
Absent: J. Aerni-Flessner, B. Atshaves, G. Jackson, A. Kamali, L. McCabe, C. McCarthy, S. Wagner

Guest: K. Zayko

Call to Order

Co-Chairperson S. Vickery called the meeting to order at 3:34 p.m.

Approval of Agenda

S. Arnoczky/D. Bronstein moved to approve the agenda as presented. Motion carried.

Approval of Minutes of October 22, 2014

D. Bronstein/M. Dease moved to approve the minutes. Motion carried.

Remarks

T. Curry indicated the Faculty Senate recently conducted a survey on pressing faculty issues. The issues that were identified will be distributed to various standing committees for discussion. Most issues were for UCFA and very little were for UCFT. The committees are obligated to report back to the Faculty Senate on these issues after there has been some consultation from the committee.

T. Curry also stated that he received the UCFT’s feedback for the annual appointment, reappointment, tenure and promotion memorandum. The feedback will be shared with the Provost and the memorandum will be revised as appropriate. The memo will be distributed next week.

Continuation of Discussion of Interpretation of the Term “Incompetence”

The proposed changes from the Office of General Counsel to the Interpretation of the Term "Incompetence" policy are attached (see Attachment #1).

T. Curry provided background on the Interpretation of the Term “Incompetence” policy. The university has two long standing policies on dismissal of faculty and discipline of faculty where dismissal is not sought. Incompetence is one of several possible causes for the discipline or
dismissal of tenure system faculty members. In 1999, the UCFT created a definition of incompetence to clarify what the term meant in the dismissal policy. Over the last year, the UCFT had a desire to review and redefine the definition of incompetence.

K. Zayko presented the proposed changes to the policy based on the commentary at the October 8, 2014 meeting.

K. Zayko indicated that she changed the term “incompetence” to “failure to perform.”

K. Zayko also stated that two substantive changes were made. First, for item #3 in the “Interpretation” section, the term “written agreement” was included. Second, item #5 in the “Expectations for Implementation” section was drafted to define “long-term.” A range of years (i.e., 1-5 full academic years) was included instead of a specific number of years. In addition, language was included to be clear that “long-term” means a period of time of sufficient length that developmental opportunities have been provided and the period of time provided to improve faculty performance has elapsed.

S. Vickery inquired how many incompetence cases have been due to deficiencies in research or teaching. The one year minimum for development is insufficient if the developmental opportunities are primarily focused on research. Improvement in the area of research takes time.

K. Zayko responded that there have been only two cases due to incompetence in the last 15 years. The past two cases were due to deficiencies in all areas; research, teaching, and service. The timeframe for each case will need to be dependent on what the deficiency is in.

T. Curry indicated that the use of the interpretation for incompetence definition for dismissal or discipline is very rare. In both cases, the chairperson is required to consult with the Dean and the Office of the Provost before discipline or dismissal is implemented. When reviewing discipline cases the Office of the Provost requests copies of annual review letters, merit increase amounts, and any other pertinent written documentation or communications with the faculty member. The rationale for discipline must be substantiated. Discipline is not a unilateral decision. In cases of dismissal due to incompetence, it would have gone through multiple iterations with lesser disciplinary actions before recommending someone to be dismissed for cause.

S. Vickery suggested removing “should be” and changing to “must be” in the following statement:

“Dismissal of faculty members for incompetence is an extreme remedy, and other avenues, including the disciplinary procedures described in the Policy and Procedure for Implementing Disciplinary Action Where Dismissal Is Not Sought, should be carefully considered as possible alternatives to correct unacceptable performance.”

S. Vickery commented that “refusal” should be removed from the incompetence definition as it is its own separate reason in the Dismissal and Discipline policy. There is a difference between failure to perform and refusal to perform.
T. Craig commented that the one to five year range is complicated because it covers a range of possibilities. A certain amount of trust is being asked on behalf of the committee that this policy will not be used in an unreasonable way by administrators.

