



THE UNIVERSITY of TENNESSEE
KNOXVILLE, CHATTANOOGA, MARTIN, TULLAHOMA, MEMPHIS

UNIVERSITY FACULTY COUNCIL

**Special Called Meeting
7 February 2018
Videoconference
MINUTES (approved)**

UT Faculty Council Voting Members (Quorum, 5 voting members, established)

UTHSC	Martin Donaldson (Faculty Senate President)	present
	Phyllis A. Richey (Campus Representative)	present
UTK	Beauvais Lyons (Faculty Senate President)	present
	Bruce MacLennan (Campus Representative)	present
UTM	Chris Caldwell (Faculty Senate President)	present
	Robert Nanney (Campus Representative)	present
UTC	Gretchen Potts (Faculty Senate President)	present
	Gavin Townsend (Campus Representative)	present

Trustees (Ex-Officio voting)

	Susan Davidson (Board of Trustees faculty voting member)	absent
	Terry Cooper (Board of Trustees faculty non-voting member)	present

UT Faculty Council Ex-Officio Non-voting Members

UT	Dr. Joe DiPietro (System President)	absent
UT	Linda Martin (Vice President, Academic Affairs and Student Success)	absent

Faculty Council Guests

UT	Frank Lancaster, Associate General Counsel	present
UT	India Lane (System Office of Academic Affairs and Student Success)	present
UTM	Renee LaFleur, (UTM Faculty Senate President-Elect)	present
UTHSC	George Cook, (Faculty Senate Secretary)	present

Call to Order 4:00 PM EST by Bruce MacLennan

The meeting was called to address tenure policy revisions proposed by the BOT.

India began. The UFC and the faculty senates have until March 1 to gather feedback from the

various campuses regarding proposed new tenure policies.¹ India advised us to collect comments from our colleagues asap. The March 1 deadline for feedback is firm since Academic Affairs will be meeting with the chief academic officers on March 5.

Beauvais asked India if the chief academic officers on each campus have examined the document. She said that they have “already weighed in.”²

Beauvais recommended that the UFC gather faculty comments from across the campuses to generate a single coherent response for the BOT.

Terry said he had several editorial suggestions to offer and wanted to discuss them now to take advantage of Frank’s presence.

Frank reported that at a recent BOT retreat some 15 questions were raised that were addressed in the present draft. Frank’s role is to ensure the language captures the intent of the BOT while avoiding legal difficulties. He is not a policy maker himself.

Bruce reminded us that we’ll need to have something that the UFC could use to explain these tenure changes to our colleagues back on campus. He proposed that we go through the document in order, avoiding efforts to change individual words to focus on the big issues.

Terry said he did have some individual word changes, but that two of these amounted to conceptual changes as well.

[From here on, discussion flowed back and forth between the two documents. To be clear, if unchronological, the concerns are recorded one document at a time.]

Concerns with the Summary Document

Gretchen: p. 1, point 1 (3), “early consideration.” What happens when experienced faculty are recruited by the university with the promise of a tenure decision prior to six years of service? Frank said that, as written, the document indicates that faculty will either enter the university with immediate tenure or they must wait six years. But campuses may still devise procedures for early tenure decisions. Still, Frank wonders what would happen to faculty who come up early for tenure but don’t make it? Gretchen is worried that this new policy will hurt recruitment of experienced faculty. How can you expect to recruit, say, an associate professor at another university, a preeminent researcher, without offering a clean path to early tenure? Frank admitted

¹ The draft language on tenure was provided to the UFC on Feb 5 in two PDFs: “2018 Proposed Revision BT00006,” and “Table Summary of Proposed Revisions to Board Tenure.” The first is 48 pages in length, the latter is two.

² On Feb 8, India sent us an email indicating that the chancellor and provosts had not seen the latest proposed addition to page 12, the bit about EPPR directed by the BOT.

that was an important point and one that needed to go into our response document. He is worried that some recruited-newly star academician, who might otherwise be willing to wait a year or two for tenure, might now demand immediate tenure in their contract. Beauvais wondered if the BOT might understand the problems inherent with this proposal if they likened the situation to UT stealing a star basketball student-athlete from another university. India said that from the point of view of the chief academic officers, it is desirable to standardize the length of time to tenure, thereby providing maximum flexibility; it doesn't force the university to make a tenure decision before it is certain tenure has been earned. But India herself is concerned about the wording of that section.

