

NOTE OF CLARIFICATION: 2009 FPC REPORT AND ENSUING INQUIRIES

Russ Tomlin, Senior Vice Provost for Academic Affairs

November 10, 2009

This note of clarification addresses two issues posed in the 2009 FPC report to the Senate that have been brought to my attention by faculty colleagues. In that report the FPC chair expressed two concerns:

- (1) that the Provost did not report back to the FPC his final decisions on cases nor provide copies of decision letters to the FPC chair “as has been customary in past years” [p. 2];
- (2) that “FPC members had no direct guidance from meetings with the Provost, Vice Provost, or Associate Vice provost regarding the deliberations, including, but not limited to, ways in which they might prefer that university and departmental standards be interpreted and the degree of due diligence desired.” [p. 1].

With regard to (1), the P&T decision is a confidential personnel action. It is communicated formally by letter to the candidate. This letter is currently copied to the president, the academic dean, the department head, and the faculty personnel file. The results are not shared with the FPC or the FPC chair.

In Spring of 2007, we made the decision to stop copying the FPC chair after a review of OAR 571-030-0025, which governs “personal records—restrictions on access”.

OAR 571-030-0025

(1) Personal records (except privileged psychological and medical records which are subject also to additional restrictions on access) shall be available only to University personnel such as faculty administrators, students and others serving on official institutional committees or in other official institutional capacities who have a demonstrably legitimate need for particular information in order to fulfill their official, professional responsibilities.

(3) Personal records may not be released to any other person or agency without the faculty member's written consent, unless upon receipt of a valid subpoena or other court order or process or as required by valid state or federal laws, rules, regulations, or orders.

This OAR limits access to those who have a need to know in order to carry out their official, professional responsibilities. This means that a faculty committee must have access to the requisite information to complete their essential task—a recommendation to the next level up. There remains no further official, professional responsibility after that recommendation is completed that warrants formal knowledge of or access to personnel action taken at some higher level. Prior practice exceeded the letter and intent of the OAR, largely for collegial reasons one can be sympathetic to. Paragraph (1) sets the constraint; paragraph (3) confirms it and its intent. There is no change in policy begun by the current provost: this is the contemporary and current practice established with the previous provost.

With regard to (2), the provost, the senior vice provost, and the associate vice provost are willing at any time to meet at the request of the FPC. At the same time, there is an institutional need for the FPC to operate independently: those of us who serve as administrative officers must avoid actions that either compromise or *appear to compromise* the independence of the FPC. Thus, in my view it is inappropriate to intrude into FPC deliberations to provide input or guidance or opinion once the FPC has begun its work unless we are asked or unless there is an egregious breach of policy or practice on which we need to intervene. We are certainly more than willing at any time to meet at the request of the FPC through its chair. There is no change in policy here either begun by the current provost: this is the contemporary and current practice established with the previous provost.

This year at the first Senate meeting I reported for the first time the general outcome of P&T (no names or data that permitted inferences to be drawn about particulars). My providing an aggregate description of the outcome of P&T actions to the Senate (first time ever this Fall) is part of our continuing effort to upgrade and improve what we do and the transparency of our communications and UO decisions.