received had been to the effect that they could see merit to the dean, on occasion, sending his recommendation for promotion to associate professor of a faculty member who had received tenure but they could not see merit to the reverse order of separation.

Dr. Cochran stated that this amendment deserved far more study and debate than could be given here on the floor of the Senate; that he did not think this was the proper way to handle something of this import.

Out of the discussion which followed which could not be heard by the Recording Secretary or picked up by the microphone, question was asked of whether this amendment could be tabled. The Chairman responded that it could be tabled only for a limited period of time; that the Rules provide that a motion cannot be tabled indefinitely.

Professor Gesund made a motion to return this amendment to the Senate Council for further study.

Following various considerations of how this should be handled Professor Goldman suggested that a way to deal with the matter would be for him to withdraw his amendment since the Senators had assurance from the Chairman that the Senate Council would put it on their agenda at the next Senate Council meeting to be held two days hence; that if Professor Gesund would withdraw his second, the matter could then be put on the agenda of the next Senate Council meeting for resolution. The Senate agreed to this arrangement and the motion was withdrawn to be considered at the next Senate Council meeting two days hence.

Amendment (3), submitted by Professors Cox, Govindarajulu, and Freeman, became the next order of business, and reads as follows:

(3) It is moved to amend by replacing paragraph (1) with the following:

(1) At the time of appointment, an individual should be informed in general terms regarding tenure standards and prospects by the

department chairman. It is understood that such statements are for the information of the candidate only and are not to be construed as binding on the department or the University.

Dr. Sears stated that he did not believe the term "tenure standards" has any meaning as far as the documents at the University are concerned and therefore he moved to amend this amendment to strike out the words "tenure standards and prospects" in line 2 and substitute for those words "criteria for ranks"; and further, he moved to delete the entire second sentence of this amendment.

The Senate approved the amendment to the amendment presented by Dr. Sears.

Professor Gesund proposed an amendment to the amendment to make the paragraph read:

- (1) At the time the appointment is tendered, an individual should be informed in general terms regarding criteria for ranks by the department chairman.

The Senate approved this amendment to the amendment.

The Senate then voted to approve amendment (3), as amended twice.

The Senate voted to approve Recommendation 4, as amended, for submission to the President for inclusion in the Administrative Regulations or other appropriate implementation.

Recommendation 4, as amended, and approved, reads as follows:

Recommendation 4: Performance Review and Tenure

- (1) At the time the appointment is tendered, an individual should be informed in general terms regarding criteria for ranks by the department chairman.
- (2) An individual who is hired with the prospects of becoming a tenured faculty member shall be assigned duties by the department commensurate with making due progress towards meeting requirements (of the department, college, and area) for tenure.
- (3) The annual performance review of non-tenured faculty shall include some discussion with the department chairman of the individual's progress toward tenure in terms of departmental expectations.
- (4) A department chairman shall consult with the tenured members of the faculty regarding the individual's progress toward achievement of tenure. These discussions should occur at the end of the non-tenured faculty member's second and fourth years, but may occur more frequently at the chairman's discretion. The results of that discussion should be communicated to the individual and reduced to writing and maintained in the individual's files.

The Chairman called on Ms. Wilson who moved to submit the following recommendation to the President for inclusion in the Administrative Regulations or other appropriate implementation.

Recommendation:

(1) Departments or individual educational units shall set up reasonable standards of performance for their disciplines which are consistent with the Governing Regulations and which shall include the following:

- a) The normal balance between teaching, scholarship, creative productivity, and service in the discipline.
- b) The minimum research requirements for promotion to Associate Professor or Professor.
- c) The means for determining qualitative excellence of scholarship and creative productivity in the discipline.
- d) The kinds of scholarship and creative productivity most acceptable in the discipline.

(2) Individual departments or educational units should obtain outside evidence that the standards set up by their departments are those of their discipline in equivalent universities and not simply those of the members of the department.

(3) The standards set up by the department or educational unit should be used for two purposes: first, they should be an internal guide to the department in evaluating its own personnel. Secondly, they should be made available for the information of Deans and appropriate administrative officers in the various academic units.

