

Towards A Model Four Year Tenure Process

Endorsed by the Academic Senate for California Colleges
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PHILOSOPHICAL PRINCIPLES

Tenure constitutes a basic tenet of professionalism in higher education. It protects academic freedom and allows for employment free from personal politics. Constituencies most affected by it must have some significant input into the tenure process. The standards and criteria for evaluation as well as the grounds for recommendations of continuation, tenure, and termination must be:

- a. clearly defined.
- b. clearly related to the specific discipline and position or to that which is expected of all faculty.
- c. known in advance by all involved.

Pertinent professional judgement must prevail. Peer review from discipline specific and general faculty perspectives must be the cornerstone of recommendations forwarded to the local board of trustees.

In the spirit of moving existing governance beyond that of limited participation to that in which students have an opportunity for greater and more meaningful participation in the formulation of policy, and in the process for jointly developing recommendations for action that have or will have effect upon them, local districts may determine it appropriate that students participate in the tenure process.

Hiring does not guarantee tenure. Probationary (contract) faculty must undergo a rigorous process which demands proof of performance. The outcome is not a foregone conclusion.

(NOTE: Although these represent philosophical principles intended to guide discussions among senate members developing local policy recommendations, the actual establishment of the tenure review procedure is subject to collective bargaining at the colleges where unions exist. Because tenure involves both personal rights and professional concerns, we recommend close cooperation between senates and collective bargaining agents.)

PROVISIONS

The following represent pertinent statutory provisions for the California State Education Code governing tenure.

SEC. 38 (Ed Code Section 87605) reads:

The governing board of a district shall employ faculty for the first academic year of his or her employment by contract. Any person who, at the time an employment contract is offered to him or her by the district, is neither a tenured employee of the district nor a probationary employee then serving under a second or third contract entered into pursuant to Section 87608 shall be deemed to be employed for "the first academic year of his or her employment." A faculty member shall be deemed to have completed his or her first year contract if he or she provides service for 75 precept of the first academic year.

SEC. 40 (Ed. Code Section 87608) reads:

If a contract employee is working under his or her first contract, the governing board shall, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

- (a) Not enter into a contract for the following academic year.
- (b) Enter into a contract for the following academic year.
- (c) Employ the contract employee as a regular employee for all subsequent academic years.

SEC. 41 (Ed. Code Section 876085) reads:

If a contract employee is working under his or her second contract, the governing board shall, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

- (a) Not enter into a contract for the following academic year.
- (b) Enter into a contract for the following two academic years.
- (e) Employ the contract employee as a regular employee for all subsequent academic years.

SEC. 43 (Ed. Code Section 87609) reads:

If a contract employee is employed under his or her third consecutive Contract entered into pursuant to Section 87608.5, the governing board shall elect one of the following alternatives:

- (a) Employ the Contract employee as a regular employee for all subsequent academic years.
- (b) Not employ the probationary employee as a tenured employee.

SEC. 45 (Ed. Code Section 87610) reads:

(a) The governing board shall give written notice of its decision under Section 87608 or 87608.5 and the reasons therefore to the employee on or before March 15th of the academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her first or second contract shall be deemed an extension of the existing contract without change for the following academic year.

(b) The governing board shall give written notice of its decision under Section 87609 and the reasons therefore to the employee on or before March 15th of the last academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her third consecutive contract shall be deemed a decision to employ him or her as a regular employee for all subsequent academic years.

SEC. 46 (Ed. Code Section 87610.1) reads:

(a) In those districts where tenure evaluation procedures are collectively bargained pursuant to Section 3543 of the Government Code, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining on these procedures.

SEC. 49 (Ed. Code Section 87615) reads:

Commencing July 1st 1990, the minimum degree requirement for tenure as a community college faculty member shall be a bachelor's degree or equivalent from an accredited institution, or an equivalent foreign degree as determined by the board of governors, except that in the case of vocational faculty, this requirement shall commence January 1st, 1994. The board of governors shall monitor the effects of this provision upon hiring practices within the districts, analyze the results, and make a report and recommendation to the legislature no later than January 1st, 1993.

The governing board may grant tenure to faculty members who do not meet the minimum requirement for tenure specified in this section if both of the following are met:

(a) The governing board determines that rare and compelling reasons exist justifying the action. The reasons for the governing board's determination shall be reflected in its action granting tenure to the individual.

(b) The process by which the governing board reaches the determination has been developed and agreed upon jointly by representatives of the governing board and the academic senate and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily on the advice and judgement of the academic senate to determine that rare and compelling reasons exist to grant tenure. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(c) Until a joint agreement is reached pursuant to subdivision (b), the district process in existence on January 1, 1989 shall remain in effect.

DEFINITION OF TERMS

The terms used in the body of this document are largely drawn from statutory language.

