

4 May 2016

MEMORANDUM FOR: AFIT/EN (Academic Rank Promotion and Tenure Committee, Dr. David Weeks)

FROM: P&T Review Committee (Chair Dr. Marc Polanka)

SUBJECT: Appeal Request from Dr. Kenneth Schultz

This document reflects the findings of the review committee formed by request from Faculty Council President, Dr. Mark Reeder, in the case of an appeal requested by Dr. Kenneth Schultz of AFIT/ENS. This committee was comprised of five full professors from departments other than ENS; namely, Dr. Marc Polanka (ENY, chair), Dr. Michael Marciniak (ENP), Dr. Aihua Wood (ENC), Dr. Richard Martin (ENG), and Dr. Peter Collins (ENG). This committee was formed following the guidelines in the P&T Standing Rules, Section 4(g) 'Candidate's right to Due Process.' The pertinent text is below [from K:\Faculty Council\Committees\Academic Rank Promotion & Tenure Committee\Standing Rules (current)]:

The Faculty Council President will create a Review Committee consisting of five tenured (Full) Professors selected at random from outside the candidate's department and who currently are not serving on the School Committee. Within three (3) duty days of receiving the request, the Review Committee shall convene and elect a Chair. The Review Committee Chair shall notify the Chair of the Department Committee, the Department Head, and the School Committee Chair that a review is in progress and provide the Chair of the Department Committee, the Department Head, and the School Committee Chair with copies of the letter requesting review and supporting documentation. Within seven calendar days after receiving the request, the Chair of the Review Committee shall convene a meeting and the Review Committee shall deliberate as it chooses. The candidate shall be notified of the meeting and shall be invited to attend to answer whatever questions might arise concerning the review.

As a review committee, our objectives are defined according to the P&T standing rules (4g.) which state:

The Review Committee is limited to determining if there was a procedural error or inadequate consideration in the process of tenure or promotion. The Review Committee will evaluate the merits of the candidate's request...

As such, the focus of our investigation was to determine if 1) there was procedural error and/or 2) there was inadequate consideration in the process of tenure evaluation. Dr. Schultz, in his request for a review committee evaluation, claims both have occurred. His main complaints boil down to:

1. Procedural Error
 - a. One of the external reviewers was not qualified to review Dr. Shultz's package, and Dr. Schultz was not given the opportunity to review the list of potential reviewers in advance, of the selection of the reviewers

- b. Dr. Schultz was not given an opportunity to address the ENS Department P&T committee findings before it voted, nor sufficient time to prepare a rebuttal to the school P&T committee before it met
- 2. Inadequate Consideration
 - a. The question of academic integrity based on an incorrect interpretation of his vita caused an unjustified negative bias in the ENS Department committee's findings and subsequent vote
 - b. The negative bias was carried forward to the School P&T committee
 - c. Dr. Schultz's evidence of research and scholarly activity was not adequately considered

We, as a committee, were given access to the original P&T packet, the Requests for External Letters, the actual External Letters, the ENS department committee's findings on the Tenure packet, the ENS chair's letter regarding tenure, and the School committee's findings on the Tenure packet. We were also given a rebuttal package from Dr. Schultz formally requesting the appeal and supplying additional supporting documentation. Our committee was not tasked with evaluating the merits of the P&T package towards granting tenure. We were only evaluating the two claims addressed above. The chronology of events determined from the documents we were given as a committee is as follows (delta times are in working days from the last bold entry)

11 Nov 2015: Date on Dr. Schultz's application for tenure

22 Jan 2016 (58 days): Date on External Reviewer Request Letters

25 Jan 2016 (1 day): External review letter 1 received

11 Feb 2016 (14 days): External review letter 2 received

11 Feb 2016 (14 days): External review letter 3 received

9 Mar 2016 (33 days): External review letter 4 received

18 Mar 2016 (7 days): ENS P&T committee met to consider Dr. Schultz's application

22 Mar 2016 (3 days): Date on Dr. William Cunningham's (ENS P&T Committee chair) MFR stating the committee's findings/recommendation