Amendment (1), submitted by Professors Westley and Tipton, became the next order of business on the floor and reads as follows:

- (1) It is moved to amend by replacing the word "should" with the word "shall" in item (2), line 1.

The Senate approved amendment (1).

Amendment (2), submitted by Professor Goldman and Mr. Harrison, became the next order of business on the floor and reads as follows:

- (2) It is moved that Recommendation 5 be amended to change paragraph (3) to read:

(3) The standards set up by the department or educational unit shall be used for three purposes: First, they shall be an internal guide to the department in evaluating and advising its own personnel. Secondly, they shall provide the basis upon which the area review committee shall recommend whether the documentation supports the proposed change in tenure status or rank. Thirdly, they shall provide guidance for the appropriate administrative officers in the advising, evaluating, and status change processes. [New language is underscored.]

Dr. Sears stated that each section would need considerable reworking and he was not sure that this was the best time to do it since the Faculty Recognition Dinner would be coming up in about 40 minutes.

Dr. Krislov stated that the ad hoc Committee considered going all the way in trying to make the standards as binding, as they probably would be in this wording. He stated that the Committee recommended against it and that he had the feeling that was probably the wise thing to do. He stated that it seemed to him that developing these standards on a departmental-college basis leaves open a great deal of unknowns. He stated that he thought one should see what these standards are before finalizing them. Moreover, he wondered about the language used in the Goldman-Harrison amendment. He stated that he also wondered how the amendment would be rewritten in terms of the Governing Regulations, if the Senate wanted to pass it. He stated that he also wondered if five o'clock was the time to take such a big and important step and that he moved that the Senate adjourn.

Chairman Smith responded that the Chair would appreciate it if he would wait to call for adjournment at a more convenient stopping place.

Dr. Krislov responded that he thought the amendment would have to be rephrased in order to vote on it and he thought it would be appropriate to adjourn.

The motion was seconded and the Senate voted to adjourn at 5:00 p.m.

Kathryne W. Shelburne
Recording Secretary

UNIVERSITY SENATE
April 8, 1974

AGENDA

- ✓ 1. Approval of minutes of meeting of March 11, 1974
- ✓ 2. Chairman's Remarks - Dr. Smith
3. Action on Recommendations in the Report of the ad hoc Committee to Reevaluate Promotion and Tenure (Krislov Report) circulated under date of March 22, 1974
4. Action on proposed changes in Rules of the University Senate:

Section IV-5, paragraph 3.2

Section V-4, add paragraph 1.10

Section V-3, paragraph 1.34

Section V-7, paragraph 2.41

Section VI-6, paragraph 5.1

UNIVERSITY OF KENTUCKY
LEXINGTON, KENTUCKY 40506

UNIVERSITY SENATE COUNCIL
10 ADMINISTRATION BUILDING

March 14, 1974

MEMORANDUM

TO: Members, University Senate

FROM: Senate Council

RE: Parliamentary Procedure for Consideration of the
"Krislov Report" and amendments thereto at the
April 8, 1974 Senate meeting.

The Rules of the University Senate, I, 2.3, specify that when a document has been before the Senate "for discussion only . . . amendments may be submitted in writing by any two members of the Senate for distribution with the agenda of the meeting at which action is to be taken." In order to meet the 10 day circulation deadline, the Senate Council office must receive such amendments on or before Monday, March 26, 1974.

At the Senate meeting on April 8th, each recommendation in the Krislov Report will be presented individually as a main motion by the Senate Council. Following each main motion the Council will immediately introduce each circulated amendment in the order in which it is received by the Council office. Each circulated amendment is a "primary" or "first degree" amendment and "secondary" or "second degree" amendments (amendments to the amendment) from the floor are in order. Each circulated primary amendment will be acted upon (in the order received) before primary amendments are received from the floor.

