

A RESOLUTION ON THE ROLES OF FACULTY MEMBERS, ADVISORY SCHOOL-WIDE PERSONNEL COMMITTEES AND ADMINISTRATION OFFICIALS IN TENURE AND PROMOTION CASES (03/10)

WHEREAS, the Faculty Code and authoritative documents of the American Association of University Professors (“AAUP”) establish that actions on applications for tenure and promotion should be undertaken in accordance with a collaborative process that involves faculty members, advisory school-wide personnel committees, deans and the Executive Vice President for Academic Affairs (“VPAA”); and

WHEREAS, in view of the recent recodification of the Faculty Code and administrative actions in certain recent tenure and promotion cases, the Faculty Senate deems it a matter of great importance to survey the provisions of the Faculty Code and AAUP documents for the purpose of clarifying the principles and procedures that should be followed by faculty members, advisory school-wide personnel committees, deans and the VPAA in evaluating faculty candidates for tenure and promotion; and

WHEREAS, Article IV.C.2 of the Faculty Code provides that (i) “[e]ach school or comparable educational division shall establish and publish criteria on which the granting of tenure will be based to implement the factors itemized in [Article IV.C.1]”; (ii) each department shall publish any additional criteria for tenure established by that department; and (iii) “[e]ach department or nondepartmentalized school shall establish and publish the procedures followed for making decisions concerning tenure”; and

WHEREAS, Article IV.C.3 of the Faculty Code states that “[t]o aid faculty members in assessing their potential for achieving tenure, each department, division, or comparable program shall establish procedures for informing individual faculty members, upon request, concerning probable status with regard to tenure”, while adding that “[s]uch information will not constitute a commitment to recommend tenure”; and

WHEREAS, Article IV.B.3 of the Faculty Code provides that (i) “[e]ach school or comparable educational division shall establish and publish criteria on which promotion shall be based”; (ii) each department shall publish any additional criteria for promotion established by that department; and (iii) “[e]ach department or nondepartmentalized school shall establish and publish the procedures followed for making decisions concerning promotions”; and

WHEREAS, evaluations of annual reports of faculty members by their department chairs and deans and (where applicable) renewals of the contracts of tenure-track faculty members should provide accurate, timely and detailed information to faculty members regarding their progress (or lack thereof) toward meeting the applicable criteria for tenure and/or promotion; and

WHEREAS, Section B.2 of the Procedures for the Implementation of the Faculty Code (hereinafter “Procedures”) provides that tenured faculty members of the appropriate rank within each department or nondepartmentalized school shall make recommendations for the granting of tenure to faculty members, and for the promotion of faculty members, within such department or school; and

WHEREAS, (i) Section B.3 of the Procedures provides that actions concerning tenure and promotion “shall normally follow faculty recommendations” and “[d]epartures from this standard shall be limited to those cases involving compelling reasons”; and (ii) Section B.4 of the Procedures provides that “[v]ariant or nonconcurring recommendations from an administrative officer” must be accompanied by “supporting reasons”; and

WHEREAS, Article IV.D of the Faculty Code provides that (i) each school shall establish an elected school-wide personnel committee to consider recommendations for decisions concerning tenure and promotion; (ii) an elected standing committee, when sitting in review of a recommendation for tenure or promotion originating from a department or equivalent unit, “shall advise the dean of that school whether the candidate has met the relevant school and department criteria and whether it has identified any ‘compelling reasons’ that may exist for not following the department or unit recommendation”; and (iii) such “advisories” provided to the dean by an elected standing committee “shall not be construed as ‘faculty recommendations’ as defined by Section B.3 of the Procedures”; and

WHEREAS, in a Memorandum to the University’s full-time faculty dated February 10, 1993 (hereinafter “1993 Memorandum”) (copy attached to this Resolution as Exhibit A), the Executive Committee of the Faculty Senate described the respective roles of faculty members, advisory school-wide personnel committees, deans and the VPAA in acting on applications for tenure and promotion; and

WHEREAS, the 1993 Memorandum (at p. 2) provided the following explanation regarding the proper relationship between faculty recommendations concerning tenure and promotion and administrative nonconcurrences:

“For reasons of ... the specialized professional qualifications of the recommending faculty, the faculty is given a large measure of discretion by the Faculty Code. Under the Code, in the case of a nonconcurrency, a heavy burden of overcoming a presumption in favor of the Department’s recommendation is placed upon the Dean. As indicated, the latter must identify the ‘compelling reasons’ for his/her nonconcurrency. ... Institutionally the term ‘compelling reasons’ has been interpreted as constituting more than a different conclusion on the part of the administrator. ‘Compelling reasons’ have been identified as: financial constraints of the University; programmatic constraints; failure of the faculty to conform to published promotion or tenure procedures; arbitrary and capricious recommendations; insufficient supporting evidence provided by the Department; and inadequacy of the reasons presented by the Department.”