22 Mar 2016 (3 days): Dr. Schultz received a copy of Dr. Cunningham's letter

27 Mar 2016 (5 days): Dr. Schultz requests to submit a letter of rebuttal to his package

28 Mar 2016 (5 days): Dr. Joseph Pignatiello (ENS Department Head) receives Dr. Cunningham's MFR

28 Mar 2016 (5 days): EN P&T Committee meets for the first time (Dr. Alan Johnson advocated for Dr. Schultz)

29 Mar 2016 (1 day): Date on Dr. Joseph Pignatiello's MFR providing evaluation/recommendation for Dr. Schultz's tenure

30 Mar 2016 (2 days): Dr. Schultz submits his letter of rebuttal with supporting material to the EN P&T Committee

5 Apr 2016 (6 days): EN P&T Committee meets for the second time to consider entire package including rebuttal

7 Apr 2016 (2 days): Date on Dr. David Weeks' (EN P&T Committee chair) MFR stating the committee's findings/recommendation

20 Apr 2016 (9 days): Date on Dr. Schultz's MFR requesting a Review Committee be formed

20 Apr 2016 (9 days): Review Committee formed

22 Apr 2016 (2 days): Review Committee met, discussed case and selected chair

27 Apr 2016 (5 days): Review Committee met a second time to discuss case and interview Dr. Schultz

P&T Review Committees Evaluation of Issues:

Procedural Item 1a: One of the external reviewers was not qualified to review Dr. Shultz's package, and Dr. Schultz was not given the opportunity to review the list of potential reviewers in advance, of the selection of the reviewers

While our committee is not actually qualified itself to address the qualifications of a reviewer, we have comments on this matter. In the reviewer's letter, he explicitly states "this is not my area of expertise" lending some validity to the claim. However, the reviewer's background is in Logistics Management which is certainly in the purview of ENS's department. This reviewer did take the time to review the package and gave a thorough assessment of credentials (positive and negative) of Dr. Schultz.

From a procedural standpoint however, we are able to provide authoritative comments. As outlined in the P&T Standing Rules (7.b):

"The candidate, Department Committee, and Department Head will each suggest three potential external reviewers. There are two types of qualified reviewers: *academic reviewers* and *non-academic reviewers* as defined in (1) and (2) below. The candidate, Department Committee, and Department Head may each include at most one non-academic reviewer on their respective suggested list of reviewers. The Department Committee will ensure that at least one non-academic reviewer is included in the list of nine potential reviewers. The candidate will have an opportunity to comment on the list of nine potential reviewers. The candidate will not be informed of the selected reviewers. The candidate will have access to the reviewers' solicitation letters, but anonymity of the reviewers will be maintained."

From our committee's evaluation, Dr. Schultz recommended four individuals to the department. Dr. Cunningham, Chair of the ENS P&T committee, has stated that the department and the department head generated a list of potential reference writers and posted this on the ENS P&T folder. This list was never formally presented to Dr. Schultz, nor was he told that the list was in the folder for his review. This

committee was further unable to determine if this list was actually posted as it was not found when this committee searched for it.

Finding: From a procedural standpoint, this committee agrees with Dr. Schultz in that he was not given an opportunity to comment on the list of nine potential reviewers.

Procedural Item 1b: Dr. Schultz was not given an opportunity to address the ENS Department P&T committee findings before it voted, or sufficient time to prepare a rebuttal to the school P&T committee before it met.

Here, we also find that there were procedural issues in the execution of this portion of the process. As stated in the EN P&T Standing Rules (4.e.1.c):

Department Committee forwards the candidate's package, as defined in Paragraph 6, to the School Committee by 28 February of the following calendar year.

This infers, although it is not explicitly stated, that the Department would have finished their review of the candidate by this time. The reference to Paragraph 6 makes it clearer that included in this package are the Department Committee's evaluation and the Department Head's letter of evaluation. According to the timeline outlined above, it is clear that the department had not deliberated on Dr. Schultz's package prior to Feb 28th. Specifically, they did not meet until March 18th. This delay may have been due to the lateness in the receipt of one of the review letters. This brings up a secondary procedural issue in regards to the timing of the review letters. As stated in the EN P&T Standing Rules (4.e.1.b):

No later than three weeks after the start of the Promotion and Tenure Cycle:

- (i) Candidate, Department Committee, and the Department Head each recommend external reviewers,
- (ii) Department Committee selects four external reviewers,
- (iii) Department Head prepares and sends the letter of commission to the reviewers (for samples of typical letters see Appendices D and E).