/cet

UNIVERSITY OF KENTUCKY
LEXINGTON, KENTUCKY 40506

UNIVERSITY SENATE COUNCIL
10 ADMINISTRATION BUILDING

*- Not to be
retroactive*

*- Need
implementation
date.*

March 20, 1974

TO: Members, University Senate

FROM: Senate Council

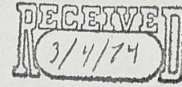
RE: AGENDA ITEM: University Senate Meeting
Monday, April 8, 1974
Proposed Changes in the Rules of the University
Senate: Section IV, 3.2 and Section V, 1.10, 1.34
and 2.41

The Senate Committee on Admissions and Academic Standards and the Senate Council recommend the attached changes in the Rules of the University Senate, Section IV, 3.2, Section V, 1.10, 1.34 and 2.41 which are designed to deal with the problem of the student who is simply "not in class." That is, the student who appears on the class roll and for whom the faculty member receives a grade card, but who has in fact never been present. The rationale and operation of this proposed change are explained in the report of the sub-Committee on W and I Grades, which is also attached.

It should be noted that none of these actions change the earlier action of the Senate which specified that the designation "not in class" is not a "grade." The intent of this proposal is simply to use that box on the grade card as a mechanical designator which would allow the instructor to indicate to the Registrar that the student has never attended class.

/cet

Attachments



Proposed Changes

Rules of the University Senate

Attached are changes proposed by the Sub-Committee on W and I grades of the Committee on Admissions and Academic Standards of the University Senate. The suggested changes are for the clarification of the rules regarding students who do not attend classes, for whatever reason, but who are carried on the official rolls of the classes, i.e. the "No Show" in a class.

The solution which we suggest is to simply "draw a line through the name" of the "No Show" and delete him from the official roll. This is not a perfect solution. For one thing, it gives the "No Show" student, who is irresponsible, the benefit of a no question procedure, at least so far as his grade is concerned.

The advantage of our solution is that it is an efficient procedure, in a mechanical sense, and it eliminates the problem of the student who has legitimate reasons for "No Show".

The NOT IN CLASS report is to be interpreted as a message, not as a grade. It simply says that a student did not attend class, did not earn a grade, and should not receive one.

Graeme Fairweather

Robert Kuehne

Fletcher Gabbard, Chairman

Proposed Changes

Rules of the University Senate

Section IV, 3.2

Delete Second Paragraph reading as follows:

The Registrar shall remove all students from class rolls..., and shall notify the student and his academic dean of such action. The Registrar will promptly supply the instructor with the official class rolls ...

Add the following:

At the end of the term, the instructor must report a final grade on all names appearing on the official class roll, except that students who have never attended class and who have not officially withdrawn shall be reported NOT IN CLASS. These names so designated will be deleted from the official role by the Registrar. It is the responsibility of the instructor in each class to certify that the final roll is correct. (See 1.10, 2.41 and 2.43, Section V).

Parts to be added are underlined.

Section V, 1.10; To be added, Page V-4

1.10 Not in Class

Students who have been entered by the Registrar into the official class roll, but have never attended class, and who have not officially withdrawn, shall be reported NOT IN CLASS. The names of such students shall be deleted from the official roll by the Registrar. (See 3.2, Section IV, 1.34, 2.41, and 2.43 Section V).

Section V, 1.34


1.34 Grade W (underline to be added).

The grade W ..., and shall not be given unless the student withdraws officially, or is assigned by the University Appeals Board. Students failing at the time of withdrawal shall be given grade E.

(See 5.1, Section VI). add

Students who are officially enrolled in class, but who have never attended class, and who have not officially withdrawn should NOT be given a grade W; but, they shall be reported NOT IN CLASS and their names deleted from the official roll by the Registrar.

(See 3.2, Section IV, 1.10, Section V).



UNIVERSITY OF KENTUCKY
LEXINGTON, KENTUCKY 40506

UNIVERSITY SENATE COUNCIL
10 ADMINISTRATION BUILDING

March 22, 1974

TO: Members, University Senate
FROM: University Senate Council
RE: AGENDA ITEM: University Senate Meeting
Monday, April 8, 1974

Attached are the final versions of the recommendations from the ad hoc Committee to Re-Evaluate Tenure and Promotion ("Krislov Report") in the form in which they will be presented on the Senate floor. Each item consists of three sections: the motion to be made placing the recommendation on the floor, the recommendation, and all amendments received before this circulation was prepared.

In each case the motion indicates what is to be done with the recommendation: place in the Governing Regulations, place in the Administrative Regulations, etc.

