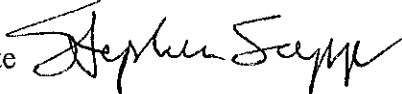




MEMORANDUM

To: Donna E. Shalala, President

From: Stephen Sapp
Chair, Faculty Senate 

Date: February 5, 2008

Subject: Faculty Senate Legislation #2007-32(B) --Extension of Probationary Period for Tenure in the Miller School of Medicine

On November 28, 2007 the Faculty Senate approved Extension of Probationary Period for Tenure in the Miller School of Medicine. This change becomes effective upon your approval.

This legislation is now forwarded to you for your action.

SS/ef

cc: Thomas LeBlanc, Executive Vice President and Provost
David J. Birnbach, Vice Provost for University Administration and Faculty Affairs

Faculty Senate Legislation #2007-32(B) – Extension of Probationary Period for Tenure
in the Miller School of Medicine

PRESIDENT'S RESPONSE

APPROVED: Donna S. Shalala DATE: 2/6/08
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: Dean Pascal Goldschmidt

EFFECTIVE DATE OF LEGISLATION: immediately
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____

November 8, 2007

TO: The Faculty Senate

FROM: The Ad Hoc Committee on Tenure at the Miller School of Medicine

Summary

The Ad Hoc Committee recommends that the Senate agree to lengthen by two years the time period to achieve tenure for tenure track faculty members at the Miller School of Medicine. Our medical school is increasingly at a comparative disadvantage in recruiting top faculty prospects because of the change to longer tenure periods at many other renowned private medical schools. Despite some similarities in the nature of their research, no other schools or colleges in the university face this recruiting situation. Accordingly, we take no position for or against possible changes in the tenure-gaining period elsewhere in the university. We do, however, recommend that the language of the Faculty Manual be modified to emphasize that faculty in units with differing tenure periods are not similarly situated and cannot properly be compared.

Background

On March 26, 2007, Senate faculty representatives from the Miller School of Medicine¹ presented a request to the Senate to lengthen the period allowed a tenure-track member of the faculty to achieve tenure from seven years (i.e. six years plus a final year if unsuccessful) to ten years (nine plus one). Under the proposed plan, tenure track faculty members would receive a thorough review in the sixth year, and if successful, be promoted to Associate professor; if not, they would not be eligible for the additional years to achieve tenure. Included in the request was extensive data on the situation at other schools of medicine. These are summarized at Attachment A.

Some members of the Senate expressed concern over the prospect that faculty members elsewhere in the university doing similar research would be placed at a comparative disadvantage. Other concerns expressed included worries that such a proposal would serve to weaken the tenure system, or would create a "slippery slope" effect in which other units would demand similar treatment. In the absence of a consensus, the Senate instructed the Chair to form an ad hoc committee with representation from units throughout the university to consider the matter and make recommendations.²

¹ Although the plan is the result of an initiative of the faculty at the Miller School, and was presented by its Senate members, the committee was informed that the proposal has the strong support of the School Council and of the Dean.

² The members of the Ad Hoc Committee are Sherri Hayes (Medicine), Anthony Hynes (RSMAS), Leonidas Koniaris (Medicine), Abdul Mian (Medicine), Victoria Mitrani (Nursing), Robert Warren (Medicine), Richard Williamson (Law, Chair), David Wilson (Arts & Sciences), and Kamal Yacoub (Engineering).

Discussion

The Committee considered a variety of arguments in favor of and in opposition to any change in the tenure period at the Miller School or elsewhere. After extensive discussion, we concluded that the medical school increasingly faces a unique problem in recruiting the best tenure track faculty because many other universities have gone to a split system in which their tenure-track medical faculty members are granted a longer period to reach tenure than faculty members in the remainder of the university. In contrast, we found no examples of other major private research universities which had lengthened the tenure period in other fields. We also noted that there was no groundswell of preference for longer tenure-gaining periods in the remainder of the university, and in some cases strong opposition to any such general lengthening.