Contract/Probationary refers to any faculty member who has not yet been awarded tenure.

Regular/Permanent refers to anyone who has been awarded tenure.

Peer refers to those who share the same statutorily defined status. Thus a statement about a faculty member's peers refers to other faculty members and a statement about an administrator's peers refers to administrators.

Individual Tenure Review Committee refers to a team of evaluators, largely consisting of specifically appropriate or closely related discipline faculty members, who evaluate an individual probationary faculty member and make a recommendation on that particular faculty member.

Institutional Tenure Review Committee refers to a committee principally appointed by the local Academic Senate and Collective Bargaining Agent which reviews all tenure recommendations coming from individual committees and makes final recommendations to the local board. The composition of this committee needs to be reflective of the diversity of the people of the state.

ASPECTS OF THE TENURE PROCESS BEYOND THE SCOPE OF THIS MODEL

1. **Formal due process.** Both the expertise and the organizational purview of formal due process rest with the collective bargaining agent for each district. **Informal due process** is included as a natural consequence of including statements on professional ethics as appropriate.
2. Baccalaureate degree requirement for tenure.
3. Relationship between tenure review and evaluations, including evaluation models. (Those interested should refer to the document entitled "Guidelines for developing a faculty evaluation process" adopted by the Academic Senate - April 1990).
4. Mentoring of probationary faculty by permanent faculty. Although it may be of great value to probationary faculty, it must remain entirely separate from the official tenuring process.
5. Composition and appointment of individual tenure review committees.
6. Administrator evaluations of faculty.

7. Timelines.

GENERAL CONSIDERATIONS

Qualities of an Effective Faculty Member

The qualities of an effective faculty member should be assessed in the hiring process and confirmed in the first year of tenure review. Appropriate qualities include:

- a. academic preparation
- b. sensitivity to a diverse student body
- c. creativity and innovation
- d. leadership potential
- e. communication skills
 - f. collegial community service
 - g. teaching effectiveness

Ethics of the Profession

Aside from an expectation that the probationary faculty member and the members of his or her Individual Tenure Review Committee will adhere to the ethics of the profession as iterated in the statement of ethics adopted by the Academic Senate for California Community Colleges (attached), the main ethical consideration which must be adhered to by the Tenure Review process is that probationary faculty members must be allowed to perform their duties in ways that conflict with the styles and even the philosophical premises of the reviewers. It is not ethical to recommend lamination or even to advise remediation on matters which are debated among colleagues who are not involved in being tenured Differences in approach, instructional methodology, political orientation, etc. are not grounds for negative evaluation as long as those differences do not provide evidence of effects which themselves provide the basis of cause for termination.

Suggested Standards of Faculty Evaluation

- 1. Classroom Performance
The faculty member demonstrates excellent performance in classroom teaching or in carrying out other primly responsibilities specifically listed in the employment job description including but not limited to:
 - a. currency and depth of knowledge of teaching field or job duties;
 - b. proficiency in written and oral English enabling clear, effective communication to students, staff, and colleagues;
 - c. use of teaching methods and materials challenging to the student and appropriate to the subject matter, responsive to the needs of the student, and consistent with departmental practices; this is not intended to discourage use within a department of a variety of successful pedagogical approaches to learning.
 - d. careful attention to effective organizational skills in the classroom or worksite; and
 - e. consistent responsibility in fulfilling official college requirements as well as departmental agreements.

- 2. Respect for students
Faculty members shall evidence respect for students' rights and needs by demonstrating:

- a. patience, fairness, and promptness in the evaluation and discussion of student work;
 - b. sensitivity and responsiveness to needs of individual students and their special circumstances where appropriate;
 - c. maintenance of contractual obligations to regular and timely office hours;
 - d. sensitivity to the diverse ways students learn; and sensitivity to the diverse cultural backgrounds of students and incorporate diversity in curriculum where appropriate.
3. Respect for colleagues
Faculty members shall evidence respect for colleagues and the teaching profession by:
- a. acknowledging and defending the free inquiry of their associates in the exchange of (criticism) critique and ideas;
 - b. recognizing the opinions of others;
 - c. acknowledging academic debts (credit works to avoid plagiarism);
 - d. acknowledging achievements and areas in need of improvement;
 - e. acting in accordance with the ethics of the profession and with a sense of personal integrity, and
 - f. working in a spirit of cooperation to develop and maintain a collegial atmosphere among faculty and staff.
4. Professional Growth
Faculty members shall demonstrate continued professional growth by:
- a. continued participation in self-initiated professional activities such as course work, attendance at workshops, seminars, professional meetings; and/or
 - b. active participation in collegial governance and campus life; and/or
 - c. participation in publications, conference presentations, artistic exhibits/performances, classroom research, development of new curriculum, and community involvement specific to academic area; and/or
 - d. other appropriate activities.
5. College and/or community service
- a. participation in the life of the college
 - b. serving on college committee
 - c. offering service to the community

