The Future of
Engineering Education
2024 Annual Conference & Exposition

Oregon Convention Center
Portland, OR . June 23 - 26, 2024

ASEE

Paper ID #41122

Impacts of the Implementation of a Strict Post-Tenure Review Policy on University Faculty

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Abstract

Recently there have been renewed attempts across the United States to introduce new or revised comprehensive post-tenure review policies for college faculty. These efforts revive memories of the efforts undertaken in Wisconsin in 2015-16 to enact strict post-tenure review policies. The Wisconsin policies require faculty to undergo a comprehensive review at least once every five years after receiving tenure. The reviews began in 2017, and as a result one full set of reviews should be complete, with some faculty already undergoing a second comprehensive post-tenure review.

In this paper, the impacts of comprehensive post-tenure review at one institution in the University of Wisconsin System are reviewed and analyzed. While it is difficult to determine how the post-tenure review policy impacted the behavior or decisions of individual faculty members, a general idea of how the campus faculty as a whole have been affected can be formed. Briefly, the impacts to the campus faculty from comprehensive post-tenure review have been small. This is similar to what has been seen in other places which have also implemented comprehensive post-tenure reviews.

In addition to the analysis of the impacts of post-tenure review at one institution, observations on how the process has been implemented are made in the paper. The process that was created relies heavily on faculty participation and decision-making, and as a result there has been little influence on the process from administrators or external actors. This has also led to a need for faculty to monitor how they approach the process and their need to maintain the integrity of the review process.

Introduction

For decades, the practice of granting faculty tenure has been a contentious issue. Since 1940, when the American Association of University Professors (AAUP) and the Association of American Colleges and Universities (AAC&U) proposed the modern structure of tenure and academic freedom [1], there have been both proponents and critics of tenure. Proponents argue that tenure helps ensure that faculty can pursue their work without fear of retribution, including job termination, due to controversial ideas or findings. Additionally, they argue that tenure is not easily earned and granted, and the process of earning tenure helps ensure that those who receive tenure have demonstrated a strong ability to perform their jobs as college and university faculty. Tenure also provides a university with stability, so that the institution can focus on providing quality programs and research rather than chasing the latest fad.

Critics argue that tenure can lead to faculty retaining a job for life, even if they have stopped performing at an acceptable level. Furthermore, tenured faculty positions can prevent a university from adapting to changing environments, possibly making it unable to provide research and education in emerging fields. Potentially, this can also involve universities having too many faculty in educational areas that are not currently in favor among students, and too few

positions in educational areas that are in demand. Additionally, tenure has been caught up in the current political climate with some concerned that faculty can teach anything they want to students under the protection of academic freedom.

Over the years, the intensity of anti-tenure rhetoric has periodically increased and decreased, and currently appears to be at a high level. Public universities tend to be more susceptible to criticisms of tenure, as the public funding provides government representatives with an opportunity to more directly mandate changes to tenure practices than is possible at private universities. While there have been recent attempts to eliminate the granting of tenure in public universities (for example, the 2023 Texas Senate bill 18 [2]), there have been more efforts to modify tenure through the adoption of post-tenure review policies. Generally, these efforts involve requiring faculty to undergo a periodic comprehensive post-tenure review. The format and outcomes of these reviews vary by university, but an approach used more commonly in recent years has been to open up the possibility of faculty removal for poor post-tenure reviews.

The University of Wisconsin System (now rebranded the "Universities of Wisconsin") went through a dramatic revision to its tenure policies in 2015-16 [3]. Among other provisions, mandated comprehensive post-tenure reviews were instituted, with the review to be performed at least every 5 years. At the time, these revisions caused considerable distress among faculty in the University of Wisconsin System. As sufficient time has passed since the policy changes were enacted, it is now possible to look back on the first five years of the policy and assess its impact on faculty and the institution. This paper contains the analysis of the impact of these revised post-tenure review policy at one large institution in the system (the University of Wisconsin-Milwaukee (UWM)).

Post-Tenure Review Background

Most, if not all, institutions contain some form of post-tenure review of tenured faculty. This can be as simple as an annual review by a department head or fellow faculty to determine a pay raise, or a review process for promotion. These types of reviews can be viewed as routine, if not necessary, for the university to continue to function smoothly and equitably. The focus of this paper is on the impacts of more elaborate comprehensive post-tenure review processes, in place at some public universities.