The individual recommendations are in essentially the form in which they have been previously presented to the Senate for "discussion only." Three kinds of changes have been made from the original circulation: (1) editorial changes to improve grammar and clarify intent without substantive change from the original proposals; (2) change of individual words, titles and the like to provide consistency with existing documents, again without substantive change from the original; and (3) substantive changes resulting from discussion on the Senate floor or from submitted amendments which were accepted by the Senate Council. Changes of this last kind are rare and mostly involve changing the permissive to the mandatory such as changing "should" to "shall," or vice versa.

/cet
Attachment

Page 11
Senate Agenda Item: Tenure Report
March 22, 1974

Recommendation 6: Names for Area Committees

MOTION:

Move to send to the Rules Committee for inclusion in the Rules of the University Senate.

RECOMMENDATION:

To broaden the process through which names of potential area committee members are generated for submission to the President, the Senate Council shall invite faculty councils or other bodies on the level of schools and colleges to participate by nominating potential members.

Recommendation 7: Advisory Committee to the Dean

MOTION:

Move to submit the following recommendation to the President for inclusion in the Administrative Regulations.

RECOMMENDATION:

- (1) Each Dean ^{shall} is strongly encouraged to establish a Committee concerned with faculty appointments, termination, tenure and promotion, with the following suggestions:
- (a) The Committee is advisory to the Dean and may at his request make recommendations in the above matters. The Committee may be asked by the Dean or a faculty member to hear an inquiry by any faculty member who declares himself dissatisfied with the policies established by his department and/or college concerning appointment, termination, tenure, and promotion.
 - (b) The Committee may examine departmental standards and when possible arrive at agreements between the Dean and the department about realistic standards by which individual faculty members may be judged. In addition, this Committee may be asked to communicate with the Graduate Council, the Area Committees, the appropriate Dean, and other University officials who establish, interpret, or implement university regulations in this area so as to clarify all standards and policies.
 - (c) When any matter that comes up before the Committee involves a department represented on the Committee, the Committee member of that department shall disqualify himself.
 - (d) The members shall be appointed by the Dean after consultation with the appropriate faculty body in that College.

AMENDMENTS:

- (1) Move to replace the words "is strongly encouraged to" with the word "shall" in paragraph (1), line 1.

Bruce Westley
Leonard Tipton

[Note: Approved by Senate Council.]

Page 13
Senate Agenda Item: Tenure Report
March 22, 1974

Recommendation 8: Reasons for Non-Renewal

MOTION:

Move to submit the following recommendation to the President as a modification in the Administrative Regulations.

RECOMMENDATION:

In all cases where a faculty member with the rank of assistant professor or higher is not reappointed, the individual shall be notified by his department chairman of the reasons for the decision. Where the decision not to reappoint is one on promotion and tenure, the faculty member shall, upon his written request, be informed of the basis of that determination in writing and in a reasonable amount of detail. In instances where promotion and tenure are not involved, oral communication will be deemed sufficient. In order to facilitate communication, it shall be the responsibility of the college dean to prepare a summary of the reasons why reappointment was denied and provide the faculty member's chairman with a copy of that summary statement (in the event that a favorable department recommendation was overturned at a higher level) for verbal transmittal or written communication to the faculty member.

p. 17, minutes, 2nd para

Page 14
Senate Agenda Item: Tenure Report
March 22, 1974

Recommendation 9: Advising

MOTION:

Move the following recommendation be submitted to the President for implementation.

RECOMMENDATION:

Colleges, working through appropriate university bodies, shall develop some means to evaluate the quality, as well as the quantity of academic advising done by each faculty member. As this procedure is developed and implemented, the results of this evaluation shall be considered in the annual performance review and in the decisions concerning retention and/or promotion of each faculty member.

Page 15
Senate Agenda Item: Tenure Report
March 22, 1974

Recommendation 10: Student Input in Tenure
and Promotion Decisions

MOTION:

Move to submit the following recommendation to the President for implementation.

RECOMMENDATION:

Recommendations for tenure and promotion shall include evidence of consultation with the appropriate undergraduate student advisory group and graduate or professional student group. Any written judgments or related materials submitted by the student groups shall be included in the materials submitted in support of a recommendation for promotion and tenure.

