

Renewal of Tenure- The Presidential Veto  
 Douglas Boyd Ph.D. Professor  
 Chair, Faculty Senate Promotions and Tenure Issues Committee

For tenured faculty, we all go through it - renewal once every seven years. Although we're a little different at MD Anderson with renewable tenure, nevertheless, the decision-making process should be viewed not just in the microcosm of MD Anderson Cancer Center (a University of Texas institution) but across US academic institutions. In fact, look at the The 1940 "Statement of Principles on Academic Freedom and Tenure" (Policy Documents and reports 10th ed (Washington DC 2006), 3-11 and 1958 "Statement on Procedural Standards in Faculty Dismissals" ibid 12-15) and this document stipulates unequivocally that "faculty status and related matters are primarily a faculty responsibility; this area includes appointments, **reappointments, decisions not to reappoint**, promotions, granting of tenure." What is very important is that these statements have been adopted by the Association of American Colleges and Universities **for which MD Anderson is a member** (<http://www.aacu.org/membership/list.cfm>). Therefore we should indeed be adhering to these practices. The big question is are we?

The tenure renewal process most of us are familiar with is involves evaluation of the faculty application by his/her peers (serving on the Promotions and Tenure Committee-(PTC)) who vote on whether the applicant is deemed worthy (or not) of renewal. This recommendation is forwarded to the Presidential for his final decision. One would think that a unanimous vote favoring renewal would be a slam dunk for all purposes guaranteeing renewal for another seven years. Not necessarily. In fact, there has been some concern that the Presidents (past and present) have invoked their veto pen, **without justification**, to override a unanimous recommendation for renewal by the PTC. This led the Executive Committee of the Faculty Senate to request that the Faculty Senate PTC Issues Committee investigate the tenure renewal process past and present. Herein is a summary of our findings. First however, I want to extend my thanks to the hard work of the committee in bringing our investigation to fruition.

**TABLE# 1 Explanation of metrics used in comparing faculty approved or denied for tenure renewal by the President.**

The H-index measures both productivity and impact reflecting publication number and the number of citations per publication. For grading recommendation letters, positives (+1) and negatives (-1) were enumerated. A short recommendation letter was given a value of -1. A "for" or "against" tenure renewal were coded as +1 and -1 respectively. Modifiers e.g. "enthusiastic, without reservation" were coded as +1. The sum of these values represented the recommendation letter final score.

| Criteria                                    | Metric   |
|---|--|
| Publications (Impact Factor Sum)            | Total of the following: first and senior author publications-sum impact factor; for co-authored publications the impact factor for each publication divided by number of authors |
| H-Index                                     | H-Index  |
| Funding                                     | Sum of peer reviewed annual direct grants over the 6 years evaluated   |
| Total number of years funded in prior cycle | x years of 6 years   |
| Service/Recognition                         | Sum committees/study sections/editorial boards/patents   |
| Teaching                                    | Sum didactic lectures/ trainees/student committees   |
| Meetings/Honors/Awards                      | Sum meetings organized/invited conference presentations  |
| Letters of recommendation                   | Sum letters in favor (+1) or opposing renewal (-1), text descriptors and modifiers (-1/+1)   |

So how often has/does the President use his veto pen to nix a unanimous PTC recommendation? Well, the good news is that in the past this rate has been quite low (although, I doubt that argument carries much weight for rejected faculty). Of 260 faculty going up for tenure renewal between 2005 and 2011 only two were rejected by the past President (i.e. 0.77%). However fast forward to 2012-2013 under new governance and the rate shot up 3-fold (3 of 130 tenure renewal applicants) to 2.31%. Of course with our institution having received

