

## History of the University of Kentucky Faculty Regular Title Series

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### Original Faculty Titles in State Law

The University of Kentucky as an independent institution of higher education began with a series of laws enacted by the state legislature in 1880, that established the university and that established a Board of Trustees for its governance (this is the Board of Trustees that we have today). Those laws made several references to “faculty” of the university. For example, one of the state laws described the hiring of faculty by the Board of Trustees, another described the removal of faculty by the Board of Trustees, and another specified the role of the faculty in prescribing conditions for, and making recommendations on, the granting of degrees.

For the hiring of faculty, the laws enacted in March of 1880<sup>1</sup> stated:

“The board of trustees may appoint a president, professors, assistants, and tutors and to determine the salaries, duties and official relations of each.”

“In the appointment of presidents, professors or instructors no preference shall be shown to any religious denomination.”

### Appointment of the First Faculty with the Title “Professor”

One of the first acts of the new Board of Trustees at its first meeting, in June of 1880, was to exercise the above state laws to perform the ‘search’ for hiring of the initial faculty positions. The Board directed that

“...the Chairman appoint[] a committee... to consider the various recommendations of different applicants for vacant Professorships to be filled in the college...”<sup>2</sup>

which that committee did later that same day. As a result, six faculty were hired, as the original six individuals comprising the statutory body of “the faculty of the university.” Pursuant to the state law that referred to “professors”, “assistants,” “tutors,” and “instructors”, the Board appointed each of these six faculty with the title “Professor.”



Earliest known photograph of “the faculty of the university.” Arrow points to President Patterson

## Subsequent Appointment of Faculty with Other Titles Originating in the 1880 State Law

In addition to referring to the hiring of “professors,” the March 1880 state law also referred to hiring of “assistant,” “tutors,” and “instructors.” The first reference in the minutes of the Board of Trustees to its hiring of an “assistant” is its hiring in 1881 of assistant Professor J. F. Patterson in the “Preparatory Department,”<sup>3</sup> while the first reference to the Board hiring of an “instructor” is in 1888.<sup>4</sup> Finally, the first reference to the hiring of a “tutor” is in the 1888 volume of the “Annual Register” (= today’s “Bulletin”).<sup>5</sup>

## Establishment of Faculty Ranks and Titles Not Directly Originating in the 1880 State Law

Although it is not expressly explained as such in the Board minutes, on some occasions that reference is made to hiring of “assistant” what it meant was the hiring of an “assistant professor.” During the University’s first decade, the academic organization actually was similar to a ‘European’ organization, in which the “assistant professors” of a department are literally working for and under the direction of a “professor.” At the University of Kentucky, the head of each academic department in 1880 was a “Professor,” who was also the person responsible for delivering the classroom instruction. President (Professor) **James Patterson** himself was from 1880 until his retirement in 1910 the head of and instructor of the curriculum in “Metaphysics and Civil History”, later renamed “History, Political Economy and Metaphysics.” As the number of students increased during the University’s first decade as an independent institution, each department head (“Professor”) began to need assistance in the delivery of the classroom instruction for their respective department. Hence, the Board minutes record the various Professors requesting



that the Board hire an “assistant” to aid the given Professor. The Board minutes also show the hired assistants being referred to as “first assistant” and “second assistant” as early as 1882.<sup>6</sup> The first explicit published reference to such hired “assistant” as having a professorial title at the rank of “assistant” was in 1888.<sup>7</sup> The first “hiring” of an “Associate Professor” was in 1892,<sup>8</sup> but the individual was only employed for 2 years. The first references to the “promotion” of an individual to the rank of “Associate Professor” was in 1903, where Assistant Professor J. R. Johnson, of the Department of Mathematics, appeared before the Board to request that the Board grant him such a promotion (the Board declined).<sup>9,10</sup> The first recorded “promotion” to Associate Professor was in 1909, and involved the promotion of an “assistant” to the rank of “Associate Professor,”<sup>11</sup> (the present author infers that the “assistant” must have actually been an assistant professor).

An additional faculty title appeared during these years – that of “Lecturer” in 1904.<sup>12</sup> Also, during the late 1890s there was a severe economic decline that caused much budgetary difficulty for the University. The Board resolved to freeze the hiring of additional professors at any rank, even though the University’s enrollment continued to rise, which generated much frustration by the overtaxed faculty. President James Patterson proposed as a short-term remedy that the Board allow the hiring of new graduates of the University as “teaching fellows” to assist the faculty in the instructional demands. The Board approved this proposal, which began a long practice of reference in the Board’s Governing Regulations to the hiring of teaching fellows (or of correspondingly titled employees), a relic reference which only finally in 2004 is being removed from the Governing Regulations<sup>13</sup> (see also chapter on History of Academic Ranks Below the Professorial Level).

## Final Establishment of Professorial Ranks of Faculty

By the third decade of the independent University, the Annual Register (= “Bulletin” beginning in 1904) in listing the “Faculty” of the university, would list the Professors, then the Associate Professors, and finally the Assistant Professors. However, the “Instructors” were still placed in a second, miscellaneous group along with the remaining “assistants.” Beginning with the 1911 Bulletin, the Instructors were placed as a fourth listing under “Faculty.” The first codification of these four ranks as the “ranks”<sup>14</sup> of faculty was in the 1918 revision to the Board’s Governing Regulations, which defined the policy-making faculty of each college as the persons holding those four ranks, and which defined the “staff” of the academic departments as

“such professors, associate professors, assistant professors, instructors and teaching fellows as may be appointed by the Board of Trustees.”<sup>15</sup>

### **Qualifications for the Faculty Professorial Ranks and Tenure Prior to 1963**

Qualifications for Assistant Professor or Associate Professor. The 1918 Governing Regulations also contained the first codification of a policy that was initially determined by the Board of Trustees during the 1890’s (when graduate degree instruction began to accelerate at the University). The 1918-codified policy stated

“No appointment or promotion to the rank of assistant professor or higher shall hereafter be made of any one who does not hold an advanced degree from an accredited college, or university.”<sup>16</sup>

The above provision was further amended in 1947 to also prescribe

“In general no appointment to the rank of associate professor or higher shall hereafter be made of anyone who does not hold the degree of Doctor of Philosophy or its equivalent.”<sup>17</sup>

However, both of these provisions for the minimum qualifications for Assistant Professor or Associate Professor ranks were removed in the 1960 revision of the Governing Regulations.

Employment of Teaching Fellows in Positions of Instruction. In addition, in 1918 a provision was added to the Governing Regulations that appeared aimed at ensuring fresh graduates hired in academic departments as “Teaching Fellows” continued to be only a short-term measure for each, as originally justified by President Patterson in the late 1890’s:

“No alumnus or student of the University shall be employed as a teacher for a period longer than two years, unless he has been at least five years employed elsewhere in a practical work or as a teacher, or in advanced study of the subject for which he was employed at the University.”<sup>18</sup>

The above provision was further amended in 1960 to prescribe:

“After receiving a degree (undergraduate or graduate) from the University, a person shall not, thereafter, be employed as a teacher or research worker at the rank of instructor or higher until he has secured another degree at another university, has been engaged elsewhere in full-time graduate student for at least one year, or has been employed at least three years elsewhere as a teacher or in another professional assignment...the intent of this regulation is to avoid excessive inbreeding and to encourage the recruitment of faculty personnel from a variety of backgrounds.”<sup>18</sup>

Graduate Faculty Membership. Upon a 1951 report of the Graduate Faculty of the qualifications considered necessary for appointment to the Graduate Faculty, the 1955 revision of the Governing Regulations incorporated the language of that report as follows,<sup>19</sup> which has been retained in the Governing Regulations in essentially this form for the last 50 years:

“Eligibility qualifications are as follows:

1. The doctor’s degree or its equivalent in scholarly reputation.
2. The rank of assistant professor (or equivalent), or higher.
3. Scholarly maturity and professional productivity as demonstrated by publications, editorial services, research surveys, creative work, patents, and research progress at the time of the proposal.
4. Definite interest in graduate work and the willingness to participate in the graduate program.”

Tenure. The 1918 Governing Regulations also contained the first codification “tenure,” where the regulations specified

“... Professors and Associate Professors, are placed on a permanent appointment upon the recommendation of the President, and with the approval of the Board ... Assistant Professors are appointed for a period not to exceed three years upon the recommendation of the President and with the approval of the Board.”<sup>20</sup>

In 1960, the above Governing Regulation was further amended, to read as follows, where this new language established a means of *de facto* tenure, i.e., that tenure is acquired by even assistant professors whose employment has continued longer than the probationary period:

“Each person in the following categories shall also have continuous tenure at the University, either on appointment or following a probationary period of employment on a year-to-year basis, the total probationary period to be from one to five years, as approved by the President: (1) all persons of the rank of assistant professor or higher, (2) other persons adjudged by the President to hold equivalent ranks, including research or extension personnel and professional librarians.”<sup>18</sup>

Subsequent to 1960 over 60 faculty acquired *de facto* tenure as assistant professor. The last tenured assistant professor who acquired tenure by this “de facto” mechanism retired in June 2003 (see chapter on History of University of Kentucky Tenure System).

### **Qualifications for Dismissal of Faculty**

Among the initial state laws passed in March of 1880, was the provision:

They [the trustees] shall also have power... to appoint presidents, **professors**, assistants and tutors ... to remove or suspend from office all incumbents of offices filled by them ... Provided, That no **professor** or president shall be removed, except for just cause” (underlining added here)

However, six weeks later, that state law was amended to instead read as follows:

“The board of trustees shall have the full power to suspend or remove, at will any of the officers, teachers, professors” (underlining added here)

There is clearly a significant difference between a professor being removed “at will” versus removed “for just cause.” Eight years later, the Board minutes record the first exercise by the Board of its statutory authority to remove professors “at will”:

“On motioned ordered that the Secretary notify Professors Potter and Schweinitz that the Board of Trustees do not consider that the best interests of the College will be served by the further continuance of their connection with the institution and that the connection hitherto existing cease and determine from date hereof.”<sup>21</sup>

As summarized above, it was not until 1918 that the Board of Trustees’ Governing Regulations codified “Tenure” as a continuous appointment that could be made to Professors and Associate Professors. However, that codification still did not make clear whether and under what conditions the “continuous” appointment could be made terminated. Finally, the KY state legislature in 1934 adopted the ‘tenure law’ that we have today (as KRS 164.230), prescribing:

“no president, professor or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct.”

