



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

UNIVERSITY FACULTY COUNCIL

**Special Meeting 105
30 July 2018, 2 pm Eastern / 1 pm Central
Meeting and Videoconference
MINUTES**

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

UTHSC	George Cook (Faculty Senate President)	Present
	Phyllis A. Richey (Campus Representative)	Present
UTK	Misty Anderson (Faculty Senate President)	Present
	Bruce MacLennan (Campus Representative)	Present
UTM	Renee LeFleur (Faculty Senate President)	Present
	Chris Caldwell (Campus Representative)	Present
UTC	Steve Ray (Faculty Senate President)	Present

Trustees (Ex-Officio voting)		
	tbd	n/a
UT Faculty Council Ex-Officio Non-Voting Members		
UT	Dr. Joe DiPietro (System President)	Absent
	Linda Martin (System Office of Academic Affairs and Student Success)	Absent
Faculty Council Guests		
	Terry Cooper (UTHSC, Chair, Faculty Handbook Committee)	Present

Call to Order 2:02 PM (EST) by Bruce MacLennan, Chair

Bruce informed us that Linda Martin was unable to join the meeting.

Misty moved to approve the minutes. Phyllis seconded. No objections. Unanimously approved.

Discussion about Periodic Post-Tenure Review commenced immediately.

Bruce proposed going over the proposed language item by item so that by the end of the meeting we would have a final draft for Joe, adding that we might need some final revisions after the meeting. He proposed voting on the whole document at the end unless there were controversial items that needed to be voted on item by item.

Misty asked if there were other documents that use the phrase “fiduciary responsibility to parents” No one remembered seeing it before. Phyllis suggested we could add “when applicable” to it.

The question about where the final document should go (i.e. faculty handbook) was raised. We did not have an answer since Linda was not there. Neither did we have an answer regarding the level of approval that would be needed. Someone suggested that perhaps this policy could be placed in appendices rather than through the handbook proper. Chris pointed out that the System recommended us not to duplicate System policy in the handbook. UTHSC representatives point out that they duplicate System/UTHSC policies in their handbook. Steve said, “Our new handbook has a lot of links to system policy, but some items are necessarily duplicated.”

Chris asked if the group could recommend that each campus recommend where it goes for them. Misty asked, “Does this answer the question about approval? Would this not require BOT approval?” Chris replied, “If they use the definition they’ve use in the past, it would require board approval.” Misty said we still need to get some clarification.

Chris added, “Could we ask this as a question if it needs board review—would this be reviewed by the board in Nov. or March?”

Misty said, “At the next meeting they will elect a chair and vice-chair. However, could this responsibly go forward in the November board meeting? Would it be too rushed? We still don’t have the local boards.”

George asked if there will be meetings between Aug. and Nov. Bruce said that that is probably what they have to decide at the next meeting.

Renee said she heard from her chancellor that morning that they will probably announce advisory boards on the following Wednesday.

Bruce moves on to item 3 on the document and asked, “Do we need official wording?”

Misty stated that she checked in with her provost about the “one and only one” phrase. She also said that it is good to have these larger “framing” questions and to have Linda answer them.

Bruce asked if there were any comments on the last two items, followed by “How many are in favor of keeping these?”

George suggested that number 4 is worth keeping because it shifts the burden of proof and supports that the faculty member is worth keeping.

Phyllis added that that is the definition of tenure—shifting the burden from the faculty member to the institution once tenure is granted.

George points out that it shifts from a “procedure” to a “termination procedure.” It’s a question that’s worth posing, he suggested. How do you account for the burden of proof falling on the University given this policy? Let’s not answer it, but let the board answer the question. “How does the board account for the fact that the burden of proof switches to the University once tenure is granted in view of this policy. How do you rectify these two things?” Chris agreed that this sounded like a reasonable question.

Phyllis wanted to drop the last sentence in number 4. “This whole policy continues to concern us.. .”

Bruce read his rewrites.

George wanted to use the word rectify. Renee suggested another alternative: “in alignment with.”

George and Phyllis proposed a question: “How is this policy consistent with that principle? Or “How will this policy facilitate that process.” But Phyllis said it was better not to ask questions we already know the answer to.

Renee suggested: “How will this policy resolve the contradiction?” Misty and George offered that the policy is in conflict with the principle. Renee restated her suggestion as: “The policy as presented is in conflict with basic principle of tenure. How will you resolve this conflict?”

General consensus that Renee’s wording was good. Bruce read the final version of statement regarding number 4. Phyllis restated the statement, incorporating the word “pre-tenure” and including the language about the burden of proof. Misty read a completed version of paragraph, which included all of the above. General consensus on her version.

Misty said she was happy deleting Item 3 (the part about labor intensive)and including it later in the document.

Bruce moved on to Section II. He reviewed the language and ideas.

