DATE: July 23, 2015

TO: Regent Vice President John Behling, Chair, Tenure Policy Task Force

FROM: Regent President Regina Miller

RE: Tenure Policy Task Force Charge

As you know, since the time of merger in the 1970's, both the Wisconsin Statutes and the Wisconsin Administrative Code have provided for faculty tenure rights within the University of Wisconsin System.

Recent legislative changes to the Wisconsin Statutes removed the statutory provision governing faculty tenure and probationary appointments and modified the conditions under which tenured and tenure-track faculty members' appointments may be terminated due to certain budget or programmatic changes. Further, a new section codifies in Wisconsin Statutes faculty due process and reappointment rights in the event of layoff due to certain budget or programmatic changes. The new statutory language is provided in Attachment A.

At its June 2015 meeting, the Board of Regents reaffirmed its commitment to the importance of tenure within the University of Wisconsin System by unanimously adopting a tenure policy replicating the language contained in the now-repealed section on faculty tenure and probationary appointments. The resolution provided that the policy would be effective once the original statutory language was repealed. See, Attachment B. The repeal of the tenure statute was effective July 14, 2015, so the Regent tenure policy now is in effect and will remain in effect until a new policy is adopted. See, Attachment C.

In light of the above, I ask that the recently-appointed University of Wisconsin System Tenure Policy Task Force undertake the following:

1. Review the current Board policy (replicates former statutory language) and recommend revisions, if needed;

2. Review Regent Policy Document (RPD) 20-9, "Guidelines for Tenured Faculty Review and Development" (see, Attachment D) and existing UW System institutional "post-tenure" review processes and make recommendations to revise them, as necessary and appropriate, to:
   a. Craft an overarching tenured faculty review process for adaptation by individual institutions within the UW System;
   b. Create a common process for rewarding high-performing tenured faculty (though not a common reward); and
c. Create a common process for effectively addressing tenured faculty performance which does not meet expectations for teaching, research and public service.

3. Review the new statutory language regarding faculty layoff due to budget and/or program decisions and recommend Regent policy language relating to:

   a. The criteria to be used by a UW institution to determine budget or program decisions that require program changes resulting in faculty layoffs; and

   b. The procedures to be used by a UW institution to develop a recommendation to the Board of Regents regarding program changes resulting in faculty layoffs.

4. Provide recommendations regarding any additional Regent policy changes or additions that may be necessary in light of recent legislative changes relating to tenure.

   I encourage the Task Force to consider the tenure policies, processes, and procedures adopted by similar or comparable higher education institutions or systems (see, e.g., Attachment E), as well as the American Association of University Professors' (AAUP) "Recommended Institutional Regulations on Academic Freedom and Tenure." See, Attachment F.

   I also expect that faculty academic freedom will be clearly and expressly protected.

The Board's June 2013 tenure resolution requires the Task Force to complete its work on or before April 11, 2016. Thank you again for your willingness to lead this important effort.

Attachments

cc: Members of the Tenure Policy Task Force
    Members of the Board of Regents
    UW System President Ray Cross
    President's Cabinet
    Chancellors
    Provosts
    Faculty Representatives
    Academic Staff Representatives
    University Staff Representatives
    Student Representatives
Friday, August 14, 2015 11:49 AM

I wonder about politicians who have never taught a university level class and have a permanent seat in the house or senate because of gerrymandering being “worried” about incapable college professors with tenure having a guaranteed job. Isn’t that just a bit hypocritical? Yes, there are tenured folks not doing the job in the UW System and we cannot do a lot about them other than reduce their pay increase (via the merit voting process) and withhold advancement. Both of which are pretty painful for the individuals involved. Are there similar penalties invoked in the political arena where fewer individuals wield considerably more power? I look at bills authored or co-authored on the state web site and wonder about those representatives who have contributed little to the process.

That being said, those politicians have effectively attacked tenure and still retain control over the UW System. If they don’t like what you come up with, they will strike it from the UW System bylaws by legislative fiat. Tenure will be around in the system for many more years, but we will begin to see much less loyalty to our educational institutions with more faculty mobility influenced more by dollars than tenure. Much like the private business sector.

Do what you can to protect our ability to speak out without ‘censure’ by those above us, but don’t let it consume you.

