

February 11, 2002 Tenured Faculty Meeting

6:35 p.m. - called to order by Jeff Lehman

Peter Hammer - being considered. Deferred 2 years ago.

Read Tenure Stds & Procedures - "After comm makes a"

1st mtg - no vote tonight.

Turned mtg over to Rob Howse, Chair of Tenure Comm.

Thanked all colleagues on comm. Thanked Julie Rooney for her support. 3 reports. 1st report endorsed by 3 (Rob, Tom & Mathias). Support recommendation. Separate report by Deborah Malamud, recommends tenure, with different conclusion. Report by JJW - not to be granted tenure.

Defined how reports came about. Did not do a new review of his teaching & service then 2 years ago. Did look at more recent course evaluations. Weigh different aspects. Ind. judgment.

1st report (3 supporters) Take all scholarship reviewed, reviewers giving different messages. MLR piece - not as sharp. Pointed out 2fold nature of tenure stds re scholarship - quality (quantity std has been meant) "high intelligence, care on way to becoming a leading scholar." "Make a sign. contribution to legal scholarship." MLR piece - Columbia piece - none w/committee working as scholars in Peter's area of the law. Reviewers gave the comm diversity in review of articles. Comm made some overall judgments.

Looking at big picture. Rob's personal view [doodle] file of someone who has acquired significant publication. Different than 2 years ago. Look at it afresh. Deborah - speak abt her report. Come to grips w/disappt of quality of writings. Diverse field. Narrow margin.

JJWhite spoke abt his report - against tenure. Concerns - Columbia piece - is a failure, but sympathetic - antitrust - contracts btwn Drs & hospitals. MLR article - hard to read - not very new. Justified after. Nothing new. Don't know antitrust law. Case was weak 2 years ago, & hasn't gotten dramatically better.

Tom Green [doodle] - damage has been done w/negative letters. Close to line. Ltr as a hold make stronger case.

Mathias Reimann - not a lot to add. Not an expert in antitrust. Put weight on evaluations from outside reviewers - health care people. Solid for tenure.

Don Herzog - not moved at all by what reviewers have to say. Don't like this, Peter is a good teacher, don't know how much weight to give to Cambodia project. He's a bad writer. Bad at explaining what he's doing. Can't pan out. Open, but scholarship is not good work. Duty to institution - say "no."

Let's make comments on Columbia piece (since Don already commented on).

Evan - nervous abt piece. Slipperyness. How are the courts doing - how can you develop. Courts are doing poorly per Peter's article.

David - context Peter & Sage rec'd a grant. Stage 1 exam of litigation in medical field. Appropriate role of courts. Worried abt proposal from beginning. Exactly happened. Peter's goal was to look at how well courts in antitrust cases analyze antitrust cases. Bean counting. David to Peter - what was important in what you found? [External reviewer's name redacted] ltr to committee - "Peter frustrated on what they found."

Future articles - a lot effort into regulatory.[doodle]

Don't think quality is good. Need to be generous - see it as a predicate to work to follow.

Rick Lempert - empirical research - database - considerable work appellate/district court. Clearly this is a 1st piece. Not as impossible to make assessment of cases. Lack of attn to quality. Read a large subset. Writing by no means is good. Prose good enough to get message through.

Phoebe - writing not good. Framework could have been more exciting.

JB White - not done empirical work. Danger in focusing only on one article. Forgetting about work and record as a whole. Teaching evaluation service (Cambodia). Trying to take on a complicated task. Courts don't talk about quality. Lawyer, an economist. Economic reality. Prose - piece not elegantly written. Whereas MLR piece was.

Rebecca E. - find helpful to focus on each piece.

Sam Gross - extremely hard to write. Dataset - why wasting on published cases?

Reuven - understanding of what Peter is trying to do. Doesn't explain very well. Try to use his work in healthcare - need to be careful not to loose forest because of the trees. Hard to persuade antitrust that there's something there.

Rich Friedman - Michigan piece [doodle] - quality factor - courts don't talk abt quality healthcare.