Types of Evaluation

1. Self
Self evaluation is, to some, the core of evaluation, including evaluation for tenure. If self evaluation is introduced to the probationary faculty member with the same criteria and standards as those used for the tenure recommendation itself, the probationary faculty member probes the essential ingredients themselves and, in going through the exercise, can gain deeper insights into what bases the review team is operating from in evaluating and recommending. It has been pointed out that probationary faculty members can put themselves at risk by searching for something negative in their own efforts, writing about it, and then having the

individual tenure review committee read about it before it makes its recommendation. While this is certainly a possibility, it can be greatly reduced as a hazard to the probationary faculty member by scheduling it to be produced only after the probationary faculty member has read the other evaluations, making it at least in part responsorial rather than solely searching.

2. Peer
Peer evaluation is absolutely critical. The collaboration of discipline specific and general faculty members promotes broad and collegial perspective on the work of faculty members in general and in the actual review process in particular. In cases of insufficient numbers of peers in the same or related disciplines, peers from other colleges or universities may be utilized.
3. Student
The use of student evaluations is essential. In order for them to be a significant factor they must be extremely well devised and scrupulously administered. For classroom faculty they should take into consideration as many variables as possible including but not limited to things such as student motivation, class size, subject matter, and whether or not the class was required (in or out of a "major" area). For non-classroom faculty, student evaluations must be both more broadly defined and applied and they must be, at least in part, related to the particular faculty member's assignment in order to be considered in the same vein as those for classroom faculty. Longitudinal studies of students and their opinions of an individual faculty member over a considerable length of time would be necessary in a system valuing student evaluations over other types.

Diversity Requirements

Section 87663d of the Education Code reads:

The peer review process shall be on a departmental or divisional basis, and shall address the forthcoming demographics of California, the principles of affirmative action. The process shall require that the peers reviewing are both representative of the diversity of California and sensitive to affirmative action concerns, all without compromising quality and excellence in teaching.

Individual Tenure Review Committees

1. Composition
Whereas the composition of individual tenure review committees may be addressed by collective bargaining, the Academic Senate recommends a membership consisting of a majority of faculty from the discipline or a closely related discipline.
2. Responsibility
To know the Tenure Review policy and process of the college and to meet the specific responsibilities outlined therein as well as those implicit in the task and those which may arise which are specific to the review in question and not in contradiction with the college policy
3. Authority
The recommendation of the individual tenure review committee report is to be forwarded in accordance with the district policy.

Institutional Tenure Review Committees

1. **Composition**
A group of faculty selected by the local Academic Senate and Collective Bargaining Agent who represent a cross section of the college and the diversity of the people of the state and who serve for extended overlapping terms.
2. **Responsibility**
Providing consistency among tenure recommendations. In order to provide consistency within a college, an institution wide committee should have the responsibility of reviewing packages of materials and recommendations and forwarding final recommendations to the governing board regarding tenure.
3. **Authority**
Making final recommendations on tenure to the local board.

Administrative Role

Although tenure review is largely the professional prerogative and responsibility of the faculty, the role of administration in support of the process is essential. District policy should establish expectations for administrative functions, which may include the following:

- a. Support of appropriate, faculty led orientation and in-service training for faculty who will be evaluating their peers for tenure.
- b. Support of effective and well-designed staff development programs for new faculty, so that new faculty have a fair opportunity to remedy deficiencies and profit from the experience of seasoned professionals.
- c. Help in disseminating information about processes and timetables across the institution and in preparing materials for review by the Board of Trustees.
- d. Assistance in the development of, and adherence to, due process procedures and managing, in collaboration with the senate and bargaining unit, due process challenges which may result in legal action against the board.
- e. Support, through the budget process and college reward systems, of faculty participation in tenure review. This will involve clerical support as well as acknowledgment of the time commitment of professional involvement.

Granting Tenure Before the Fourth Year

In exceptional cases it may be reasonable to recommend tenure prior to the fourth year of probationary status. Various scenarios should be discussed in detail in each district.

PRIMARY CONSIDERATIONS IN THE FIRST YEAR

CONFIRMATION OF INITIAL HIRING DECISION

Tenure Review in the first year is, in some ways, an extension of the Search and Selection processes' attempt to determine candidates' knowledge and abilities. Those who are involved in Tenure Review should review the knowns and unknowns available as a result of the initial Search and Selection processes. Factors positively described in the hiring process should be reviewed to confirm whether or not they are, in fact, coming to bear in the performance of the faculty member's duties. A significant review and discussion along these lines could be used to strengthen hiring and other college processes. Those factors vital for success at a community college which were unknowns relative to a probationary faculty member in the Search and Selection processes should be discussed early on by the Tenure Review Committee. Strategies for determination, remediation, etc. should be discussed at least conceptually prior to initial evaluations.