Friday, August 14, 2015 12:52 PM

While I think it is important to review policies for our own purposes here -- we are scholars after all -- just what psychology are you thinking of that suggests that “we offer some sort of compromise [to the legislature] here” before there’s a word on paper? We have already compromised tenure as state statute; we have compromised in accepting a $250M cut without a peep from the System President; we have compromised on no-raise years and increased benefit payments. How has that worked out? How much evidence do you need, Ken, to understand that this legislature equates compromise with capitulation? There is no give and take here. They are intent on reducing the personnel in the University system regardless of the consequences and will be looking to your committee to facilitate that process. President Cross has already acknowledged on this issue and others during the budget talks; he won't be backing you up on this. We have supporters in the business community and on the Board of Regents that are scratching their heads about what the legislature is doing to the UW -- and its ties to business. There is a time in one's life when one has to fight against tyranny for what one believes in. Are you prepared to do that?

Friday, August 14, 2015 1:27 PM

First off, thank you Ken for taking on this vital task. As the chair of a dept that has to try to replace four retiring faculty this year, I need to be able to (honestly) tell job candidates that we are not losing ‘real tenure,’ or I’m not going to be able to re-staff our dept.

I like the idea of a series of ranks at the full prof level, ways to be rewarded for pressing on in research, teaching effectiveness, or 'other scholarly activities' (that ‘other scholarly activities needs to be in there to recognize our faculty colleagues in the arts). Kind of like - as you said - belts in the martial arts: full professor - green, full prof - blue, full prof purple.... up to black, perhaps? Of course, those gradations must be tied to pay raises.
I don't think I would have different 'evels' at the assoc prof level.

RE: 'probatory' status for a tenure faculty member - that part is troubling, unless 'probatory status' doesn't mean losing the job, but instead one forgoes pay-raises, or even perhaps, cost-of living adjustments. Perhaps also one would lose the possibility of applying for various opportunities that involve campus funds?

Such probationary status determination - I think, MUST be determined at the dept. level, no higher than that, otherwise, alas it would be perceived by some faculty as a tool used by others to punish for unfair reasons. In addition, dept standards would be best tuned to the kinds of work different faculty do.

Again, thank you for this work you are doing - it is among the most important tasks happening in the UW system this year - it might be THE most important task.

P.S. It occurs to me that if there are not rewards for faculty to contribute service to their dept., college or university, people's behavior might simply follow the rewards. So, I think 'administration' might need to be a category, like research/scholarship, & teaching, in which faculty can be assessed as they move up the possible new 'ranks' of full prof.

Friday, August 14, 2015 1:59 PM

I appreciate your willingness to take on this task for us. I do not have much opinion on the primary topic of what to do in the case of lay-offs or the discontinuation of programs, except to say that I know a few colleagues across the country where programs were discontinued (not theirs). In each case that involved the ending of a tenured position, animosity between the administration and the entire faculty ran quite high. Many times it was perceived as strictly political, even when it was not it caused distrust. I think it is important to emphasize in the new rules that this is anticipated to be a very rare event.

As for the secondary tasks, I do have some feelings and/or ideas. I do not think adding more ranks, per se, is really a good idea - a basic notion of academia is its egalitarian approach to both people and ideas, and having a great many ranking tiers disrupts that. Instead, consider an attachment, like "with Distinction" that can be added to the rank of Full Professor, along with a date. Thus, someone might have the "title" of Full Professor, with Distinction 2018, with Distinction 2025, with Distinction 2030. The distinctions could carry the same sort of salary boost along with rules on excellence similar to those for achieving Full Professor - but without actually changing the basic position title. It rewards those who continue to excel without placing them on a higher pedestal.

As for the other concept of how to revoke tenure for lack of performance, I think it is fraught with a great deal of peril. If it is tied to a department process like approvals are, it immediately runs two risks. First, a department can choose to always give favorable results because they object to the notion - defeating the effectiveness of the rules. Second, it can be used by dysfunctional departments as a popularity or political tool, destroying the real value of tenure as a protector of freedom of ideas and viewpoints.