Shortly after the state legislature passed the above 1934 “tenure law”, the U.S. Supreme Court in a case from Indiana considered the question of whether a state legislature could subsequently pass a law abolishing tenure, and thereby nullifying tenure contracts held by public school teachers who had become tenured entered under the preexisting tenure law. (The Indiana state legislature in 1927 had passed a tenure law for school teachers similar to those passed in Kentucky in 1934 for professors at KY public universities and teachers in KY public schools). In that Indiana case the U.S. Supreme Court held that because of the “contracts clause” of the U.S. Constitution, the state legislature could not pass a new law that nullified existing tenure contracts created pursuant to a prior law.<sup>22</sup>

## **Establishment of the Regular Title Series and Its Qualifications Under President John Oswald, 1963**

Underlying Philosophical Issue. In the summer of 1963, the UK Board of Trustees decided to appoint **John Oswald** as the new University President. The Board appointed him with a primary mandate to lead UK out of its status as a local institution of primary teaching emphasis and into the ranks of national research universities. Also, up to that time, each college administration had the discretion to utilize whatever measures of performance it saw fit, and there was no higher University-level framework providing a structure as to what those measures of performance ought to be.<sup>23</sup> President Oswald thus had to make an important decision on how to organize the efforts of the University faculty in the way most effective to accomplish the mandate of University excellence in research as well as in teaching. For example, would it be most effective to have half of the faculty doing the teaching and the other half doing the research, or would it be most effective to require all, or most, of the faculty to perform excellently in both teaching and research? This was a crucial question in academic philosophy, and whatever answer President Oswald would identify would have a major impact on the University for decades into the future.



The President’s Philosophical Choice. The President chose the philosophy that in order for the University to become propelled higher into the national ranks as a research university, it was necessary that all, or most, faculty perform excellently in both teaching and research. He drafted a statement of University-wide criteria for faculty appointment, promotion and merit salary increase that reflected this philosophy, and provided the draft to the Faculty Council for its advance discussion, prior to the Oct. 18, 1963 Board of Trustees Executive Committee meeting. That draft stated, in part:

“Four areas of activity are important in the evaluation of faculty for appointment, promotion and merit increase:

1. teaching
2. research and other creative activity
3. professional status and activity
4. University and public service

..... a major consideration in any appointment or promotion which carries tenure must be superior intellectual attainment as evidenced both in teaching, and in research or other creative activity.”

The Faculty Council discussed this draft, and felt that the

“[b]asis for promotion seems to be based too heavily on research with not enough emphasis on service, making or inconsistency; example, the non-research professor of the type found in medicine. Suggested: that the ... Balance and Intellectual Attainment be rewritten for more flexibility but without weakening emphasis on quality.”<sup>24</sup>

The President met several days later with the Faculty Council, discussed the draft, and

“In summing up, the President stated he would digest for the Trustees at their meeting Friday the sum result of this meeting with the Council as it pertains to common criteria...”<sup>25</sup>

At the subsequent October 1963 meeting of the Board's Executive Committee (which was acting for the Board), the President requested, and the Board's Executive Committee approved,<sup>26</sup> President Oswald's proposal for

“the establishment and application of uniform evaluation criteria for appointments and promotions in the academic ranks ...for judging faculty achievement... [by way of a]... statement of uniform criteria to serve as a basis for the appointment and promotion of faculty members of all colleges.<sup>26</sup> ... In other words, I am in the process of developing some uniform criteria for evaluating teaching, evaluating research productivity and public service ... I think its very important that for example, if we are going to use the term “associate professor” that associate professor in the University means that this man is involved in creative work and research as well as teaching, regardless of which college he is in.<sup>26a,</sup>”

By cover memorandum of Oct. 28, 1963 to the entire University faculty, President Oswald then described the promulgation of these “criteria for evaluation of faculty appointments, promotions and merit increases,” and described that he had “discussed this with the Trustees and have received authority to proceed.”<sup>27</sup> The new criteria attached to that cover memo, to take effect Dec. 1, 1963, expressly placed much emphasis on Research activity, in addition to Teaching and University/Public Service activity. Although the style and language of the new policy was drawn heavily from the policies of the University of California,<sup>28</sup> the role of “publication” as the primary evidence of research activity also dovetailed the framework of the Board's Governing Regulations on the qualifications in “research” necessary for persons of assistant professor of higher rank to be appointed to the Graduate Faculty<sup>19</sup>.

The new criterial policy as officially promulgated was well-organized in that it carefully used specific terms (“**areas**,” “**evidences**,” “**criteria**”) to each have distinguished meanings that relate to each other in a logical way. First, the policy identified the above-listed four “**Areas of Activity**” expected of faculty (i.e., teaching; research/creative activity; professional status/activity; university/public service). For each area of activity, the policy then identified those “**evidences**” of activity which are to be evaluated. Finally, the policy stated the “**General Criteria for Ranks**”, where the **evidences** of activity in each of the four **areas of activity** would be assessed for whether the **criteria** for the particular professorial rank had been met by the candidate. This clarity and consistency is necessary not only for effective guidance to the candidate, and for effective evaluation by the reviewers, but also as a legal safeguard because the policy is a part of the contract of each Regular Title Series faculty member. Unfortunately, use of these terms in ways not consistent with their meaning as written in the policy led to much frustration and anguish over the next several decades, including what the present author believes is a unnecessary loss of clarity in a part of the regulation as it exists today (see below).

Upon his issuing the new criterial policy for faculty appointment, promotion and merit salary increase, President Oswald received much resistance from those administrators of academic units containing faculty whose assignments did not include significant research activity. For example, at a February 1964 meeting of the Faculty Council, there was

“substantial discussion of the matter of needs for special ranks to meet the needs of particular colleges. Dr. **Ed Pelligrino** [Faculty Council Vice Chair and the Chairman of the Department of Medicine, College of Medicine] presented problems that would be created ... for people in the clinical area whose responsibilities did not fit the teaching research concept of the professorial series.... this led to the point that there were other areas such as Agriculture where the problems of specialized activities suggested that perhaps other series of ranks might be needed that would more appropriately define the functions of individuals .... It was felt that there was need to explore further the possibility that still other needs of this type existed in other colleges in the University and that prior to making a position the Faculty Council might well consult with appropriate faculty members to define these needs more completely ...”<sup>29</sup>



The response by President Oswald and the Faculty Council to these situations concerning clinical faculty, extension faculty, librarians, community college faculty, etc., was to establish several alternative series of specialized titles and corresponding ranks that would serve those specific, focussed academic niches (some of these title series were more painful to get launched than others: see the chapters on the histories of these respective title series). However, President Oswald held firm that these additional niches were to be viewed as limited exceptions to his foundation philosophy that attainment of a national research status could only be achieved if the majority of faculty had the responsibilities of the Regular Title Series. As President Oswald articulated this philosophy to the University faculty in October 1965

**“The heart of the University faculty is made up of those who hold titles in the regular professorial series. Therefore, the criteria for this group are especially significant....**

Four areas of activity are important in the evaluation of faculty for appointment, promotion and merit increase....Consideration of the universal argument concerning the relative importance of these areas of activity resulted in the statement that:

Each of the areas discussed above is important, but the evaluation of an individual should involve reasonable flexibility. Consideration should be given to a heavier work load in one area of activity against a light in another. The individual’s unique balance, abilities, and emphasis on one area and the characteristics of various fields which put demands of a special kind on an individual should be a factor in evaluation. Nevertheless, a major consideration in any appointment or promotion which carries tenure must be superior intellectual attainment as evidenced both in teaching, and in research or other creative activity.”<sup>30</sup>

### **Origin of the Descriptor “Regular” Title Series**

Prior to 1963, there were not multiple professorial titles, each with their corresponding ranks, rather, there simply existed the four ranks of Instructor, Assistant Professor, Associate Professor and Professor. Thus, there was no reason to designate it as the “Regular” title series in distinction from some other title series (perhaps an emerging exception was the voluntary faculty employed in the Medical Center academic departments in connection with the UK Hospital that activated in 1962; see History of Clinical Faculty Titles and Ranks in the UK Medical Center – Part I – the First Decade). It was surprisingly difficult to locate the origin, per se, of the reference to the set of long-established ranks as the “Regular Title Series.”

