June 12, 2016

TO: Washington State University Faculty Senate
   Dr. Kirk Schulz, President
   Dr. Dan Bernardo, Provost

FROM: Dr. Robert Rosenman, Co-chair, WSU Faculty Status Committee
      Greg Matthews, Co-chair, WSU Faculty Status Committee

**Report of the Faculty Status Committee: Academic Year 2016-17:**

Pursuant Section II.E.4.a.5 of the Washington State University Faculty Manual, we are reporting the activities of the WSU Faculty Status Committee (FSC) for the 2016-2017 academic year. The Faculty Status Committee (FSC) is an independent investigative faculty committee elected by the Washington State University (WSU) faculty at large. The committee reports and makes recommendations directly to the WSU President. Under provisions of the WSU Faculty Manual, a faculty member may appeal non-reappointment, denial of tenure, or deferral of promotion to the FSC. Historically, tenure denials have been the most common type of FSC case. FSC can also be asked to investigate a tenured faculty member’s termination of employment following elimination of a program due to financial exigency or discontinuance of a program or department. FSC also nominates members of the Faculty Hearing Panel and arranges for investigations and hearings prior to disciplinary action. Finally, other types of decisions that a faculty member believes may violate the Faculty Manual may be appealed to the FSC. FSC members serve for three-year terms that end on August 15th.

FSC’s investigations are thorough, confidential, and open-ended. Reports of the findings of an FSC investigation are provided only to the appellant and to the President. Under provisions of the Faculty Manual, the FSC can make its own rules of procedure but must meet certain timelines for handling a case. The specific provisions in the Faculty Manual have been approved by the Faculty Senate, the university administration, and the WSU Board of Regents; they should be regarded as authoritative. Further information on FSC’s composition, powers, and operations is available in the Faculty Manual, Section I.E.4.

**Membership:**
The members of the FSC, the year they rotate off the committee, and their affiliation:

Economic Sciences  Biological Sciences

Libraries  History

Education  Electrical Engineering & Computer Science

Fine Arts  Anthropology

Christina Chi (2018)  
Hospitality Business

Incoming members, terms 2018-20:

Mel Haberman, College of Nursing

Carolyn F. Ross, School of Food Science, CAHNRS

Sarah Ullrich-French, Department of ELSSECP, College of Education

Peter Boag and Greg Matthews will co-chair the FSC in 2017-2018.

Change in Procedure and Other Accomplishments:

At the urging of the FSC and in coordination with the Provost, the FSC significantly improved the process of appealing Tenure and Promotion denials by eliminating the need for appellants to request access to their files through Public Records requests. Starting in spring 2017 appellants needed only to contact the Provost’s office to obtain their records, giving them access a week or two more quickly. Individuals have only 30 days to file an appeal, so this change is important in allowing appellants time to put an appeal together. It was especially valuable this year as the Provost’s announcement of decisions went out a week later than usual, making it difficult for the FSC to complete its investigations of tenure and promotion denials before the end of the academic year. The FSC does not usually operate during the summer. In addition, the FSC now works with a secure SharePoint site maintained by the Provost’s office and uses secure videoconferencing for all its meetings involving people outside the Pullman campus, again
supported by the Provost’s office. These changes have increased both our efficiency and the security of our investigations and deliberations.

The FSC recommended a change in the Faculty Manual abolishing the President’s Faculty Hearing Panel. The Faculty Hearing Panel was used to populate Faculty Hearing Committees as called for when appropriate in the Faculty Manual. The panel was quite large and Hearing Committees very rarely were used (only one in the memory of the longest serving Vice-Provost) so populating the hearing panel was difficult and time consuming with little practical purpose. The Faculty Manual was amended so that the FSC will form Faculty Hearing Committees as needed.

Finally, to improve the operations of the FSC, the current membership is developing four short information documents, to be completed during the summer, 2017: information documents, to be completed during the summer, 2017:

1. A checklist for the subcommittee chairs to keep track of required tasks.
2. Procedures for electing new members.
3. A Guide to the FSC for faculty, new members appellants which includes;
   a. Descriptions and examples of each of the three reasons for appeals.
   b. A description of how the investigation is done.
   c. What the appellant should expect.

These documents will reside on the FSC secure SharePoint site, and the guide will be available for download from the FSC webpage. A copy of the Guide is attached to this report.

Appeals:

Request for review of annual review process as applied to a specific faculty member

In April 2016, the FSC received an appeal from a faculty member that the committee “conduct an independent review” of the faculty member’s annual review for the years 2012, 2013, and 2014. Dr. Rosenman recused himself from any deliberation on this case. The FSC voted to not consider the case.

Non-reappointment at third-year progress towards tenure review

In an unusual circumstance, the FSC investigated two cases of non-reappointment at third-year review of tenure-track faculty. Although all actions relevant to faculty employment may be appealed to the FSC (which then decides whether or not to investigate the case), third-year non-reappointments are not normally appealed to the FSC. To our knowledge this was the first time and resulted because the letter from interim Provost Mittelhammer indicated to those not being reappointed they could appeal to the FSC. In fairness and in deference to this unusual
circumstance, the FSC considered three appeals for non-reappointment. One case was settled by the university before our investigation was initiated. In the two cases the FSC investigated, we recommended to the President that the decision of non-reappointment stand. President Schulz concurred with the FSC recommendation on both appellants.

