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To: Deans Chris Cox, Brent Carbajal, Brad Smith, Dan Guyette, Jeff Wright, Roger Gilman, Francisco Rios, Brian Burton

From: Catherine Riordan, Provost and Vice President for Academic Affairs,
Karen Stout, Faculty Senate President,
Steven Garfinkle, UFWW President

Date: March 9, 2012

Subject: Confidentiality Task Force Recommendations

Catherine

In an effort to be in compliance with state law, attached are recommendations for standard language regarding the confidentiality of faculty peer evaluations in Probationary Review, Tenure and Promotion, and Post Tenure Review, and a standard process for retention of these peer evaluations. Washington State law requires that the peer evaluations collected in the Probationary Review, Tenure and Promotion, and Post Tenure Review processes must be open to requests from individuals for their own records. The law has been interpreted in two subsequent cases in WA, including one at the Supreme Court.

Please work with the head of your college's governance group to put these changes in effect in your review processes, including standard language in your unit evaluation plans, on your evaluation forms, and in any correspondence directing faculty participation in review processes.

This new language and process is **to be used in Post Tenure Review taking place this spring quarter, 2012**. Please make all changes to wording before sending out information about Post Tenure Review this spring 2012, and forward Unit Evaluation Plans to the provost's office for review by **April 6, 2012**.

If you have any questions, please contact Debra Jusak for assistance.

Confidentiality Task Force Recommendations

THE CHARGE TO THE TASK FORCE

Based on understanding of current contract, relevant UEPs, and legal interpretations provided by UFWW and University attorneys:

1. Recommend common phrasing in the solicitation of peer review letters that will inform faculty that candidates under review may request to see the letters being provided. The purpose of this statement is to make clear a common practice, across all colleges that will be adopted with respect to these letters. The phrasing would be used by each of the colleges and library.
2. Recommend a common set of practices for making these letters available to candidates, following the decision.
3. Propose a timeline for retention of these records that protects the privacy of the candidate and relevant laws after which they are destroyed.
4. Propose standardization as to where and how the documents supporting the T&P and PTR records are kept.

THE TASK FORCE MAKES THE FOLLOWING RECOMMENDATIONS:

1. Common phrasing regarding confidentiality should be:
 - a. on top of every candidate evaluation form for yearly probationary review, tenure and promotion, and post tenure review,
 - b. included in the memo notifying faculty that they are to provide candidate evaluation and,
 - c. included in the Unit Evaluation Plan for each unit on campus.

Internal peer evaluation: an evaluation from any faculty member employed at Western Washington University, whether in the candidate's department or not.

External evaluation: an evaluation from a person at another university, or elsewhere outside of Western Washington University.

Internal peer evaluations are not subject to disclosure to the public. They remain available only to the chair, review committees, and others making the evaluation. After the review procedure is complete, the candidate may obtain access by submitting a written request to the dean of the college or library.

- d. In the memo notifying faculty that they are to provide candidate evaluation, please also include the following language:

Washington State law requires that the peer evaluations collected in the Probationary Review, Tenure and Promotion, and Post Tenure Review processes must be open to requests from individuals for their own records. The law has been interpreted in two subsequent cases in WA, including one at the Supreme Court.

The WWU Administration and the UFWW take faculty peer review very seriously and have worked hard to ensure that faculty reviews are meaningful. This is outlined in section 7 of our Collective Bargaining Agreement. Thoughtful and thorough reviews ensure the continued excellence of Western's faculty and they provide compensation rewards at every stage in a faculty member's career.

2. A common set of practices for making these internal peer evaluations available to candidates following a final decision (after all appeals):

A faculty member wishing to examine his/her own internal peer evaluations may make this request to the dean of the college or library. The dean or dean's designee will coordinate with the faculty member to find a mutually convenient time to examine the records in a secure and private setting. The faculty member may choose to bring another person with them to assist in the records examination. Although making photocopies of file documents is not allowed, the faculty member may make notes during the review.

A Union representative, with written authorization from the faculty member concerned, and subject to the University's duty to provide for security of the records, may examine and receive a copy of all or part of the official files of that faculty member. This does not include copies of the Internal Peer Evaluations as they are not part of the official file.

3. A timeline for retention of these records that protects the privacy of the candidate and relevant laws after which they are destroyed, and (4.) standardization as to where and how the documents supporting the probationary review, tenure and promotion, and post-tenure review records are kept.

Records Retention Schedule for Documents Supporting Probationary Review, Tenure and Promotion, and Post-Tenure Review.

Once a final decision regarding Probationary Review, Tenure, Promotion or Post-Tenure Review is completed, all internal peer evaluations shall be:

- i. Retained in a restricted, secure envelope in the Dean's Office.*
- ii. The dean's office will take every precaution to maintain the secure envelope in accordance with these rules.*
- iii. Any copies residing outside this envelope shall be destroyed.*
- iv. The Dean shall retain this envelope in his/her office until the end of the next academic year following the personnel action, after which*
- v. The Dean shall transfer the envelope to the University Archives and Record Center with a closing date reflecting the time of transfer (not decision rendered).*
- vi. The University Archives and Record Center shall retain this envelope for six years.*
- vii. After six years, the University Archives and Record Center shall destroy the envelope and its contents.*
- viii. Exceptions: all legal holds, public records requests, audits, or other formal procedures mandate a suspension of the retention schedule. Once a final decision regarding the formal procedure that has interrupted the schedule has been rendered, the Retention Schedule outlined above shall be restarted.*

The task force makes the following recommendations concerning external evaluations. Our CBA allows departments to seek external evaluations. If departments choose to use external evaluations as part of the tenure and/or promotion process, then

External evaluations will be treated as confidential in order to align with current professional norms and practices. They are made available to the college or library tenure and promotion committee and dean and become part of the materials forwarded to the next levels for review. The external evaluations are removed by the dean before returning the dossier to the candidate. After a final decision has been rendered, the external evaluations are destroyed.

A question has been raised about informal exchanges taking place between a faculty member being evaluated and the chair after the faculty member receives the official letter. The question posed is, "Do these informal (email) exchanges become part of the materials put in the faculty member's file to be made available to review committees in the future?" The committee recommends the following:

There is no place in the probationary review, tenure and promotion process, or post tenure review for unofficial communication about the letter and/or the process. If there are concerns or questions needing to be addressed, the process outlined in our CBA should be followed. These formal communications about the process are then part of the official record of the review.