UNIVERSITY OF KENTUCKY
LEXINGTON, KENTUCKY 40506

UNIVERSITY SENATE COUNCIL
10 ADMINISTRATION BUILDING

April 4, 1974

TO: Members, University Senate

FROM: University Senate Council

RE: AGENDA ITEM: Additional Amendments to the
"Krislov Report" for consideration at the Univer-
sity Senate Meeting, April 8, 1974

Attached are various materials pertaining to the "Krislov Report" which were received by the Senate Council after we sent the circulation materials to the Duplicating Center. They have been reproduced and are being handed out here to facilitate your consideration. This package contains three documents. Page one contains two additional written emendments received in accord with the Rules of the University Senate. Page two relates to recommendation #8, Notice of Reasons for Non-Renewal. It is a list of schools which automatically or upon request provide written reasons to faculty members who have not been awarded tenure. It also contains some information concerning the number of court cases which have arisen at these institutions. The remaining pages are a summary of current legal activities and court decisions also relative to Recommendation #8, Reasons for Non-Renewal, which have been prepared by two Senators from the College of Law.

/cet
Attachments

Recommendation 1: Prior Service Rule

AMENDMENT:

Move to amend paragraph (3) by deleting the words ". . . and reviewed by a committee composed of the Chairmen of the Area Committees . . ."

Fletcher Gabbard
R. H. Cox

Recommendation 3: Information for New Faculty Members

AMENDMENT:

Move to amend by addition of the following paragraph:

"Either before or at the time of interview of an individual for an appointment in the professorial series, the Chairman shall provide the individual a copy of the Governing Regulations, and that part of the Administrative Regulations dealing with appointment, promotion, and tenure."

Blaine F. Parker
J. N. Walker

UNIVERSITIES WHICH PROVIDE REASONS IN WRITING
WHEN A FACULTY MEMBER HAS NOT BEEN AWARDED TENURE

Automatic

Midwestern University, Texas
Stephen F. Austin, Texas
California State University, Fullerton
Southern Oregon College
California State College, Sonoma
Humboldt State University

California State University, Chico
California Polytechnic State University
California State University, Long Beach
Northern Michigan University
Florida A & M University
California State College, Domingues Hills

Other Information

- (1) The twelve Universities reported only 4 cases appealed to courts.
- (2) All twelve recommended that other public Universities adopt a similar policy.

Faculty Member Must Request

University of Hawaii (9 campuses)
Florida State University
University of Minnesota
University of South Florida
West Texas State
California State University, San Diego

University of California, Northridge
California State University, Haywood
University of Florida
California State University, Fresno
University of California, Irvine
University of California, Davis
University of California, Santa Cruz

Other Information

- (1) Six reported no court litigation; five reported a total of 11 cases. Two didn't respond (One University reported that complainant did not prevail in two court cases).
- (2) Proportion of faculty members asking for reasons varied from none in one instance to almost all in another. Four answered about one-fourth and the remainder did not respond.
- (3) Nine recommended that other public Universities adopt a similar policy. Two were opposed; two non-response.

FROM: Damon Harrison and Alvin Goldman

TO: Members, University Senate

RE: "Recommendation #8 - Reasons for Non-Renewal"
(Krislov Report)

INTRODUCTION

During the discussion of "Recommendation #8 - Reasons for Non-Renewal," concern was expressed that the giving of a statement of reasons for non-renewal would result in a proliferation of law suits. Several Senators seemed to believe that the written statement of reasons for non-renewal would be closely scrutinized by the Courts and that the drafting of such a statement would become an arduous and burdensome task due to the potential legal ramifications. To address this matter, an investigation of the Court's treatment of these issues was made and the following information prepared as background material for the discussion and vote on the recommendation.

By no means is the following information exhaustive of all the cases that have appeared before the courts. First, the cases treated here are limited solely to the most recent ones arising from the college and university level and does not include the many cases involving the non-renewal of a teacher under the tenure system of the secondary and elementary schools. The courts treat these two types of cases similarly. Secondly, the cases sampled are mainly those from the appellate level and thus do not include many dispositions of cases which are not appealed inasmuch as the non-appealed cases normally are not reported.