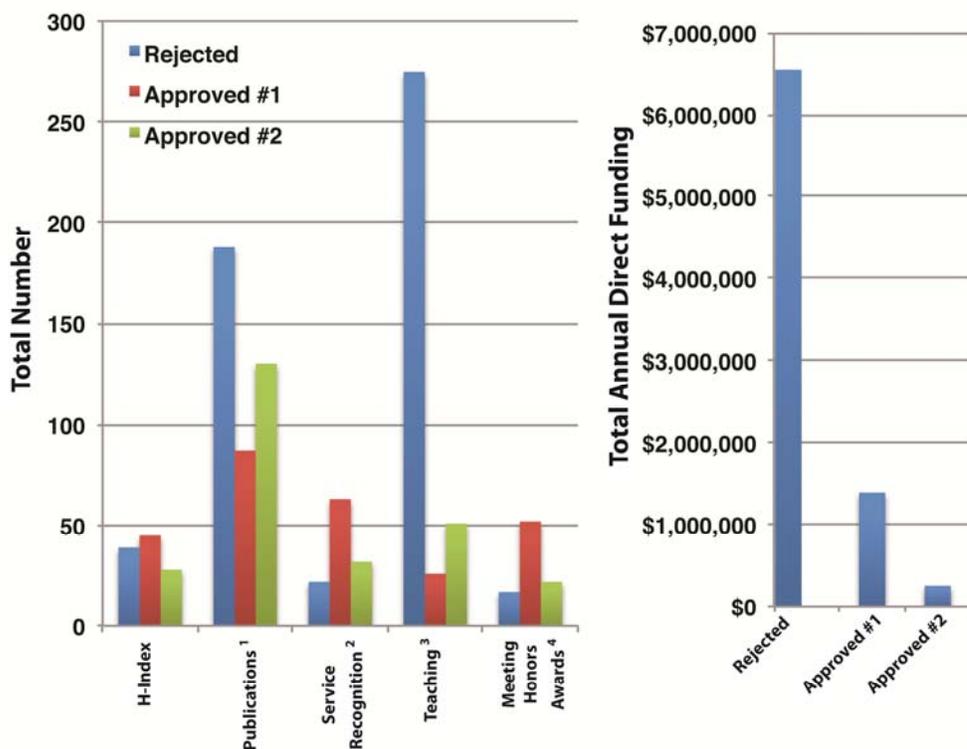
much (unwanted) scrutiny by the media over the last 12 months one wonders if the latter rate may have been even higher in the absence of the public microscope.

More importantly what does that do for faculty morale? Not much for sure. What can be more demoralizing than a committee of one's peers giving a unanimous thumbs up for tenure renewal to be thereafter summarily rejected by one person who presumably had little time for reviewing academic accomplishments. Again the issue of shared governance, a topic heavily discussed at the Chancellors visit, comes to mind.

How did the faculty members denied tenure renewal stack up?

Of course, to be open minded, it is possible that the PTC was over-generous and the President rightly rejected applicants who were unworthy of tenure renewal. Our committee evaluated the academic accomplishments of the rejected applicants comparing them with their peers (same rank, same discipline) concurrently approved for tenure renewal. Only the six year period prior to the application for tenure renewal was evaluated. The metrics used for evaluation are described in Table 1. Of course, permission was obtained from all faculty concerned to review their curriculum vitae although interestingly, despite promises of anonymity, some faculty successful in their bid for tenure renewal declined to participate. This does not conjure up feelings of academic security at the institution.

**Clinical Faculty Rejected 2008**



**Figure**

<sup>1</sup>Sum (impact factor for each first/senior author publication) + sum (journal impact factor /total # authors) for each co-author paper. <sup>2</sup>Sum MDACC committees/study sections/editorial board/presentations at academic Institutions/patents. <sup>3</sup>Sum trainees/student committees, didactic lectures. <sup>4</sup>Meeting organization & invited conference presentations/honors/awards.

of her achievements indicated a highly meritorious individual. Her publications (Figure) measured by summing the impact factor of her papers, as described above, showed superiority compared with both of her clinical colleagues who were renewed for tenure. Similarly her H-index, a measure of productivity and impact, was higher than one of her two peers deemed worthy of tenure renewal. In funding (Figure), this individual garnered over \$6 million in total funding more than four times higher than one of her peers and twenty fold higher than another clinical colleague approved for tenure renewal in the same year! Moreover, funding was maintained over the entire six year evaluation period. Likewise, the teaching metric for this faculty member denied renewal by the President was outstanding scoring 275 compared with 26 and 51 for two of her clinical colleagues approved concurrently. Similarly her service/outside recognition (measured by participation in study sections, committees, editorial boards, etc) was comparable with at least one of the clinical faculty approved in the same cycle. Surely then, letters must have contained some damning evidence to justify the denial. However, this unequivocally was not the case. The one recommendation letter (by her Chair) was supportive of her renewal and notably absent of negative comments. Note that tenure renewals did not require outside letters of support.