In February 1964, the Faculty Council recorded the following discussion in its minutes:

“Dr. **[Ralph] Weaver** [Faculty Council Chair] was requested, through personal interview, to ask each of the deans to submit recommendations for faculty titles in those areas where the criteria for regular professorial ranks would not be appropriate for retention and promotion, emphasizing that the Council would insist on these [Oswald 1963] criteria for the regular professorial ranks.”<sup>31</sup> (underlining in original)

That phrasing (“regular title”, “regular ranks”) was used during the remainder of 1964 in drafts and correspondence written by Special Assistant to the President Tom Lewis and Medical Center VP William Willard.<sup>32,33</sup> However, by the turn of the year to 1965, the Faculty Council appeared to be moving in a different direction. In its discussion of the proposal it developed for a “Special Title Series,” the Faculty Council thought it particularly important to designate it as being in contrast to the

“standard (departmental) professorial ranks...”<sup>34</sup>

This is the ‘name’ of the ‘regular’ series that was in the draft policy for Special Title Series that the Faculty Council approved and submitted to the President. However, elsewhere in that same document, it was referred to as “the regular professorial series.” Although President Oswald then promulgated in April 1965 the Special Title Series policy document as drafted, approved, and submitted by the Faculty Council, retaining the reference to “standard (departmental) professorial ranks...”, in his cover memo announcing that STS policy, President Oswald referred to “the regular titles.”<sup>35</sup> VP Willard in correspondence to President Oswald in the summer of 1965 was referring to “regular faculty title series,” which appears to be the first reference per se to the “regular” faculty title as a “series” of ranks in the same way that the Special Title was a “series” of ranks.<sup>36</sup>

The first widely distributed reference by President Oswald to the “regular” professorial series was his October 1965 dissemination to the University faculty concerning the academic plan for the Second Century of the University that had been approved by the Board of Trustees, wherein he wrote

**“The heart of the University faculty is made up of those who hold titles in the regular professorial series.”<sup>30</sup>**

After this occasion, no reference was ever made again, by the President or the Faculty Council, to a “standard (departmental) professorial series,” rather, the “Regular Title Series” name was used. The descriptor “Regular” became first codified in the 1972 Administrative Regulations promulgated by President **Otis Singletary**. In the respective section on appointment and promotion criteria (AR II-1.0-1.V.A) the introductory narrative states “These criteria apply to persons appointed in the **regular title series**.”<sup>37</sup>



### **Subsequent Issues Arising in the Exercise of the Regular Title Series**

The Regular Title Series, was thus formally named, and codified, with the issuance of the 1972 Administrative Regulation AR II-1.0-1. Over the next three decades, the most series issues that have arisen on its exercise have involved (1) the identification and elaboration of the different evidences of activity that are respectively appropriate to the different academic disciplines, (2) the role of extramural funding, (3) the assignment of Distribution of Effort (D.O.E.) consistent with the expectations of the title series, (4) and the scope and meaning of “scholarship.”

#### **(1) Application of the ‘General’ University Regulation on Regular Title Series to the ‘Specific’ and Varied Academic Disciplines.**

**University-level Regulation Does Not Identify Discipline-Specific Evidences.** While the uniform, University-wide, 1963 policy<sup>27</sup> (and its subsequent first codification as an Administrative Regulation in 1972,<sup>37</sup> and its most current form, AR II-1.0-1.V (A)<sup>38</sup>), established a common framework for the evaluation of candidates for appointment or promotion in the Regular Title Series, the University-level policy being general could not, and did not, attempt to identify for each and every academic discipline what **evidences** of activity are appropriate to each discipline. Rather, for each of the four Areas of Activity, the University-wide general policy leaves the determination of the discipline-specific evidences up to the discipline-specific academic units. Shown below are the **passages of delegation** (in **brown** font), with respect to the given **evidence** (in **orange** font), that are in the current AR II-1.0-1.V (A), along with the original rooting language from the 1972 codification, and from the spawning 1963 policy document.

Research and Other Creative Activity (current). “The individual under consideration must show **evidence of continuing** research or creative activity in the particular field of assignment. Normally, **publication** in the **form** considered **appropriate for the field** will constitute this **evidence**... It should be understood that in certain activities, “**publication**” as used in this document may be achieved in **modes** different from those of the sciences and the book-based disciplines.”<sup>38</sup>



Research and Other Creative Activity (1972). “The individual under consideration must show **evidence of continuing** research or creative activity his particular field. Normally, **publication** in whatever **form** considered **appropriate for the field** will constitute this **evidence**...It should be understood that in activities such as the fine arts,<sup>39</sup> “**publication**” as used in this document may be achieved in **modes** different from those of the sciences and the book-based disciplines.”<sup>37</sup>

Research and Other Creative Activity (1963). “...the comments in this section will be directed more to techniques of evaluating research or other creative work. The individual must show **evidence of continuous** research or creative activity in his particular field...**synthetic publications** if they develop new ideas or constitute scholarly research should be viewed as **evidence** of research ... consideration should be given to the **type of creative activity** normally expected **in the candidate’s field** ...”<sup>27</sup>

.....

Professional Status and Activity (current). “There are many ways in which **extramural recognition** may be **evidenced**, and those entrusted with evaluation will use the kind of **evidence appropriate to their fields**. Qualitative rather than quantitative judgments should be made.”<sup>38</sup>

Professional Status and Activity (1963). “**Invitations to review the work of other scholars, teach at other institutions, give lectures or read papers before professional or public groups, serve as a consultant or on committees, or as an officer of a recognized professional society, and service as an editor for a scholarly publication**, all suggest **professional status, competence, and activity** that are a reflection of ability...There must be proof that genuine leadership has been exerted. Recognition must also be made of **special kinds of activity dictated by individual fields**, especially in professional schools and colleges.”<sup>27,40</sup>

.....

University and Public Service (current). “Effective participation in **activities appropriate to the formation of educational policy and faculty governance** and effective performance of **administrative duties** shall be taken into consideration in the evaluative process...**Service to the community, state, and nation** also must be recognized as positive **evidence** for promotion...In the colleges of the Medical Center, **patient care** is recognized as a special competence **in an assigned field** and is an integral part of the service component.”<sup>38</sup>

University and Public Service (1972). “Effective participation in **activities appropriate to the formation of educational policy and faculty government** and effective performance of **administrative duties** are to be taken into consideration in the evaluative process ... **Service to the community, state, and nation** also must be recognized as positive **evidence** for promotion...”<sup>37</sup>

University and Public Service (1963). “In a University where academic objectives are to be the guiding principle of development, the faculty must play an important role in the **formulation of policy and administrative action**. Therefore, in evaluating an individual for promotion, recognition must be given to scholars who **participate effectively and imaginatively in faculty government, the formation of departmental, college and University policy** and who prove themselves **able administrators**.”<sup>27</sup>

**Overt Delegation of Responsibility to Academic Units to Identify the Evidences Appropriate to Their Disciplines.** The Board’s Governing Regulations and President’s Administrative Regulations, as presently codified and in their legislative history, show that the specific criterial evidences ‘appropriate to the academic discipline’ for evaluating faculty performance in the four areas of activity are not themselves prescribed in the University-level regulations. However, from the very beginning the University administration has been adamant that the consequent elaborations by academic units of their respective discipline-specific criterial evidences are not allowed to contradict or displace the general University-level framework. As will be seen below, over the next several decades an iterative cycle of increasing amplitude of nonacknowledgment by academic units of the controlling University-level framework, followed by reaction of the central administration, led to squandered energies of both the faculties and the central administration, as well as

unnecessary anxiety in candidates as to what was expected in their performance, and confusion by reviewers as to the proper measures of evaluation.

This tension created the necessarily generalized but yet controlling framework of the University-level regulation was first seen shortly after President Oswald's promulgation of the Oct. 1963 policies excerpted above. Questions quickly arose on how those University-wide criterial policies for research would be applied to the Regular Title Series faculty in the clinical disciplines who were heavily assigned with patient care and who were not performing "research" as that term was understood in the basic sciences nor "creative activity" as that term was understood in the arts. Thus, in 1967 President delegated for the new Area Committee for the Clinical Sciences of Medicine and Dentistry the charge that

"One of the first tasks I believe the area committee should undertake is the establishment of criteria for these clinical area personnel ... [to] recommend criteria covering appointments and promotions within the University-wide criteria" ... "The Vice President of the Medical Center will transmit the proposed statement of criteria with his comments to the President, who in turn will refer the statement of criteria to the Senate Council for concurrence or suggestions for modifications."<sup>38,39</sup>

Clearly, President Oswald did not intend that the criterial elaboration would displace or contradict the general requirements of the University-wide criteria, but rather would elaborate within that framework. It is also clear from the approval requirements that prescribed that President Oswald was on 'high alert' to ensure that the criterial elaboration in fact did stay within the University-level policy. In a similar vein, the policy for the Special Title Series promulgated in 1965 delegated criteria-proposing responsibility to each unit (a delegation that continues in the current regulation) where in a proposal to establish a new Special Title Series position:

"the initiating department would prepare a document:

c) Proposing criteria for appointment and promotion to each of the three ranks within the title series

These criteria would be approved by the dean of the college concerned and by the President of the University, who as a part of the approval procedure would submit the proposed criteria to the appropriate Area Committee..."<sup>35</sup>

In the case of the Special Title Series position, the actual criteria themselves were necessary to be wholly 'invented' for each position, rather than being elaborations under some University-level criteria. This is because the Special Title Series, as intended when established under President Oswald, was only for those very "limited"<sup>33</sup> situations in which teaching or service activities were so specialized in nature that evaluation criteria relating to teaching or service in the Regular Title Series policy were inappropriate to apply to those special situations.<sup>43</sup> Nevertheless, we can see, again in the Special Title Series situation, that the proposal by a discipline-specific faculty is followed by central administrative final approval.