The Committee also concluded that the plan includes a second feature which tends to argue in its favor: the decoupling of promotion to associate professor from the award of tenure at the Miller School. Under the plan, Assistant professors in the tenure track are intensively reviewed in their sixth year, and must achieve promotion to associate professor in order to earn the additional years of review for tenure. This requirement for a thorough, late "mid-term" review will insure that candidates are making satisfactory progress towards tenure in their research and other scholarly activities. It also assures that the granting of additional years of review for tenure does not become an automatic entitlement.

In recent years -- for a variety of reasons mostly not having to do with the tenure process -- the School has offered prospective employees positions on the non-tenure clinical educator or research tracks. As a further inducement, some of these personnel were informed that they had the option to change to the tenure track. In reality, few ever do. In part as a result of this practice, the percentage of faculty members at the Miller School with tenure or on the tenure track is only 31%, a percentage far lower than in the rest of the university. See Attachment B. We expect that the change in the tenure period, if approved by the Senate, will bring about a reduction in such cases.³ If so, it will not only help to preserve tenure at the Miller School, but also strengthen the tenure system for the university as a whole.

A major issue facing the Committee was potential equity problems, as there are faculty members elsewhere in the university who engage in research that is very similar to that done at the Miller School who would not be given additional time under the proposal presented by the medical school faculty. Upon further investigation, however, it became clear that there are critical differences in teaching duties, expectations for research and funding, and other matters. Moreover, tenure at the Medical School is "tenure with limited financial support," meaning that only a portion of the salary is

³ We do not mean to suggest that no track changes should take place in the future. People's goals can change, and there will be well-merited cases. We do expect, however, that holding forth the possibility of shifting to the tenure track as an inducement in recruiting will be curtailed.

guaranteed by the university.⁴ The rest must be obtained from their research grants. Thus, even in the case where two tenured researchers, one at the Miller School and one at RSMAS or Arts and Sciences, are doing research in the same field, they are not similarly situated.

While the committee agreed that the Miller School was entitled to relief in order to remain competitive in recruiting, we concluded that we would have parity with other medical schools if the period to make tenure at the medical school is set at nine years (eight plus one) rather than ten. We noted that there is value in keeping the difference in tenure periods in the university as small as possible, consistent with this recruiting need.

Since the primary purpose of the change is to enhance recruiting, it follows that there is no need to make the change retroactive.

Recognizing that this change involves movement into un-chartered waters, the committee recommends that the Miller School report back to the Senate periodically and in any event not later than five years after the change. The report should cover, at a minimum, the effects of the longer tenure period on faculty recruiting, whether the use of non-tenure track appointments has decreased, and any problems that have arisen. A more comprehensive report should be prepared in the tenth year, i.e. in the first year after the time to make tenure has been completed under the new system as to its effects on the tenure process, recruitment, faculty morale, the rate of requests of non-tenure track personnel to move to the tenure track, the success rate in doing so, and any other relevant matter.

The committee believes that if parallel changes are warranted in other academic units now or in the future, they should be considered on their own merits, and that the change we propose for the Miller School should neither be considered an argument for nor an argument against any such modification.

Changes in the Faculty Manual

Specific wording changes to the Manual which the Committee is proposing to the Senate are contained at Attachment C.

⁴ Specifically, the university guarantees only 75% of the first \$40,000 of salary, and 50% of the remainder. There is also a ceiling of \$160,000 on the guaranteed portion. This policy applies to all tenured faculty members at the Medical School and stands in sharp contrast to the financial consequences of tenure in the rest of the university.