And if it is done externally to the department, it could be perceived as essentially negating tenure as a concept - because the administration could fire you even with tenure.
I would suggest a slow process (barring cause for swift action of course). At any post tenure review, either department or provost-dean can note a sub-par performance in a clearly defined manner (if one recommends distinction and the other notes cause for alarm, they should cancel out). At the next review (perhaps two or three years later) BOTH (department plus dean and provost) must note the sub-par performance. This might possibly revoke tenure, but allow the faculty member to earn it back (put them on a tenure track clock like new hires).

Beyond process, however, there is another issue with the notion of fickle tenure. Most of my colleagues, here and at other schools, tend to specialize after tenure. A great many let their scholarship dwindle but instead invest that time into exemplary service, either to the university or to their respective professional field. Personally I have pulled back from service in order to focus on publication-related activities. We cannot use the same rubric of teaching-scholarship-service for demotion that we use for promotion, because true excellence in one area often comes at the expense of productivity in another area.

Additionally, a primary purpose of tenure is to allow freedom to promote unpopular or experimental ideas. Since earning tenure I have tried many different teaching styles, in a serious effort to improve both my ability as a teacher and to improve the best practices in the field. When this process identifies a good method it is great (I have had several successes), but there is a cost for this discovery - there is often a learning curve to new pedagogy, making these innovations not as effective the first few times. Additionally, there is the rare methodology which seemed outstanding and turned out rotten. Basically, my efforts to improve my teaching occasionally produce sub-par results. If I had to worry about losing my job because of that risk I would stop trying to excel as a teacher - I would rather be merely adequate than be unemployed, and I believe the university would suffer for that lack of innovation. Any rules for this demotion should allow some leeway for faculty to try new ideas and occasionally fail at them.

Sorry to be long winded... I imagine you will be inundated with many dozen similar missives - but I wanted to share my thoughts and feelings about tenure. It is a tricky thing, and it is occasionally abused, but its strength is the true freedom it grants to shape your job to make it better and more productive. Whatever modifications are made to tenure should not suppress that freedom and strength.

Friday, August 14, 2015 2:12 PM

I have nothing to add to what you've written below except

1) I'm so happy that you're serving us in this way, Ken!

2) I really like the way you think

Thank you! If any brilliant ideas occur to me, I'll pass them along.

Friday, August 14, 2015 4:25 PM

Thank you for serving on this important committee, and thank you for reaching out to colleagues for their input. That's an important part of the job of Faculty Senate President, I believe.
I think the AAUP standards are a great goal. I hope we stick to that. I think it's important that the UW System have a uniform tenure policy, not different ones for different campuses. As for 2 (c), please be very careful to make the process one of evaluation by peers, not administrators. I do understand your desire to throw them a bone, but I think our experience has been that they chew up the bone and forget to reciprocate. I'm not saying I have a better idea. I just think you should be careful not to throw too many bones.

Thinking outside the box is great, and initially I'm intrigued by your belts idea. That's where the communication (and it must be more than just putting things on a web site for us to go to) is so important. Please keep us all updated on the talks, especially the ideas that are outside the box.

What I'm very afraid of is top-down economically-driven decisions about eliminating programs. This is an academic institution, not a business. We are serving the greater good of the state, not selling a product for shareholders. The ability to wipe out programs unpopular in Madison is a big fear of mine. Please wait out for, and expect, attempts to give administrators this power.

Again, thanks much. Have a good time in Madison.

Friday, August 14, 2015 7:47 PM

Although I have been retired for a couple of years, I follow news of the university, especially as it pertains to the current political climate in Wisconsin.

I agree that the university must be willing to take a look at the tenure process and protect those with tenure who fulfill their contract requirements but have some flexibility, especially for those who (as I tend to say) attain tenure and then "coast" without doing much in the way of scholarship and/or service.

I like your idea of a more rigorous post-tenure review process that would consider relegating an "underperforming" tenured faculty member to a temporary probationary status. What I think would be most impressive to folks at risk of being on "probation" would be a temporary reduction in salary until improvement is documented. It seems that many folks, especially (in my opinion) many that attain full professor status, feel "entitled" to not have to do scholarship or service (except as they choose, which may or may not align with what the department, college, or university needs). While this may seem harsh, I do think it fair that ALL professors (assistant, associate, and full) need to adequately perform the roles for which they are paid: teaching, scholarship, and service. Putting a "dent" in salary would not be welcomed by those on probation, but I do believe the legislature would find it appealing. I personally do not believe that tenure should be considered a "job for life" and that contracts should be fulfilled regardless of rank.