WHEREAS, the 1993 Memorandum also explained that (i) an administrator’s nonconcurrency with a faculty recommendation concerning tenure or promotion “should be supported by findings sufficient to rebut and overcome the evidence submitted in support of the faculty recommendation” (p. 4); (ii) as established under Resolutions 91/6 and 91/9 of the Faculty Senate, advisory school-wide personnel committees are intended to serve as “decanal advisory groups” and should not “substitute their judgment for that of the Department faculty” (p. 4); and (iii) neither advisory school-wide personnel committees nor the deans are

“professionally qualified to evaluate de novo the substantive conclusions of the faculty” (pp. 5-6); and

WHEREAS, (i) the 1993 Memorandum was discussed in, and attached as an exhibit to, Resolution 00/2 of the Faculty Senate, adopted on October 13, 2000, and (ii) the ninth “WHEREAS” clause of that Resolution expressed the Faculty Senate’s understanding that “the University Administration is in general agreement with the interpretation of the ‘compelling reasons’ standard set forth in the 1993 Memorandum”; and

WHEREAS, an interpretation approved in May 1993 by the AAUP’s Committee T on College and University Government (copy attached to this Resolution as Exhibit B) endorsed “the presumption in favor of faculty judgment” on “questions of faculty status” and also provided the following explanation of the standard of “compelling reasons” set forth in the Joint Statement on Government of Colleges and Universities, which was adopted in 1966 by the AAUP, the American Council on Education, and the Association of Governing Boards of Universities and Colleges:

“Committee T concluded that a compelling reason involves more than a disagreement with faculty judgment but is not one that virtually commands a decision. Even if the administration and governing board are persuaded that the faculty judgment is incorrect, they should reverse it only on that rare occasion when they can provide convincing reasons for rejecting the faculty’s presumed academic expertise. A compelling reason should be one that plainly outweighs persuasive contrary reasons.”

WHEREAS, it is the sense of the Faculty Senate that, in recent instances, administrative nonconcurrences with faculty recommendations concerning tenure and promotion have raised troubling questions regarding (i) an evident lack of clarity in the criteria and procedures for tenure or promotion established by some departments and/or schools; (ii) an apparent lack of timely, accurate and detailed advice to some faculty candidates with regard to their progress (or lack thereof) toward meeting the applicable criteria for tenure or promotion; (iii) an apparent tendency by some advisory school-wide personnel committees and administrators to view their roles as allowing them the right (A) to make a de novo review of the qualifications of faculty candidates for tenure or promotion and (B) to substitute their judgment for the informed judgment of the recommending faculty; **NOW, THEREFORE**

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY:

That it is the sense of the Faculty Senate that particular care must be taken to observe the following principles established by the Faculty Code and authoritative AAUP documents dealing with university governance:

- 1) Each department or school should ensure that its criteria and procedures governing tenure and promotion (A) comply with Articles IV.B and IV.C of the Faculty Code and Sections B.2 and B.3 of the Procedures and (B) provide clear, specific and detailed guidance to faculty candidates regarding the standards to be applied by the

department's or school's faculty in making recommendations concerning tenure and promotion.

- 2) Each faculty appointment letter should refer to and enclose (A) the criteria for tenure and/or promotion (as applicable) established by Article IV of the Faculty Code and (B) the additional criteria established by the relevant department and/or school. Any additional expectations for performance set forth in a faculty appointment letter should be consistent with the foregoing criteria.
- 3) In providing oral and written evaluations of annual reports of a faculty member who is expected to be a future candidate for tenure and/or promotion, the responsible department chair and/or dean should provide accurate, timely and detailed advice regarding the faculty member's progress (or lack thereof) toward meeting the applicable criteria for tenure and/or promotion; provided, that such advice is not to be construed or understood as a commitment to recommend tenure or promotion.
- 4) In renewing the contract of a faculty member who is expected to be a future candidate for tenure and/or promotion, the recommending faculty and the responsible administration officials should provide the faculty member with a comprehensive analysis of his or her progress (or lack thereof) toward meeting the applicable criteria for tenure and/or promotion; provided, that such analysis is not to be construed or understood as a commitment to recommend tenure or promotion.
- 5) In reviewing a faculty recommendation for promotion or tenure, the advisory school-wide personnel committee, the dean and the VPAA do not have authority to make a de novo review of the faculty candidate's qualifications or to substitute their judgment for the judgment of the recommending faculty. In order to issue a nonconurrence with the decision of the recommending faculty, the dean and the VPAA must each provide a detailed statement of "compelling reasons" that are sufficient to overcome the presumption in favor of the specialized professional expertise of the recommending faculty. The dean and the VPAA cannot meet this heavy burden unless the "compelling reasons" identified in their respective statements: (A) are based on a finding of (i) significant financial or programmatic constraints, (ii) the failure of the recommending faculty to conform to published tenure or promotion procedures, (iii) arbitrary or capricious action by the recommending faculty, or (iv) insufficient evidence or inadequate reasons provided by the recommending faculty; and (B) plainly outweigh the evidence and reasons provided by the recommending faculty in support of granting tenure or promotion to the faculty candidate.

Faculty Senate Committee on Professional Ethics and Academic Freedom
March 31, 2004

Adopted April 9, 2004