The start of the P&T cycle is to be the start of the fall quarter (nominally Oct 1). The letters of commission were not sent out by the department until Jan 22, roughly three months late. One other note is that Dr. Schultz' package was not provided until Nov 11, thereby effectively delaying the start of the cycle by 1 of the 3 months. Collectively, this shortened the time available between the Department's meeting and the School's meeting. The actual letter from the Department to Dr. Schultz was written and delivered on March 22, thus providing for insufficient time to prepare a rebuttal by Dr. Schultz. We also comment that the Department Head's letter was not provided to Dr. Schultz until after the School Committee initially met. We understand the extenuating circumstances of the delay in this letter; however, its timeline created additional problems in the appeal and rebuttal process. We do acknowledge that the School committee allowed Dr. Schultz to submit an appeal package before they met a second time, thus enabling the contents of the appeal to be considered before they voted.

Finding: This committee agrees with Dr. Schultz' assertion that a procedural error occurred and he was not given an opportunity to address the ENS Department P&T committee findings before it voted, nor sufficient time to prepare a rebuttal to the School P&T committee before it met.

Inadequate Consideration Item 2a: The question of academic integrity based on an incorrect interpretation of his vita caused an unjustified negative bias in the ENS Department's findings and subsequent vote.

While this committee certainly values upholding academic integrity, it is understood that items provided on a vita can be construed by different people in a different manner. In reading the Department's evaluation, it was obvious that there were integrity concerns by members of the ENS department regarding some of the entries by Dr. Schultz in his vita. What is troubling to this committee is that no apparent attempt was made at any point in the process to clarify these issues. While certainly not required, Dr. Schultz received no mentorship in the presentation and preparation of his package. (However, it also does not appear that he requested any). Further, when these questions of academic integrity were identified, he was not questioned or asked for clarification prior to the department committee's convening on Mar 18th or afterwards prior to holding a vote. Specifically regarding the 2006 and 2013 Editor issues, these could easily have been confirmed or denied.

The issue, however, is whether these concerns resulted in an unjustified negative bias. Dr. Schultz in his appeal specifically states that he was "accused of dishonesty in the Department Promotion and Tenure meeting" and that "The accusation of dishonesty biased the considerations of the department committee". In reviewing the letter submitted by Dr. Cunningham as the Department P&T Chair, there is no direct accusation of dishonesty. What is indicated is concerns about the accuracy of the package. These concerns were converted into statements as to what the P&T committee interpreted these issues to be. While some of these concerns could have been clarified by conversations with Dr. Schultz as indicated in the previous paragraph, the interpretations provided appear to be reasonable based on the knowledge of the facts available to the committee at the time. This letter does not appear to make any direct statement regarding the integrity of Dr. Schultz or the honesty of his package. However, the tone of the letter could be reasonably interpreted to imply it.

Therefore the issue is really was bias created in the departmental meeting and did this impact the vote. This committee was certainly not present at the actual departmental meeting, so we cannot confirm or deny whether 'dishonesty' or 'integrity' was a focal point of their deliberations. We can also not confirm or deny whether a voting member was biased. What we can state is that they discussed whether a trip to university should be counted as an invited lecture or a job interview and whether an editorial should be considered a journal citation or not. Clearly the department spent time arguing these items. As a result it can be postulated that some members of the committee may have become biased that Dr. Schultz was not being forthcoming in his presentation of his credentials. This committee has no real way to know for sure. However, it is also apparent from Dr. Cunningham's letter that they also discussed Dr. Schultz' contributions. Ultimately, the vote seemed to be based on Dr. Schultz' contribution at AFIT – particularly journal pubs. This is also mirrored in Dr. Pignatiello's Department Head's letter where his comments were focused on the actual contributions of Dr. Schultz.

Findings: This committee cannot confirm or deny whether the discussions concerning the integrity of Dr. Schultz packet based on an incorrect interpretation of his vita caused an unjustified negative bias in

the ENS Department's findings. We acknowledge that the potential for bias existed in this case.

However, the majority of this committee sees evidence that ultimately the vote of the Department Committee was based on a review of the candidate's package against the ENS P&T Guidelines and the majority of the committee believes this vote was not based on bias.

Inadequate Consideration Item 2b: The negative bias was carried forward to the School P&T committee.

Dr. Schultz is correct that bias at the department level can be carried forward throughout the process as "Confirmation Bias" as he discussed in his request for an appeal on April 20, 2016. However, in reading Dr. Week's letter, it does not appear that the School committee was overly concerned about the points brought up in Dr. Cunningham's letter regarding "inconsistencies in Dr. Schultz' vita". It comments that these inconsistencies exist as part of their summary of the department's letter and the department head's letter. But their evaluation is made in Point #4 where their concern is the lack of published peer-reviewed articles and their vote seems based on this. They specifically state that they reviewed Dr. Schultz' rebuttal package and acknowledge the information contained within. However, they find that the rebuttal does not address the lack of peer-reviewed articles. Therefore, they confirm their position of a denial of tenure.

