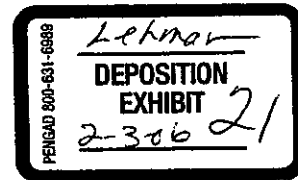


X-Sender: jlehman@j.imap.itd.umich.edu (Unverified)  
X-Mailer: QUALCOMM Windows Eudora Version 5.1  
Date: Wed, 13 Nov 2002 23:56:09 -0500  
To: vcastle@umich.edu, caminker@umich.edu  
From: "Jeffrey S. Lehman" <jlehman@umich.edu>  
Subject: Fwd: Provost Review of Tenure Decision (FYI)



I just sent this email to Peter.

To: "Peter J. Hammer" <hammerp@umich.edu>  
From: "Jeffrey S. Lehman" <jlehman@umich.edu>  
Subject: Provost Review of Tenure Decision

Dear Peter,

As I told you orally at the meeting with the GRB, there are not, to my knowledge, any documents or materials at the Law School, the Provost Office, or elsewhere in the University that should have been, or should be produced as part of your request for the contents of your personnel record, other than those that we have already given you.

Ever since February, and on several occasions, I have described the process of provostial review of negative tenure decisions to you in a consistent and accurate manner. It is a discretionary review procedure that did not exist until Provost Cantor instituted it a couple of years back. It offers the Provost an opportunity to kick a case back to a school or college for further consideration, but it does not create any duty on the part of the Provost to undertake a review of any particular form or style, it does not result in any kind of "appellate opinion" from the Provost's office, and the working assumption of schools and colleges is that the decision of the school or college will become final in the absence of explicit indications to the contrary. In other words, the decision of the school or college is self-executing, and although the Provost had the power to intervene, it would be a mistake for you to rely on that possibility.

Your situation became unusual because you chose to write a letter directly to the Provost concerning your situation. Once you did that (which, of course, you had every right to do), you opened a direct line of communication with that office, and I assumed that it would not be my place to be an intermediary between you and the Provost's office, and that you would continue to communicate with that office directly.

To be sure, during a conversation I had with the Provost in May about other matters, he indicated to me that he had no intention of overturning the decision of the Law School faculty. I did not, however, understand him to be asking me to convey that information to you. Moreover, in light of your direct communication with him, I assumed that I should not speak for his office. Nonetheless, any time you raised the matter in conversations with me over the summer (for example, during our conversations about how I might best help you to structure a new job situation) I repeated my belief about the nature of the Provost's review and advised you to act on the understanding that the Provost would not be intervening in the Law School faculty's decision.

When we met in September I did not understand you to be asking whether I had received a communication from the provost about the possibility of overturning the faculty's decision; rather, I understood you to be asking whether I knew why the Provost had not responded to your letter. I encouraged you to contact the Provost's office directly, and I understand that

you have. I also understand that they have affirmed to you that, while they would like to be of assistance to you in other ways, they will not be overturning the Law School faculty's decision.

I hope that this answers any questions you may have. And, to repeat what I said at the outset, there are not, to my knowledge, any documents or materials at the Law School, the Provost Office, or elsewhere in the University that should have been, or should be produced as part of your request for the contents of your personnel record, beyond those we have already given you.

Sincerely,

Jeff

At 12:04 PM 11/5/2002 -0500, you wrote:

Jeff,

I know that there are many of demands on your time. This is just an effort to jockey for position on your to-do list.