The Board's Governing Regulations were heavily revised by the Board in May of 1970,<sup>44</sup> to codify the framework for evaluation of faculty that was initiated by the policies promulgated between 1963 and 1968 during President Oswald's term. Those 1970 revisions to the Board Governing Regulations have been maintained as the in-force regulatory language from 1970 to the present. Those Governing Regulations state in part:

"Ranks and special titles and a description of the qualifications for each shall be established by the President after consultation with the appropriate administrative and faculty groups..."<sup>45</sup>

"The President may delegate any of the President's assigned authorities or responsibilities to ... faculty of the University."<sup>46</sup>

"The department chairperson is responsible for the periodic evaluation of department members by procedures and criteria established by the University, the college and the department faculty."<sup>47</sup>



Within this framework, the President has the authority to delegate and the department faculty have the authority to exercise a function to determine, for the four areas of activity, the criterial evidences of activity that are the evidences appropriate to their respective discipline. For example, upon the Board’s adoption of the above May 1970 Governing Regulations, the University President Singletary, following advice from Special Assistant to the President for Academic Affairs **Paul Sears**,<sup>48</sup> sent in 1971 a policy memo to the colleges, schools and departments, stating that pursuant to those Governing Regulations

“Faculties of colleges, schools, departments, and community colleges are charged in the Governing Regulations with ... the development of policies, guidelines, or criteria on such matters as ... the evaluation of courses and teaching.”<sup>49</sup>

**University Senate Recommends Additional Delegation to Academic Units to Elaborate Expectations.**

Within the above inviting environment, the University Senate in 1974 took action to further promote that the faculty of each academic unit would elaborate how the University-wide criteria apply to their respective disciplines. A series of recommendations in the 1965 “University of Kentucky Academic Program”<sup>50</sup> (arising from the 1964 “Second Century” report presented by President Oswald to the Board of Trustees in June 1964) led in the late 1960’s and early 1970’s to the formation of a series of University Senate committees to assess the implications or implementation of the recommendations. One University Senate committee spawned as a result examined faculty appointment, promotion and tenure processes (Ad Hoc Committee to Re-Evaluate Tenure and Promotion,<sup>51</sup> chaired by **Joseph Krislov**). The committee’s final report to the University Senate, the “Krislov Report,”<sup>52</sup> contained 10 recommendations which were approved by the University Senate Council, and finally by the University Senate, for transmittal to the University administration, all but one of which were then promulgated by President Singletary. Included was Recommendation 4, in four parts, two of which were incorporated with some modification into the AR II-1.0-5.B we have today<sup>53</sup>, that states:



“The annual performance review of each non-tenured faculty member shall include some discussion with the unit administrator of the individual's progress toward consideration for tenure in terms of the **unit's expectations**.<sup>54</sup> [Recommendation 4, part 3]

“4. The unit administrator shall consult with the tenured members of the faculty regarding the progress of each non-tenured faculty member toward consideration for tenure in terms of the **unit's expectations**.<sup>57</sup> [Recommendation 4, part 4 in part]”

The “Krislov” committee also identified that the University-level regulation for the Regular Title Series did not prescribe for each academic unit the criterial evidences to be used in assessing the quality of academic advising. Therefore, the committee also in its Recommendation 9 offered a remedy, which was approved by the University Senate Council, and finally the University Senate, and promulgated by President Singletary in AR II-1.0-5.B.2 and in the Regular Title Series Administrative Regulation AR II-1.0-1.V.A.1, below, respectively.

“**Colleges**, working through appropriate University bodies, **shall develop some means to evaluate** the quality as well as the quantity of academic advising done by each faculty member. As this procedure is developed and implemented, the results of this evaluation shall be considered in the annual performance review.”<sup>56</sup>

“Colleges shall evaluate the quality as well as the quantity of academic advising done by each faculty member. The results of this evaluation shall be considered in the annual performance review and in the decisions concerning retention and/or promotion of each faculty member.”<sup>57</sup>

The above provisions having prescribed that each academic unit will articulate its disciplinary expectations, and that each college develop a means to evaluate performance towards those expectations in the teaching area of

student advising, the “Krislov report” also recommended, the University Senate adopted, and the President promulgated, a July 1974 policy<sup>58</sup> memo aimed at developing discipline-specific measures of research quality:

“Each ... educational unit, in consultation with its dean, shall propose ... consistent not only with the University’s regulations but also with the goals of the University and the college ... (4) the means for determining the quality of scholarship and creative productivity **in the discipline**; and (5) the kinds of scholarship and creativity most acceptable **to the discipline** ... [which] ... shall be an internal guide to the department or educational unit in evaluating and advising its own personnel, provide the basis upon which the Area Academic Advisory Committee shall recommend whether the documentation supports the proposed change in rank or tenure status, and provide guidance for the appropriate administrative officers in the advising, evaluating and status change processes [and which] shall be submitted through normal channels to the dean, the vice president, and the Area Academic Advisory Committee for evaluation and recommendations, and finally to the President for his consideration and approval.”

A number of educational units contemplated, adopted and forwarded for approval the above discipline-specific elaborations, but for reasons not related to the above items 4 and 5, the President several months later rescinded the policy memo,<sup>59</sup> which unfortunately also took the momentum out of the activities related to items 4 and 5.

### **Discipline-Specific Elaborations by Academic Units Must Stay Within the University-level Framework.**

During the early 1990’s, the University administration became aware that the “Rules” documents of many academic units<sup>60</sup> had not been updated for some time. Therefore a directive was sent out from the President for such updates to be made and forwarded for approval. On Medical Center side Chancellor for Academic Affairs Phyllis Nash coordinated the effort, and on the Lexington Campus side the activity was coordinated by Asst. Chancellor **James Chapman**. In his memo Campus deans, Dr. Chapman explained that discipline-specific criterial elaborations developed by academic units could not contradict the general University-level criterial statement:



“AR II-1.0-1 specifies the general criteria for appointment, promotion, and tenure. The department and the college cannot deviate from these criteria. The units are required to develop specific criteria [but] cannot be in contradiction to those in the AR’s. Alteration in the general criteria is not an option of the department or the college.”<sup>61</sup>

However, despite the guidance provided to the academic units by such statements as that from James Chapman, above, the University central administration became concerned that some academic units perceived that each academic unit was authorized to establish independent “criteria” for promotion and tenure in the Regular Title Series, that could even contradict the higher University Administrative Regulation. It is the assessment of this writer that part of this problem was inattention by those academic units to that the University level regulation for Regular Title Series expresses unit-level latitude to elaborate what modes of “publication” are appropriate to the field, and what evidences of “professional status and activity” are appropriate to their discipline – however, that regulation does not express any unit-level latitude to independently establish their own “criteria” that might contradict those prescribed in AR II-1.0-1.V.C. The University administration reacted swiftly and firmly. For example, in 1995 the Special Assistant to the President for Academic Affairs, Juanita Fleming, explained

“departments and colleges...are not authorized to set the criteria for appointment, promotion and tenure. The criteria are set out by the University exclusively in the Administrative Regulations.”<sup>62</sup>

That any proposed elaborations on the discipline-specific criterial evidences that are proposed by a college or a department faculty must be forwarded up the chain-of-command for approval for consistency with the University-level framework was further articulated by UK Chancellor **Robert Hemenway** during a 1995 court deposition.<sup>63</sup>

“Q. But that’s true about any of these college and department procedures and criteria that are mentioned in this Governing Regulation I’m talking about. All these have to be approved up the chain don’t they?”

A. That’s correct. (Hemenway)

Q. So there’s nothing new about that. Do you see a contradiction in that?

A. No, I don’t see a contradiction...” (Hemenway)



An example of the application of this principle of “cannot displace the University-level criterial framework” was articulated by Chancellor Hemenway in 1994, again during a court deposition, using as an example that an academic unit cannot set aside the University-level requirement that “publication” is the normal evidence of research activity and in the place of “publications” instead substitute “acquisition of extramural funding” as the evidence of measure:

“The point that I made is that the criteria is continuing research. I think that we say evidence of continuing research if I remember the exact language. And in order to demonstrate evidence of continuing research in some fields, particularly scientific fields, if you’re unable to secure extramural funding, you’re not able to do the research. The evidence of the research, however, is not in the grant itself. The evidence of the research is in the publication that results from the research...”<sup>64</sup>



This exact point was rearticulated yet again, 10 years later, by the University Provost **Mike Nietzel**. As has been recorded in the University Senate Council minutes, there was to the Senate Council

“recounted the direction given by the Provost to the Area Committees at a meeting ... the Provost made it clear success in obtaining grants is not a criterion for “Research,” in evaluations for promotion and tenure, though grant getting could be considered in an overall evaluation. The [Senate Council] Chair stated that he had discussed this issue with the Provost at a recent informal meeting, and reported the Provost affirmed to him personally what he stated explicitly at the Area Committee meeting that Bailey attended. The Provost pointed out that obtaining a grant could be offered by the candidate and considered by evaluators as one kind of evidence of “peer recognition.” Elaborating, the Provost indicated, according to the Chair, that in some disciplines it might be necessary to acquire extramural funding to the extent that it is necessary to support the generation of publications, but it is the publications, not the grants, that constitute the evidence of research activity. Bailey also recalled the Provost stating that if an area committee letter stated that promotion was not recommended because the individual had not obtained grants, then this letter could become legal evidence that the university was not following it’s own criteria.”<sup>65</sup>

An example of how sensitive of a legal issue it can become if the central administration were to unenforce this point was shown by the experience of the College of Medicine. An intensive joint and good-faith effort by both the faculty and administration of the College of Medicine in 1997-1998, supported by Dean **Emery Wilson**, resulted in a policy document<sup>66</sup> for the college that described evidences and measures of activity in the areas of teaching, research and service. Unfortunately, the document contained such expressions as



“This document ... provides **criteria** for promotion” and “The following **criteria** for promotion are formulated to...” and “The performance of the faculty member as judged by the **criteria** in the appointment letter should form the basis for reappointment and promotion decisions.”

The above phrasing in the document generated a reaction from the central administration in which the College of Medicine, after having promulgated and printed copies of the glossy-covered, 24-page document, had to revise the document to reformulate the text so that it would not be read as an assertion by the college to establish its own “criteria,” as opposed instead ‘elaborating on how the University-level criteria apply to the disciplines of the college.’ The reissued College of Medicine policy document contains the following example provision:

“Documentation of **research** activity is **evidenced** by **publications in scientific journals**”<sup>67</sup>  
... this productivity will be accompanied by external funding to support their research programs.”<sup>68</sup>

Note how this elaboration makes deference to the University-level policy which establishes that the evidence for activity is **research** is “publication.” It also elaborates that what the University-level regulation describes as the ‘mode of publication appropriate for the discipline(s)’ is, for the College of Medicine, the mode of publication in **scientific journals**, and it elaborates that while external funding is not per se a “criterion,” it can be considered a necessary “support” activity simply by the nature of the discipline.