The nature of these policies varies by university and university system, and some of these policies are highlighted here. For example, the University of Maryland has a policy that appears to be trying to minimize the work involved by both the faculty member under review and the review committee.[4] The University of Maryland process allows for annual reviews to be used as the basis for the comprehensive review, with the comprehensive review occurring every five years. The stated goals of the policy are focused on professional development and identifying places where the university could provide more support to the faculty. If a faculty member is found to be performing very well, units are encouraged to positively recognize that performance. If a faculty member is found to be not performing satisfactorily, an action plan is to be developed. Absent from the policy is discussion of employment termination. While such an outcome might be able to be implied if an action plan is not successfully completed, it is noteworthy in comparison to other policies that employment termination is not stated explicitly.

The collective bargaining agreement between the California Faculty Association and the California State University system [5] outlines a comprehensive post-tenure review process that will occur every five years. It is designed to be formative in nature, with a purpose of improving the performance of tenured faculty while not opening up specific avenues for dismissal for unsatisfactory performance. The individual policies at institutions in the system laying out the process to be followed at these institutions confirm this purpose. (e.g. [6,7])

The University System of Georgia's policy [8] has a number of similar elements to the University of Maryland's policy. Some noteworthy differences in the policies are that Georgia's policy clearly includes accountability of faculty as a reason for the post-tenure review process, and Georgia's policy has less focus on the outcomes of a positive comprehensive post-tenure review. Additionally, the policy explicitly states that unsatisfactory completion of a performance improvement plan following a negative post-tenure review can lead to specified disciplinary actions (to be identified based on the severity of the underperformance), which include revocation of tenure and separation from employment. However, it should be noted that other, less severe, disciplinary options are also included in the policy.

The Mississippi Institutions of Higher Learning instituted stricter post-tenure review policies in 2021. [9] The review process focuses on the routine annual reviews, and a more comprehensive post-tenure review is triggered if a faculty member has poor annual reviews. If the faculty member's performance is deemed unsatisfactory an improvement plan is developed, and then later discipline can be imposed if satisfactory improvement is not noted. The policy lists several possible disciplines, with termination of employment being included if a particular case warrants such a result. In the first year of the new policy, it was found that less than 1% of tenured faculty across all of the covered institutions were placed on a comprehensive post-tenure review, and none were put on a development plan or had their employment terminated. [10]

Last year, Texas changed its education code [11] to include comprehensive post-tenure review at state institutions of higher learning. The process has many similarities to that in other states, with again the possibility of faculty employment termination if satisfactory performance is not reached after an improvement plan is imposed. As this policy is still new, and the number of universities and faculty covered is very large, it will be important to monitor the impacts of this policy moving forward.

Similarly, last year Florida also developed post-tenure review policies. [12] While similar in many respects to other states, the policies reduce the number of people involved in a post-tenure review, and a final decision on all cases rests with the chief academic officer of the institution. While there may be some methods of redress if a faculty member believes that the chief academic officer has made a poor determination, it appears that these policies put more power into the hands of one person than has been done by many other schools. Additionally, if the chief academic officer has found that someone's performance has been "unsatisfactory", the individual can be immediately terminated without an opportunity for improvement through a specified plan. Again, while it is too early to judge how this will play out in practice, there clearly is the potential for an individual doing quality work to be fired easily if the work is not viewed favorably by politicians or high-level administrators.

In comparison to some of these policies, the policy enacted by the Universities of Wisconsin falls in the middle in terms of severity. The changes to the previous PTR policy have been described elsewhere [3]. Essentially, the system-wide policy places considerable potential power in the hands of the higher-level administrators, but the subsequent policies approved for each institution by the Board of Regents allows for considerable input by faculty in the process; this is intended to make it less likely that an administrator will try to terminate the employment of a faculty member who has received positive post-tenure reviews by multiple faculty bodies. The policy also relies less on annual performance reviews, and instead requires a full comprehensive post-tenure review be conducted at least every five years. If a faculty member "does not meet expectations", then a remediation plan is developed, giving the faculty member additional time to achieve satisfactory performance.

