



### Some Comments on Tenure & Promotion Reviews

*Paul T. Wilson, WMU-AAUP President*

Many faculty who served on departmental Tenure and Promotion Committees in Fall 2008 have told me they are quite relieved that their role in the formal process has come to an end for this year; I heard similar comments from faculty last year. Based on these comments, and other evidence, it seems to me that we have had some particularly difficult times with our reviews during the last two years. I will address these in greater detail over the months to come, both in our T&P workshops, and in print before next year's reviews start up, but I want to take this opportunity, while events are still fresh in people's minds, to discuss some of the more pressing issues, which include confidentiality of the committees' work and the rights of the untenured faculty vis-à-vis the purview of the tenured and ranked faculty to make comments, and the role of the committee chair. In specifying my own point of view, I intend to stimulate your thinking and department discussion and policy development. My goal here is to help us to engage in the best reviews possible.

**Confidentiality:** The National AAUP has addressed issues of confidentiality with regard to access to faculty personnel files. It takes the position that open access to documents is a fundamental necessity, particularly when faculty are appealing personnel decisions. The AAUP also recognizes, however, that candor in the actual discussions about tenure and promotion is absolutely necessary if the faculty are to maintain their standards of professionalism and their claim to the right of shared governance. During the last two years, faculty have spoken to me with some dismay about a number of violations of confidentiality of their Department Tenure or Promotion Committee (DTC/DPC) deliberations; I have heard

about violations in every college. In a couple of cases, it's likely that these were well meaning and intended to ease the stress for untenured faculty. In other cases, untenured faculty members were provided with inaccurate information about how they were being reviewed, and about who said what about them. In particularly troubling cases, the confidentiality breach was clearly related to side taking in the department, whether on ideological, methodological or social grounds.

All violations of confidentiality are corrosive of collegial relations, particularly among the faculty who are already tenured and promoted. And in the long run, because they render candid conversation impossible, they interfere with the ability of the faculty to make good decisions about who should get tenure (i.e., remain with us here at Western), and how they should be rewarded. My recommendation is that every department include in its Department Policy Statement (a) an explicit commitment to confidentiality, and (b) a rule that all communication between the DTC/DPC and candidates go through the chair of the committee. Tenure and promotion reviews should begin each year with a discussion about the importance of confidentiality and a commitment by all committee members to honor the confidentiality rule.

**Untenured and Tenured Faculty Rights:** An interesting development over the past 5+ years has been an increase in appeals of positive letters. More untenured faculty are appealing their DTC letters because they believe that although the judgment has been positive, they are not happy with how their accomplishments have been portrayed. As this has been happening, there's been a shift in the attitude of some untenured faculty:

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They are conceptualizing their role to be editors-in-chief of their review letters, i.e., their letter should not go forward until they are happy with how it is written. The responsibility of the committee is to do the best review possible, and to articulate its views carefully and accurately, which may or may not meet with the complete approval of the candidate. I am not saying that the appeals of positive letters represent a widespread campus trend, but they have happened often enough that it is worthy of note, because it is related to other issues that untenured faculty have raised.

Contract Article 11.§3, Adjunctive Records, makes clear that the tenure or promotion portfolio is prepared by the candidate, that there are limits on what candidates may add after the October 15 deadline, and that, if other materials are added by any of the various reviewers, there is a procedure for the candidate to be informed and to respond. An argument was made in Fall 2008 that because of this, the members of the DTC/DPC may not speak to any issues that are not explicitly raised in the materials provided by the candidate.

We must not lose sight of (a) the need for candid conversation, and (b) the validity of the views of the tenured faculty. If the conversation of the tenured faculty is restricted solely to commenting on the documents provided by the candidate, they lose the capacity to apply their knowledge and experience of Western in rendering judgments about candidates. I believe that the considered judgment of the tenured faculty does play a crucial role in determining whether a candidate is appropriate for Western. Because I am committed to the AAUP's principle of academic freedom, I am very uncomfortable with judgments being rendered on differences in scholarly approach that are accepted by other professionals. But the tenured faculty still must be free to exercise their judgment.