K. Zayko indicated that items #2 and #3 in the Expectations for Implementation section have a focus on seeking faculty input and for peers and colleagues to play a role in providing feedback on expectations. This was included as a step so decisions are not made in an arbitrary or oppressive way by an administrator.

T. Curry commented that if a case reaches the level for dismissal, the relevant administrator must present the case to a panel of hearing members of the UCFT. The UCFT has the final decision.

D. Bronstein commented that it is not a requirement that departments and schools get consultation from faculty prior to dismissal.

T. Curry indicated that peer review is part of the process for assessing individual performance and other various personnel actions such as merit increases.

H. Barry expressed concern that discussions on performance and opportunities for improvement are discussed in a top down manner as opposed to in a collegial manner. He suggested the faculty member be given the opportunity for input into the remediation plan.

S. Vickery inquired as to whether it can be a remediation plan if a faculty member doesn’t agree to it.

K. Zayko commented some faculty may not see the need to change. If the annual reviews are clear and the deficiencies are outlined the faculty member should not be able to hold the process hostage by not agreeing.

T. Tato suggested that faculty be warned of the consequences for failure to improve to acceptable levels.

J. Reifenberg proposed to establish time periods for particular situations in lieu of a range of years.

K. Zayko recommended not having particular time periods for each situation. Each college and department has their own criteria and standards for expectations. In addition, adequate performance and an acceptable time for remediation vary widely across fields.

K. Cheruvelil suggested removing the one year minimum and rephrasing the sentence to state, “Such a period of time will generally not be permitted to extend beyond five full academic years.” There was general acceptance of this revision.

**A Plan for Seeking Additional Faculty Advice for the Provost Recommendation (University Distinguished Professors)**

T. Curry stated that the Office of the Provost is seeking the committee’s input on the draft document, “The Reappointment, Promotion and Tenure Process; A Plan for Seeking Additional
Faculty Advice for the Provost Recommendation.” This will also be shared with the Council of Deans for feedback. The intent is to create an opportunity for faculty representation within the provost-level review process on reappointment, promotion and tenure cases.

T. Curry commented that there are 76 actively employed University Distinguished Professors and provided the gender/racial composition; 62 (82%) are male and 14 (18%) are female. In addition, 66 (87%) are Caucasian, and 10 (13%) are minorities.

T. Tatto commented that more faculty should be involved in the process. However, UDPs do not accurately represent faculty in terms of demographics or background. UDPs are separated from the typical life of the faculty in a department.

T. Curry commented that the idea is that UDPs can provide a valuable contribution on RPT recommendations as leading scholars.

General discussion occurred on the idea of a university-level RPT committee.

T. Curry indicated that the Office of the Provost has talked with the UCFT in past years on whether there should be a faculty review committee at the university-level. The UCFT at that time did not support the idea of a university-level advisory committee on RPT decisions.

T. Tatto expressed concern on how a university level committee can properly judge the work of faculty in other fields. It is different when the faculty is elected democratically to be representative of the faculty.

A. Holmstrom indicated there aren’t very many UDPs and suggested including faculty who have received the William J. Beal Outstanding Faculty Award.

T. Craig stated that adding faculty to the Provost review provides insulation and faculty cover for the Provost’s decision. Including UDPs in the process creates a bias towards scholarship. Colleges have varying expectations for tenure. In addition, UDPs are not representative of faculty in terms of scholarly achievement. Their records are off the charts and they may base their recommendations on their own experiences. This is problematic when conducting an assessment of junior scholars.

S. Kendall expressed concern that the overwhelming majority of UDPs are in STEM disciplines. There are very few in other disciplines such as the Arts & Humanities. Representation is disproportionate.

T. Craig/T. Tatto moved to recommend against the proposal to include UDPs in the Provost level review of reappointment, promotion and tenure decision. Motion carried (9 in favor, 3 against, 2 abstentions).

It was suggested to discuss the idea of a university-level committee for RPT recommendations at a future meeting.

**Individual Personnel Matter**
There were no personnel matters.

Other
There was no other business.