University of Wisconsin-Milwaukee PTR Policy Details

As mentioned, the Board of Regents for the University of Wisconsin System needed to approve the PTR policy for each institution. While the policies are not identical, they were written by each campus in a process that included consultation between campus faculty representatives. The details of the post-tenure review policy at UWM [13] can be summarized as follows. The PTR policy was designed to give faculty colleagues a large role in the determination of whether a tenured faculty member is performing satisfactorily but does allow for administrative leadership to intervene in the process if it is determined that the process is not applying meaningful standards of accomplishment or following a rigorous procedure.

As outlined in the policy, a tenured faculty member writes a five-year plan which needs to be accepted by the unit's executive committee. (The executive committee consists of the tenured faculty in the unit, excluding those tenured faculty holding certain administrative roles.) This allows a faculty member and the executive committee to agree upon a plan of work that best suits the skills and interests of the faculty member, while allowing the unit to satisfy its staffing needs. Most of these five-year plans will closely reflect the standard workload policy of the unit, but some may adjust the distribution of the work of a faculty member between teaching, research, and service as deemed appropriate. Ideally, a comprehensive PTR conducted by a unit will be based upon how well the faculty member met the five-year plan as previously approved. These plans can be changed if the faculty member's interests change during the period of the plan. Also note, that the first round of comprehensive post-tenure reviews performed under the policy were not based on the five-year plan, as the five-year plans were created when the policy was implemented. (The five-year plans were first written in 2017, and the first comprehensive PTRs under this policy were performed in the 2017-18 academic year.) Therefore, the initial rounds of comprehensive PTR reviews were done considering standard expectations in each unit, rather than any specialized expectations that may be in place for some faculty in their next round of post-tenure review.

The comprehensive post-tenure review is to take place at least every five years. A unit could decide to use a shorter timeframe if they choose to do so. For a comprehensive post-tenure review, the policy states that the faculty member under review will provide the executive committee with a portfolio describing their work since the last review. The executive committee

will then form a review committee (which may be either the entire executive committee minus the faculty member under review, or a subset of the executive committee), who will perform a thorough evaluation of the submitted materials. They may also meet with the faculty member to get clarification on the materials. The review committee makes its recommendations, and time is provided to the faculty member to respond to the recommendations. The executive committee as a whole (excluding the member being evaluated) votes on whether or not the faculty member "meets expectations" or "does not meet expectations".

If the executive committee votes that the faculty member "meets expectations", this result along with supporting documentation is sent to the dean of the college in which the unit resides. The dean performs a "sufficiency review", where both the process used in the review and the recommendation are reviewed for sufficiency. If the dean finds that both the review process and the recommendation are in order, the faculty member is considered to have "met expectations" and has successfully passed the post-tenure review. If the dean finds problems with the review process used, or questions the determination of "meets expectations", the dean will ask the appropriate divisional committee for a review of the case. (The faculty at UWM are currently divided into five divisions, each led by a divisional committee, based on the field of scholarly activity of the faculty. The divisional committees' primary function is to provide campus-wide recommendations on tenure and promotion cases.)

If the executive committee votes that the faculty member "does not meet expectations", the faculty member is given an opportunity to respond, and both the recommendation and the response are sent to the dean. The dean then will ask the divisional committee to review the case, bypassing the sufficiency review that would otherwise be conducted by the dean.

Therefore, the only cases sent to the divisional committee are those where either the executive committee or the dean has concerns over the faculty member meeting expectations, or where the dean has concerns over the post-tenure review process used by the executive committee.

The divisional committee review of the case consists of the following elements. If the dean has questioned the process used, the divisional committee will determine if (a) the process followed that written by the executive committee in their policies and procedures, and (b) if the executive committee's process is in accord with the university's PTR policy. If they find fault with the process, they will relay that information to the dean, who will typically ask the executive committee to redo the review following improved procedures. If the dean or executive committee have questioned whether the faculty member has met expectations, the divisional committee will compare the performance to the criteria established by the unit, as well as reviewing whether the criteria established by the unit is consistent with that employed by other units in the division. The divisional committee then provides the outcome of their review to the dean.