The present writer anticipates that as the academic units become better oriented on the nomenclature of posturing their unit-level elaborations within university-level framework of areas of activity, evidences under those areas, and criteria for ranks, the academic units will then find more success in developing, getting approved, and applying these elaborations to their individual cases.

## **(2) Role of “Scholarship” in the Evaluation of Performance in the Regular Title Series**

From the outset of the Regular Title Series in 1963, “scholarship” has been expected in the performance of each Regular Title Series faculty member. The episodic problem has been “what does scholarship mean?” within the context of the regulations and whether a given academic unit used the reference to scholarship as a cover to implicitly establish new criterial requirements that the academic unit would not otherwise have the authority to explicitly establish. The Board’s Governing Regulations adopted in May 1970,<sup>44</sup> that we have today, prohibit a substantive change in the criteria for faculty academic ranks without approval action by the Board of Trustees:

“The establishment of new ranks and major changes in criteria for ranks shall have the approval of the Board of Trustees.”<sup>69</sup>

An expectation that scholarship was intended to involve all aspects of Regular Title Series faculty activity at the University of Kentucky can be seen in excerpts below from the 1963 Regular Title Series policy statement promulgated by President Oswald.<sup>27</sup>

Teaching. ... Conscientious but routine teaching and advising is no argument for promotion, but distinguished teaching and work with students is... Also fundamental is the ability to arouse curiosity and stimulate students to independent, **creative** work. The teacher should have the capacity to **awaken** in students an awareness of the relationship of his subject to other fields of knowledge.” (1963)

Research and Other Creative Activity. .... textbooks or similar general synthetic publications if they **develop new ideas** or constitute **scholarly** research should be viewed as evidence of research...” (1963)

Professional Status and Activity. ... Invitations to review the work of other **scholars** ... and service as an editor for a **scholarly** publication...” (1963)

University and Public Service. ... recognition must be given to **scholars** who participate effectively and **imaginatively** in faculty government, in the formation of departmental, college and University policy ... “Care must be taken to separate activity on the community level which is personally motivated as opposed to that which emanates from the role of the individual as a **scholar.**” (1963)

Three decades later, Boyer's (1990) treatise<sup>70</sup> advocated that "scholarship" ought be academically defined not narrowly as just an activity in research ("discovery" in his terminology), but more broadly as creative and imaginative ("scholarship") activity also in teaching ("teaching"), service ("application"), and synthesis of facts across disciplines ("integration"). While Boyer's treatise generated much discussion in the 1990's in academia, including inside the University of Kentucky, the case can be made that the policy for Regular Title Series promulgated under President Oswald in 1963 was already several decades ahead of Boyer's treatise.

Unfortunately, after President Oswald's departure in 1968, that clarity of expectation of creativity and imagination in all four of the Areas of Activity became less clear. The Senate Advisory Committee on Appointment, Promotion and Tenure<sup>71</sup> (comprised of the Chairs of each of the Academic Area Advisory Committees of the University Senate, and itself chaired by **William Garrigus**<sup>72</sup>) was in 1971 asked by President Singletary (as Chair of the Senate) to codify the 1963 Regular Title Series policy into one of the new Administrative Regulations<sup>73</sup> that President Singletary was preparing as the University's first administrative manual. The resulting committee product in the spring of 1971<sup>74</sup> was adopted essentially verbatim as the new Administrative Regulation, promulgated by President Singletary in 1972.<sup>37</sup> The language of that 1972 Administrative Regulation deleted all but one of the above 1963 policy references to scholarship in each of the four Areas of Activity, and changed the final reference to one that appears to distinguish "scholar" as being different than "teacher":



"University and Public Service. .... Service ... provided that this service emanates from the special competence of the individual in an assigned field and is an extension of the individual's role as a **scholar-teacher**."

This apparent distinction was also codified in university policy by the Board of Trustees in its new Governing Regulations of May 1970:<sup>44</sup>

**"Faculty as Scholars and Citizens** .... Like other citizens, faculty members are free to engage in political activities so far as they are able to do so within the law consistent with their obligations as **teachers** and **scholars**." [1970]

This language codified in the University's regulations in the early 1970's thus incubated for the next two decades as the University's evaluation template for Regular Title Series faculty (as well as for Special Title Series and Extension Title Series faculty). Within that context, Boyer's (1990) treatise<sup>70</sup> landed into the UK environment and created much discussion (or, actually, rediscovery of Oswald's expanded 1963 definition of scholarship). This strong current of Boyerspeake' intersected with another strong current within the University of increasingly encumbering faculty time for the activity of acquiring more external funds to the University. Within this cross-current context, the University Senate in 1996 appointed a task force to examine the University's promotion and tenure expectations for faculty in the Regular Title Series and Special Title Series.<sup>71</sup> Subsequent to the work over the next year by several subcommittees, that Task Force submitted a recommendation to the University Senate that the Regular Title Series be cast in terms of the Boyer-paradigm of scholarship.<sup>76</sup> The University Senate adopted the recommendation in fall of 1998,<sup>77</sup> and after some wordsmithing, the University administration<sup>78</sup> issued in fall of 1999 a revised Regular Title Series policy statement in 1999 (version "(B)"), including the new criterial statement for the rank of Associate Professor:

"Appointment or promotion to associate professor shall be made only after a candidate has met the criteria for assistant professor and has demonstrated **high scholarly achievements** commensurate with his/her assignment in areas of (1) research and other creative activity; (2) teaching, advising and other instructional activities; (3) professional, university and public service. Particularly, an indication of continuous improvement and **scholastic** contributions should be evident as documented by the candidate."

As well intended as the Senate Task Force's efforts were, as the Task Force rephrased and reorganized the 1972 Administrative Regulation on Regular Title Series, in the opinion of this writer the Task Force on several important aspects made the new regulation less clear and less effective in guidance than had been the 1972 regulation in the areas of research, professional status and activity, and public service. Examples of this loss of clarity are:

1. The 1972 regulation (and 1963 policy), made "Professional Status and Activity" as discrete area of evaluation. However, the 1999 revision completely eliminated that section, and instead combined it into the what had been the fourth Area of Activity called "University and Public Service" (now "Professional, University and Public Service" in the 1999 version).
2. The 1972 version had explicitly emphasized not just the professional "activity" of the individual, but also the professional "status," and highlighted that latter is the more important, being an assessment of the peer esteem for the quality of the individual's scholarly contributions in teaching, research and service

"demonstration that the abilities of the individual under consideration are recognized outside the University ...extramural recognition ... Qualitative rather than quantitative judgments should be made."<sup>37,38</sup>

However, the new 1999 version (B) eliminated such explicit reference to the qualitative "status" of the individual in his/her profession. Rather, the new 1999 language is primarily in the direction of an enumerative listing the scholarly "activities" that the individual, as a professional, has chosen to contribute in a scholarly way to public and university service:

"Faculty members are expected to engage in service related to their professional role as scholars for the benefit and development of local, state, national, international, and the University communities. Documented scholarship related to service that is directly associated with one's special field of knowledge, expertise, and professional role within the University will be evaluated"<sup>78</sup>

Other than the inclusion of the word "Professional" in the 1999 heading to section V.A.3, there is no reference in that section to the esteem with which the professional community holds the individual. (The 1999 version (B) regulation makes a reference in the section on "Research" to communication of the research to the scholarly community and to the public at large, but again that is not the same information as the esteem with which one's peers in the professional community hold one's scholarly contributions).

3. Starting in 1964, the clinical Regular Title Series faculty in the UK Medical Center for twenty years labored to have the Regular Title Series regulation expressly recognize that their work in clinical patient care is valued as a contribution in public service that is made in their scholarly capacity for that discipline (see Chapters on Clinical Faculty Titles and Ranks in the UK Medical Center – Parts I and II). Finally, in 1984 the section of the Regular Title Series regulation on University and Public Service was amended to newly insert the following sentence after the first sentence of paragraph 2 of AR II-1.0-1.V.A.4:

"In the colleges of the Medical Center, patient care is recognized as a special competence in an assigned field and is an integral part of the service component."<sup>38</sup>

However, that provision was completely excised from the new 1999 Regular Title Series regulation version (B).

4. While for the 1999 version (B) the section on the criteria for the Associate Professor rank specifies that scholarship is expected for all of the areas of activity (teaching, research, service), in contrast the opening section of that same 1999 Regular Title Series version (B) regulation includes new language that perpetuates the notion that scholarship is something not related to teaching or service:

"Excellence in teaching, advising and other instructional activities, research and creative scholarship, and in professional, University and public service is expected."<sup>78</sup>



In fact, the word “scholarship” is not contained anywhere in the section of the 1999 Regular Title Series regulation version (B) for the area of activity of “Teaching, Advising and Other Instructional Activities” (section V.A.1), although it is contained in the individual sections on “Research and Other Creative Activity” (section V.A.2) and “Professional, University and Public Service” (section V.A.3).