Finding: This committee does not see clear evidence of negative bias in the actions of the School P&T committee. They appear to make their evaluation solely based on the Department and School P&T Guidelines.

Inadequate Consideration Item 2c: Dr. Schultz' evidence of research and scholarly activity was not adequately considered.

This committee recognizes that a portion of the Department P&T committee's letter focused on whether Dr. Schultz was or was not an editor of the 2006 special issue of the Journal of Operations Management and whether the editorial in the 2013 issue was actually peer-reviewed or not. However, this discussion actually does reflect that the committee was attempting to discern whether these items were scholarly. Furthermore, while Dr. Schultz lists the 2013 editorial as a "research paper," the ENS P&T committee did not consider it to be a journal article on the grounds that it was not peer-reviewed, regardless of its high citation count. Similarly, the discussion noted in Item f. of Dr. Cunningham's letter reflects that the committee attempted to discern the status of several of Dr. Schultz' works in progress to determine if these could also be considered as scholarly activities.

Similarly, the School committee had access to the rebuttal information provided by Dr. Schultz and met a second time after reviewing this information. Clearly, they made the effort to review all the information provided by Dr. Schultz before calling for a vote. Their letter reflects their actions where they acknowledge the inconsistency comments made by Dr. Cunningham and they also acknowledge the additional clarifications made by Dr. Schultz. Their evaluation is clear that they did consider all the research and scholarly activity provided them and found them to not meet the EN P&T Standing Rules criteria.

Finding: This committee does not agree with Dr. Schultz' assertion that his evidence of research and scholarly activity was not adequately considered. It does appear that both the Department and the School committees considered the research and scholarly activity of Dr. Schultz while at AFIT.

Conclusion:

This Review committee does find that there were procedural issues in the handling of the tenure packet of Dr. Schultz; however, this committee does believe that adequate consideration was provided to Dr. Schultz' packet based on the Department and School P&T Guidelines.

The first procedural issue stems from not communicating the list of the nine potential reviewers with Dr. Schultz prior to sending out the evaluation letters. Thereby, he was not allowed an opportunity to argue against one of the potential selections. The second procedural issue stems from the overall timing of the Department committee meeting with respect to the School committee meeting. The department should have met sooner (by Feb 28th) to enable time to formulate a rebuttal; and the root cause of this was the three-month lateness of sending out the external review requests. The School committee did allow Dr. Schultz to prepare a rebuttal and held off their final deliberations until that was prepared. However, this still presented Dr. Schultz with a very short timeline. The third procedural issue stems from a lack of communication between the department and Dr. Schultz regarding the "misleading entries" on his vita. These could easily have been clarified either before the Department committee met or addressed prior to a final vote by asking for clarification from Dr. Schultz. Obtaining these clarifications could have removed impact that this negative interpretation caused in the department meeting. Doing so also could have cleared the "integrity" matter and prevented any potential bias in both the Departmental and School committee evaluations.

Regarding the issue of adequate consideration, the discussion at the Department committee meeting regarding the "misleading entries" was certainly a topic of the committee. This may or may not have caused negative bias amongst the members of the committee. This committee is not able to assess the sentiment of the individuals within Department committee. Ultimately, it does appear that both committees gave Dr. Schultz' package its due consideration – they acknowledged the inconsistencies – then made an evaluation against what they knew. The school committee does not appear to have been influenced by the negative bias. They absorbed the rebuttal of Dr. Schultz, considered this additional information, and then evaluated against the criteria. There was clear evidence that their conclusions were based on these criteria. The majority of this Review committee does not believe that undue bias tarnished the findings of the Department or School committees.

Parenthetical Comment:

Recognizing the limitations placed on this committee by our charter, we felt it important to make the following observation and statement. In this committee's interview with Dr. Schultz on 27 April and his memorandum to Dr. Reeder requesting the formation of this committee on 20 April, Dr. Shultz indicates that his interpretation of "inadequate consideration of his evidence of research and scholarly activity" extends to evidence presented in place of peer-reviewed publications, even though the ENS P&T guidelines specifically call out continued and sustained peer-reviewed publication as a criterion for tenure. It is not within the purview of this committee to comment on a particular department's interpretation of their P&T criteria.



Dr. Marc Polanka
Chair, P&T Review Committee