However, the argument about restricting what the tenured faculty can comment on was elaborated in this way: The members of DTC/DPC may not consider anything they have observed about the candidate because those observations have not been substantiated. If the tenured faculty want to speak about anything other than the documents provided by the candidate, they must provide documented records, independently verified; and then they can speak only to what has been substantiated by such documentation. Part of the intent of this argument was to render invalid feedback forms submitted by faculty members to the DTC that contained subjective judgments based on personal observations.

The consequence of this argument is that in order to be able to speak about more than the candidate's docu-

ments, the tenured faculty would have to engage in documented but secret surveillance of untenured faculty, and then produce those documents at the time of the review. This is clearly ridiculous. None of us wants to live in a surveillance environment.

So what are the rights of the tenured faculty to speak about their judgments? I posed this question to our Chapter Attorney, Mike Fayette. His response was that substantiation may take the form of documentation or recordings of people's actual behavior. But it may also come from testimony by competent witnesses. And this is exactly my argument: The tenured faculty are competent witnesses, and so are able to speak about what they have observed.

There is one other relevant point to consider here. A chair of a committee incurred some criticism about conflict of interest because the chair took a position against a particular candidate. My own view is that committee chairs, as tenured faculty, have a right to speak and vote consistent with their judgment, but that they also have an obligation to ensure that procedures are carried out fairly for all candidates. Discussion should be orderly, and conducted in a collegial, confidential environment in which all members of the committee feel safe enough to speak candidly, including the chair. If the faculty in a particular department take a different view of the role of the committee chair, it is crucial to articulate the limitations on the chair in the Department Policy Statement, rather than applying them post hoc.

It would be wise to be aware, however, that requiring that the chair be in favor of a candidate creates logistical conundrums for the operation of the committee. Before choosing a chair, the committee would have to poll all committee members in public (which, in some departments, would violate their procedure of voting by secret ballot), and then either choose someone who is in favor of all candidates, or choose a different chair for each candidate about which there was disagreement. But what is the point of having any further deliberation after that when everyone has indicated their vote?

Part of the pragmatics of this situation regarding whether the chair can have a point of view is that most of our departments cannot afford to sacrifice the vote of even one member of the committee. We all need to be able to rely on candid, confidential conversation, and to build a community of collegiality in order to carry out the best tenure and promotion reviews that we are capable of providing. I welcome your contributions to this discussion, and am eager to deliberate further based on your input.

## Representing You The Association Council; A Central WMU-AAUP Institution

*Allen Zagarell, WMU-AAUP Vice-President*

First I want to thank all of those who have volunteered, have been entrusted by your colleagues and are serving as Association Council representatives. You are the heart and soul of this union. It is you who are the connection between the leadership of this union and our members. Being an Association Council representative is not just another service task to put on one's PAR, but, rather it is a duty to assure that your colleagues are well represented, their voices heard, their questions answered, their needs taken into account. If our faculty is to be truly respected as partners in enriching and strengthening our university, we need a strong and engaged membership, and you are essential to that happening. You are important. The Association Council representatives are the face of the union in each department. The Association Council is a critical place where new leaders of our union should emerge, where younger and older members should meet, should share their concerns, and become knowledgeable about the long-term challenges our university and our faculty currently are and will be facing.

Given the economic difficulties facing our state, we will need a vigilant, engaged, and active membership more than ever, if we are to protect our faculty, our students, and our community.

### What does our faculty need from our Association Council representatives?

**We need you to attend the Council meetings.** We need you to actively represent and speak for your department. If for some reason you cannot attend a meeting, we need a substitute. If we are to transform our Association Council into an important center where real issues are discussed and decided, we need high levels of participation.

**We need every department represented.** Several departments do not have representatives. It is important that every department, all areas of our university be represented. We want to hear what you are thinking. We don't all have to agree, but we need all views represented. If your department needs help selecting a representative, we are ready to help. We will meet with individuals and/or with the department as a whole to facilitate the selection of excellent representatives.

**We need information to flow to departments and back to the leadership.** Are the representatives regularly reporting to their departments? Are you conveying what your colleagues are saying to the union leadership?

What are your experiences? What works? What are the impediments to doing so? We need to know these things. We want all views represented.