Thank you for your good work on behalf of the university and for being especially conscientious about this issue.

Friday, August 14, 2015 8:14 PM

First, thank you for serving on this committee. I do think it's important that the review and tenure process remains in the hands of peers, not administrators. I hope we do think out of the box on this. I personally find the notion of 'belts' to be cheesy. I'm Six Sigma certified as a Green Belt. And all I can
do is roll my eyes at the designation. But what about something like: Assistant Professor, Grade 1, Assistant Professor Grade 2, and so on. Although it might still match with our normal retention schedule, it would be something that I think more people would understand (those outside of academe).

I do want to share that I enjoy being in a department whose students are in high demand, and where faculty are hard to recruit. We’re enjoying some good times when many are suffering. I struggle with treating the University as a business, however. Pick your favorite discipline to describe as ‘not worthy’ and I can articulate why a student should have that major. I can articulate why they will have a richer life, and how they might leverage the major in a positive way that may make it look like they didn’t “use” their major.

And please be careful about where and how you think about compromise. I think we’ve seen enough in the past number of years that indicates this isn’t about compromise: it’s about continuing to give up until there’s nothing left.

I think we have a number of good metrics that we can use to determine how healthy a major is: SCH, number of majors, minors, graduates. The economy ebbs and flows, as does the demographic for incoming students. I think it should be possible to articulate when a department needs to do better, how much time they’re given to account for those natural changes, and when it really, truly might be time to reconsider a program.

I hope this is helpful in some small way. And, again, thank you for this work. I don’t envy you for it.

Monday, August 17, 2015 10:11 AM

Thank you for agreeing to do this.

I would like to express my support for the idea that promotions to associate professor and full professor should not represent finish lines for one’s scholarship and service efforts. Although many faculty would likely support my idea, I have seen zero indication that administration is on board. The tradition of faculty achieving full professor then discontinuing scholarly activity is pretty ingrained in our Department, College and University. Reversing this would require 1) a lot of resources devoted to faculty scholarship, and 2) a lot of time to redirect the ship. I would hate to see people that have advanced through the ranks in the current climate, then abandoned their scholarly activities, be forced to renew their efforts “or else”.

I don’t really have a solution off the top of my head, but I just wanted to express my general support for this idea.

[PS] One variable that is out of our control is when there are no cost-of-living pay raises, it is difficult for colleagues to vote “no” on someone getting a pay raise. I think most of us would like to see these decisions based upon merit, but how do you deny your colleague a pay raise if their pay has been stagnant for 10 or 15 years?
It is vital to keep the tenure process secure as there are not many benefits awarded to faculty members at UWSP. Faculty members need to know that their jobs are secure and that evaluation criteria are specific to their discipline. For example, the criteria for a professor in art would be dramatically different than for a professor in education or the sciences. It is important to keep the evaluation of tenure housed within each department. Promotion is a process that reaps some very modest rewards for faculty members.

For high performing faculty, there could be a University of Wisconsin System award so that they are recognizing more faculty members than they do now. While some professors would like a monetary gift, I think that the recognition is more important.

In terms of low performing tenured professors, there is already a process in place. First, in the School of Education, each faculty member, regardless of whether tenure is present or not, meets individually with the Associate Dean on an annual basis to review each faculty member’s performance in teaching, scholarship, and service. At merit time, goals in each of these three areas are provided by each faculty member in January. The progress on these goals developed are reviewed at this annual meeting. Specific interventions are discussed if needed. Mentoring by faculty members may be suggested. For example, for one untenured professor a faculty member observed this faculty member’s class sessions and gave suggestions in how to improve and what to continue doing. I met regularly with this faculty member to review the syllabi, rubrics, etc. In essence, no one just slides by without intervention and input.

Good luck with the meeting.

Monday, August 17, 2015 5:24 PM

Thanks for engaging on this essential work. From what I read, you understand our collective anxiety about the worst-case scenarios that the new termination "flexibilities" stir up. I'll stay tuned.