Rick Hills - going to re-read. Was quality in pleadings?

Michael Heller - don't see a lot of payoff. Poor choice for research project. Maybe down the road. Matter of faith that it'll be there. Don't see paper leading to antitrust debates down the road.

Rob - talked now about MLR piece
BREAK

Merritt - Columbia piece didn't deliver

Brian Simpson [doodle] - softer

Evan - MLR - liked better than Columbia. Much more clearly written. Still not sure abt contribution.

JB White

Jeff - clarification of what he was saying

JB White - propose a rule for defense lawyers

Mathias - triable issue. I'd have written more forcibly. Aware of empirical evidence.

Becky E - 4 elements - tells a story

Evan [doodle]

Kyle - wrote memo on Mich piece first x came up. Improved significantly. Really worried about Columbia article. Go back & re-read.

Don [doodle]

Rick Lempert - look at all publications

Rob

Rich Friedman [doodle] healthcare dissertation [doodle] competition

Becky Eisenberg - 6/99 paper [doodle] Rich institutional knowledge of healthcare market - don't come out in MLR.

Jeff - try & wrap up at 9:30

Deborah [doodle]

Rob - segue in more general discussion in papers in file.

JB White [doodle]

Merritt - more general picture. [doodle] File looks a lot better than 2 years ago. If judging on just MLR & Columbia piece - not good enough. In favor of tenure.

Rich Friedman - past pieces?

Rob

Rich Friedman [doodle]

Rob - anyone who hasn't spoken like to say something

Evan - value of working w/Peter (Merritt)

Becky Eisenberg - formal settings. AIDS Conference

Jeff - 9:20 p.m. 2 mtg process. 2nd mtg on 2/20/02 continue conversation. Talk among yourselves. Be very careful - don't talk where you can be overheard!

February 20, 2002 Tenured Faculty Meeting

6:35 pm - Tenure fac. mtg

Reminders - further discussions - committee - general - straw ballot - further discussion - 3 add communications - comm members [doodle]

Jim? abt stds - level of expertise in all 3 levels.

Jeff - clarification - independent stds - weighted equally?

Jim [doodle]

Reuven - slowness of growth - w/publications scholarship now is sufficient # Established in national field on healthcare.

Evan
Rick Lempert

Sam
Sallyanne
Rob Howse
Sallyanne
Sherman - substantial contribution
Rich Friedman
Sam
Phoebe (Rich Friedman -support comm) serious concerns
Rich Friedman
Bill Miller
Deborah Malamud
Rick Hills
Jim Krier
Rick Hills
Phoebe
Bruce Frier
Rick Hills
8:15 - Break - 8:30
Don Herzog
Layman
Michael Heller
Merritt Fox
Omri Ben-Shahar
Mathias
Evan
JB White
Brian
Rich Friedman
Rick Lempert
Don Herzog
Kyle Logue
Sam
David Chambers
Deborah Malamud
Merritt Fox
Phoebe
Rich Friedman
Omri
David chambers
Don Regan
Rick Hills
Sallyanne
Merritt

Michael Heller
Deborah Malamud
Steve Croley
Rob Howse

Straw Vote - 10:15 19-yes 13-no

BREAK

Jeff

Mathias

Deborah Malamud

Carl

Jim Krier

Sherman

Layman Allen

Rich Friedman

Mathias

Don Herzog

Becky Eisenberg

Jeff

Brian

Merritt

JB White

Deborah Malamud

Evan

Sallyanne

Rob Howse

Deborah Malamud

Rich Friedman

Mathias

Rick Lempert

Phoebe

Vote at 11:15 p.m. - In favor of tenure - 18; opposed - 12

All discussions sealed - confidential - permissible - Jeff will call Peter & tell.
Provost may kick back.

Will offer Peter a terminal year of teaching. No individual voicing to Peter on how voted.

Deborah - who does he use for references. What can he salvage.

Rich - Peter needs to get a good job.

Jeff [doodle] Good conversation from faculty - thanked Rob and committee.

Adjourned at 11:30 p.m.