Beauvais: p. 1, point 3, "elects a pre-termination proceeding." What is that? Frank: the procedures for tenure termination remain the same with the exception that, in the event of an appeal, the final decision rests with the Chancellor instead of the President.

Gretchen: p. 2, point 9, "two levels of review." How are some colleges, such as the library at UTC, going to fulfill the requirement of providing two levels of review in the absence of a sufficient number of faculty or even separate departments? Phyllis said that at UTHSC, in the past, the librarians had their appointments in the College of Graduate Health Science. But George and Phyllis confirmed that the UTHSC librarians no longer have faculty status or tenure. Beauvais reminded us that UTK instituted faculty status for its librarians to improve gender diversity. Frank pointed out that on page 20 is text allowing academic units some flexibility in how these two levels of review can be handled. Beauvais noted that this will prove useful for small academic units at UTK, such as the law school and nursing.

Bruce asked if the chief academic officers, when they reviewed the big document, had any misgivings about a university-wide tenure review committee. India said yes but noted that the president was in favor of such a committee. Martin noted that at UTHSC the colleges are so diverse that a university-wide committee just wouldn't work. What *does* work is a departmental-level review followed by a college-level review. India reported that the president cited the University of Florida as an example of a big institution with a campus-wide tenure review committee.

Beauvais: p. 2, point 8, "requires external review at the departmental level." Beauvais thinks that the procedures for external review must be standardized at the university level; it can't be left up to individual academic units to define their own procedures lest we enter the "wild wild west." Frank: is it not the intention of the BOT to allow such a development; the board just seeks to ensure that external reviews procedures are included in all departmental bylaws.

Chris: p. 2, point 8 "departmental procedures are not required." As written, the policy indicates that departments may opt out of devising their own procedures in favor of college-wide

procedures. Chris wonders why not refer to university-wide procedures? India said the intention was not to exclude any reference to campus-wide procedures. Frank: this problem might involve a “language fix.”

Phyllis said that at UTHSC departmental bylaws can never conflict with university wide policies; bylaws only serve to add specificity or rigor. But Martin reported that this is the case only in the College of Medicine.

Concerns with the Proposed Revisions (big document)

Chris: p. 4, first paragraph, “except in the case of forfeiture of tenure.” The only reference to forfeiture” regards an unauthorized leave of absence. How many days must a faculty member miss before they encounter a tenure problem? Frank: in his six years with UT he hasn’t seen evidence that this policy was aggressively enforced. It’s mostly designed to ensure faculty meet with their assigned classes. Still, wondered Chris, how might this policy be used in the future? It could be enforced arbitrarily. Frank: it would be in the interest of the university legally to be very conservative in its application.

Terry: p. 7, paragraph 2, line 5. “Summary vote.” He suggests that all references to voting here and throughout the document should make it clear that voting is anonymous. Phyllis, who had participated in a workshop regarding Enhanced Tenure-Track Review (ETTR), assured us that the intent of the BOT was always to allow for anonymous voting. India will ensure the means of voting will be clarified throughout the document.

Beauvais: p. 9-10, “Faculty.” He suggested that we define what is meant by “faculty” in this document. Are we talking about tenure-track faculty only? India said yes; this is a document about tenure. Okay, but how are non-tenure track faculty evaluated? India said the handbook mandates annual evaluation of all faculty, tenured or not.

Beauvais: p. 10-11, “performance rating scale,” Beauvais wondered about the four-levels of performance (exceed, meets, needs improvement, unsatisfactory). Since UTK has five levels, including the “Super Plus Outstanding,” would UTK have to return to using four levels? India said no. Terry pointed out that you only need to have the bottom two levels; campuses can adopt multiple levels above those two.