Phyllis said “I would go so far as to say that this should not even begin until the person gets to the point of being a tenured full professor. That will take care of a lot of it. But if you have a lot

of people who are Associate Professors, but do not want to go up for full professor. . . In that case, the clock for PTR should start then. Typically you go up for full professor at 5-6 years, but there could be a grace period of 6-7 years for those that do not go up for full professor. Going up for full professor is much more rigorous. This should not be applicable unless the professor goes up for full professor—unless you have those folks that do not seek full professor.” Others said we should not overcomplicate it. Phyllis suggested the wording: “Within six years OR when you go up for full professor”

UTSCH people asked if it is a waste of time to do a periodic tenure review when the person is going up for promotion. George pointed out that a professor could get reviewed twice in two years. Misty said that the way it is written now is that you could go up for promotion AND have a 6 year review at the same time. How does that make sense when application for promotion is much more rigorous? It is double the work.

Phyllis said that time point zero is “successful tenure.” Misty suggested adding “in progress” or “successful” Phyllis said that that does not solve the problem, asking, “What if you get turned down?” Misty replied, “Then you’d be subject to review.”

Terry asked, “What about retiring faculty?”

George said that the only way to have it so that it is not gamed, would be for the individual to have a written formal document that is binding. This would be a letter that goes to the chair or the dean. Terry said it would have to be an irrevocable commitment to retire.

Bruce asked, “Do we forget about it altogether and leave it up to the CAO?” Chris thought that was a good idea. General consensus that we do not bring this up and leave it up to the CAO.

Bruce turned the discussion to the language regarding “50%” or “nearly 50%”. General consensus that there is variability on campuses and within colleges. George pointed out that you do not get tenured as a department head, but as a faculty member. Phyllis suggested that we should hold department heads accountable as faculty members for their tenure. Bruce asks if there should be language that says anyone with a none zero faculty appointment would undergo PTR. Misty says, “Yes—on their faculty role.” They need to be held accountable like the rest of us. Especially when you decide that you don’t want to be in that administrative position and you are given a free pass back to faculty.

Bruce read PTR for tenured administrators.

Phyllis did not like “greater than zero percent.” She preferred “All tenured faculty regardless of rank or administrative assignment must be reviewed.” If you have tenure, then you are reviewed—“on your faculty accomplishments” not on administrative duties.

Others disliked the phrase “appropriate to workload.” General consensus to leave this off. “Pertinent to” rather than “for” was agreed upon.

The new language supercedes II, 2 and 3. Items 2 and 3 dropped in favor of the new language.

Bruce moves on to II, 4. "Modified Duties Assignment"

Phyllis does not have a problem with that. Renee asks, "Is it every six years of service or six calendar years?" Phyllis was under the impression it is years of service. It is not uncommon for the tenure clock to be put on pause, she added.

Misty noted that "modified duties" has different meaning in other documents. Renee asks, "How long is a leave of absence?" She said she was just looking for clarification.

George was concerned with the word "or" because family leave is a "leave."

Misty suggested that "modified duties assignment" could be "modified teaching load." UTK has "modified duties assignment." Phyllis asks if modified duties assignment could cover administrative duties, thus putting their PTR on hold. Chris said some HR people use "modified duties assignment" to equal "accommodation." Phyllis asked if we want to get too specific here? CAOs have the ability to stop the tenure clock for extenuating circumstances. Do we need a "modified duties" clause? Chris dropped his objection to satisfy UTK's concern that the term can conflict with its current use on campus. Bruce suggested that the phrase was probably put in by general counsel. He asked if we should put in a question or statement that modified duties would not be administrative. Terry suggested: "exclusive of administrative responsibilities"

Bruce read back new phrasing.

Bruce moved on to Section III

Terry wanted to omit this concern over timing because events will dictate the timing. Phyllis and others thought that nailing down the timeline could be to our disadvantage. George said they might go to APR on calendar year, not academic year. This would put them out of sync with others.

Terry said they handled EPPR in a very reasonable way (in terms of timeline), adding, "I think that's what they will do here."

Bruce moved on to Section IV.

Bruce said he had asked Linda about the "one and only one" phrasing. This is the language general counsel wants, he said. Misty said that this is where the burden and onerousness comes to bear.

Terry asked, "Could there be a campus or college wide committee or do you have individual committees? It is concerning that there are more reviewers from outside the faculty member's discipline." He proposed that we let them know that we think it means "exactly one" but that it is unclear to us. Misty suggested: "One and only one from the faculty member's department/division" George concurred that the one and only one person should be in the same field/area as the faculty member. Phyllis added that the differences in "divisions" are astronomical. Bruce asked, "Would the preferred way be to have the one faculty member to be from the division?" Phyllis and George answered, "Yes." Terry suggested the phrase, a faculty member "with pertinent expertise," adding that other four members should have "pertinent expertise" as well. Phyllis said, "We should put that phrasing in all places where it is applicable."