Attachment A

**Comparison of Tenure Clock
at Aspirational AAU Universities (in Years)**

<u>Institutions</u>	<u>School of Medicine*</u>		<u>College of Arts & Sciences**</u>
	Basic	Clinical	
Emory	8 + 1	8 + 1	6 + 1
Tulane	6 + 1	6 + 1	6 + 1
Wash U	9 + 1	9 + 1	6 + 1
Wake Forest	NA	NA	6 + 1
Duke	7 + 1	10 + 1	4 + 4
U of Rochester	9 + 1	14 + 1	4 + 3
Case-Western	8 + 1	8 + 1	6 + 1
Vanderbilt	8 + 1	8 + 1	6 + 1
Baylor	8 + 1	8 + 1	6 + 1

* AAMC data report 2005 Faculty Personnel Policies Survey.

** Info obtained via phone from respective institutions

Attachment B

College/School/Division	Regular Faculty	Total Faculty	Percentage Regular
Architecture	17	32	53%
Arts and Sciences	268	411	65%
Business	94	141	67%
Communication	40	55	73%
Education	31	51	61%
Engineering	53	71	75%
Frost School of Music	49	79	62%
Law	44	66	67%
Nursing & Health Studies	10	29	34%
Rosenstiel School	77	100	77%
Miller School of Medicine	393	1,252	31%
OTHER	15	61	25%
TOTAL	1091	2348	49%

NOTE: "Other" consists primarily of the Richter Library and the President's/Provost's offices

Data are for Fall Semester, 2007, taken from the University Factbook

"Regular Faculty" includes all Tenured and Tenure-Track Faculty

"Total Faculty" includes Regular, Associated, Educator, Research and Library Faculty

Fall 2007

Attachment C

Proposed Faculty Manual Changes

The following are changes the Ad Hoc Committee is proposing in the Faculty Manual. They are designed to codify certain of the policies discussed in the Report.

1. Modify the first sentence of Section C5.5 to read:

(a) Except as provided in paragraph (g) of this section, the maximum probationary period before the award of tenure is six years at the University of Miami.

2. Add a new paragraph in the same Section covering the Medical School, with the following text:

(g) The maximum probationary period before the award of tenure at the Miller School of Medicine is eight years. For personnel at the Miller School, all references in paragraphs (b) through (h) of this section to "fifth year" shall be construed as "seventh year" and to "sixth year" as "eighth year." Tenure track personnel at the Miller School shall be assessed not later than their sixth year for promotion to Associate Professor. If the sixth year review for promotion to Associate Professor is unfavorable, the seventh year shall be considered a terminal appointment

3. Add the following at the end of existing Section C7.3 Standards and Procedures for Attaining Tenure:

A candidate for tenure shall not be evaluated in comparison to faculty members in other Schools or Colleges, as there are often significant differences in teaching requirements; administrative, service or clinical responsibilities; the circumstances under which research and scholarship are performed; and the length of the probationary period.

C5.5 Probationary Period for Regular Appointments

(a) ~~The maximum probationary period before the award of tenure is six years at the University of Miami. Except as provided in paragraph (g) of this section, the maximum probationary period before the award of tenure is six years at the University of Miami.~~¹ The probationary period of a faculty member may be extended, as provided for in the appropriate policies for the following reasons: child care, disability leave, unpaid leaves of absence, and personal hardship. These extensions are independent of one another. In no event may the probationary period be extended for these reasons once the final Special Review for tenure has been initiated.²

(b) A faculty member holding a regular appointment shall be considered for tenure in the final Special Review during the sixth year of the probationary period. A faculty member may be awarded tenure at any time during the probationary period but may request a Special Review only one time prior to the sixth year of the probationary period. In addition, the dean may initiate a second Special review during this period. Any such consideration for the award of tenure shall have no prejudicial effect on reconsideration through the sixth year of the probationary period.³

(c) Untenured members of the REGULAR FACULTY may request an extension of the probationary period for reasons of extraordinary PERSONAL HARDSHIP. A written request for such an extension shall be filed with the chair no later than the fifth year of the probationary period. The request must be accompanied by a written statement by the faculty member giving a concise description of the nature and severity of the hardship. The request shall be forwarded through the chair and the dean to the Executive Vice President and Provost for final determination.