SUMMARY

The courts will hear a suit by a non-renewed university teacher where it is alleged that the reasons for non-renewal are trivial, unrelated to the educational process or to the working relationships within the institution, capricious, or a violation of a constitutional protection of personal liberty. In the course of such a suit, the university will be required to state what its reasons for non-renewal were, so that the assertion of wrong reasons can be rebutted (assuming that they are rebuttable). In hearing such a challenge to the validity of non-renewal,

the courts grant considerable deference to the expertise of the university in making such decisions. Accordingly, by providing the non-renewed teacher with a statement of the reasons for non-renewal, the reasons which can be legally challenged will be removed and the individual's likelihood of bringing a suit against the university would be substantially reduced. Certainly, in the face of the strong deference given to the university's judgment, no competent lawyer would see cause to pursue such a suit absent the client's offer of substantial evidence to rebut the university's stated reasons. But absent stated reasons, the client's claim to wrongful cause for failure to renew will have greater credibility and pose a more attractive prospect for success.

DISCUSSION OF CASES

The Supreme Court in Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972), held that a professor does not have a constitutional right to a statement of the reasons for non-renewal unless the teacher had a reasonable and justified expectation of reemployment. The Court, however, suggested that a right to such reasons might arise through a contractual provision for a statement or through the inclusion of such statements as a matter of custom in the normal administrative procedure. It is the latter which the adoption of Recommendation #8 will accomplish.

Most of the cases dealing with non-renewal arise as suits demanding the reasons for non-renewal where the university does not provide them. To get before the court the professor need only allege that the non-renewal was based on constitutionally impermissible grounds. It has been reasoned by several courts that the professor does have the right to know the reasons for his dismissal so that he may challenge them in a hearing as untrue, inappropriate for consideration, or as unconstitutional. Auerbach v. Trustees of California State Colleges, (C.D. Cal. 1971); Shields v. Watrel, 333 F. Supp. 260 (W.D. Penn. 1971). The federal district in Holliman v. Martin 330 F. Supp. 1 (W.D. Va. 1971), stated the view taken by most of the courts in this regard:

A nontenured professor only has a right to a statement of reasons for his non retention in that he has a right not to be discharged for an improper reason or no reason at all. In other words, if the college when brought into Court refuses to give any reason for its action and relies solely on its discretionary authority, the professor would be entitled to summary reinstatement. On the other hand, if the college refused to give the professor any reasoning for its action prior to Court proceedings, but then gave a valid reason which could be substantiated, the professor's rights would not have been infringed. In summary, at some point the college should be compelled either to disclose its reasons or to reinstate the teacher.

It is apparent from the recent cases that refusing to give the professor the reasons for his non-renewal will not prevent law suits from arising. In fact, the giving of the reasons on a regular basis would likely avoid litigation. The professor then would not have the access to the courts by simply claiming that he has no way of knowing whether the decision was based on unconstitutional grounds. Instead, when the reasons are given, the professor's redress to the court would be limited, and his chances of success will be slim due to the great weight the courts give to a university's judgmental decisions.

The courts in hearing a case challenging the validity of the reasons for the non-renewal of a professor's contract proceed with considerable deference to the university's judgment. The burden of establishing the claim that the reasons given were invalid, or only a cover-up for constitutionally proscribed reasons, is placed upon the professor so challenging. In order to prevail in his suit, the professor must allege and prove ". . . that each of the stated reasons is trivial, or is unrelated to the educational process or to working relationships within the educational institution." McEnteggart v. Cataldo, 451 F.2d 1109 (1st Cir. 1971). The requirement is that evidence to support the conclusion be presented and

The Court will be bound to respect bases for nonretention enjoying very minimal factual support and supported by subtle reasons. Certainly the college is not required to set down a list of standards, compliance with which will result in achieving tenure, or to justify its action beyond a reasonable doubt when nontenured professor's employment is not continued. Holliman v. Martin, 330 F. Supp. 1 (W.D. Va. 1971).

