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University-wide Policy Regarding Appeals for Violation of Procedures in the tenure decisions at Dean's level

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University-wide Policy Regarding Appeals for Violation of Procedures in the tenure decisions at Dean's level

Submitted by: Robert Costomiris

10/4/2004

Motion:

When a "do not recommend" decision on a faculty member's tenure and/or promotion package is received at the Dean's level, and the faculty member believes there was a procedural error made in the review of the application package, the appeal of that decision will be heard and decided upon by a council consisting of the Deans from all Units other than the faculty member's. Timeframes for tenure and promotion materials will be modified to allow sufficient time for this appeal process to occur.

Rationale:

An appeal of a decision based on a procedural error should be reviewed by a group of equal rank to the dean but excluding the dean whose decision prompted the appeal. The same judge does not hear an appeal to a case he or she first decided and so it should be in the case of procedural issues regarding tenure/promotion.

SEC Response:

10-26-2004: To Dr. Grube for his approval:
I am pleased to report that the Senate recommends approval of the motion below presented by Dr. Pat Humphrey for Dr. Robert Costomiris at the October 19, 2004, Faculty Senate meeting.

Motion: When a "do not recommend" decision on a faculty member's tenure and/or promotion package is received at the Dean's level, and the faculty member believes there was a procedural error made in the review of the application package, the appeal of that decision will be heard and decided upon by a council consisting of the Deans from all Units other than the faculty member's. Timeframes for tenure and promotion materials will be modified to allow sufficient time for this appeal process to occur.

Rationale: An appeal of a decision based on a procedural error should be reviewed by a group of equal rank to the dean but excluding the dean whose decision prompted the appeal. The same judge does not hear an appeal to a case he or she first decided and so it should be in the case of procedural issues regarding tenure/promotion.

Senate Response:

Motion by Patricia Humphrey on behalf of Robert Costomiris, “University-Wide Policy Regarding Appeals for Violation of Procedures in the Tenure Decisions at Dean’s Level”:
Jeanette Rice Jenkins (COST, Senate Moderator) next called on Pat Humphrey who stated that Robert Costomiris of CLASS submitted the following motion to the SEC: “When a 'do not recommend' decision on a faculty member’s tenure and/or promotion package is received at the Dean’s level, and the faculty member believes there was a procedural error made in the review of the application package, the appeal of that decision will be heard and decided upon by a council consisting of the Deans from all units other than the faculty member’s. Timeframes for tenure and promotion materials will be modified to allow sufficient time for this appeal process to occur.”
The SEC voted to revise this motion to read “When a ‘do not recommend’ decision on a faculty member’s tenure and/or promotion package is received at the Dean’s level, and the faculty member believes there was a procedural error made in the review of the application package, the appeal of that decision should first be made to the Dean who made the decision. If the reconsideration is not granted, the appeal will be heard and decided upon by a council consisting of the Deans from all units other than the faculty member's. Timeframes for tenure and promotion materials will be modified to allow sufficient time for this appeal process to occur.”
Humphrey then moved that this language be incorporated into Section 220 of the current Faculty Handbook after the first paragraph. The motion was seconded. Rice Jenkins clarified that the SEC had revised the original motion [as shown in italics above] to add a request for reconsideration by the Dean who first made the decision before having the application review by a council of the other Deans. Rice Jenkins then called on Robert Costomiris from the gallery to speak on behalf of this motion. Costomiris stated that his intention in submitting this new language for the Handbook was two-fold: (1) consideration of the application by Dean’s Council (minus the relevant Dean) in case of procedural errors would result in a more unbiased review, and (2) placing the language in the Handbook would result in a uniform procedure for this type of review across the university.

Linda Bleicken (Provost) noted that this issue had been discussed in Dean’s Council even before the Humphrey motion appeared. She said that one of the efforts underway currently was to try to have consistency in the decision-making process as it applies to promotion and tenure. She also stated that the Faculty Roles and Rewards Document would provide a basis for looking not only at this particular process but the whole evaluation process. She went on to say that the current procedure would have the appellant go back to the Dean to make the Dean aware of either additional information or of a procedural error, have the Dean look at it, and then make a ruling. If the appellant is still unsatisfied with the result, the application would go to the Provost’s office for a possible decision.