Was this faculty member an anecdotal case? The resounding answer is -absolutely not! The data for three other faculty members receiving Presidential vetoes for tenure renewal despite a unanimous vote in favor by the PTC are summarized in Table 2. A basic science faculty member (Associate Professor) receiving a Presidential veto in 2005 exceeded both of his peers approved for tenure renewal in terms of the publications metric (Table 2). What about peer-reviewed funding? Was this applicant under-funded or had he had a long lapse over the evaluation period? Absolutely not! In the funding arena, the Associate Professor receiving a Presidential thumbs down showed a stellar performance in having higher total funding than two applicants approved in the same year. Equally important, this faculty member was funded for all six years of the evaluation (prior) cycle. Could the rejected faculty be lacking on the basis of poor outside recognition and teaching? Regarding recognition, as measured by two independent metrics (service/recognition and meetings/honors/awards) this faculty member bested at least one of his colleagues used in the comparison. Similarly in the teaching category, the faculty member denied tenure renewal exceeded (score of 29 versus 9) one of his peers approved by the President. As for recommendation letters, unfortunately we were unable to subsequently contact the faculty member (who had separated and now lost to MDACC) to seek approval for review of these documents.

**Table 2. Comparison of Academic Achievements for Faculty Denied or Approved for Tenure Renewal by the President**

| Year | Faculty Basic Science | Publications <sup>1</sup> | H-Index | Total Funding | Years Funded (out of 6) | Service Recognition <sup>2</sup> | Teaching <sup>3</sup> | Meeting Honors Awards <sup>4</sup> | Recommendation Letter Score |
|------|-----------------------|---------------------------|---------|---------------|-------------------------|----------------------------------|-----------------------|------------------------------------|-----------------------------|
| 2005 | Rejected              | 99                        | 23      | \$1,563,879   | 6                       | 18                               | 29                    | 11                                 | Nnauthorized                |
|      | Approved              | 54                        | 29      | \$1,312,698   | 6                       | 7                                | 9                     | 1                                  | N/A                         |
|      | Approved              | 90                        | 34      | \$50,000      | 6                       | 35                               | 233                   | 10                                 | N/A                         |
| 2012 | Rejected              | 87                        | 37      | \$1,507,774   | 6                       | 25                               | 28                    | 31                                 | 2                           |
|      | Approved              | 76                        | 32      | \$3,019,950   | 6                       | 19                               | 12                    | 11                                 | N/A                         |
|      | Approved              | 83                        | 23      | \$1,887,500   | 4                       | 8                                | 20                    | 12                                 | N/A                         |
| 2013 | Rejected              | 53                        | 28      | \$763,000     | 6                       | 8                                | 19                    | 14                                 | 30                          |
|      | Approved              | 55                        | 23      | \$787,000     | 6                       | 14                               | 13                    | 33                                 | N/A                         |
|      | Approved              | 35                        | 19      | \$1,163,470   | 5                       | 19                               | 46                    | 18                                 | N/A                         |

<sup>1</sup> Sum (impact factor for each first/senior author publication) + sum (journal impact factor /total # authors) for each co-author paper. <sup>2</sup> Sum MDACC committees/study sections/editorial board/presentations at academic institutions/patents. <sup>3</sup>Sum trainees/student committees, didactic lectures. <sup>4</sup>Meeting organization & invited conference presentations/honors/awards. Highlighted values indicate that the faculty member denied for tenure renewal by the President equaled or exceeded the measure for at least one faculty at the same rank in the same discipline approved in the corresponding year.

In 2012, a basic scientist at the rank of Professor boasted higher scores for six of the seven measures compared with at least one of his peers successful in their bid for tenure renewal (Table 2). Additionally, his Chair was very supportive of renewal writing only positive comments all in support of the application.

Reviewing the accomplishments of the most recent faculty member, a basic scientist at the Associate Professor rank rejected by the President in 2013, the story was much the same. The applicant scored higher in both publication measures (impact factor sum, H-index) relative to at least one of his peers approved in the corresponding cycle. His funding was just shy (\$763k versus \$787k) of that garnered by a comparison faculty member deemed worthy of tenure renewal by the President. Also and importantly, whereas the rejected faculty member was funded for all six years of the evaluation period, one of the comparison faculty members showed a lapse for one of the six years. As to teaching, the Associate Professor, receiving a Presidential veto, boasted

a higher score compared with one of his peers approved for renewal. What was different for this applicant was a letter opposing tenure renewal written by his departmental Chair, a recruitee of the President brought in without input by an MD Anderson search committee. However, in this case, the applicant had secured several outside letters of support. Indeed, the letters of support by outside referees were all strongly in favor of renewal. How much? Using the metrics described for letter evaluation, the overall sum in this category was +30 inclusive of the negative values.