Peter

Date: Tue, 22 Oct 2002 17:20:25 -0400  
To: jlehman  
From: "Peter J. Hammer" <hammerp@umich.edu>  
Subject: Provost Review of Tenure Decision  
Cc: hammerp  
Bcc: Greenfirm@aol.com

Dear Jeff,

I am writing to report the substance of my communications with the Provost Office regarding their review of my candidacy for tenure. I made direct e-mail inquiries of the Provost Office to gain information about the procedural and substantive nature of the review process in general, and of the status of my case in particular. I was informed by Associate Provost Valerie Castle that it was her belief that the Provost review had already been completed, and that it would likely have been conducted the previous spring. This took me completely by surprise. As I stated in my correspondence to Dr. Castle of October 2, 2002: "I have never received, directly or indirectly, from either the Provost Office or the Law School, any notice that the Provost Office has completed its review of my tenure decision. I was under the impression that the review was still pending." I spoke again with Dr. Castle on October 16, 2002. She restated her belief that the Provost decision had been communicated to the Law School last May, and that it would have been the responsibility of the academic unit or department to communicate the substance of such a decision directly to the candidate.

The last communication you and I had regarding the substance of the Provost's tenure review was in the immediate wake of the faculty's vote, where you described the general nature of the process. Subsequently, I made specific inquiries of yourself and

Evan to learn greater details about the timing and substance of such review. At no time during these inquiries was I informed that a decision had already been made. I shared early drafts of my April 4, 2002 letter to the Provost with yourself, Evan and Rob Howse. In discussing the contents of the letter, I was never informed that a decision had already been made. On May 30, 2002, I requested "to be provided with the entire contents of my 'personnel file,' as that term is defined in the Michigan Employee Right to Know Act, MCL § 423.501." In response to this request, no document was produced purporting to represent or constitute a final determination by the University of my candidacy for tenure. On August 19, 2002, I supplemented the informational request for my personnel file specifically to obtain "all information relating to the Law School's transmittal of information regarding the negative 2002 tenure recommendation to the Provost Office and others in the central university administration, as well as all subsequent correspondence with such parties relating to said matter." In response to this request the only document that was produced was your February 28, 2002, letter transmitting the file to the Provost Office. That letter was properly captioned "Confidential, Preliminary, and Advisory." No document was produced purporting to represent or constitute a final determination by the University of my candidacy for tenure.

On August 13, 2002, I received in my box by inter-campus mail the annual letter specifying the terms and conditions of employment. On the letter was a posted note from Rozona saying that I should contact her if I had any questions. I send her an e-mail stating the following:

I got a copy of my new terms and conditions of appointment in my mail box. As with any accounting-type document, it is not always clear what they mean. I have a few questions. The first is whether the document has any larger significance, other than a simple administrative function? I have received no official correspondence from either the Law School or the Provost Office concerning Provost-level review of the tenure decision. Is there a connection between this document and that process?

Rozona replied that the letter had no larger significance and that its only function was to document that I had received summer research funds. I received a similar letter on September 1, 2002. The only difference in the letter was a notation of my salary increase for the coming year.

On September 17, 2002, I met with you and Evan in Evan's office. During the meeting I directly raised the question whether the Law School had received any response from the Provost Office regarding its review of my tenure decision. You stated that the Law School had received no communication or response from the Provost Office on the matter. You also stated that gaps in communication between the Provost Office and academic units were not uncommon. You further stated that it was not unusual that I had received no direct response to my April letter to the Provost. Finally, you stated that it would not be inappropriate for me to directly contact the Provost Office and inquire about the status of its review. Based on this advice, I sent the missives described at the beginning of this letter.

Nearly eight months have passed since the faculty's vote. The status of my candidacy for tenure at the University continues to be a daily source of concern and anxiety. My future personal and professional plans are fundamentally contingent on the University's

final determination. It is distressing that others at the University have been so casual about the matter. I do not question the sincerity of Dr. Castle's report, but I also understand that she assumed her post in July and was not directly involved in the matter. Based upon my experience with you, the Provost Office narrative is difficult to fully credit. I find it hard to believe that you would have received this information and not communicate it to me in a timely and appropriate manner.

I would appreciate your assistance in obtaining a clearer understanding of the nature, substance and timing of the University's decision making. I would also appreciate your attention to the question of whether there are documents or materials at the Law School, the Provost Office, or elsewhere in the University that should have been, or should be produced as part of my request for the contents of my personnel record.

Peter

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