

Faculty Hearing Committee  
Lynne E. Olson, Chair  
Annual Report 2006-07 Academic Year

During the 2006/07 academic year, the Faculty Hearing Committee continued to work with a case of academic misconduct that was initiated in the 2005/06 academic year and received two new allegations of improper evaluation from CAFR. In addition, the group met as a committee of the whole to discuss issues related to “new, fair, and impartial” reviews, which is being considered by an ad hoc committee. Summaries of concluded cases and the meeting notes from the meeting of the committee of the whole follow.

**Academic Misconduct Case from 2005/06.**

*Background:* In keeping with the procedures for hearing complaints against regular tenure-track faculty members (3335-5-04), the Faculty Hearing Committee received an appeal of the decision of the provost in a case of academic misconduct. The college investigation committee had recommended termination of employment of a tenured faculty member, which had been supported by both the dean of the college and the provost. The Faculty Hearing Committee, supported by legal counsel from the Office of Legal Affairs, held a hearing that was attended by the faculty member and the faculty member’s legal counsel, made findings of fact regarding the issues raised, and recommended to President Holbrook that the faculty member be terminated. President Holbrook and the Board of Trustees also supported the recommendation to terminate.

*Lessons:*

- The opportunities for challenge and appeal provided in 3335-5-04, coupled with scheduling difficulties when private legal counsel is involved can result in significant delays in resolving a case.
- The support of legal counsel from the Office of Legal Affairs is very helpful in interpreting 3335-5-04 and in helping the hearing panel deal with external counsel. Although a hearing is an academic rather than legal proceeding, lawyers expect that it will be conducted in keeping with standard legal practices.
- It is critical that college documents describe the college rules and procedures clearly, particularly as related to:
  - procedures and documentation for mandatory annual evaluations
  - procedures for evaluating teaching in all forms (clinical, seminar, and classroom)
 and that there be a system for accessing those materials easily when they are needed.

**Allegation of Improper Evaluation 2006/07: Case #1**

*Background:* A tenure-track faculty member was dismissed after the third year of service and given a mandatory termination date. The faculty member alleged improper evaluation, which was reviewed by CAFR and sent to the Faculty Hearing Committee in keeping with faculty rule 3335-5-05. After receiving the

non-renewal letter and before the mandatory termination date, new material became available that was germane to the review. The Office of Academic Affairs therefore recommended that the department and college conduct a terminal year review taking the new information into account, and that the allegation of improper evaluation be suspended. The faculty member requested that a hearing panel be convened to hear the allegation of improper evaluation because the termination date was close and because the Office of Academic Affairs has ruled that such allegations become moot when the faculty member is no longer affiliated with the university. A hearing panel was seated; however, before the mandatory termination date and before a hearing was held, the faculty member was advised that on re-review by the department P/T committee, department chair, and college, the termination had been rescinded. The faculty member was also notified of the date for the 6<sup>th</sup> year mandatory review for promotion and tenure. The hearing by the faculty hearing panel has been suspended at the request of the faculty member.

*Lessons:*

- It is critical that chairs and deans understand the rules and procedures for non-renewal of tenure-track faculty appointments prior to the fourth year of service, so that affected faculty are given accurate information regarding their rights and responsibilities. Of note, non-renewal of tenure-track appointments prior to the fourth year require that the procedures for a fourth year review be followed, but do not require input from or action by the Office of Academic Affairs.

**Allegation of Improper Evaluation 2006/07: Case #2**

A panel has been seated and is hearing the complaint.

**Meeting Notes from the May 02, 2007 meeting of the Faculty Hearing Committee.** These notes were emailed to the Faculty Hearing Committee for review.

Faculty Hearing Committee Meeting  
May 02, 2007 noon – 1:30pm

Members attending: Robert Parker, Ken Lee, Doug Crews, Julie Holloway, Phoebe Spinrad, Olli Tuovinen, Box Lundquist, Randy Moses, Gideon Frankel, Lynne Olson (chair)

Guests: TK Daniel (past chair of Hearing), Karen Mancl (chair CAFR)

These notes are to summarize the main topics of discussion, rather than represent minutes of the meeting.

1. Examples of “improper evaluation”:

- Voting on the candidate without a quorum present
- Failing to honor excluded years, effectively increasing the expected standards for performance

- Inappropriate comments during the discussion that “poison the well”, such as mentioning hearing that one of the publications was plagiarized or bringing evaluations to the discussion from groups not involved in the evaluative process
- Statements that compare the candidate inappropriately with others
- Using collegiality as a fourth criterion (in addition to teaching, research and service)
- Re-ordering the timeline for assessment
- Proxy voting
- Voting without discussion (in the case of re-reviews)
- Differences in opinion regarding how manuscripts in press are counted as compared to manuscripts that have appeared in print.

## 2. Other issues;

- Letters that fail to represent the discussion
- Lack of coherence between the rendered decision and the letter claiming to justify the decision; for example a letter claiming to support a denial or tenure/promotion that contains only positive statements.
- Letters that fail to articulate the expected standards and how the dossier supports those standards
- POA's that fail to define expected standards adequately
- Poorly trained POD's
- Violations of confidentiality that lead to the candidate becoming aware of possible improprieties in the deliberations
- POA's or processes that permit a very small number of faculty to represent the view of the department as a whole. For example, POA's that define a quorum as a percentage of faculty present, rather than as a percentage of faculty eligible.
- Interpretations of rules that limit the authority to pursue allegations of improper evaluation to the candidate alone. For example, if a candidate claims improper evaluation and leaves the university, the case is considered moot and the allegation is never resolved.
- Lack of clarity regarding the meaning of “new, fair and impartial”
- Re-reviews that incorporate previously unstated reasons for the decision rendered.
- Assuring that a re-review was actually “new, fair and impartial”; is it done or simply assumed done? should it be done? by whom?
- Assuring that the parties to the re-review are the “right” parties.

## 3. Statements of general agreement:

- The departmental TIU must not be by-passed on re-review, even if they were the location of the improper error.

- The situation as is, is not acceptable; something must be done to better assure “new, fair, and impartial” reviews when faculty hearing mandates that a re-review occur.
  - Only faculty in the TIU are truly qualified to evaluate faculty in the TIU. Put another way “same name ≠ same game”; an anthropologist in a department other than Anthropology would be unable to serve as a “peer”.
4. Possible remedies that were discussed.
- Excluding the offending member from the re-review process
  - Permitting “dissenting letters” in close cases
  - Better training for PODs
  - Requiring that an external observer be included in re-reviews; for example the Chair of the Hearing Panel that recommended the review, to verify that discussion occurred and that the letter represents the discussion accurately.
  - Requiring certification that the re-review was “new, fair, and impartial” by a party external to the review.
  - Assuring that POA’s state department standards explicitly
  - Assuring that letters of evaluation are complete and provide adequate information explaining how the dossier meets the departmental standards
  - Revising 3335-5-05 C(6)b to remove the Provost from determining how the new, fair, and impartial review will be conducted, since the recommendation from the re-review will return to the Provost. (note that this is not the case for cases heard under 3335-5-04, where appeals of the provost’s decision are sent to the president).