Senate Reference No. 08-10

Question Time

Question 1.

On June 6, 2008 the Office of Academic Affairs issued the following:

> OAA is now disseminating these materials via hard copy and on the web (www.ipfw.edu/vcaa/promotion/default.shtml) in order to provide a single set of recommended and required standards to be used by all academic departments in managing the external review process for their promotion and tenure candidates presenting cases beginning Fall 2009.

The rationale implied here is that all the promotion/tenure (PT) guidelines must adhere to a common standard regarding confidentiality of external review letters. The OAA standard now being required is the use of only non-confidential letters. This policy has undesired consequences. Our mentoring committees endeavor to help PT candidates to supply weighty and perspicacious documents to support their cases. This OAA policy would in fact lead to less meaningful assessments from external reviewers who are experts but unwilling to submit their unvarnished views. This is at variance with the IPFW Strategic Plan's goals to document progress and provide for accountability.

The first question deals with why this confidentiality is now required since the Indiana Code in question (IC 5-14-3, http://www.in.gov/legislative/ic/code/title5/ar14/ch3.html) was written in 1983 and both Indiana University and Purdue University have policies (see http://www.indiana.edu/~uhrs/training/bloomington/lc/academic.html and http://www.purdue.edu/policies/pages/human_resources/c_2.html) in place which are not so extreme as to eliminate confidential reviews. **What other higher educational institutions in Indiana have been required due to legal arguments to remove confidential reviews from their PT process and does this policy, required by OAA, also need approval from faculty governance bodies as well as West Lafayette?**

Question 2.

This memo also states:

> We have come to this position because university attorneys advised us that confidentiality was not legally defensible under the Indiana Access to Public Records Act.

Our understanding is that IC 5-14-3 makes certain exceptions, such as in the case of employment decisions whereby some measure of confidentiality is permitted. *We believe a robust policy that permits some measure of confidentiality and yet permits a candidate to challenge negative letters would represent a healthy compromise.*

A number of IPFW faculty members in the natural and physical sciences agree that this is a detrimental policy that will only undermine our ability to attract and help reward the best and most creative faculty. We believe that such a policy would undermine the credibility of higher educational institutions.

Confidential reviews have been upheld in federal courts in Pfizer pharmaceutical vs. Science Magazine (http://www.sciencemag.org/cgi/content/summary/319/5870/1601a) and Pfizer pharmaceutical vs. The New England Journal of Medicine (http://content.nejm.org/cgi/content/full/358/21/2276). A similar standard seems reasonable and in the best public interest for all faculty evaluations. The principle in play is the right of all stakeholders, not just one institution, to have access to the information that is above reproach. There is the acknowledgement that confidentiality of reviews is not perfect but it is far less problematic than the alternative. Group polarization is a well-known phenomenon (see http://papers.ssrn.com/sol3/papers.cfm?abstract_id=199668) when only a subset of information is available to decision-making bodies.

Furthermore, the policy in force at IUB (*vide supra*) since the early 1980s validates the way some departments at IPFW handle expert confidentiality by making external review letters available but with identifying information removed. The problem appears to be the incongruity between departments at IPFW. **Would it be possible to implement a process to obtain a single set of standards so that we can best serve all candidates that undertake the PT process at IPFW?**

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