I cheerfully encourage creative thinking, such as more tiers and/or the possibility of return to probationary status. From my limited experience, post-tenure review highly varies in rigor and impact, that's a vulnerability we can no longer ignore in the new political reality.

One key point... On many higher ed issues, we are comparable to UW-Madison and UW-Milwaukee. However, at least at UWSP, far and away our top priority has to be quality teaching (ideologically and pragmatically), and our promotion and tenure should reflect that. A system-level concept of tenure and policies on tenure need to support different institution's distinct identities.

Monday, August 17, 2015 8:36 PM

Thanks for taking this on.

I think you are right that resisting any changes to tenure is a bad tactical move, and (speaking only for myself) I would find acceptable such measures as giving post-tenure review more emphasis or making the process for dismissing a tenured faculty member for cause less cumbersome (provided that there is
still a fair and deliberative process). But it may also be worth trying to fight the (mis)perception that tenure protects bad teachers, etc. and keep reminding everyone that the ability to dismiss for cause already exists.

One thing I would like to see come out of this task force is a set of strong guidelines for when and how the new provision on terminating faculty for program changes should be used. One reason I find this change in the statutes alarming is that it came together with the changes in the governance rules reducing the role of faculty in decision-making. The worst-case scenario is a chancellor deciding to make significant changes to programs (and then terminating tenured faculty members), without the approval of faculty governance, based on short-sighted thinking or ideological commitments. I would like to see a policy that urges chancellors in the strongest possible terms to make such decisions collaboratively with the faculty and that outlines appropriate (and inappropriate) reasons for such changes. From a quick look at compilation of policies from other universities, I think there may be some useful models in there to draw on.

I don’t know what to say about that “reward high-performing faculty” item in the charge. I agree with you: paying us something more than 45% of average would be the best way. And if there were any money available, we already have a mechanism in place to distribute it. We do a merit review every year, and post-tenure review every five years (as you know, but it’s not clear that the Regents do). Without resources for pay increases (cost of living, even, much less merit-based) or reducing workload, I can’t imagine what the Regents expect you all to come up with in the way of “rewards.” I will tell you that no- and low-cost expressions of appreciation (certificates, pins, etc.) often get met with scorn (though some people try to take them in the spirit intended). And of course, making it easier to fire us is not a good way to “reward” us.

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Tuesday, August 18, 2015 12:47 PM

I’ve been talking to the SPARC Executive Board about tenure. They are working on a formal statement, but in the mean time they wanted me to pass along a couple documents. The one is a policy passed by the UWM Faculty Senate, I believe. We like it. The other is a good statement on tenure by the MLA.

Here are some key points we’d like to make:

**The tenure system was not broken and worked well in establishing a partnership between institutions and faculty. Tenure is earned through a rigorous review process. It allows faculty academic freedom that provides their students with current, relevant knowledge and skills and gives faculty the ability to maintain academic standards. Revisions should focus on strengthening the existing system.**

**There should be a clear statement about providing evidence of a “bona fide, financial exigency” for layoffs of tenured/probationary faculty.**

**There should be a clear role for faculty senate in the termination/program discontinuation process.**

**There should be rights of faculty to appeal and have a hearing over a termination.**

**There should be a clear statement about providing evidence of a “bona fide” reason for discontinuing a program, based on the short-term and long-term needs of an institution and its mission.**
Wednesday, August 19, 2015 7:17 AM

I appreciate your efforts, the huge time commitment, and your desire to “think out of the box.” However, I do not think we should offer any compromises. Past experience has shown that any compromise we offer is likely to result in even more being taken away.

I am strongly opposed to any system that would create mechanisms for being demoted for underperformance. (This will definitely even more brain drain than we have already experienced!!)

My concerns are: what criteria would be used? Who would who would decide we are underperforming? What role will teaching evaluations have in this versus peer evaluations? I also fear that creating a more complicated system would either create more uncompensated work for us as faculty, or would put more power in administrative hands.

I stand firmly by the AAUP policies. No concessions.

That’s my quick reaction and feedback. Thanks again for taking on this important role.

Ken Menningen’s original message (8/14/2015 11:03am) is on the next page.