The FSC also received a non-reappointment appeal at the conclusion of the spring 2017 term. Review and possible investigation of this appeal will occur in August 2017.

Denial of tenure and/or promotion

The Faculty Manual states that tenure and promotion appeals must be evaluated on the basis of substantial procedural irregularity, inadequate consideration, and/or violation of academic freedom. The FSC investigated three cases of denial of tenure and promotion to Associate Professor and one case of denial of promotion to Professor. In all four cases the FSC recommended to the President that the Provost’s decision be upheld. President Schulz agreed and did not change any recommendations.

Appeal for a review about violation of academic freedom

On April 27, 2017, the FSC received an appeal, through an attorney, to investigate (alleged) “wrongful retaliatory actions” against a faculty member in violation of WSU’s academic freedom guarantees. Dr. Rosenman recused himself from consideration of the case. The FSC voted to not consider appeals submitted by legal counsel.

Recommendations:

Several continuing problems presented this year that carryover from previous years and need attention by the Provost and/or the Faculty Senate.

1. Once again we feel it necessary to remind faculty that voting on T&P decisions is a critical part of faculty rights and responsibilities. As such we would like to remind faculty to refrain from using “abstain” and we suggest that any such ballots be returned to the faculty member by the chair so they may vote. Additionally, it is not appropriate for faculty to change the ballot with any option other than support or deny or to vote both options. The vote on each ballot should be in concert with the provided written comments and not appear to contradict.

2. Extra effort needs to be made in programs where there are a number of frequent changes in directorship to alleviate the possibility of inconsistent messaging to faculty.

3. Letters of appointment for new faculty getting “credit” for years served elsewhere should state specifically the inclusive dates to be considered for the individual’s promotion and tenure consideration.
An issue raised in previous reports from the FSC still has not been addressed:

4. It is suggested that a discussion between the faculty and administration occur immediately to determine what a letter of appointment or titles means. Note that the faculty manual says the letter of appointment is a contract between the faculty member and the Board of Regents on page 38. The FSC had several cases last year in which there was a difference of opinion on whether a letter of offer or title was a contract. In these cases, the AG’s office and some levels of administration did not believe the letter (or title) was a contract which was contrary to the interpretation of the faculty member. This conversation needs to occur immediately, and the FSC believes the Faculty Senate is the best starting place.

Finally, in the past two years the FSC has seen two new problems, one pertinent to tenure and promotion, the second indicating a deeper problem that the university should seriously and quickly address.

5. Pertinent to Tenure and Promotion, the Provost’s directions that go out to chairs and candidates say,

Supporting Materials

Supporting material includes books, papers (copies of no more than 10), slides, tapes and other evidence (e.g. photographs, videotapes) of the candidate's teaching, research, scholarly, creative, and service activities. The material should be assembled in an archive box (behind the three-ring notebook), and labeled with the candidate's name, department, and college.

Files are considered complete at the time of the deadline for submission of materials. Faculty may not add material to the file after the deadlines except for the following:

a. A faculty member has listed a publication as “in press” and the article or book is published. If the faculty member wishes the material to be included, it may be substituted for the manuscript in the file. This is a “cosmetic” change and requires no further action.

b. A faculty member who is being considered for tenure has listed a publication or grant proposal as “submitted” and, after the file leaves the department, the faculty member receives word that it has been accepted. The faculty member can request reconsideration at the department level if the Provost has not yet rendered a final decision. The faculty member must provide documentation to the department chair who will request reconsideration by the eligible faculty. Both the original and subsequent recommendations will become part of the file sent to the college for reconsideration and then to the Provost. Reconsideration is appropriate to ensure that the best possible case is made for faculty who are at a critical juncture in their career.
c. Any materials that are submitted as part of your supporting documentation may become part of WSU’s permanent record and may not be returned to the candidates. Therefore, copies should be submitted rather than originals.

In the last two years point b has been an important element in appeals. The FSC finds the lack of a final date problematic. Under the wording, a change in the status of a publication or grant one day before the Provost has made a decision should allow reconsideration. However, that in itself presents problems for both the university and the candidate. The FSC strongly recommends that either the Provost in the directions set a final date for changes that may warrant reconsideration or the Faculty Manual be amended to identify such a date. In any case, what reconsideration means and the process to be followed (including who is responsible for initiating reconsideration and how), needs to be specific and clear. Otherwise, it creates a “gray” area that replaces what should be a rule with the FSC’s judgment as to the reasonableness of reconsideration at a late date and what reconsideration means.

6. Last year in one tenure and promotion case, this year in two of three third-year nonrenewal (one of which was settled and not investigated by the FSC), and in three of four tenure and promotion cases, appellants alleged that a hostile work environment seriously affected their productivity and the review process, undermining their successfully achieving tenure and promotion or reappointment. Unless the hostile work environment is tied to one of the grounds for appealing a decision, the FSC does not consider this in its deliberations and recommendations of specific cases. More importantly, the FSC lacks the expertise to assess the veracity of complaints along this line. Yet a hostile work environment is clearly detrimental to an individual’s productivity and success, as well as inconsistent with the values of the university and state and federal law. Since this now appears to be a recurring issue in tenure, promotion and reappointment cases, the university should actively and consciously address the issue of a hostile work environment, especially widely disseminating procedures for faculty to follow if they feel they are in such an environment. This is a crucial issue the Provost should immediately address.