DEVELOPMENT OF POTENTIAL

Whether a probationary faculty member hired has extensive experience or very limited experience, unless that person's work is extremely well known first hand by those searching and selecting, there exists only a condition of potential for excellence as a faculty member at any particular college. Given a four year tenure process, colleges should provide opportunities for the development of a probationary faculty member's potential based upon recommendations made by the local Academic Senate. These opportunities should be made known to the probationary faculty member. The content of workshops and other opportunities should be specifically aimed at enhancing those skills and abilities which are known to be vital for success as a community college faculty member. The timing of developmental opportunities should be based on the Tenure Review evaluation cycle in such a way that, given a recommendation to work on a particular skill in one evaluation period, the opportunity for development is provided soon enough after that evaluation for the probationary faculty member to participate and then to use newly acquired skills before the next evaluation cycle. Recognizing that developmental activities are designed and used for a great variety of purposes by all faculty, all developmental activities should be free from "remedial" distinctions. Probationary faculty members should be advised that their participation in developmental opportunities, while being a positive attribute, does not in itself guarantee a positive recommendation for tenure.

CONTINUATION OR TERMINATION

A recommendation for continuation in the first year should be made if the probationary faculty member is demonstrating the attributes of permanent faculty in general and appears to have at least the potential to develop those attributes vital to success which have been identified as weak or absent.

Any recommendation for termination must be based on factors determining success which were known and articulated prior to evaluation. Termination should be recommended if the Individual Tenure Review Committee finds that:

- a) continued employment would have clearly identifiable detrimental effects upon students,
- b) would be a disservice to the college and the discipline of the faculty member's appointment, and
- c) the potential for improvement is so insufficient or the amount of improvement necessary in weak areas is so great that available developmental opportunities do not allow for a prediction of successful solutions to problems identified.

First year emphasis and expectation

Emphasis should be on confirmation of positive qualities anticipated by hiring process discussions and identification of problems and their seriousness. Developmental activities recommended need to be made available. Because of limited time available, expectations of change in probationary faculty members between initial evaluations and date of first year report should be minimal.

Also see section titled Granting Tenure Before the Fourth Year

PRIMARY CONSIDERATIONS IN THE SECOND YEAR

DEVELOPMENT OF POTENTIAL

As above in Primary Considerations in the post Year

CONTINUATION OR TERMINATION

Continuation should be recommended on much the same basis as in the first year. Termination should be recommended if the Tenure Review Committee finds that:

- a) continued employment would have clearly identifiable detrimental effects upon students,
- b) would be a disservice to the college and the discipline of the faculty members appointment, and
- c) problems identified in the first year as vital to success were of types not readily addressed by developmental opportunities or the probationary faculty member showed an inadequate responsiveness to or insufficient improvement in these areas.

Prior to the submission of the second year recommendation, the Individual Tenure Review Committee should conduct a review of the probationary faculty member's activities of the types expected of all permanent faculty members regardless of specific assignment. A progress report should be made and minimum standards for performance expected of permanent faculty should be applied to the probationary faculty member. Any significant deficiencies in this regard should be stated in such a way that they are clearly indicated as cause for termination in the fourth year if they are not adequately (defined) addressed in the interims

Second Year emphasis and expectation

Emphasis should be on positive, negative, or non changes between first year evaluation period and second year evaluation period. Expectations should include both the willingness of the probationary faculty member to work on reducing deficiencies and actual significant and tangible improvement in areas identified both as problems and as vital to success.

Also see section titled Granting Tenure Before the Fourth Year

PRIMARY CONSIDERATIONS IN THE FOURTH YEAR

Tenure should be recommended if die probationary faculty member has performed his her duties at or above levels that were previously established as minimum expectations.

Termination from future employment in the Strict should be Emended if the committee finds that:

- a) the probationary faculty member has failed to perform in ways that were clearly defined by the first and/or second year reports,
- b) has exhibited a failure to maintain standards identified as being met in the first and second year reports, or
- c) has acted in ways which amount to cause for dismissal far permanent faculty members.

All fourth year findings must be clear and convincing such that a reasonable person not connected with the tenure review process would agree that they are clear and convincing.

Emphasis and expectation in the Third and fourth years

Emphasis should be on determination of failure to perform if that appears to be the case.

Expectation should be that everything that can be done to assist the probationary faculty member has been done. As is the case essentially throughout, the primary responsibility is that of the probationary faculty member.

Flow of decision-making process from Evaluations to Board Action:

Evaluations: Peer Self Student Administrator	Individual Committee recommendations	Institutional Review Committee final recommendation	Board
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