Terry said that the logistics of this is going to be campus/college specific and proposed deleting Item 4.

Phyllis said that perhaps we should suggest the process for selecting PTR committee should be like the EPPR selection.

Bruce read language regarding selection of PTR committee. Terry suggested replacing "suggest" with "strongly recommend." General agreement on this. Bruce incorporated this change into the language.

Bruce moved on to item about "opting out". Others generally agreed we should leave it out.

Bruce moved on to Section V, 1. Someone suggested a clarification that review material only include the last five years. Bruce asks, "Keep it in?" Misty and Terry proposed we should leave it out. Bruce agreed to delete it.

Bruce moved on to Section V, 2.

Bruce said that Linda's concern was that people might not respond to request for external letters. Chris asked if this is left up to the campuses (since it's in yellow on the proposed document).

Phyllis wonders if we just leave it as it is—"when deemed necessary."

Misty said her provost thinks that they want to leave the external review there as an option in case the faculty member wants to use it. Terry said that as long as it is not excluded, the faculty member can ask for it. Phyllis said she would prefer to delete it, but if not, she didn't want it confused by extra language. Renee offered that if it is not explicit, then everyone will not know that external reviewers are an option. Chris suggested leaving it as it is and leaving it up to the campus to decide how to word it.

Terry recommended adding "and/or faculty member under review" to "deans, CAOs." General consensus to add Terry's language

Terry suggested that we have already addressed the problems with the “continued growth” phrase.

Steve suggested “creative achievements” rather than “creative work.”

Phyllis said our only hope here is to use the same as EPPR. “Let’s stay consistent in reference to ‘commonly held standards.’” Misty pointed out that the language has the word “may” in it. There is a lot of flexibility. Phyllis reiterated, “Let’s stay consistent with EPPR.”

Terry said, “You want to stay away from ‘or.’ Use Frank Lancaster’s language from previous document.”

Bruce moved forward to section VII.

Discussion proceeded about voting members abstaining and also about even and odd numbers on committees.

George said that if there are incongruences, it is the CAO’s responsibility to fix it. He added, “We don’t want the committee to feel obliged to come up with a certain percentage.”

Terry thought that it should “allow for minority reports and explanations.” “Take out the word ‘summary,’” he continued. “You need an explanation. Evidence is more important than decision.”

Phyllis said that “if a person feels the need to abstain, then they don’t need to be on the committee anyway.” Consensus to disallow abstentions.

Misty said that she wanted to discuss Section 9 before she had to leave and asked, “Is this the same as being remanded to an EPPR improvement plan?” Bruce did not think so. General consensus was that we do not suggest aligning this with the EPPR improvement plan.

Phyllis stated that this burden of proof should not fall on the faculty member. It exposes a failure of the system, not of the faculty member’s performance.

Phyllis said that EPPR assesses a false negative. PTR exposes a false positive (when someone is evaluated higher than appropriate).

George said that the only outcome of the process should be what the CAO finds, not a remediation for the faculty member.

Bruce asks, “Are you suggesting that the faculty member not develop an improvement plan?” Misty replied, “Yes. That is not what is being investigated here. That’s what EPPR is for. This is a test for the administration of that burden of proof.”

Phyllis said that the annual evaluation process is being conducted as it should be, adding that there should be no PTR improvement plan, but, rather, a review of departmental “deficiencies” to be investigated by the CAO.

Misty left the meeting at 3:44 p.m.

Phyllis said there should not be two ways to implement a faculty improvement plan—both EPPR and PTR. “If it’s uncovered that the annual evaluation process has not be conducted appropriately,” she said. “Then the process needs to be fixed.” Terry asked, “How does the faculty member appeal?” Phyllis said that if that (the process deficiencies being fixed) is the outcome, then the faculty member does not need to appeal. However, consensus was NOT to delete the right of appeal wording

Terry asked, “Do you want that appeal to come before the CAO makes the determination? Based on the committee’s action not the CAO?”

Renee asked, “Does that mean the faculty member has a time limit?” Terry responded, “Yes. I think we should recommend the appeal comes before the CAO makes a determination.” General consensus on this (which is how it is already phrased).

Someone suggested that timelines for appeals are needed. Chris said he would rather us not change it and limit the appeal rights of faculty. Bruce agreed. General consensus not to change or limit the appeal deadlines for faculty.

Phyllis brought up the section about “choose one of the following procedural options”. This should be the CAO to keep it consistent with EPPR, she said. Terry agreed with Phyllis Chris would like for it to be left up to each campus. Renee wanted it to be left up to campuses. Phyllis disagreed with it coming from the campus. Bruce suggested we leave it on a campus level. There was no change to the document here.

Chris said that it bothered him that we are using two acronyms. We should choose one. He recommended PPPR. PTR is ambiguous, according to Bruce.

Terry said the whole thing should be reviewed at some point to see if it is working.

Bruce adjourned the meeting at 4:00 p.m.