Adjournment
The meeting was adjourned at 5:06 p.m.
Interpretation of the Term "Failure to Perform" by the University Committee on Faculty Tenure - Faculty Handbook

IV. ACADEMIC HUMAN RESOURCES POLICIES (Cont.)

“Failure to perform” is one of several possible causes for the discipline or dismissal of tenure system faculty members. Exercising its authority under sections 4.7.4 and 4.7.5 of the Bylaws for Academic Governance, the UCFT issued this statement (originally titled Interpretation of the Term “Incompetence” by the University Committee on Faculty Tenure) on March 24, 1999 as an interpretation of the term "incompetence" (now called “failure to perform”) in the Dismissal of Tenured Faculty for Cause policy, one of the "rules of tenure" at Michigan State University. This Statement was subsequently revised on ___, 2014.

Interpretation

As used in the University policy on Dismissal of Tenured Faculty for Cause, the term "failure to perform" refers to the long-term failure or refusal, after relevant, targeted developmental opportunities have been provided, to:

1. perform required faculty duties as described in the Faculty Rights and Responsibilities document, Code of Teaching Responsibility, or other University policy; or

2. meet the relevant unit’s written standards and criteria for acceptable faculty performance; or

3. meet the expectations associated with the faculty member’s specific assignment within his/her unit(s) as delineated in the initial appointment letter or other written agreement with the faculty member.

Expectations for Implementation

In issuing this interpretation, the University Committee on Faculty Tenure expects the following will apply:

1. Dismissal of faculty members for incompetence is an extreme remedy, and other avenues, including the disciplinary procedures described in the Policy and Procedure for Implementing Disciplinary Action Where Dismissal Is Not Sought, should be carefully considered as possible alternatives to correct unacceptable performance.

2. Colleagues in departments and schools play a primary role in determining if individuals are competent to serve as faculty members at Michigan State University. The search, appointment and tenure processes provide the mechanisms that units use to judge whether an individual is suitable for appointment to the faculty. Similarly, units (and especially the department chair) have primary responsibility to identify those rare cases where
faculty members belonging to their unit are no longer competent to perform their duties at an acceptable level. The annual review of faculty performance plays a central role in evaluating faculty performance and communicating with faculty about the strengths and weaknesses of their performance. The University community expects that each department, college, and school has in place a process of annual faculty review consistent with the statement on Faculty Review issued on February 11, 1997.

3. Performance reviews in different units use different terms to describe levels of performance. Whatever the specific label, unacceptable performance is performance of duties at such an unsatisfactory level that it cannot be allowed to continue. Because of the serious consequences of this evaluation, it is recommended that faculty colleagues in the department or school (or, if necessary, from outside the university) review a unit administrator's determination that an individual's performance is unacceptable.

4. Faculty members whose performance is found to be unacceptable must reasonably expect to know in writing:
   a. which standards and criteria they must meet to reach acceptable levels of performance in the relevant unit(s);
   b. within what time period their performance must be remediated; and
   c. the developmental opportunities in which they should engage to remediate their performance.

5. The term “long-term” means a period of time of sufficient length that the developmental opportunities described above have been provided and the period of time provided to improve faculty performance has elapsed. Such a period of time will generally not be less than one full academic year absent extraordinary circumstances, but will generally not be permitted to extend beyond five full academic years.

6. The University Committee on Faculty Tenure's statement entitled "Long-Term Disability: An Interpretation of the Tenure Rules" will continue to govern situations involving a tenured faculty member's physical or mental incapacity to carry out the responsibilities for which he or she was appointed.

7. A faculty member's choice of topic or subject for scholarly research or creative endeavors is an exercise of her or his academic freedom rights. Particularly in evaluating unpopular, unfashionable, or unusual research or creative scholarly activities, care must be used to ensure that faculty members' academic freedom rights are respected. In such cases, external peer review should be obtained.

Footnote:

1 Policy and Procedure for Implementing Disciplinary Action Where Dismissal Is Not Sought and Dismissal of Tenured Faculty for Cause.