Robert Cook (CIT) noted that Section 220 of the Faculty Handbook already contained a passage that reads recommendations made at the College level or beyond may be appealed to the Provost within fourteen calendar days of notification of the decision.” He pointed out that, while this does not include a review by Dean’s Council, it has the advantage of covering all appeals rather than ones of a procedural nature. Consequently, Cook stated that he was against passage of this motion. Rice Jenkins replied, as a point of information, that there had been cases in the past where candidates had appealed to the Provost and had not received a response.

Godfrey Gibbison (COBA), speaking in favor of the motion, pointed out that the current wording in the Handbook is quite vague and there would be some value in specifying who looks at the appeal between the College level and the Provost level.

Candy Schille (CLASS) stated that, while she was in favor of the motion, she thought that Robert Cook made some good points about the revision of the language. She asked if it would be possible to amend the motion to read the way Robert Costomiris
originally submitted it. Rice Jenkins replied that such action would require a motion to amend the Humphrey motion but Schille declined to so move.

Debra Sabia asked Robert Costomiris (1) if he could give the Senate some guidance as to his intent in bringing this issue forward and (2) does this motion substitute for what is currently in the Handbook? Robert Costomiris, speaking from the gallery, stated that he had no idea about the second part but commented that it seemed that having more precise language in the Handbook regarding procedural appeals would be preferable. Candy Schille changed her mind and offered a friendly amendment to eliminate the language, added by the SEC, to the motion originally submitted by Robert Costomiris. The friendly amendment was accepted by Pat Humphrey. Rice Jenkins encouraged members of the SEC to speak since their revision was amended out.

Richard Flynn (CLASS) said that, if the Senate wanted to change procedure stated in the Handbook, the procedural change should be considered by the Faculty Welfare Committee. Rice Jenkins replied that, as she read Section 220, it referred only to appeals on matters of merit and that there should be another opportunity for opinion before it reaches the Provost. Costomiris concurred that this was, indeed, his intent. Debra Sabia commented that adding this language might disallow appeals of a nonprocedural nature. Rice Jenkins replied that the new language did not replace the paragraph already found in Section 220 of the Handbook. Robert Cook restated his objection that the Handbook had language that already covered this matter.

Candy Schille called the question and a hand-count vote was taken on whether to end debate on the motion. The motion to end debate, which required a greater than 2/3 majority, passed. Rice Jenkins then called for a vote on the Humphrey motion as amended by Schille which returned the language to that originally submitted by Robert Costomiris. The motion passed by voice vote.

Updated: 2-9-2005: University-wide policy regarding appeals for violation of procedures in the tenure decisions at the Dean’s level, Dr. Grube has responded as follows.

“A workable procedure currently exists for appeals for Deans’ decisions regarding faculty tenure or promotion. This procedure provides for a discussion between the faculty member and the Dean during which the faculty member may provide pertinent information that was not available to the Dean during the initial decision-making process. If this discussion does not result in a change of decision, the faculty member may then appeal the decision to the provost. In addition, if there is a perception that procedures have been violated, the faculty member may choose to have the process
investigated by the Faculty Grievance Committee. Given the existence of these workable procedures, recommendation is not approved."

**President’s Response:**

11-23-2004 Dr. Grube’s response: A workable procedure currently exists for appeals for deans' decisions regarding faculty tenure or promotion. This procedure provides for a discussion between the faculty member and the dean during which the faculty member may provide pertinent information that was not available to the dean during the initial decision-making process. If this discussion does not result in a change of decision, the faculty member may then appeal the decision to the provost. In addition, if there is a perception that procedures have been violated, the faculty member may choose to have the process investigated by the Faculty Grievance Committee.

Given the existence of these workable procedures, recommendation is not approved.