Chris: p. 12, first paragraph, “to direct the administration to conduct an Enhanced Post-Tenure Performance Review.” Chris asked to discuss this. Beauvais reported that he contacted the AAUP about this proposed provision and was told that it was highly unusual and could put UT “at risk for censure.” Implementing such a policy would get UT on the front page of the *Chronicle of Higher Education*, and not in a good way. It would create a “tremendous chilling

effect,” and make it difficult to recruit faculty and administrators. Bruce asked for some background on this provision since it seemed to come out of nowhere. Frank said that this part took him by surprise too; he was not involved in the discussion. But it is his understanding that the BOT wanted the means to initiate a review of everyone with tenure, not to just target individuals. Frank knows it was pointed out to the BOT that EPPR had been held on certain UT campuses before, but that it had proven to be expensive, time-consuming, and didn’t really accomplish anything since there’s no money in the budget to offer raises for faculty completing successful reviews. Still, the BOT is worried that some UT campuses may just decide never to hold EPPRs; the BOT wants the means to force the issue whether the schools wanted to or not. Frank admitted that, as written, the language allows the targeting of faculty members.

George observed that when post-tenure reviews were done across all the UTs a few years ago, only two individuals in the entire system were identified as problems. Having proven to be wasteful in the past, why would the BOT want to bring EPPR back? India suggested that the current BOT members may not know this history.

Beauvais pointed out that we faculty are reviewed extensively and annually. If the BOT were really interested in accountability, why not use the materials already in place? Besides EDOs and peer reviews, the BOT should consider all the program and accreditation reviews regularly administered to departments and colleges. Given that so few tenured faculty are dismissed for adequate cause, why can’t we convince the BOT that the current systems of review are enough to ensure faculty are meeting all expectations? How can we frame the argument to push back on this proposal? India recommended that we could remind the BOT that we’ve just devised an EPPR procedure: let’s let that procedure play out before mandating EPPRs. Frank believes that not much thought went into this provision. He recommends we merely point out that it’s not needed; we don’t need to alarm the board with threats of AAUP censure. Terry agreed with Frank’s positive approach: ask the BOT what good would come from enacting such a labor-intensive provision. Terry said it would become quickly apparent to the BOT that the return on the investment would be poor.

India said that she’s under the impression that some board members think that all the paperwork generated about tenure is merely us “patting each other on the back.”

Beauvais reported that he knows of some colleagues now undergoing EPPR. These individuals meet expectations in two out of three areas of performance, but reviews have been triggered nonetheless. Perhaps some good will come of these reviews, but there’s also the danger of it being used “recklessly,” as evident in the cases he knows about.

Beauvais recommended that in our response to the BOT about this provision we should include the threat about bad publicity and the chilling effect on recruitment. We don’t have to include

those threats at the top of the list of reasons to eliminate the provision, perhaps only as the fifth or sixth items. Frank agreed.

Gretchen wondered about the deadline for drafting a response to the BOT's proposals. Beauvais suggested that we need a Word version of the big document (not a PDF) so that the UFC could insert comments and editorial suggestions. We also need a means to frame a response for our senates. Beauvais recommend a deadline of two weeks, early enough that it can be part of our next UFC regular meeting (Feb. 21).

India reinforced the notion of getting senate feedback on the document. We want to avoid any impression that folks were taken by surprise.

Terry: p. 13, line 3, "commonly held standards in the discipline." Terry is worried that, as written, some academic units could ignore the criteria for tenure as prescribed in a faculty handbook in favor of some vague understanding of "commonly held standards of the discipline." What are those standards? Where are they defined? Couldn't these be used by an unscrupulous department chair? Doesn't this wording expose the university legally? Perhaps, suggested Terry, we could fix the problem by making it clear that these disciplinary standards are just one method of assessing faculty performance. Replacing an "or" with an "and" might do the trick.

Chris: p. 19, paragraph 2, line 2, "without limitation." What does it mean to include without limitation a requirement for external reviews? Frank admitted the language was legalese that could use some re-wording. It's only meant to mean that you can have all manner of requirements for tenure in your bylaws, but whatever they are, external reviews must play a role in tenure consideration. Chris recommended the placement of a colon after "external reviews," followed by a list of other things to consider for tenure.

Chris: p. 19, paragraph 2, line, "peer review." This requirement for peer review of "faculty members who engage in teaching" -- was that meant to indicate a peer review of teaching in particular? Frank said yes, that this was especially important in cases where external reviews only sought feedback on the research side of a candidate's career. Chris suggested that the wording should make it clear that peer reviews refer specifically to teaching.