If the dean finds that the faculty member "meets expectations", the review ends. If the dean finds that the faculty member "does not meet expectations", the faculty member is informed, provided time to respond to the dean, and then the entire set of materials and recommendations is forwarded to the provost and the chancellor (or designee) for their review. If the chancellor finds that the faculty member "meets expectations", the review ends. If the chancellor finds that the

faculty member "does not meet expectations", the faculty member, chair of the executive committee, and the dean create a remediation plan. The faculty member then has three academic semesters to satisfy the remediation plan (or potentially four semesters if the shortcoming involves research performance). Near the end of the remediation period, the faculty member is to submit documentation on how they satisfied the plan. The executive committee reviews these materials, makes a recommendation as to whether or not the remediation plan was satisfied, and then forwards the materials and recommendations to the dean, who conducts a separate review of the materials. If the dean determines that the remediation plan has been satisfied, the post-tenure review process is complete, and the faculty member begins a new five-year cycle.

If the dean finds that the remediation plan has not been satisfied, the decision is relayed to the provost, the chancellor, and the faculty member. The faculty member can respond to the negative decision, and then the chancellor (or designee) makes a decision. If the chancellor (or designee) agrees that the remediation plan was not satisfied, disciplinary action can commence, with discipline potentially including dismissal from the university.

As written, the faculty member is given many opportunities to convince parties that they are meeting expectations, and the primary decision makers are the faculty. While a dean can overrule the faculty, doing so would involve making a recommendation against the unit's executive committee and potentially the appropriate divisional committee. Furthermore, before any discipline can be imposed, the chancellor needs to agree with the dean's recommendation, and the discipline process will also involve additional faculty committees. The policy was written so that faculty retain a large say in the outcome of the post-tenure reviews, while providing administrators the opportunity to overrule faculty if the faculty are not conducting the reviews in an objective, serious, manner.

One other item to note is that if a tenured associate professor goes up for promotion to full professor during the five-year period between reviews, the timeline of the review process may be changed. A successful promotion will reset the clock so that the next post-tenure review would be five years after promotion to full professor. If the person is not promoted to full professor, the executive committee can use their review process as a post-tenure review finding that the person meets expectations – again, resetting the timeline so that the next review will be five years later. This later case could occur if an executive committee finds that an associate professor is performing solidly as an associate professor, but is missing a necessary element to meet the criteria for promotion to full professor.

Impacts of the UW-Milwaukee PTR Policy

Following approval of the PTR policy, comprehensive post-tenure reviews began to be conducted at UWM during the 2017-18 academic year. Due to the number of cases to be reviewed (that is, every tenured faculty member who had been tenured at least five years earlier and who had not been promoted to full professor in the last five years), executive committees were informed that they could space out the cases over three years. It is estimated that there are over 500 tenured faculty members at UWM who are subject to the periodic post-tenure review process; this number was higher in 2017-18 as the number of faculty members has declined primarily though departures and retirements. There have been six academic years of post-tenure

reviews under the policy, so all faculty remaining at UWM who had received tenure prior to 2017-18 should have now undergone a post-tenure review, whether as part of the comprehensive review process or as part of a full professor promotion consideration. Exceptions to this would be limited to deferrals due to the faculty holding administrative positions. With these factors in mind, it is reasonable to estimate that more than 400 faculty members have undergone comprehensive post-tenure reviews under the policy established in 2016.

Recall that the policy states that if the executive committee finds that the faculty member "does not meet expectations", or if the dean is concerned about the sufficiency of that determination, the dean is to ask for advice on the case from the appropriate divisional committee. Therefore, any faculty member for whom there is a question of satisfactory performance will have their case sent to the divisional committee for evaluation. Records of how many cases considered by the divisional committees are kept and are available in their annual reports to the UWM Faculty Senate. [14]

Review of the annual reports indicate that the divisional committees have received a total of 4 cases to consider over the six academic years for which the policy has been implemented (2017/18 – 2022/23). One case was reviewed by the Division of the Natural Sciences in 2017/18, two cases were reviewed by the Division of the Professions in 2018/19, and one case was reviewed by the Division of the Arts and Humanities in 2018/19. Note, no cases were sent to the divisional committees in the following four years through 2022/23. While the details of the individual cases are not publicly available, it can be determined that none of the four individuals have been dismissed from the university for poor performance. This suggests that either remediation plans were successfully implemented, or that the individuals chose to leave the university on their own accord, or that the timeline of the process was not being followed.