(d) Untenured members of the REGULAR FACULTY who have primary responsibility for CHILD CARE shall be entitled, upon request, to a one-year extension of their probationary period. A written request for such extension must be filed with the chair no later than the beginning of the fifth year of the probationary period. When there is a change in the faculty member's childcare responsibilities during the fifth year, a request can be made during that year. The request should be accompanied by a written statement certifying that the faculty member has primary childcare responsibility and giving a concise description of the nature and extent of these responsibilities. The request shall be forwarded through the chair and the dean to the Executive Vice President and Provost for final determination.

¹ #91012(B)

² #91013(B)

³ #91013(B)

(e) UNPAID LEAVES OF ABSENCE may be arranged with the faculty member for the purpose of faculty exchange, advanced study, research, public service, childcare, and, in some instances, business or industrial employment, without prejudice to future promotions in rank, provided that the period of absence does not work undue hardship on the University. An untenured member of the REGULAR FACULTY may request an extension of the probationary period during unpaid leaves of absence no later than the fifth year of the probationary period.⁴ A written request for such extension shall be filed with the chair at the time of the request for leave. The request shall be forwarded through the chair and the dean to the Executive Vice President and Provost for final determination.

(f) Untenured members of the REGULAR FACULTY on DISABILITY LEAVE may request an extension of the probationary period. A written request for such an extension shall be filed with the chair during the period of disability leave. The request shall be forwarded through the chair and the dean to the Executive Vice President and Provost for final determination.

(g) The maximum probationary period before the award of tenure at the Miller School of Medicine is eight years. For personnel at the Miller School, all references in paragraphs (b) through (h) of this section to "fifth year" shall be construed as "seventh year" and to "sixth year" as "eighth year." Tenure track personnel at the Miller School shall be assessed not later than their sixth year for promotion to Associate Professor. If the sixth year review for promotion to Associate Professor is unfavorable, the seventh year shall be considered a terminal appointment

C5.6 Term of Probationary Appointments

Initial probationary appointments shall be for a term of four years. Whatever the date of appointment, faculty shall be considered to have been appointed June 1 for the purpose of this section. A review of the appointee shall occur as provided in Section C13.5, and, if the outcome is favorable, the appointment shall be renewed for a three-year term with the final with the final review for tenure occurring in the sixth year. If the sixth-year review is unfavorable, the seventh year shall be considered a terminal appointment.

C5.7 Definition of Probationary Year

The probationary period shall begin with the first September of the faculty member's appointment. The first probationary year shall end on the following May.

⁴ 2003-14(B)

C5.8 Notice of Intention not to Reappoint Regular Faculty during the Probationary Appointment⁵

At the conclusion of the Special Review during the probationary period, an appointment to the REGULAR FACULTY may be terminated by written notice from the University. This notice shall be communicated to the faculty member at least twelve months prior to the expiration of the appointment.

(a) If a decision not to reappoint has a basis other than unsatisfactory scholarship, teaching, or academic citizenship, the faculty member shall be informed of the justification. Faculty members so informed may appeal a decision not to reappoint either to the Committee on Rank, Salary, and Conditions of Employment or to the Committee on Professional Conduct as provided in Section B4.10 of the Bylaws, whichever is appropriate.

(b) A faculty member is expected to inform the University of a decision not to accept reappointment six months prior to the end of the current term of appointment.

(c) Schools with probationary appointments for a term of three years shall give notice of a full calendar year.

(d) If a decision not to reappoint has a basis other than academic performance in the University environment not meeting expectations, then the faculty member shall be informed of the justification. Faculty members so informed may appeal a decision not to reappoint either to the Committee on Rank, Salary and Conditions of Employment or to the Committee on Professional Conduct as provided in Section B4.10 of the Bylaws, whichever is appropriate.