5. The 1972 Regular Title Series regulation was very clearly worded to explain that “Research” is an Area of Activity, and that normally “publication” is the evidence to be offered by the candidate to show that the candidate is making continuous contribution in that area, that is, the publications are used as evidence the candidate has been active. A completely separate issue is the recognition of the value of the publications. The 1972 regulation requires that the measure of the value of the publication is ascertained from opinions obtained from specialists in the field who are internal and external to the University.<sup>37,38</sup> However, when the language for that section was revised in 1999, the changed wording instead now makes the publications in and of themselves “the evidence” of the candidate’s external recognition, instead of using the opinion of the specialists *about* the publications to constitute the evidence of the recognition of the work. Compare:

“The individual under consideration must show evidence of continuing research or creative **activity** in the particular field of assignment. Normally, publication in the form considered appropriate for the field will constitute this evidence. Evaluation of the **quality** of such publication is imperative, and specialists in the field from both inside and outside the University should be called upon to attest to the value of the individual's research.” (1972)<sup>37,38</sup>

“Evidence of recognition of research and/or creative activity and its long-lasting merit and worth is expected. Normally, publication in the form considered as appropriate for the field will constitute this evidence.” (1999)<sup>78</sup>

### **(3) Assignment of Duties Consistent with the Expectations of the Regular Title Series**

The 1880 law that empowered the Board of Trustees to hire professors also empowered the Board to determine their duties. That law, as it exists today in KRS 164.220, states in full

“The board of trustees may appoint a president, professors, assistants, tutors and other personnel and determine the compensation, **duties** and official relations of each. “

The first Governing Regulations promulgated by the Board of Trustees in 1882 specified that

“the President is committed to the general superintendence of the interests and reputation of the institution ... He is the chief executive officer of the College, and as such it is his duty to see that all of its regulations are faithfully observed.” (GR 9).

The central role of the President in final approval of faculty work leave, work travel, location during summer absence, etc. was continued and codified in the major 1918 revision to the Board’s Governing Regulations. That revision also recognized and codified the role of the college deans to recommend on “removals of members of their respective college staffs” attests to the growing supervisory role of the deans. By the 1947 revision to the Governing Regulations, we begin to see the express supervisory delegation to the deans:

“The dean of a college ... is the executive officer of his college and of all the work associated with it ... He is responsible for the service rendered by the faculty of his college, individually and as a whole.”

In that 1947 revision, another provision was included related to change in faculty “assignment.” That provision was spawned by the case of **Lester O’Bannon**,<sup>79</sup> a tenured Professor of Engineering, a case which still reverberates within the University system many decades later. Against his strong protest Professor O’Bannon had been, upon the recommendation of the President and approval of the Board of Trustees, transferred to the College of Agriculture.<sup>80</sup> Professor O’Bannon protested that he had been tenured in the College of Engineering, in which his faculty voting rights were thereby centered, so the Board’s transfer of him to a different assignment in the different college was an alleged violation of the standing of his tenure rights. After a decade of appeal by Professor O’Bannon to become restored to his original assignment in Engineering, including: Board committee hearings, Board threats to dismiss Professor O’Bannon despite his tenured status,<sup>81</sup> student campus protests in support of Professor O’Bannon, all culminating in his 1946 testimony against the University Board and President at a legislative inquiry in Frankfort,<sup>82</sup> Professor O’Bannon, under intense administrative pressure, resigned his tenured position with the University. In response to the O’Bannon case, the Board of Trustees in 1947 amended its Governing Regulations to newly include the provision:



“When it is to the best interests of the institution, and if the professional status of an individual is not seriously jeopardized thereby, a person may be transferred from one assignment to another, without such a transfer being regarded as a violation of his tenure rights.” (underlining added here)

It is important to note that above provision does not serve as a “catch-all” or “blanket authorization” for a dean to change the “assignment” of a faculty member in disregard of any other personnel policy of the Board. Rather, because of the underlined portion, a dean has a before-the-fact protection from accusation of violation of employment rights only for that subset of employment (contract) rights that are “*tenure rights*.” When the Board’s Governing Regulations were again revised in 1970<sup>74</sup> (to the language we have today) the Board defined again the limits within which “duties” of a faculty member may be changed:

“**When** it is to the best interests of the institution, **and if** the professional status of an individual is not seriously jeopardized thereby, a change in the duties assigned to an individual may be made without such a change of assignment being regarded as a violation of his tenure rights.”

As in the earlier versions, it is important to note that above provision still does not serve as a “catch-all” or “blanket authorization” for a dean to change the “duties” of a faculty member in disregard of any other personnel policy of the Board (or President or Provost). Rather, because of the underlined portion, a dean would have protection from accusation of violation of employment (contract) rights only for that subset of employment rights that are “*tenure rights*.” The above provision cannot be read and exercised by first truncating away the qualifying and limiting underlined portion.<sup>83</sup>

Two years after promulgation of the Board’s 1970 Governing Regulations, President Singletary (cognizant that the President only possesses those statutory authorities of the Board concerning faculty “duties” that the Board has expressly chosen to delegate) issued for the first time the manual of Administrative Regulations. Those 1972 Administrative Regulations at AR II-1.0-1.IV.M reprinted verbatim the above provision of the Governing Regulation, including the limiting qualifier underlined above.<sup>84</sup> (Although other sections of AR II-1.0-1.IV have been amended over the subsequent years, this specific policy section (now AR II-1.0-1. IV.I) has remained unchanged from its 1970 parent language in the Board’s Governing Regulations).<sup>84</sup>

Two more years later, in 1974, another recommendation to the University Senate in the Krislov Report<sup>52</sup> took note that the distinction between the Regular Title Series and the other various title series established during the previous decade is the different amount of, and nature of, assignments each requires of faculty in the areas of research, teaching and service. Indeed, the 1972 Administrative Regulation<sup>87</sup> for Regular Title Series codified the criteria for ranks that were issued pursuant to the direction of the Board in 1963.<sup>37</sup>

“General Criteria for Ranks:

“2. Associate Professor ... Appointment or promotion to associate professor shall be made only after an indication of continuous improvement and contribution by an individual in **both teaching and research or other creative activity**. Furthermore, the individual should have earned some regional recognition for excellence appropriate to the field.”

“Balance and Intellectual Attainment”

“...individuals selected for tenure should demonstrate superiority in **all** the major criteria discussed here...”

In view of that the Regular Title Series requires excellence in both teaching and research, the “Krislov committee” was concerned to ensure that faculty in the Regular Title Series be assigned sufficient duties in both teaching and research to satisfy the expectations of the Regular Title Series criteria. Thus, the committee’s final report to the University Senate, the “Krislov Report,”<sup>51</sup> contained in Recommendation 4 one provision stating:

“3. ....An individual who is hired with the prospect of becoming a tenured faculty member shall be assigned **duties** by the unit **commensurate** with making due progress toward meeting **requirements** for tenure. [Recommendation 4, part 2]

That recommendation was adopted by the University Senate,<sup>85</sup> approved by President Singletary, and promulgated as an addition to AR II-1.0-5.B, and is still in that regulation<sup>54</sup> today (2005). The anticipation of the University Senate on the importance of that provision to protect faculty careers from becoming derailed by misassignment of duties was quite prophetic, as the ensuing three decades have born out. As an example, the Senate Advisory Committee on Privilege and Tenure (composed of tenured faculty peers)<sup>86</sup> held in a 2000 tenure/promotion case that a faculty member in the Regular Title Series had for six years been unduly misassigned too high of an administrative service component, which left too little time to meet the criterion of regional recognition in research. The faculty appeals committee did not interpret that the regulation from 1947 (on changing assigned faculty duties) excused the dean (or the Chancellor supporting the dean) from compliance with the immediately above-quoted regulation that requires the dean to assign the untenured faculty member with duties that are commensurate with meeting tenure requirements. The faculty appeal committee’s official interpretation quite unambiguous against the dean’s conduct:

“[t]his Committee believes that [the individual] has been ‘screwed’ by missteps and lapses in the system over which he had virtually no control. If there is a culprit, it is [the former dean] who apparently insisted that new members of the College ... be appointed into the regular title series regardless of their duties... it is unfair for the university to hire a person... charge him primarily with the task of building an important undergraduate program at one third or more of his time and yet put him in the Regular Title Series... The Privilege and Tenure Advisory Committee recommends that you grant promotion and tenure to [the individual].”<sup>87</sup>

The final disposition of the case was that the University reversed the Lexington Campus Chancellor **Elizabeth Zinser**’s denial of tenure and instead granted tenure to the individual.<sup>88</sup>



Finally, it may be that the lessons learned by the above (and other cases) have still not made the necessary impact to ensure that untenured faculty are assigned duties commensurate with meeting tenure expectations. This author obtained in fall 2004 a spreadsheet of the D.O.E. assignments of all untenured assistant professors. Shown below are examples of actual D.O.E. assignments made to these assistant professors in the Regular Title Series.

<u>Teaching</u>	<u>Research</u>	<u>Service</u>	<u>Administration</u>
60	15	20	5
80	15	5	0
80	15	5	0
75	25	0	0
0	0	0	100
0	100	0	0

It is not easy to see the commensurate “balance” in assignments in both teaching and research.

## **Provost's Reassessment of Regular Title Series**

At the December 2004 meeting of the University Senate, the University Provost Michael Nietzel proposed for consideration a major change in the definition of the criteria for ranks of the Regular Title Series.<sup>89</sup> The Provost observed that instead of the Special Title Series being restricted to special teaching and/or service, the faculty assigned in that title series had become increasingly assigned with a significant research responsibility. (The present author by Open Records request ascertained that some Special Title Series faculty were assigned with up to an 80% D.O.E. in Research). That is, the differences in function of Regular Title Series and Special Title Series had thereby become less distinct, and the need of the Special Title Series therefor being brought into question. The Provost proposed that the Special Title Series be eliminated and that in the future the only track by which tenure can be obtained is by satisfaction of the Regular Title Series criteria that involve excellence in both teaching and research (the fate of the Extension Title Series and Librarian Title Series for the moment excluded from the discussion-in-concept). However, in this proposal, once a faculty member had obtained tenure in the Regular Title Series, the concept of "Differentiated Distribution of Effort"<sup>90</sup> would be applied at the level of the individual, rather than at the level of the title series, so that a tenured Regular Title Series faculty member could become primarily assigned teaching duties, or primarily assigned research duties.