**We need you to be leaders.** We need you to take the lead in your departments. We need you to spearhead the creation of departmental policy statements, and workload policies. We need you to convey to your colleagues how important these tasks are to assure our faculty is treated with respect, and to protect our right to be co-participants in the university decision making process. We stand ready, in this regard, to give you and your department any help needed.

We need you to recommend and recruit people who want to participate in our various committees, and who want to be involved in our university and union. You are the face and representative of our union in your department.

### What does the union leadership need to do?

**Make Association Council meetings meaningful, participatory, and informative.** Meetings should be about real issues, be a place for real exchanges, for meaningful decisions. It should be a place where both executive committee members and association council representatives become better informed about the issues facing this union (for example, trends in health care). These discussions should be on-going, not just focused on shortly before negotiations.

**To offer help to departments when carrying out tasks.** We stand ready to help departments to develop policies, policy statements and other documents designed to ensure their well being and participation in university affairs.

**Organize Departmental Meetings and Discussions.** Departmental meetings should not just take place during negotiation years. We need ongoing discussions with every department throughout the year. We would like at least one meeting a year with every department. What are the issues facing different departments? What do you think we are doing right? What are we doing wrong? We need to understand the realities of departmental experiences. **Please schedule a meeting date as soon as possible.**

**To make sure we hear you.** We need to be sensitive to any criticisms you might have of us. We have to be ready

to constantly re-evaluate how we do things, to allow us to better serve our membership. Past disagreements between individuals, past policy differences are unimportant. Our goal is to create the broadest coalition possible to serve our membership as a whole. Given the difficulties we may be facing, we need everyone working together for a stronger and more transparent university.

We hope every department looks into how it can improve its dialogue with other sections of the union. We look forward to meeting with your department soon so we can discuss what we see as the major tasks before us and what issues and problems you want us to focus on.

## Equal Pay?

*Lisa Whittaker, WMU-AAUP Grievance Officer*

### Forums on Equity

Based on the number of issues about pay equity that are brought to this office, we decided to hold a lunch table discussion on the subject. There were approximately a dozen faculty members that were able to attend this forum. We plan to host several more lunch table discussions throughout this semester and summer.

During the forum, we talked about the factors that affect pay equity, such as salary compression, gender disparity, difference in health care coverage, and even lack of maternity leave. What does pay equity effect? The answer is that it effects anything and everything related to salary; including, but not limited to the ability to pay bills, the ability to save, and retirement benefits.

### WMU-AAUP Contract

The WMU-AAUP Contract does not specifically address the requirement to have equal pay. Several articles that apply include 14.§6 Market Adjustment, 31.§2 Limits of Compensation, 32.§2 Salary Minima, and 32.§5 Merit Based Salary Adjustments. The subject of pay also comes up with summer teaching and overload pay.

At this time, if you feel that you have an inequitable salary, the best avenue to pursue is through a market adjustment, individually. Any collective bargaining for salary becomes an issue that must involve the WMU-AAUP.

In 1999, the University addressed pay equity by sponsoring a study of pay and making adjustments accordingly. No study is without controversy though, and no study is perfect. Again, we are facing a similar issue.

As a result of the contract negotiations this summer, there was a mutual agreement to conduct an equity study over the next three years with the intent of having a fact

based discussion of equity pay in the next round of negotiations in 2011.

### Legal Basis for Equal Pay

Three years is a long time to wait though, especially considering that Equal Pay for Equal / Equivalent Work has been the law since 1963 with the Equal Pay Act amendment to the Fair Labor Standards Act. This act makes it illegal to pay different wages to employees of the opposite sex for equal work on jobs the performance of which requires "equal skill, effort, and responsibility and performed in similar working conditions (Congressional Research Report, 2005). Interestingly, the Fair Pay Act of 2005 requires all covered employers to maintain comprehensive records of "the method, system, calculations and other bases used" to set employee wages and to file annual reports with the EEOC detailing the racial, ethnic, and gender composition of the employer's workforce broken down by job classification and wage or salary level. This mandate is for better enforcement of the law.

