

# Tenure Chase, Part 3: Grievance

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## Contents

### Grievance

*The section of Kenyon's faculty handbook dealing with the grievance procedure is one section I had never thought to look at before April 1994. Kenyon's grievance procedure has three stages. First, there is a relatively amorphous stage called "Informal Consultation," in which "the president or provost will seek to resolve the dispute informally by consultation with the faculty member, the faculty member's department chair and others whose knowledge or experience may be of help..." In essence, this phase had already concluded by the time I wrote my grievance letter. The second phase is "Mediation" by a mediator appointed by the chair of the Grievance Committee. The final phase, which the faculty member may invoke "in the case of failure of other efforts to resolve the dispute," is the appointment of a Hearing Panel consisting of three people from the college's standing Grievance Committee. The panel decides "whether the evidence warrants a grievance hearing," and if so, the case goes to a formal hearing. This last step is not taken lightly by anyone; for the hearing panel, it means hours of difficult and sometimes emotionally charged work. After the hearing ends, the panel makes a written statement of its findings to all parties, and the president of the college is required to accept or reject the recommendation of the panel within one week. The scope of the panel's authority is strictly limited: it is only allowed to recommend a re-evaluation of the tenure candidate, not to conduct its own evaluation, and its recommendation is not binding on the president.*

**5/28/94:** The latest twist in the saga of my tenure review is not an encouraging one. Having filed my grievance on Monday, my next step was to meet with the chair of the Grievance Committee, for the "informal consultation" phase of the process. We met on Thursday, and then he met with the provost on Friday, and was allowed to look at the dossier. Today I got an e-mail from him (actually sent last night) in which he stated that he did not think that the provost had interpreted the dossier "wrongfully." He advised me not to pursue the grievance further, although he added that it was, of course, my choice. I was dismayed not only by his conclusion, but also by the way he drew it. Though he advised me to put as much into writing as possible in my grievance, and Kay and I slaved over it last weekend, it really seems to have made hardly a bit of difference. He barely even referred to it; only in the postscript did he address anything I wrote in the letter... the arguments in my letter have been not so much answered as simply brushed off.

So, sooner than I expected, another crossroads is reached. I certainly don't want to go out just looking like a sore loser, someone who can't face up to reality... It would be foolish to be optimistic at this point about the result of the grievance procedure. But on the other hand, I do think it's reasonable to expect some answers.

Next week I plan to talk with the chair of the faculty again, and see what he makes of it, and whether he still advises me to continue. I may also talk with the art history professor and the history professor again. I think the only certain thing is that if no one advises me to continue, I will not. One reason is that I am entitled to have a faculty advocate in the grievance procedure, and I want someone who's at least somewhat enthusiastic and thinks I can win. I'm pretty sure that the faculty chair is the man I would want for that role... I think it's important to have a more senior, more well-connected member of the faculty who is willing to defend me.

*This was probably the lowest moment for me since the day I was first informed of the tenure decision. An independent, presumably unbiased reader had looked at my dossier and found nothing to contradict what the provost had written. However, my conversation with the chair of the faculty did much to lift my spirits. I did, in fact, choose him as my advocate. A roly-poly religion professor with thick glasses, resembling Santa Claus without the beard, he was an ideal choice for the role: good-humored enough not to offend anyone but savvy enough to know what the important issues were. While I often became bogged down in a morass of arguments and counter-arguments, he constantly advised me not to be too “legalistic.” I will refer to him below as “Len” (not his real name).*

*For anyone who finds him or herself in a similar position, I cannot overemphasize the importance of finding a senior faculty member to act as your advocate. As my case shows, it need not be someone from your own department.*

**5/31/94:** Yesterday morning, even though it was Memorial Day, I met with Len to discuss the latest development. He also found the Grievance Committee chair’s response to be a little bit puzzling, because it wasn’t clear whether he was interpreting this phase as the “informal consultation” or the “mediation.” In the “informal consultation” phase the dossier is still supposed to be closed, and the chairman of the Grievance Committee is not supposed to be involved. So it seems likely that he was acting as a self-appointed mediator, which Len called “irregular,” though not necessarily illegal... He also said that the Grievance Committee chair’s reaction seemed a little bit impatient to him... Finally, he said that he felt “no less strongly than before” about the validity of my case, and in addition felt a certain amount of dismay at the haste and cavalier way the Grievance Committee chair had dealt with my petition.

In other words, Len gave me precisely the support I was looking for to justify continuing my grievance...

*On June 18 I wrote a letter to the Grievance Committee chair restating the complaints that I felt had not been answered from my initial grievance letter, and requesting a hearing. On June 30 the Grievance Committee replied that a hearing panel would be formed in late August. Over the summer some changes took place in the administration: a new provost took office (however, the old provost would be required to defend his own decision in the hearing), and the president announced his resignation, effective at the end of the following school year, after twenty years in office, the longest term of any active college president in the country.*

*According to the rules of the grievance procedure, I was not allowed to see my own dossier until ten days before the grievance hearing. On September 12 I finally got to see with my own eyes the evidence that had led the administration to deny me tenure.*

**9/12:** Wow! ... Today, with Len, my faculty advisor, I finally got to view the contents of my dossier in the provost’s office. I think it is fair to say that we were both astonished. The student letters, which the provost had led us to believe were mostly negative, were in fact mostly positive; and the faculty letters, which had been portrayed as ambiguous, were overwhelmingly clear in their support of my candidacy for tenure. The impression that we both got from the dossier was so dramatically different from the tone of the provost’s letter that it is virtually impossible to imagine any more that the evaluation was conducted in good faith. One would in fact have to read the letters with careful attention to all negative comments to construct a summary as negative as the provost’s. A number of writers, while generally praising my teaching, would write their letters with a sentence beginning “His greatest strength is...” and another sentence beginning “His greatest weakness is...” This is only a sign of a person attempting to give an objective and balanced evaluation. But every time, the provost reported only the negative comments and interpreted the letter as showing a “mixed” opinion or worse.