### Appeals

One would think that the Appeals mechanism is designed for just such cases-right? Surely, at least one of the rejected applicants should have been successful via the appeals process. Alas, all rejected faculty submitted appeals for re-consideration and not one was successful. Is this surprising? Not at all-in its present construct, the current appeals process, an internal process, is closely aligned with the President's office. Impartiality is not a good descriptor of the mechanism.

### Reasons for Presidential Denial

None of the applicants were provided reasons for the Presidential veto. This is not surprising-to quote Dr. Bogler in an email to the author dated 12/17/2013 - "President or Provost comes to the PTC to discuss situations where there is disagreement, and in the course of these discussions reasons for the decisions are mentioned. However these reasons are not captured in writing, and the deliberations are not made available to the faculty member or their chair..." Alas, this practice runs in flagrant disregard to the 1958 "Statement on Procedural Standards in Faculty Dismissals" *ibid* 12-15 statements jointly adopted by the Assn. of American Colleges and Universities **for which MD Anderson is signatory** (<http://www.aacu.org/membership/list.cfm>). This document states that an administrative reversal of faculty judgment on faculty status should occur only "in rare instances and for compelling reasons which should be stated in detail."

### Have the requirements for tenure renewal and/or processes have changed?

Privately many faculty have pondered whether the requirements for tenure renewal have changed with higher standards implemented by the new President. The official word however is that this is not the case. In the Oct/Nov 2013 issue of "Faculty Notes" the Provost and Executive VP Ethan Dmitrovsky stated that "in our charge to both committees this year, Dr. Depinho and I reinforced that the criteria have not changed and stated our desire to support the committee and their work."

### Conclusions

Our committee drew a number of conclusions.

- 1) Based on academic accomplishments/service assessed by the Faculty Senate committee, denial of tenure renewal by the President for four of the faculty members was groundless.
- 2) The practice of not capturing in writing the decisions or reasons for the denial by the President and not making such deliberations available to the faculty members is unacceptable and in flagrant disregard to statements adopted by the Association of American Colleges and Universities (for which MDACC is signatory).
- 3) Finally, the Appeals process for faculty, in its present construct, is not an impartial process as personnel involved (e.g. Provost Office) are too closely aligned with the President's Office.

### Recommendations

At the February 18, 2014 Faculty Senate meeting there was a motion, which carried, to accept the report and recommendations from the Senate Promotion and Tenure Issues committee:

- 1) Faculty receiving a unanimous vote in favor of tenure renewal by the PTC should be automatically renewed with the President unable to veto the decision. Furthermore, the denial of tenure for the two faculty (2012/2013) determined herein to be equitable with their peers approved for tenure renewal should be reversed.

2) For faculty recommended by the PTC for tenure renewal but for whom the vote is NOT unanimous, a Presidential rejection should be contingent on demonstration of inferior metrics (compared with faculty approved in the corresponding cycle).

3) Tangible reasons (including metrics) in writing should be provided to the rejected applicant.

4) Recommendation: An appeals committee should be comprised exclusively of members from other academic institutions, appointed by the PTC and/or the faculty member. The recommendation for/against tenure renewal made by the Appeals committee would be final

#### Ruling by the American Association of University Professors in a similar case

It is worth mentioning that recently, the American Association of University Professors (AAUP) investigated a similar case in 2013 where an Assistant Professor was denied tenure by the President at a university in Illinois despite a unanimous recommendation by their PTC. The AAUP sided with the Assistant Professor citing that the "President's stated reasons lack credibility as grounds of denying tenure." The involved institution will likely be censured by this association a decision not easily overturned.

#### In Closing

Some final thoughts to consider. Faculty rightly should feel that their application for tenure renewal will receive a fair evaluation (involving a panel of their peers) and corresponding Presidential action. Indeed at MDACC we are obliged to adhere to this principle by virtue of our institution's membership in the Association of American Colleges and Universities. What this ultimately boils down to is shared governance as opposed to a semi-dictatorial system where the decision for tenure renewal can amount to an arbitrary process decided by one person. The present situation must be considered the final morale buster -- do your job and in the critical period of your life, after the most advantageous years of mobility, and find you are not wanted. Such destroys hope for them and all other tenured faculty

## Boyd,Douglas D

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**From:** Bogler, Oliver  
**Sent:** Friday, February 21, 2014 7:22 AM  
**To:** Boyd,Douglas D  
**Cc:** Dmitrovsky,Ethan  
**Subject:** Re: The issue of tenure renewal, shared governance and Presidential veto

Dear Dr. Boyd,

Thank you for your email and your interesting presentation at the Faculty Senate meeting earlier this week. I welcome your input and appreciate the time you and others have committed to this matter.