Terry, p. 19-20, "dissenting report." If a department head recommends a decision about tenure that differs from the recommendation of the rank and tenure committee, the head must provide, in writing, an explanation for the differing judgement. Yet when it comes to decisions made by the dean, the provost, etc., only a recommendation is required, not an explanation. Shouldn't there be at each level of a rationale for a decision? And shouldn't these rationales be shared with those at all levels of reviews? Such sharing would strengthen the notion of "independent review" and increase transparency.

This caused Phyllis to wonder about the definition of “independent review.” Terry and Phyllis wondered how administrators could come to the same conclusions about a tenure candidate if they have only a portion of a candidate’s dossier. What is there to prevent rubber-stamping at the upper levels of review? Shouldn’t deans and provosts have to explain their decisions? India admitted there is no language specifying a rationale for decisions at each rank, but in practice recommendations are usually accompanied by justification. India believes that at least up to the level of the provost, especially in cases of expedited tenure, the entire dossier is forwarded. She anticipates that the material used in all levels of administrative review will become more “robust.” That said, the specifics of tenure reviews are not standardized currently.

Terry said that the BOT has, in the past, asked to see the entire dossier. Shouldn’t the deans and provosts, supposedly assigned the task of independent review, also review whole dossiers? Beauvais reminded us that the current proposal divests the BOT of reviewing dossiers in all but exceptional cases (early tenure and the like). The BOT wants the final decision to reside with the president. But Phyllis indicated that more and more faculty, at least at the UTHSC, are seeking early tenure, including even new faculty fresh out of grad school. Frank said 30 to 50% of faculty up for tenure have served six years on a UT campus.

India wondered if entire dossiers were forwarded up the chain of command on each campus. Chris and Robert confirmed that at UTM the entire dossier makes its way to the provost. Frank reported that at UTC it stops at the dean, who then forwards a “reader’s digest” version of the dossier to the provost. Phyllis said at UTHSC the entire dossier stays in the department; a folder of selected items is forwarded to a college-level tenure review committee, and an abbreviated version of folder is forwarded to the dean.

Robert and Chris also confirmed that at UTM the tenure candidate receives a copy of each recommendation from each administrator. Phyllis said that the same procedure is followed in the College of Medicine, but not at UTHSC as a whole. Frank: this document is designed to just set minimum standards; there’s nothing here to prevent a campus for adding requirements or procedures. He recommended that we add any call for standardization of the process in our list of recommendations for the BOT.

Chris: p. 22, section 4, “recommendations of the tenured faculty.” Does this refer to the tenured faculty in the department? Chris suggests we squeeze in the word “departmental” to specify what faculty we are talking about. We don’t want deans taking advantage of the void to appoint extra-departmental faculty to any tenure review committee. A similar problem exists on page 31, item 2.

Terry: p. 30, Appendix C, section A., “Reassignment of Duties.” What is the reason for the line

about consulting with either the President of the Faculty Senate or the Faculty Senate Executive Committee? Frank: that's just carry-over language. Some campuses don't really have a senate executive committee and so consultation with the faculty senate president alone might have to suffice. The language allows flexibility.

Chris: p. 31, section 5, "Review by the Chief Academic Officer." In the case of adequate cause for termination, the procedure calls for the CAO to meet with the faculty member in question. But what happens, Chris wonders, if the faculty member were in jail? Would an inability to attend a meeting hinder termination proceeding? Phyllis offered that this must be an HR issue, not really one about tenure. Frank: we'd just need to figure that out if it ever came up.

Terry: p. 40-41 "Peer Review Committee." What happens, wondered Terry, if there is a split decision? There is no provision for a minority report. Frank: at the top of page 43 is text mandating that all conclusions and recommendation of the peer review committee, including minority reports, would be copied to all concerned parties.

Shared Document

Terry recommended that when we express our thoughts about the document that we ensure we include everybody in the emailed conversation. Phyllis suggested that we post a working document on SharePoint for us all to work on collectively. Beauvais recommended we do as much as possible on this SharePoint document prior to our next meeting. India will arrange its posting in Word format.

India wants to emphasize that the BOT remains open to suggested changes.

Meeting ended 5:27 pm EST

Next Meeting: Feb. 21, 4 pm EST.

Submitted respectfully,

Gavin Townsend