

COLLEGE OF EDUCATION
DIVISION OF ADMINISTRATION
AND SUPERVISION

April 6, 1965

Dr. John Oswald, President
University of Kentucky

Dear Dr. Oswald:

The Committee on Privilege and Tenure has been working on the development of some procedural guide lines which would assist us in the event a "case" should come before it. We have formulated a tentative statement of procedures. Will you please review it at your convenience and give us your reactions?

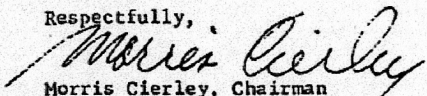
We have in mind the publication of a brochure which might contain the following chapters or sections:

- I. Introduction
(what the bulletin is about)
- II. Rules of Procedure
(something on the order of the attached statement)
- III. Statutes
(KRS)
- IV. Governing Regulations
(Board of Trustees, policy, etc.
under which the University operates)

Would such a step by the Committee meet with your approval? We believe that information of the nature described above should be available to all members of our faculties. Moreover, we believe that such a bulletin could be helpful in recruiting faculty.

We shall appreciate your giving us your reactions.

Respectfully,


Morris Cierley, Chairman
Committee on Privilege and Tenure

POLICIES AND PROCEDURES OF THE
COMMITTEE ON PRIVILEGE AND TENURE¹

This Committee was appointed by the President of the University upon the recommendation of the Faculty Council and charged as follows:

The Committee on Privilege and Tenure will consider matters that are referred to it by the President, the University Faculty, or individual staff members of the University. The President will refer to this Committee all cases of appointment termination, for cause, of a faculty member who has tenure, all cases of dismissal of a faculty member during a limited appointment, all cases of non-renewal of a probationary appointment with less advance notice than specified by the Governing Regulations, all cases of allegation by a faculty member on a non-tenure appointment that a decision for non-reappointment abuses his privilege as a faculty member, and similar cases. The Committee may, upon request, advise individual staff members on the interpretation of University privilege and tenure regulations, with copies of the interpretations being sent to the Faculty Council, Chairman of the Department, the Dean, and the President. The Committee is also charged with making a continuing study of privilege and tenure regulations, making recommendations to the University Faculty and to the President.

We recognize that "any approach toward settling the difficulties which beset dismissal proceedings (or tenure problems) must look beyond procedure into setting and cause. A dismissal proceeding is a symptom of failure; no amount of use of removal process will help strengthen higher education as much as will the cultivation of conditions in which dismissals rarely if ever need occur." However, we believe that sound procedure is essential in arriving at solutions to problems as complex as the cases which may be expected to come before this committee. Moreover, we believe that a recommendation by this committee will constitute an important step in the final disposition of a case if such a recommendation is based upon consensus after careful examination of all the evidence.

1. Formal Proceedings

In the case of dismissal of a tenured member of the faculty the formal proceedings will be commenced by a communication addressed to the faculty member by the president of the university, informing the faculty member of the specific charges, and informing him that, if he so requests, a hearing to determine whether he should be removed from his faculty position on the

¹ With apologies to the Statement on Procedural Standards in Faculty Dismissal Proceedings, AAUP Bulletin, Vol. 44, No. 1, Spring, 1958.

grounds stated will be conducted by the Committee on Privilege and Tenure at a specified time and place. In setting the date of the hearing sufficient time will be allowed the faculty member to prepare his defense. The faculty member will be informed, in detail or by reference to published regulations, of the procedural rights that will be accorded to him. The faculty member or his counsel will state in reply whether he wishes a hearing and, if so, will answer in writing, not less than one week before the date set for the hearing, the statements in the president's letter.

2. Committee Procedures

The Committee will begin formal proceedings by considering the statement of grounds for dismissal formulated by the President, and the faculty member's response written before the time of the hearing. If the faculty member has not requested a hearing, the committee will consider the case on the basis of the obtainable information and decide whether to recommend his removal; otherwise the hearing will go forward. The committee, in consultation with the president and the faculty member, will exercise its judgment as to whether the hearing should be public or private. If any facts are in dispute, the testimony of witnesses and other evidence concerning the matter set forth in the president's letter to the faculty member will be received.

The President has the option of attendance during the hearing. He may designate an appropriate representative to assist in developing the case; but the committee will determine the order of proof, and reserve the right to question witnesses, and, if necessary, to secure the presentation of evidence important to the case.

The faculty member will have the option of assistance by counsel, the aid of the committee, when needed, in securing the attendance of witnesses. The faculty member or his counsel and the representative designated by the president shall have the right, within reasonable limits, to question all witnesses who testify orally. The faculty member shall have the opportunity to confront all witnesses adverse to him. Where unusual and urgent reasons move the hearing committee to withhold this right, or where the witness cannot appear, the identity of the witness, as well as his statements, should nevertheless be disclosed to the faculty member. Subject to these safeguards, statements may when necessary be taken outside the hearing and reported to it. All of the evidence will be duly recorded. Unless special circumstances warrant, it will not be necessary to follow formal rules of court procedure.

3. Committee Findings

The Committee will reach its decision in conference, on the basis of the hearing. Before doing so, it shall give opportunity to the faculty member or his counsel and the representative designated by the president to argue orally before it. If written briefs would be helpful, the committee may request them. The committee may proceed to decision promptly, without having the record of the hearing transcribed, where it feels that a just decision can be reached by this means; or it may await the availability of a transcript of the hearing if its decision would be aided thereby. It shall make explicit findings with respect to each of the grounds of removal presented, and formulate a reasoned opinion upon which its recommendations will

be based. The president and the faculty member shall be notified of the recommendation by the committee in writing and shall be given a copy of the record of the hearing. Any release to the public will be made through the president's office; not through the committee.

4. Tenure Cases

In cases where tenure is at issue, the committee will proceed in the manner described above. Although a less formal hearing may be expected, the same rigorous examination will be made of the evidence in a tenure case as that given a dismissal hearing.

Guidelines for the Committee's recommendations will be as follows:

Standards for notice of nonreappointment¹

Notice of nonreappointment, or of intention not to recommend reappointment to the governing board, should be given in writing in accordance with the following standards:

1. Not later than March 1 of the first academic year of service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of termination.
2. Not later than December 15 of the second academic year of service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination.
3. At least twelve months before the expiration of an appointment after two or more years in the institution.

¹ Statement endorsed by Fiftieth Annual meeting of AAUP - AAUP Bulletin Autumn, 1964