The Provost also proposed for consideration changes in the ranks of the Regular Title Series. More "provocatively" (in the Provost's words) would be the elimination of the rank of Associate Professor, and that untenured Assistant Professors would, upon tenure, become Professor. As a less provocative proposal, the Provost offered for consideration a more aggressive use of promotion with tenure directly from Assistant Professor to Professor, for those exceptional cases where the Assistant Professor has already achieved the criteria for Professor. Mechanistically, if such a proposal from a department was not approved at the higher level, the individual could still become tenured as an Associate Professor. In support of this latter proposal, the Provost noted that there have already been several precedent cases where untenured Assistant Professors were promoted with tenure directly to Professor.<sup>91</sup> However, it is clear that each of the Provost's proposal is premised upon compliance with the Administrative Regulation (AR II-1.0-5.B.3) that requires a dean to assign duties to the untenured faculty member that are commensurate with making due progress towards tenure,<sup>54</sup> and that the D.O.E. forms accurately show the assignment of duties ("expectations") that are actually being made upon the faculty member.

## References

- <sup>1</sup> These laws are still present today in Kentucky state law as KRS 164.220(1)  
<http://biology.uky.edu/djones/PDF/5/5.ii/II.A.pdf>
- <sup>2</sup> Minutes, Board of Trustees, June 8, 1880.
- <sup>3</sup> Minutes, Board of Trustees, June 7, 1881
- <sup>4</sup> Minutes, Board of Trustees, June 6, 1888
- <sup>5</sup> Annual Register, 1888, James Yates in the Department of Mathematics.
- <sup>6</sup> Minutes, Board of Trustees, June 30, 1882
- <sup>7</sup> Annual Register, 1888, Alfred Peter, Assistant Professor of Chemistry in Experiment Station
- <sup>8</sup> Annual Register, 1892
- <sup>9</sup> Minutes, Board of Trustees, June 3, 1903
- <sup>10</sup> In an example of the quaint common vernacular used at the turn of that century, faculty were not referred to as being hired or appointed, but rather, “elected” by the Board to the academic faculty position, e.g., “Thereupon Mr. Stoll made the following motion. I move that all instructors and Assistant Professors be elected for the ensuing year. Said motion was seconded and carried.” BOT minutes June 5, 1902
- <sup>11</sup> Minutes, Board of Trustees, June 1909. President Patterson stated “... I recommend that J. M. Davis be promoted from the position of first assistant in Mathematics to the position of Associate Professor of Mathematics...”
- <sup>12</sup> Annual Register, 1904. One of these Lecturers was Harrison Garman, the ‘first entomologist’ at the University, and in whose honor the present graduate student organization of the Dept. of Entomology is still named.
- <sup>13</sup> Prior to 1963, all appointments of every university employee were submitted to the Board of Trustees. At the Oct. 18, 1963 Board meeting, President Oswald advised the Board that while such involvement by the Board in the employment details was feasible earlier in the University’s history, that the time had been reached where the University was of such a size that the Board’s time would be better spent on other matters. President Oswald proposed, and the Board approved, a new policy in which the Board’s approval on faculty appointments would only be required for either appointments above the level of assistant professor, or when the appointment involved an initial salary above a threshold level (\$8,000/year). Final decisions on all other (lower) faculty appointments were delegated to the President, who would report such decisions to the Board. When the Board’s Governing Regulations were revised in May of 1970, the section detailing this reporting policy (section VIII.B) used the language that those faculty appointments below associate professor and below the salary threshold (changed to \$15,000) “*may be finally approved by the President who shall report such actions (except those relating to graduate teaching and research assistants) to the Board of Trustees.*” This parenthetical addition was included to encompass those situations, still not uncommon in those years, in which faculty members with an undergraduate degree from UK, but who were pursuing at UK a terminal degree, were also employed (skills harnessed) as either Instructors (entry faculty rank; if they were less than 50% time as a student) or as graduate teaching assistants or research assistants (if they were more than 50% time as a student). Under the reporting policy, those with appointment as Instructor would be reported to the Board, but those with appointment as graduate teaching assistants or research assistants would not. Because this situation rarely if ever occurs any more, the parenthetical portion of GR VIII.B is being removed from the Governing Regulations revision of 2005.
- <sup>14</sup> Board of Trustees Governing Regulations, 1918, page 23, Section XII, “Terms of Employment,” contains the phrase “All members of the faculty shall....All above the rank of instructor...”
- <sup>15</sup> Board of Trustees Governing Regulations, 1918, page 18, Section VIII, “The Faculties of the Colleges,” and Section IX, “The Departmental Staffs”
- <sup>16</sup> Board of Trustees Governing Regulations, 1918, page 22, Section XI, “Appointments, Promotions and Removals
- <sup>17</sup> Board of Trustees Governing Regulations, 1947, page 23, Section X, “Regulations Affecting the Teaching and

- Research Staff and Other Employees of the University”
- <sup>18</sup> Board of Trustees Governing Regulations, 1960, page 25, Section XI, “Regulations Affecting the Teaching and Research Staff and Other Employees of the University”
- <sup>19</sup> Board of Trustees Governing Regulations, 1955, page 10, Section VI, “The Graduate Faculty”
- <sup>20</sup> Board of Trustees Governing Regulations, 1918, page 24, Section XIII, “Tenure”
- <sup>21</sup> Minutes, Board of Trustees, June 6, 1888
- <sup>22</sup> *Indiana Ex. Rel. Anderson v. Brand*, 303 US 95 (1938).
- <sup>23</sup> [The Case of Gladys Kammerer](#)
- <sup>24</sup> Minutes, University Faculty Council, Oct. 10, 1963
- <sup>25</sup> Minutes, University Faculty Council, Oct. 15, 1963
- <sup>26</sup> Minutes, Board of Trustees, Oct. 18, 1963
- <sup>26a</sup> Transcription of tape recording of October 18, 1963 meeting of the Executive Committee Board of Trustees
- <sup>27</sup> [President Oswald’s Oct 1963 Memo on Faculty Appt/Promotion/Tenure Criteria](#)
- <sup>29</sup> University Faculty Council Minutes Feb 12, 1965 showing approval of draft definition of new faculty “Special Title Series” [02-12-65 Draft Special Title Series definition as approved by Faculty Council](#)
- <sup>30</sup> October 1965 transmittal from President Oswald to University Senate “Beginning a Second Century. The University of Kentucky Academic Program: Curricular, Policies, and Organization”, page 148.
- <sup>31</sup> Minutes, University Faculty Council, Feb. 17, 1964
- <sup>32</sup> Nov. 5, 1964 memorandum from Special Assistant to the President Tom Lewis to President Oswald
- <sup>33</sup> Dec. 22, 1964 memorandum from VP William Willard to President Oswald
- <sup>34</sup> Minutes, University Faculty Council, Feb. 12, 1965
- <sup>35</sup> April 28, 1965 Special Title Series policy from President Oswald to College Deans  
[President Oswald April 28 1965 Memo to Deans, Chairs Establishing Special Title Series](#)
- <sup>36</sup> July 29, 1965 memorandum from VP Willard to President Oswald
- <sup>37</sup> March 1972 Administrative Regulation publicly circulated under an April 1972 cover memo from President Singletary to UK faculty; [First Issuance of AR II-1.0-1 on March 1, 1972](#)
- <sup>38</sup> Current AR II-1.0-1.V – Regular Title Series [Page V - Appointment and Promotion Regular Titles \(dated 9/20/1989\)](#)
- <sup>39</sup> The phrase “in activities such as the fine arts” was the phrasing codified in the 1972 Administrative Regulation. Two years later, the phrasing was changed to the “in certain activities” that is the phrase in the current regulation.
- <sup>40</sup> Much of this regulation was taken from the University of California policy, in which this section on “professional” activity was more literally aimed at the professional disciplines (e.g., law, business), in contrast to the experimental natural sciences disciplines and in contrast the creative arts disciplines. However, when President Oswald was wordsmithing the language into the draft of the new University of Kentucky policy, he changed the meaning of “professional” away from literally just the “professional” disciplines, and more toward a meaning of ‘activities related to the larger professional community of an individual’s field.’ Hence, the listing of examples of ‘professional activities’ in the 1963 policy statement, that became much abbreviated in the 1972 codification.
- <sup>41</sup> Dec. 9, 1966 memo from President Oswald to Medical Center VP Willard
- <sup>42</sup> Jan. 25, 1967 Oswald memo to the new Area Committee for Clinical Sciences of Medicine and Dentistry.
- <sup>43</sup> Nov. 24, 1965 memorandum from Executive VP Albright to Chair of Biological and Medical Sciences Area Committee, stating: “The establishment of a Special Title Series for a position implies that special functions are to be performed and that the adequacy of an incumbent’s performance in such a position cannot be adequately appraised by the criteria applicable in the regular academic series. Hence, specific differentiating criteria are necessary for an objective evaluation in a Special Title series. The Committee’s report seems to say that the criteria, with the exception of the one on “creative productivity”, for evaluation in the regular academic series should prevail for evaluation in the Special Title series for Nursing. If this is the case, then the establishment of a Special Title series has little, if any, justification.”
- <sup>44</sup> Minutes, May 5, 1970 meeting of Board of Trustees
- <sup>45</sup> Section VII.A.2, on page 17 of the 1970-adopted Governing Regulations