One element that cannot be determined is how many faculty members chose to either retire or change to a job at a different university rather than go through the PTR process. It is quite possible that some faculty chose one of these paths, but what is then unknown is whether they would have been found to "meet expectations" or not. If a tenured faculty member chose to change universities, it is likely that the receiving school found that they were performing to a satisfactory level before hiring them. That does not eliminate retirement as an option for some faculty; however, retirement records do not indicate a large spike occurring in retirements of faculty from UWM in the first few years of this PTR policy. Thus, while some faculty may have used avoiding comprehensive post-tenure review as an element for deciding to retire, it does not appear to have prompted a large number of faculty to retire.

Another factor that is difficult to determine is how effective the post-tenure reviews have been towards professional development. As mentioned earlier, one goal of the policy mandate was to provide useful feedback to faculty who were performing satisfactorily, but who could use improvement in certain areas of their work. Such a person might still be judged as "meeting expectations," but might also receive some feedback that helps them improve their overall performance.

Returning to the statistics on post-tenure reviews at UWM, it can be seen that the comprehensive post-tenure review policy has resulted in a very small percentage of tenured faculty members

(approximately 1%) being identified as not meeting expectations. A "not meeting expectations" designation puts a faculty member in a position where their performance must be improved, or they risk being dismissed as a faculty member at UWM. Thus, it appears that the actual impact on faculty employment is very small, with few faculty at UWM running the risk of losing their employment due to a poor PTR. This is similar to what was seen in the universities in Mississippi in their first year of comprehensive post-tenure reviews. [10]

Implementation of the comprehensive post-tenure review process at UWM revealed other potential problems that can arise for the university, in addition to raising faculty stress over their job status. One issue is that faculty-performed post-tenure reviews can exacerbate existing tensions between faculty. The post-tenure review process, when performed by fellow faculty members, offers an additional opportunity for faculty members to heighten disagreements between faculty. This can weaken the collegiality of a department, to the potential detriment of the overall performance of the department.

Another issue to consider is the amount of time devoted to conducting comprehensive post-tenure reviews. The faculty to be reviewed must spend time preparing documentation of their performance, and those conducting the review must spend time reviewing the materials and writing a report. If a system such as that employed by UWM is used, this will eventually involve all the other tenured faculty in the department as well as the dean of the college. (Additional faculty and the upper levels of administration would only be deployed if the initial reviews raise serious concerns over the performance of the faculty member.) Yet, based on the assessment of the reviews at UWM, the post-tenure reviews have been overwhelmingly positive. This suggests that a large amount of employee time is being spent conducting formal comprehensive post-tenure reviews that could be handled through quick informal suggestions on ways to improve performance. Universities, and those who create policies to be followed by the universities, should give thought as to whether or not this is the best way to deploy faculty resources and spend faculty time.

Summary

The imposition of comprehensive post-tenure review requirements on university faculty at public universities has become a common way of (depending on your viewpoint) fostering faculty accountability or hindering the academic freedom provided by tenure. Not surprisingly, development of these policies is often met with faculty opposition and angst. The questions to be answered are whether the faculty opposition is warranted and whether the policies are useful.

Looking at the data, particularly from UWM and the universities in Mississippi, it appears that the comprehensive post-tenure reviews are effectively mostly inconsequential to both the faculty and the institutions. Few faculty have been subject to remediation plans for unsatisfactory performance, few have been disciplined for poor post-tenure review evaluations, and even fewer have lost their jobs. It is acknowledged that an unknown element of this is how many faculty resigned rather than face a post-tenure review, and how many received constructive professional development advice from their colleagues as part of the process. In the case of the former, one could argue that if faculty who anticipated receiving a negative post-tenure review instead did resign/retire, this may be a benefit to the institution and the remaining faculty – without spending

faculty time on the process. In the case of the latter, it seems doubtful that many tenured faculty would have received professional development advice from their colleagues of which they were not already aware.

From this, we can conclude that faculty should not be extremely concerned about comprehensive post-tenure reviews of their work, at least under policies that have already been implemented. If a policy such as that implemented in Florida becomes more common, and if it is used as a weapon against faculty, then faculty should be more concerned about such an erosion of tenure protections.

But we can also see that these policies have created substantial amounts of work for faculty and administrators for little apparent purpose. Policies and procedures already existed at most institutions for removing a faculty member who is clearly not performing their job. Beyond that, how well a faculty member performs is somewhat subjective. As these policies have played out, they have resulted in faculty spending considerable amounts of time affirming that a colleague is performing their job satisfactorily; this is time that could be spent on more productive research and educational pursuits that would provide more benefits to the students and society.

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