

## WHAT IS FAIR?

### RENEWAL OF PROBATION, PROMOTION, TENURE, & SALARY REVIEW Collegial Processes at the University of Saskatchewan

The purpose of peer review in collegial processes is to integrate disciplinary expertise with fairness in judgment when making decisions about academic careers. The intention is that such decisions will be made for sound academic reasons, will follow from assessments of appropriate criteria, and will be made by persons qualified to evaluate academic performance.

\* asterisks indicate new procedures introduced with the 2014–2017 Collective Agreement.

## SELECTION OF COMMITTEES

*Who should serve?*

- department renewals and tenure committees include all tenured members
- promotion committees include all tenured members with rank above that of the faculty member being considered
- other committees should seek a range of perspectives and aim to ensure adequate representation by rank and gender

## CONFLICT OF INTEREST & APPREHENSION OF BIAS

*What does it include?*

- family or close personal relationship
- business or financial relationship
- significant conflict or collaboration

*If I can divorce my personal prejudice for or bias against the applicant from an objective consideration of his/her scholarship, should I not serve on the committee?*

- no: not only must justice be done, but it must be seen to be done; the question is not whether you will be biased, but whether a reasonable person with no inside knowledge might think you could be biased
- those who make decisions must be seen as capable of assessing all the evidence with objectivity
- anyone with a conflict of interest should withdraw from participating in the decision

*What should I do if I believe a member of my committee is in conflict of interest?*

- challenge that person's membership on the committee with reasons as soon as you become aware of the problem
- raise conflict of interest as the first order of business at a meeting of the committee
- if you believe that a candidate's rights are being or have been violated, you should continue to serve under protest and then issue a report about procedural problems and issues relating to the integrity of the process to colleagues on the committee, the candidate, the candidate's dean, and the president of the USFA

*Can I make private presentations to the university president or the body responsible for the final decision?*

- no, in almost every case: no interested third party, member of a peer committee, or candidate should make an end run around collegial processes
- \* yes, in some cases for the award of tenure: candidates may meet with the Board of Governors accompanied by a representative from the Association to present their case if the Board receives a positive recommendation from collegial committees that requires clarification

# DUE PROCESS AND NATURAL JUSTICE

“Natural justice” is a term that refers to the elementary conditions of procedural fairness. It is not a fixed concept, but has evolved over time.

*What are the basic components of natural justice in the university context?*

- notice
- the right of the candidate to see and/or hear all evidence presented in the case
- the right of the candidate to confront and challenge negative witnesses or evidence
- the right of the candidate to be assisted by the person of her/his choice
- the right of the candidate to be given detailed reasons for the committee’s decision
- the right to a fair tribunal

*How is that accomplished?*

- the applicant has the right to respond to any oral representations, written evidence or documentation introduced at any other level of consideration or review
- at appeal, the applicant’s representative or counsel sees all written evidence and documentation submitted to the peer committee and should be present for all testimony
- \* in the case of a Board decision to reverse a recommendation for renewal of probation or tenure by the Renewals and Tenure Appeal Committee, the Chair of the Board is obligated to provide the candidate with a statement of reasons for the negative decision
- in the case of salary review, the departmental committee is obligated to provide a rationale to the department for its awards and recommendations

*Should anonymous opinions be considered by peer committees?*

- aggregated statistical evidence (student evaluations) can be used
- anonymous comments attached to evaluations should be excluded
- all letters of reference, including signatures, should be supplied to the candidate in full (not the practice at the U of S) and referees should be advised of this practice in advance

## THE DUTY TO BE FAIR

*What does “fair” mean in looking at the evidence?*

- the decision must be made on academic grounds precisely related to the issue at hand
- the department should base its decision on the material before it
- material should be relevant to the case
- the process must not be a personal vendetta
- procedures must be consistent
- like cases should be treated alike
- consultation should be thorough, systematic and recorded
- departmental peer committees must address the real and complete issue at hand
- criteria must be universally applied and known in advance
- decisions should not be based on student gossip, hearsay or unsigned comments
- CAUT states that the applicant should have a determining say in the choice of some of the assessors and know the names of the assessors

*What criteria should apply?*

- criteria are specified in approved departmental, college, and university standards
- ensure that application of criteria can be measured, as far as is possible, by objective standards
- standards of performance should be considered across all applicable categories, and should take into account variability in the assignment of duties

### *Can standards change?*

- yes: new standards can be developed by the department and approved by the college; college standards must be approved by the University Review Committee
- \* candidates can choose between tenure standards if the standards change after their appointment

### *Should a peer committee give reasons for its recommendations in writing?*

- yes: without written reasons, it is impossible to know whether fair procedures have been followed
- reasons for a negative decision should be specific, e.g. insufficient number of research papers, or negative teaching evaluations in a named course over a number of years

### *Should peer committees vote by secret ballot?*

- no: that would impede free, full, and fair discussions of academic merit

## REVIEW AND APPEAL COMMITTEES

### *What is the difference between a review committee and an appeal committee?*

- review committees judge a recommendation on whether or not it meets required standards and whether due process procedures have been followed; they are advisory to the person or group that makes the final decision
- the University Review Committee makes recommendations for renewal of probation and the award of tenure, \*and it may recommend an extension of probation up to a maximum of two years
- appeal committees hear the appeals against the final decision
- the Renewals and Tenure Appeal Committee hears appeals by candidates whose tenure is not approved by the University Review Committee, and recommends or denies renewal or tenure, or recommends an extension of probation up to a maximum of two years
- the Promotions Appeal Committee hears and determines all appeals from employees who have been denied promotion and makes recommendations to the President

### *Why should appeals be allowed?*

- peer committees and review committees sometimes make mistakes or poor decisions even when acting in good faith
- appeals should be permitted on both substantive and procedural issues

### *Who should hear appeals?*

- \* the Renewals and Tenure Appeal Committee consists of twelve tenured or continuing status faculty members: nine employees, and three senior administrators selected from amongst Associate Deans, Vice-Deans, Deans, Executive Directors and/or Vice-Provosts
- \* members are selected by the Nominations Committee of Council and serve three-year terms
- the Nominations Committee strives to achieve a gender balance based on the overall membership of the General Academic Assembly, and representation from a wide range of disciplinary areas
- \* the chair of the committee is selected by mutual agreement between the Association and the Employer from amongst the committee members

### *What constitutes fairness in an appeal?*

- fair consideration of the evidence
- free and fair discussion
- known criteria measured by objective standards
- written reasons for decisions

This fact sheet is based in part on CAUT's "What is Fair? Q&A on Procedures & Standards in Peer Review."  
<http://www.caut.ca/membership/resources-for-members>