- <sup>46</sup> Section III, on page 10 of the 1970-adopted Governing Regulations
- <sup>47</sup> Section VII.B.5, on page 24 of the 1970-adopted Governing Regulations
- <sup>48</sup> Dec. 28, 1970 memorandum from Special Asst. to the President Paul Sears to President Otis Singletary; see also Feb. 19, 1971 memorandum from Special Asst. to the President Paul Sears to President Otis Singletary
- <sup>49</sup> [President's 01/08/71 memo](#); see also [Presidents 04/11/74 memo](#)
- <sup>50</sup> October 1965 transmittal from President Oswald to University Senate "Beginning a Second Century. The University of Kentucky Academic Program: Curricular, Policies, and Organization", recommendations 9 and 12.
- <sup>51</sup> "Krislov Committee" membership: Sherill Biggers, Peter P. Bosomworth, Lewis Cochran, Jason Fewnick, William Gordon, Sue Howard, Robert Kiser, Joseph Krislov, Paul Obsert, Mark Paster, Roert Strauss, Norman Taylor, Ernest Yanarella
- <sup>52</sup> "Report Ad Hoc Committee to Re-Evaluate Tenure and Promotion" ('Krislov Committee Report')
- <sup>53</sup> AR II-1.0-5.B (12/16/00) [Faculty Performance Review](#)
- <sup>54</sup> AR II-1.0-5.B.3
- <sup>55</sup> AR II-1.0-5.B.4
- <sup>56</sup> AR II-1.0-5.A.2
- <sup>57</sup> AR II-1.0-1.V.A.1 version (A) [Page V - Appointment and Promotion Regular Titles, dated 9/20/1989](#) and version (B) [Page V - Appointment and Promotion Regular Titles, effective 1/1/2000](#)
- <sup>58</sup> July 9, 1974 memorandum from President Singletary to VP Bosomworth and VP Cochran re: "Establishing Standards of Performance" [President issues 07/09/74 memo](#)
- <sup>59</sup> Nov. 21, 1974 memo from President Singletary to Vice Presidents Peter Bosomworth and Lewis Cochran [President issues 11/21/74 memo](#)
- <sup>60</sup> see GR VII.A.4, GR VII.A.5, GR VII.A.6
- <sup>61</sup> Sept. 2, 1994 memorandum from Vice Chancellor James Chapman to Deans of Lexington Campus re: "Revisions to Rules of Procedure"
- <sup>62</sup> Feb. 27, 1995 memo from Juanita Fleming, Special Assistant to the President for Academic Affairs, to George DeBin, Official Custodian of Records re: "Opinion on Faculty Rules"; [President's Spec. Asst. Acad. Affairs 02/27/95 memo uses carefully parsed words to make it appear units cannot elaborate criteria](#)
- <sup>63</sup> Deposition of Dr. Robert Hemenway, April 5, 1995, in the case of Chung vs. Dean Thomas W. Lester et al., Franklin Circuit Court 93-CI-345; [Chancellor's 04/15/95 court deposition](#)
- <sup>64</sup> Deposition of Dr. Robert Hemenway, June 7, 1994, in the case of Chung vs. Dean Thomas W. Lester et al., Franklin Circuit Court 93-CI-345; [Chancellor's 06/07/94 court deposition](#)
- <sup>65</sup> Minutes, University Senate Council, Sept. 27, 2004 [September 27, 2004](#)
- <sup>66</sup> College of Medicine Policy Document 1998, "Procedures for Appointment, Promotion, and Tenure"
- <sup>67</sup> College of Medicine Policy Document 1998, "Procedures for Appointment, Promotion, and Tenure", pg 20
- <sup>68</sup> College of Medicine Policy Document 1998, "Procedures for Appointment, Promotion, and Tenure", pg 5
- <sup>69</sup> Board of Trustees Governing Regulations, GR VII.A.2, para. 3, last sentence
- <sup>70</sup> Boyer, Ernest. *Scholarship Reconsidered: Priorities for the Professorate*. Princeton: Carnegie Foundation for the Advancement of Teaching, 1990
- On Boyer's "Integration"
- Boyer: "By integration, we mean making connections across the disciplines, placing the specialities in larger context, illuminating data in a revealing way, often educating nonspecialists, too. . . draw together, and bring new insight to bear on original research . . . interpret what's been discovered in ways that provide a larger, more comprehensive understanding."
- Oswald: "The teacher should have the capacity to awaken in students an awareness of the relationship of his subject to other fields of knowledge."
- On Boyer's "Application:"
- Boyer: "Clearly, a sharp distinction must be drawn between citizenship activities and projects that relate to scholarship itself. . . To be considered scholarship, service activities must be tied directly to one's special field of knowledge and relate to, and flow directly out of, this professional activity."
- Oswald: "Care must be taken to separate activity on the community level which is personally motivated as opposed to that which emanates from the role of the individual as a scholar."

On Boyer's "Teaching":

Boyer: "Teaching is also a dynamic endeavor involving all the analogies, metaphors, and images that build bridges between the teacher's understanding and the student's learning. Pedagogical procedures must be carefully planned, continuously examined, and relate directly to the subject taught. [G]reat teachers ... stimulate active, not passive, learning and encourage students to be critical, creative thinkers."

Oswald: "...an ability to organize material, communicate concepts, significant understanding and enthusiasm for the subject matter through lecture, discussion, dialogue and other means is a prime requisite ... fundamental is the ability to arouse curiosity and stimulate students to independent, creative work."

<sup>71</sup> Senate Rules Charge to "Senate Advisory Committee on Appointment, Promotion, and Tenure," (SACAPT) adopted Oct. 29, 1970: "...shall comprise the chairmen of the academic area advisory committees on appointment, promotion and tenure...It shall recommend to the University Senate on criteria for appointment, promotion and tenure as they may affect the broad academic policies of the University. It shall advise the President, of the administrative officers designated by him as appropriate, on the police for appointment, promotion and tenure and shall report to the Senate on these policies."

<sup>72</sup> January 27, 1971 memorandum from President Singletary to William Garrigus (Dept. Animal Sciences) [President Singletary's Jan 27, 1971 memo to members](#)

<sup>73</sup> Feb. 19, 1971 memorandum from Committee Chair William Garrigus to committee members relating President Singletary's charge to the committee, including "Update

<sup>74</sup> SACAPT report March 31, 1971 "Procedures for the Appointment, Promotion, Tenure and Termination of Faculty" [Univ. Senate Adv. Comm. on Appt., Promotion and Tenure Mar. 31, 1971](#)

<sup>75</sup> Senate Task Force on Promotion and Tenure 1996-1997

<sup>76</sup> Minutes, University Senate, October 12, 1998, "The Committee recommends that Boyer's expanded scope of scholarship--discovery, integration, application and teaching--be considered in determining the kind of activity expected."

<sup>77</sup> Minutes, University Senate, Sept. 14, 1998

<sup>78</sup> AR II-1.0-1.V (B) [Page V - Appointment and Promotion Regular Titles, effective 1/1/2000](#) (B), to apply to faculty hired after January 2000.

<sup>79</sup> Case history posted at: [Tenured Faculty Member Criticizes Administration: Board Threatens Dismissal - O'Bannon Case](#)

<sup>80</sup> Minutes, Board of Trustees, March 22, 1938

<sup>81</sup> Minutes, Board of Trustees, April 2, 1940

<sup>82</sup> Minutes, Board of Trustees, April 1, 1946

<sup>83</sup> For example, at the same meeting in May 1970 that the Board promulgated the above policy, the Board also newly promulgated the policy elsewhere in those Governing Regulations (GR VII.A.2) that "*major changes in criteria for ranks shall have the approval of the Board of Trustees.*" Thus, a dean, for example, could not unilaterally make reassignments in faculty "duties" that would have the effect of making major changes in the criteria for ranks, because the other policy adopted at the same Board meeting expressly requires that major changes in criteria for ranks must be approved by the Board. Or, in another example, the above provision does not say "...*without such a change of assignment being regarded as a violation of affirmative action rights,*" and so a dean could not use the above policy to change a faculty member's "duties" in a way that violates affirmative action rights the faculty member may have under other Board policies. Or, in another example, the above provision does not provide for a dean to unilaterally to change the duties of a college employee to include that the individual is now directly supervised by their own spouse, in violation of other Board policies against nepotism. While some changes in duties are enabled by the above provision to escape an accusation of violation of "tenure rights," the above examples of changes would still be a violation of other Board policies relating to criteria for ranks, affirmative action, nepotism, etc. --- the above Board regulation on changing of faculty duties cannot be read and applied by an administrator in a vacuum, isolated from other Board policies on "*criteria for ranks,*" etc.

<sup>84</sup> In 1983 (and without any empowering change in language of delegation from the Board's Governing Regulations) the President revised the Administrative Regulation to the language it has today (at AR II-1.0-1.B.11) by adding the phrase "*privilege or*" before the phrase "*tenure rights*" so that when, say a dean, in "*the best interests of the institution*" and where not jeopardizing the individual's "*professional status*" changes the duties of a faculty member, the dean is protected from accusation of violating either "*privilege*" or "*tenure*"



*rights*” of the faculty member. However, the President’s unilateral addition of the word “*privilege*” (even if authorized) still does not purport to allow a dean to change a faculty member’s duties in a manner that violates other Board personnel policies on criteria for ranks, affirmative action, nepotism, etc.

<sup>85</sup> 1974 Senate minutes

<sup>86</sup> [Annual Senate Council Memo Concerning Nominations for Appointment](#)

<sup>87</sup> June 2, 2000 letter from Brad Canon, Chair, Senate Advisory Committee on Privilege and Tenure, to President Charles Wethington

<sup>88</sup> July 11, 2000 letter from President Wethington to Chancellor Elizabeth Zinser

<sup>89</sup> [Provost's Senate Address - December 13, 2004](#)

<sup>90</sup> [Page XVI - Appx II - Faculty Workload Policy Statement](#)

<sup>91</sup> Two examples: (1) Paul Oberst, College of Law, Promoted from Assistant Professor to Professor, 1947; (2) Thomas Chapman, College of Arts and Sciences, Department of Mathematics, Promoted from Assistant Professor to Professor, 1973; Minutes, Board of Trustees, April 3, 1973.

(c) Davy Jones, April 12, 2005

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