Although you have expressed concerns about the term tenure renewal process, I want to assure you of Dr. Dmitrovsky's and my confidence in the process and convey the gratitude we have for the dedication and countless hours of time MD Anderson faculty members have contributed to the promotion and term tenure evaluation and review processes. As noted in MD Anderson policies, the Promotion and Tenure Committee (PTC) is charged with the primary responsibility of maintaining the academic excellence of our faculty. The PTC has a vital role in the review of MD Anderson faculty members' achievements whenever those individuals are considered for potential appointments, promotions, initial awards of term tenure and term tenure renewals. The PTC and MD Anderson follow well-established and approved policies and procedures in these appointment, promotion and term tenure considerations. As explained in MD Anderson policies, the actions of the PTC are advisory to the President. The President, along with the Board of Regents, is responsible for making the final decisions on appointments, promotions and term tenure awards and renewals.

I do not agree with your assertion that the Presidents have reversed or otherwise not taken the PTC's recommendations into consideration as they made decisions on the award or renewal or term tenure appointments. The Provosts and the Presidents, as part of their responsibilities in the tenure award and renewal process, fully consider all PTC recommendations along with other relevant information. Although I will not comment or express opinions on particular personnel matters or specific faculty members who may not have been promoted or received renewals of term tenure appointments, I am confident that the Presidents' decisions in the rare instances where they did not agree with PTC recommendations were not arbitrary. I am also confident that our faculty members are evaluated and treated fairly in these processes. An example of this, as you likely know, is the not uncommon occurrence where the Presidents have extended probationary or term tenure appointments for an additional year or two in order to give faculty members additional time to publish articles or obtain extramural grant funding in order to demonstrate expected academic achievement for the initial award or renewal of term tenure appointments.

I know we share in the goal of having outstanding MD Anderson faculty members and the very best for our patients. Each of us has a unique perspective that we bring to the process, and we must make our determinations based upon what we believe is in the best long-term interest of the institution and its patients. I thank you again for your time and input, but no changes to the promotion and term tenure process are being considered at this time.

Sincerely,

**Oliver Bogler, PhD** | Senior Vice President Academic Affairs  
Vice President Global Academic Programs  
Professor Neurosurgery - Research

UT MD Anderson Cancer Center

☎ + 1 713 792 0873

[www.mdanderson.org/education](http://www.mdanderson.org/education)

On Feb 19, 2014, at 3:41 PM, Boyd,Douglas D wrote:

Greetings Gentlemen,

Thank you for your input yesterday at Faculty Senate in regard to the tenure renewal discussion. This is an important issue in context of shared governance (see below) and the negative impact on faculty morale where the Presidential decision to reverse a unanimous decision by the PTC is arbitrary.

Again I would like to re-iterate and share some additional information:

- 1) The Assn. of American Colleges and Universities **for which MD Anderson is signatory** (<http://www.aacu.org/membership/list.cfm>) clearly states that **“Faculty status and related matters are primarily a faculty responsibility; this area includes appointments, reappointments, decisions not to reappoint, promotions, granting of tenure.**
- 2) The practice of not capturing in writing the decisions or reasons for the denial by the President and not making such deliberations available to the faculty runs in flagrant disregard to statements adopted by the Assn of American Colleges and Universities (for which MDACC is signatory)– which states that an administrative reversal of faculty judgment on faculty status should occur only “in rare instances and **for compelling reasons which should be stated in detail.**”
- 3) Finally I bring to your attention an identical situation recently investigated (2013) by the American Assn of University Professors (AAUP). The case involved an Assistant Professor denied tenure by the President at a university in Illinois despite a UNANIMOUS recommendation by their PTC.

Ultimately, the AAUP sided with Assistant Professor **citing that the “President’s stated reasons lack credibility as grounds of denying tenure.”**

I have been advised by the AAUP that the university will be censured by this body a process that is not easily reversed. Alas, this case got extensive coverage in the media and academic circles including publications in Academe and the Chronicle of Higher Education not to mention blogs.

Sincerely,

*Dr. Douglas Boyd Ph.D.,  
Professor, University of Texas MD Anderson Cancer Center,  
1515 Holcombe Blvd., Box 173  
Houston, TX 77030,  
Tel 713 563 4918  
Fax- 713 563 5489  
Email: [dboyd@mdanderson.org](mailto:dboyd@mdanderson.org)*