

September 8, 1995

University Senate Advisory Committee on Privilege and Tenure

Annual Report, 1994-95

The Senate Advisory Committee on Privilege and Tenure held seven formal meetings between September 1, 1994 and August 31, 1995. Committee members were Marilyn Hamann, Jeremy Popkin, Karl Raitz (on sabbatical leave during Fall 1994), Phyllis Wise, and James Hougland (chair). Of the fifteen cases and inquiries considered by the committee or the chair, one was a general inquiry about the promotion process (answered by the Chair on an informal basis), seven (all from the Lexington Campus) were actual or potential promotion appeals, and seven (including four from the Lexington Campus and three from the Medical Center) involved concerns or allegations on the part of individual faculty members that their faculty privilege had been violated. Minutes of meetings and official correspondence have been filed in the office of the Special Assistant for Academic Affairs.

The committee attempted to use the University Senate Rules (1.4.5.2) and the Administrative Regulations (II-1.0-1, Page III-7) to guide its deliberations. When considering cases involving promotion or tenure, the committee referred very often to the specific language in the Administrative Regulations, which we read as identifying the committee's responsibility as including "procedural matters," "privilege," and "allegations of academic freedom."

All of the meetings held by the committee in 1994-95 were open meetings. However, for the first time, the committee was advised by the Office of Legal Counsel that meetings could go into executive session if requested by a faculty member appealing an unsuccessful tenure decision or if termination of employment was, for other reasons, a possible outcome of a committee recommendation. Since this advice was received, two faculty members were advised of their right to request an executive session. Neither chose to make the request. Nevertheless, the committee considers this advice helpful in allowing the committee to protect the privacy of faculty members who are going through a difficult process.

Of the seven promotion appeals received, five concerned promotion to Associate Professor with tenure, and two involved unsuccessful promotions of tenured faculty members to Professor. Two promotion appeals have not yet been resolved. In one case, the faculty member failed to provide a letter requested on the committee's behalf specifying the grounds on which an appeal was being made. Another could not be considered because of conflicting travel schedules during the summer months. Both of these appeals have been referred to the 1995-96 committee. All of the remaining cases required one or more meetings of the full committee. In four cases, the committee found no basis for recommending reconsideration of the negative promotion decision. In one case, the committee did not offer a formal recommendation but suggested that the Chancellor re-examine a decision in the light of corrected information. The Chancellor invited the faculty member (who already had tenure) to resubmit the 1993-94 promotion dossier with minor changes for reconsideration in 1994-95.

None of the complaints involving faculty privilege led to meetings of the full committee. Three cases have not been resolved. In two cases, the committee never received letters providing necessary detail about complaints. In one case, committee action was placed on hold pending completion of discussions that have been occurring in other venues. The file for the latter case has been transferred to the 1995-96 committee. The remaining cases were resolved without full committee involvement. In one case, I judged the complaint to be outside the committee's domain. In another case, I provided informal advice about steps needed to resolve a conflict with an administrator. In two cases, unit administrators and the faculty member reached agreement before the committee began formal deliberations.

Recommendations

The following recommendations all have their basis in specific cases considered by the committee during 1994-95, but committee members agree that the cases have more general implications. The recommendations have been reviewed and accepted by all members of the committee.

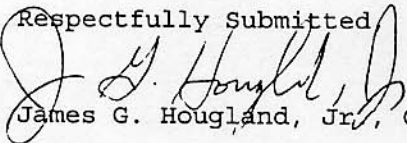
1. In one case that came before the committee, the faculty member and at least some members of the department had trouble identifying the semester in which the preparation of a promotion dossier was required. Such confusion is particularly likely to occur for individuals who join the faculty with prior service. We recommend that a line be added to the "Notice of Academic Appointment and Assignment" form for the purpose of identifying the semester in which the sixth-year promotion and tenure dossier must be submitted. Language on the form should indicate that an earlier review is possible if all pertinent parties agree to it.
2. Some cases that have come before the committee suggest that some faculty have difficulty understanding promotion-related expectations at a Research I University. Possibly because considerable attention has been given to the importance of undergraduate teaching, some nontenured faculty may be led to believe that teaching excellence alone will lead to tenure and promotion. The reality, of course, is that faculty are expected to demonstrate excellence in all major aspects of their assignments, including, in most cases, research. The Administrative Regulations are clear on this point. It is reasonable to expect faculty members to be familiar with the University's regulations, but we acknowledge the reality that few faculty spend much time reading regulations. We recommend that Deans and Chairs receive particular encouragement to communicate expectations regarding performance in all major areas of responsibility (including research, where applicable) and to check to be sure that nontenured faculty members understand the message. Annual performance reviews and the required periodic reviews of progress toward tenure are particularly appropriate occasions for this to occur.
3. The committee has encountered cases in which second-year reviews of progress toward tenure have been overlooked. We recommend that Chancellors encourage all Deans to be sure that mandated reviews occur on schedule and that they are used as a basis for thorough professional evaluation and advice. (NOTE: This recommendation does not apply to the College of Arts & Sciences or to other Colleges in which faculty are allowed to waive second-year reviews in anticipation of more intensive third-year reviews. Our concern is that

some faculty members have received no major reviews until their fourth year.)

4. Currently, the University of Kentucky has no procedure for a substantive appeal of negative promotion cases. While we do not believe that cases that are rejected at one level should automatically be passed up the line for continuing consideration, we do believe that consideration should be given to allowing for substantive appeals, particularly when negative decisions have been made at the Dean's level. It should be understood that, when a substantive appeal is made, the burden of proof should be on the complainant.

5. The current statement in the University Senate Rules that the "function of the committee ... is to attempt to effect an adjustment ..." implies that the committee should respond to complaints by encouraging some type of change. If the committee does not "effect an adjustment," this is labelled a "failure." However, it is sometimes the case that a successfully functioning committee would find grounds to endorse a decision under review. Moreover, the Senate Rules state that recommendations are to be made to the President although the immediate responsibility for some decisions may reside elsewhere. The 1994-95 committee endorses and repeats the 1993-94 recommendation that these portions of the University Senate Rules should be reviewed and changed if warranted.

Respectfully Submitted


James G. Hougland, Jr., Chair