(e) A faculty member is expected to inform the University of a decision not to accept reappointment either six months prior to the end of the current term of appointment or by the time specified for the return of salary memoranda for the following year.

C5.9 Term Appointments Following Retirement

A faculty member who retires at 62 or older may be appointed by the University to a full-time or part-time position for up to 90 days, or a part-time position for 90 days or more, within the twelve-month period ending on May 31 without a suspension of retirement benefits. The definition of full-time and part-time appointment shall be in accord with general University employment policies.

⁵ #2001-06(B)

C6 ADMINISTRATIVE APPOINTMENTS⁶

C6.1 General Policy

The Faculty Government Charter in Section A13 calls for faculty participation in the appointment and retention of administrative officers. Such appointments shall be made in accordance with these policies.

C6.2 Regular Appointments from Outside the Academic Unit

An academic administrative officer should be a regular full-time faculty member with a primary appointment in the unit (department, division, or school) of administrative authority. Should a candidate's primary appointment be in a different unit at the time of the consultative process involved in appointing a new officer, a vote shall be taken in the usual fashion for new primary appointments. An individual accepting the new position is then deemed to have accepted a new primary appointment and to have resigned the former one. The former department may elect to offer the former member a secondary or joint appointment.

C6.3 Interim Appointments

(a) In the case of a vacancy due to resignation, death, incapacity or other similar unforeseen circumstance, the appointing authority may, after appropriate consultation, make an INTERIM APPOINTMENT of a REGULAR FACULTY⁷ member with a primary appointment within the unit to be an administrative officer. The term of such an appointment shall be limited to the duration of a timely search to fill the position in a regular manner. If such a search should exceed two years, the appointing authority may, after appropriate consultation, make another Interim Appointment.

(b) If rare circumstances make it in the general University interests, the appointing authority may, after appropriate consultation, make an INTERIM APPOINTMENT of a REGULAR FACULTY⁸ member from one academic unit to be an administrative officer in another unit while retaining a primary appointment in the former unit. During the period of any such INTERIM APPOINTMENT the individual may not exercise voting rights in the primary unit, but may be extended limited voting rights in the new unit as provided for in A10.1 and C4.5. Such appointments are temporary and should not exceed one year. If the situation requires such an appointment be made for an additional year, the appointing authority may, after appropriate consultation, make another such INTERIM APPOINTMENT.

⁶ #94010(B)

⁷ #2000-09(B)

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C6.4 Acting for Temporarily Absent Officers

An administrative officer, in consultation with the appointing authority and the faculty, should select a faculty member who will regularly act in place of the officer when a temporary absence so requires. This individual should be from the academic unit; exceptions may be made only after consultation with the appropriate faculty.

C6.5 Senate Officers

1. The Chair and Vice-Chairs of the Faculty Senate are elected officers and not appointed administrators.
2. The annual terms of Senate Officers normally begin on the 1st of June following their election, unless otherwise approved by the Senate⁹.

C7 TENURE

C7.1 Administrators and Tenure

(a) Tenure at the University of Miami shall be awarded to persons only in their capacities as faculty members in academic departments. In no case is tenure applicable to persons in their administrative capacities.

(b) Academic deans and academic directors are eligible for the award of tenure as faculty members in the academic departments of their specialization, but not in their administrative posts. No other persons engaged in administrative duties are eligible for the award of tenure nor shall the period of time during which such persons are employed in positions with administrative duties be counted toward the completion of the probationary period for tenure, unless each of the following conditions is satisfied:

- (1) During the period of employment in question these persons must devote more than fifty percent of their total work time to teaching, research, patient care or other activities of an academically-related nature.
- (2) The division of effort of these persons between administrative duties and teaching, research, patient care or other activities of an academically-related nature must be specifically documented each semester and must be certified by the appropriate academic dean, who shall make such documentation part of the faculty personnel records of these persons.