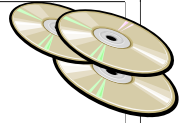
Remarkably though, even today women earn approximately 20%-25% less than their male colleagues across the nation. Even though this represents a reduction in the wage gap, it is improving at a snail's pace. Why is it so hard to obtain equal pay? The problem apparently exists within the court system. However, there is a glimmer at the end of the tunnel. Just this month, the House voted in favor of the Lilly Ledbetter Fair Pay Act, which would amend the Civil Right Act. The purpose is to make it easier to bring class action lawsuits, help women receive more damages and prohibit employer retaliation against employees who share salary information, among other actions.

For those of you who have not received a copy of the most recent salary survey, published by the WMU-AAUP, you may contact us for either a CD or paper version.

### WMU-AAUP Equity Committee:

The compensation committee worked on behalf of the negotiating team. Now we would like to offer the opportunity for former compensation committee members and any new volunteers to serve on the Equity Committee. If you are interested in serving on the Equity Committee, please email the chapter office. We will meet on Fridays at the Montague House. The chapter staff will email information regarding the date and time of the first meeting.

### 2008-2009 Salary Survey



To request a copy of the most recent  
Salary Survey, please send an  
email request to [staff@wmuaaup.net](mailto:staff@wmuaaup.net)

## New WMU-AAUP Executive Committee Member from the College of Arts & Sciences—Social Sciences

*Edwin Martini, Department of History*

### Academic Background:

Edwin Martini is an assistant professor of History at WMU. He came to Western in 2005 after receiving his Ph.D. in American Studies from the University of Maryland in 2004 and his B.A. in American Studies from Pitzer College in 1998. His first book, *Invisible Enemies: The American War on Vietnam, 1975-2000*, was published by the University of Massachusetts Press in 2007. His work has also appeared in *The Journal of American History* and *Reviews in American History*. Currently, he is at work on a book project entitled "Agent Orange: A History" (under contract with the University of Massachusetts Press for the "Culture, Politics, and the Cold War" series). The book explores the global histories and legacies of the use of chemical agents by the United States during the American war in Vietnam. Before coming to Western, he taught at Georgetown University, George Washington University, and Deep Springs College. He is currently the editor of the H-1960s listserv, and an article review editor at H-Diplo (the diplomatic history listserv). Dr. Martini also served as the President of the Chesapeake American Studies Association from 2001-2003.

### Personal Statement:

While working on my doctorate, I became a co-founder of Graduates, Adjuncts, Lecturers: Organized Labor (GALOL-AFT), the union for graduate employees and other contingent faculty at the flagship campus of the University of Maryland. Although Maryland did not recognize the rights of graduate employees to bargain collectively, we built a grassroots organization that represented several hundred card-carrying members, and worked tirelessly to lobby the Maryland government and University administration to recognize our rights and our union. While

working with GALOL and the AFT, I attended the AFL-CIO organizing institute and spent several weeks helping organize workers in the AFSCME unit of service workers at Maryland and an additional summer helping organize Adjunct Professors at New York University. In 2002, I was elected Co-President of GALOL, and served as the public face and chief executive of the organization for two years.

These opportunities taught me a great deal about how unions work at the grassroots level and the executive level. I emerged from these experiences with a deep respect for the academic labor movement and a firm belief that the power of a union is built and maintained from the bottom up. I am a passionate defender of academic freedom and a strong advocate for shared governance, but I believe that the ability of any union to work effectively on behalf of these principles is dependent upon its sense of solidarity and the responsiveness of union leaders to its membership.

In my second year at Western, I was elected to serve the History Department on the Association Council; I was reelected to the AC in the fall of 2008. During my time on the Council I have actively supported attempts to make the Executive Committee more responsive to the Association Council and, ultimately, to the membership. As a member of the Executive Committee representing the Social Sciences division of the College of Arts and Sciences, I will continue these efforts. I will make myself widely available to members of the College and will hold regularly scheduled meetings with the Association Council representatives from the social sciences. I will be both vigilant and diligent in making sure that the Executive Committee is responsive to the will of the membership and to make sure that our union continues to derive its strength from the solidarity of all its members.

## Mark Your Calendar

**Association Council**

**Thursday, February 19, 2009**

3:30-4:30pm

Room 157-159, Bernhard Center

**Association Council**

**Thursday, March 19, 2009**

3:30-4:30pm

Room 157-159, Bernhard Center

**Chapter**

**Thursday, April 16, 2009**

3:30-4:30pm

Room 157-159, Bernhard Center



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