The courts in reviewing administrative decisions defer to the judgments of the people who have greater expertise in the field and are more experienced in making such decisions. In the area of review of non-renewal decisions the courts can not and do not

. . . question the judgment of plaintiff's (the professor) superiors; these men are highly trained educators and education administrators. It is not the function of this Court to question their judgment, to become a super administrator, in the absence of a far greater prima facie showing of neglect on their part. Katz v. Board of Trustees of Gloucester Co. College, 288 A.2d 43,36 (Ch. Div. J.J. 1972).

In fact, the only grounds for which the courts will overturn a university's decision for non-renewal are an abuse of discretion, capricious action or discrimination of such a nature as to constitute a violation or deprivation of constitutional rights. Green v. Board of Regents of Texas Tech. University, 335 F. Supp. 249 (N.D. Tex. 1971). If, however, there is evidentiary support for the university's decision and it appears to be rationally based, the courts will uphold that determination. Examples of reasons which courts have upheld as within the permissible discretionary power of the university are:

1. Teaching while adequate was only adequate.
2. Lack of sufficient involvement in campus affairs.
3. No sign of professional growth by pursuit of higher degree or by having any significant works published. Holliman v. Martin, 330 F. Supp. 1 (W.D. Va. 1971)
4. Consideration of numerous personalty and character traits as a few of the factors considered.
5. Insubordination even when it becomes enmeshed with the reliance upon constitutional rights. Rozman v. Elliott, 335 F. Supp. 1086 (D. Neb. 1971).
6. Consideration of whether the professor was a good colleague to the other members of the faculty.
7. Interest and activity in the profession at a state level, Watts v. Board of Curators, University of Missouri, 363 F. Supp. 383 (W.D. 1973).

The courts have affirmed non-renewal decisions based on these reasons because the university provided evidentiary support of the factors and because the court was satisfied that such reasons are relevant qualities and attributes desired of university professors.

Absences from University Senate Meeting of April 8, 1974

Lawrence A. Allen	Ward O. Griffen*	Carl Peter*
Lyle N. Back	George W. Gunther	Jean Pival
Harry Barnard*	Jack B. Hall	William K. Plucknett*
Charles E. Barnhart	Joseph Hamburg	James A. Prestridge*
Robert P. Belin*	Holman Hamilton*	Donald A. Ringe*
Ben W. Black	Thomas Hansbrough	Wimberly C. Royster
	J. Merrell Hansen*	
Peter P. Bosomworth*	George W. Hardy	Robert W. Rudd*
Robert N. Bostrom*	Virgil W. Hays*	D. Milton Shuffett*
Garnett L. Bradford*	Ron Hill*	Otis A. Singletary*
John M. Bryant	Nancy Holland*	David Spaeth*
Joseph A. Bryant	Raymond R. Hornback	Robert H. Spedding
John L. Butler*	Raymon D. Johnson*	Earl L. Steele
Jamie Chase*	John J. Just*	Marjorie S. Stewart
Alfred L. Crabb	William F. Kenkel	Andy Strickland
M. Ward Crowe	James B. Kincheloe*	Louis J. Swift*
T. Z. Csaky*	Don Kirkendall*	William C. Templeton*
	Walter Langlois	
Donald F. Diedrich*	David L. Larimore*	Paul A. Thornton
Bette J. Dollase*	Robert L. Lester*	Jacinto J. Vazquez*
Anthony Eardley	Albert S. Levy	John N. Walker*
	Donald R. March*	
Roger Eichhorn*	Susan A. McEvoy*	M. Stanley Wall
Claude Farley	Marion E. McKenna*	Daniel L. Weiss*
Elizabeth Finkenstaedt*	Michael P. McQuillen*	Paul A. Willis
Juanita Fleming	William G. Moody*	Miroslava B. Winer*
Thomas R. Ford	Alvin L. Morris	Ernest F. Witte*
Lawrence E. Forgy*	Vernon A. Musselman*	Fred Zechman*
Michael B. Freeman*	Paul Oberst	Elizabeth Finkenstaedt*
James E. Funk*	Elbert W. Ockerman*	Walter Langlois
Art Gallaher	Blaine F. Parker	
John G. Gattozzi*	Harold F. Parks*	
Milton E. Gellin*	Doyle E. Peaslee	
Richard E. Gift*		

Present - 119
 Absent* - 53
 Absent - 36
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ATTENDANCE SHEET
April 8, 1974

