Proposed Recommendation for Tenure Related Issues
As submitted April 5, 2010

Note: The WG’s assessment related to tenure was that there was an unaddressed area. Our recommendation is outlined below.

We recommend that at a minimum the current Section 3, Academic Affairs, item 3.3.13 in the University Policies and Procedures, Termination; include a letter “C” that explains in more detail that closure of a program is grounds for termination. However, we prefer that under that same section, we adopt and include in the University’s Policies and Procedures AAUP’s statement on Termination of Appointments by the Institution, under Recommended Institutional Regulations on Academic Freedom and Tenure, Items 4-8, AAUP Policy Documents & Reports, 10th ed., 2006, pp. 24-28.

Suggested wording of Academic Affairs, item 3.3.13: [from Becky Watts]

c) Changes in the Educational Program: In the event that a curricular program is either closed, merged with an existing program, or otherwise modified significantly (through the approved academic program closure or modification policy), it may be deemed necessary to terminate tenured faculty (and tenure-track or term-contract faculty). Tenure-track and other term-contract faculty must be terminated before tenured faculty from the affected program can be considered for termination.

In the event a curricular program is closed, merged, or otherwise modified significantly, tenure rights will be protected in so far as possible through placing an affected faculty member in another curricular program in which he/she is qualified to teach, retraining an affected faculty member so that he/she may teach in another curricular program, or other appropriate remedies as recommended by the Program Review Committee, the UCCAP, the dean of his/her college or school, and/or provost. As far as is possible, similar remedies may be offered to tenure-track or other term-contract faculty in closed, merged, or significantly modified programs.

If none of the above-stated alternatives are deemed possible by the Program Review Committee, the UCCAP, the dean of the program’s college or school, and/or the provost, tenured faculty may be terminated, in which case an affected faculty member will be offered one additional year of employment while he/she looks for employment or one year severance pay and benefits.

Again, we recommend that the University adopt and include in the University’s Policies and Procedures AAUP’s statement on Termination of Appointments by the Institution, under Recommended Institutional Regulations on Academic Freedom and Tenure, Items 4-8, AAUP Policy Documents & Reports, 10th ed., 2006, pp. 24-28. But at a minimum, the following statements should be included in the University Policies and Procedures.

** Wording from AAUP Policy Documents and Reports, 10th ed. pp. 24-25

“4. Termination of Appointments by the Institution

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Discontinuance of Program or Department Not Mandated by Financial Exigency

d. Termination of an appointment with continuous tenure, or of a probationary or special appointment before the end of the specified term, may occur as a result of bona fide formal discontinuance of a program or department of instruction. The following standards and procedures will apply.

(1) The decision to discontinue formally a program or department of instruction will be based essentially upon educational considerations, as determined primarily by the faculty as a whole or an appropriate committee thereof. [Note: ‘Educational considerations’ do not include cyclical or temporary variations in enrollment. They must reflect long-range judgments that the educational mission of the institution was a whole will be enhanced by the discontinuance.]

(2) Before the administration issues notice of a faculty member of its intention to terminate an appointment because of formal discontinuance of a program or department of instruction, the institution will make every effort to place the faculty member concerned in another suitable position. If placement in another position would be facilitated by a reasonable period of training, financial and other support for such training will be proffered. If no position is available within the institution, with or without retraining, the faculty member’s appointment then may be terminated, but only with provision for severance salary equitably adjusted to the faculty member’s length of past and potential service.

(3) A faculty member may appeal a proposed relocation or termination resulting from discontinuance and has a right to a full hearing before a faculty committee. The hearing need not conform in all respects with a proceeding conducted pursuant to Regulation 5 [Dismissal Procedures], but the essentials of an on-the-record adjudicative hearing will be observed. The issues in such a hearing may include the institution’s failure to satisfy any of the conditions specified in Regulation 4d. In such a hearing a faculty determination that a program or department of instruction is to be discontinued will be considered presumptively valid, but the burden of proof on other issues will rest on the administration.”