⁹ as approved by the Senate on 1/29/03

C7.2 Attainment of Tenure

(a) Tenure shall not be awarded to faculty members serving in any type of RESEARCH, EDUCATOR, LIBRARIAN or ASSOCIATED appointment. Regular appointments not accompanied by an initial award of tenure shall specify the expiration date of the probationary period.

(b) By the end of the academic year in which the probationary period would normally expire, the process of tenure consideration should culminate in either a by the Provost not to forward a recommendation for the award of tenure to the Board of Trustees or a tenure decision by the Board of Trustees, which is the final authority for the award of tenure. If the process has not been completed by this date, the faculty member may ask the President, in writing, to direct that the process be completed immediately.

(c) Tenure shall not be awarded at the rank of assistant professor.

(d) Promotion to the rank of full professor awards tenure at the time of promotion. A member of the REGULAR FACULTY initially appointed to the rank of associate professor or professor is eligible for tenure at any time upon recommendation of the voting faculty of the department.

C7.3 Standards and Procedures for Attaining Tenure

Faculty members shall be advised in writing at the time of initial appointment of the substantive standards and procedures generally employed in decisions affecting reappointment and tenure. Any special standards adopted by a faculty member's department or school under the provisions of Section C13.1(b) shall also be communicated to the faculty member in writing by the chair or the dean. A candidate for tenure shall not be evaluated in comparison to faculty members in other Schools or Colleges, as there are often significant differences in teaching requirements; administrative, service or clinical responsibilities; the circumstances under which research and scholarship are performed; and the length of the probationary period.

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(b) Academic deans and academic directors are eligible for the award of tenure as faculty members in the academic departments of their specialization, but not in their administrative posts. No other persons engaged in administrative duties are eligible for the award of tenure nor shall the period of time during which such persons are employed in positions with administrative duties be counted toward the completion of the probationary period for tenure, unless each of the following conditions is satisfied:

(1) During the period of employment in question these persons must devote more than fifty percent of their total work time to teaching, research, patient care or other activities of an academically-related nature.

(2) The division of effort of these persons between administrative duties and teaching, research, patient care or other activities of an academically-related nature must be specifically documented each semester and must be certified by the appropriate academic dean, who shall make such documentation part of the faculty personnel records of these persons.

⁹ as approved by the Senate on 1/29/03

C7.2 Attainment of Tenure

- (a) Tenure shall not be awarded to faculty members serving in any type of RESEARCH, EDUCATOR, LIBRARIAN or ASSOCIATED appointment. Regular appointments not accompanied by an initial award of tenure shall specify the expiration date of the probationary period.
- (b) By the end of the academic year in which the probationary period would normally expire, the process of tenure consideration should culminate in either a by the Provost not to forward a recommendation for the award of tenure to the Board of Trustees or a tenure decision by the Board of Trustees, which is the final authority for the award of tenure. If the process has not been completed by this date, the faculty member may ask the President, in writing, to direct that the process be completed immediately.
- (c) Tenure shall not be awarded at the rank of assistant professor.
- (d) Promotion to the rank of full professor awards tenure at the time of promotion. A member of the REGULAR FACULTY initially appointed to the rank of associate professor or professor is eligible for tenure at any time upon recommendation of the voting faculty of the department.

C7.3 Standards and Procedures for Attaining Tenure

Faculty members shall be advised in writing at the time of initial appointment of the substantive standards and procedures generally employed in decisions affecting reappointment and tenure. Any special standards adopted by a faculty member's department or school under the provisions of Section C13.1(b) shall also be communicated to the faculty member in writing by the chair or the dean. A candidate for tenure shall not be evaluated in comparison to faculty members in other Schools or Colleges, as there are often significant differences in teaching requirements; administrative, service or clinical responsibilities; the circumstances under which research and scholarship are performed; and the length of the probationary period.