- ✓ C. A. Auvenshine
- ✓ M. O'Neal Weeks
- ✓ Ro Evans
- ✓ Willis A. Sutton Jr.
- ✓ W. Gladden
- ~~S. Z. H. Bernstein~~
- ✓ Lewis W. Cochran
- ✓ Elizabeth B. Howard
- ✓ Elizabeth R. Clotfelter
- ✓ John Churchill
- ✓ Larry S. Fisher
- ✓ P. G. Grand
- ✓ Sam Brown
- ✓ Paul Patton
- ✓ Chris Borman
- ✓ Malcolm Jewell
- ✓ Bruce H. Weller
- ✓ Carolyn McInney
- ✓ L. Clark Keating
- ✓ George F. Crewe
- ✓ Walter J. Stoker
- ✓ Donald E. Sands

- ✓ Charles W. Hultman
- ✓ Peter Skelland
- ✓ T. Waldman
- ✓ W. Blotter
- ✓ David Beck
- ✓ J. Cremer
- ✓ Robert N. Nott
- ✓ W. E. Jordan
- ✓ John G. Bancroft
- ✓ Fred. Pizzo
- ✓ T. R. Robe
- ✓ J. Kanner
- ✓ Tom Connolly J.

ATTENDANCE SHEET
April 8, 1974

- ✓ James E. Criswell
- ✓ Louis E. Nichols, Jr.
- ✓ **Stephen A. White**
- ✓ Philip V. Berger
- ✓ W. W. Euton
- ✓ C. Spindel
- ✓ Pat Jimmick
- ✓ Bob Clement
- ✓ Collins N. Burnett
- ✓ Herbert Bruce
- ✓ J. D. Glavin
- ✓ J. Truficante
- ✓ P. A. Luttt
- ✓ Margaret L. Mason
- ✓ Norman F. Bilsups
- ✓ Pat DeLuca
- ~~John Lyons~~
- ✓ Mary Evelyn Minter

- ✓ Raymond H. Cox
- ✓ J. D. Buckwalter
- ✓ J. P. Reedy
- ✓ Mark D. Lee
- ✓ **S. F. Conti**
- ✓ Alvin Goldman
- ✓ G. J. Pratt
- ✓ B. C. Pass
- ✓ Leonard Tipton
- ✓ Susan Sprague
- ✓ S. Diachun
- ✓ John Lienhard
- ✓ G. B. Harris
- ✓ Connie Wilson
- ✓ Harold Trausig
- ✓ Wm. Kennedy Not Senate member
- ✓ Rudolph Scheib
- ✓ Sara Holroyd
- ✓ W. F. Wagner

ATTENDANCE SHEET

April 8, 1974

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✓ Eugene M. Huff
✓ Allan C. Hunter
✓ S. Sydney Ulymer
✓ S. J. Smith
✓ James Kemp
✓ Virginia LaCharité
✓ Frank Beck
✓ R. S. Benton
✓ Jerry M. Baskin
✓ Jane E. L.
✓ Pat Mandelsta
✓ H. H. Bailey
✓ Paul G. Sears
✓ Frank V. Colton
✓ Betty Rudnick

✓ Damon Harrison, Jr.
✓ Jack Kuhn
✓ Bill Shanks
✓ David L. Williams
✓ Thomas W. Brehm
✓ Sara Leech
✓ W. L. Matthews, Jr.
✓ Jim Flegle
✓ E. B. Kenny
✓ J. M. Lint
✓ William H. Peters
✓ Vic Dain
✓ Thomas M. Olszewsky

ATTENDANCE SHEET

April 8, 1974

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✓ *Harwin J. Voss*✓ *N. H. Binger*✓ *Hans Gosau*✓ *J. A. Deacon*✓ *G. V. Swintorsky*✓ *J. L. Garden*✓ *Jess Weil*✓ *Reinold P. Van Dambin*✓ *Blitch Balbo*✓ *Michael McCord*✓ *Genev. Lewis*✓ *Kenneth Wright*✓ *Al Foreman*✓ *Arthur Liller*✓ *Robert A. Kudine*✓ *George Denmark*✓ *Paul M. Etkin*✓ *Jean & Charron*