Some more important discoveries: there were at least two blatant procedural errors. First, instead of the minimum of 16 student letters, the provost received only 15, one of which simply said that the student could not provide any information... The provost stated in a letter to the president, in fact, that he "could not secure sixteen student letters." Yet he repeatedly told me, "the dossier is complete and adequate to its purpose," even though I specifically asked about the number of letters received.

The second blatant error is that no letter was received from the faculty member outside my department who was supposed to evaluate my teaching. Since the decision was purportedly based on teaching, one is amazed that the provost and president did nothing to rectify this omission. It's even more amazing in light of the fact that that faculty member says he did send a letter...

In short, the administration's case seems to me quite a lot worse than I even suspected...

**9/17/94:** On Thursday I talked with the author of the mysterious disappearing letter: his evaluation of my teaching, which he says he sent in early January but the Provost's office apparently never received. The letter itself, as Len observed, is not going to blow the lid off the case... The things that make the letter more important are that it was presumably sent yet did not appear in the dossier, that the administration felt comfortable in making a decision based on my teaching even in the absence of a faculty letter from outside the department on my teaching, the fact that I was never informed that the letter was missing,... and the fact that the provost misled me after the decision by saying the dossier was complete.

Yesterday, Friday, I had my interview with the grievance panel. It lasted about an hour and a half, and went pretty well. There is no question that they are taking the case seriously, and on some points of substance I think they already agree with me. They had already considered and basically ruled out my suggestion that the administration might not have acted in good faith; however, the chair of the panel did say that he felt that after the decision was made, the provost's letter had been constructed in such a way as to justify the decision rather than to reflect the dossier...

There were too many interesting details covered in our meeting to recount them all. I will just mention one more thing. Apparently, when they talked with the president, one of the arguments he had considered most important was as follows: if I turn off students in lower-level courses so that they never took a math course again, then it doesn't really matter how good a teacher I am for the upper-level courses. So one of the panelists asked my chairman to study the validity of the president's hypothesis: do I in fact turn off the introductory students? The chair identified all of the students who have taken me for their first math course, and computed the average number of math courses they have taken after that. For comparison, he did the same thing with another professor in the department. The result was striking: my students have averaged 1.1 more math courses, and that professor's have averaged 0.8. Yet I am the one who is supposedly depressing math enrollments?

**9/20/94:** Thank goodness the hearing is over. It was just enough to get me heartily sick of this whole tenure controversy again. Having said that, though, I should also say that I think the hearing was quite productive in some ways. Once again, I could write a very long entry describing all the details, but since many of the details will be made moot by the grievance panel's decision, I will try to give a condensed version.

There were two particularly encouraging things about the hearing. First was the testimony from the members of my department. I think the panel had some serious doubts about the strength of the department's support (one panelist seemed to think that their letters were "mixed"), and I believe their testimony should convince the panel that their support was in no way mixed. I think the panel will have to decide whether it is reasonable to believe that there could be a serious problem with my teaching, as the provost and president allege, that no one in my department perceives. This was implicit in a question one panelist put to the president, about how he could account for such an apparent dichotomy between the faculty and student views of my teaching. The president, as he did throughout the hearing, essentially stonewalled the question, saying that they did not perceive a dichotomy. But I doubt that his answer will persuade the committee. (Although, incidentally, I might agree with the president in another way: there wasn't so much of a dichotomy because in fact the student letters weren't all that negative.)

Getting back to the main point, another very helpful part of the department's testimony was that it revealed some specific ways in which the administration misunderstood what they had said. For example, there was a sentence in one professor's letter that mentioned that the class he had observed had "started late" because some students straggled in late (it was an 8:30 class) and I was still collecting homework from them up to ten minutes after the start of class. But the president and provost had interpreted "starting late" to mean that I had actually come to class ten minutes late—which, as the faculty member said, was not true. Moreover, this single comment, the only negative sentence in that letter out of three pages of glowing positives, was the only thing that the provost had cited in his letter to the president recommending that I not be tenured. The professor told the hearing panel that he felt he had to include something negative in the letter or else it would not be taken seriously. Instead, the negative comment was the only thing that was taken seriously.

Another miscommunication was apparent when the second member of the department testified. The chair of the panel asked her to clarify her "now famous comment" (only to the panel, of course) that she agreed with the administration's decision—something that was cited by both the president and provost when they met with the panel. She was shocked, and said that she had never said such a thing. What she had meant was that they had access to the dossier and she didn't, so she could not know what was in it, but if indeed the letters from students were as negative as portrayed by the provost then she could understand the decision. That's a lot different from agreeing with it! The third department member's testimony was also helpful. We discussed the fact that he had essentially written the department's letter of recommendation. The chair of the panel asked him the question I had wanted to ask but didn't quite know how: did the strength of the department's letter have something to do with who wrote it? The poor guy thought and thought and finally said, "Perhaps I understate things." His comment was so ingenuous and so... well, understated, that I do not think he could have possibly given a better answer...

Len didn't say a whole lot, but what he did say was very helpful. While the administration kept harping on negative student letters, he reiterated that he had not found the letters to be negative at all, and that he personally would have been happy to come up for tenure with such a dossier. I think the panel has to take it very seriously when a respected senior faculty member like him says that and means it. He also provided one of the few moments of comic relief, when he asked the president whether anyone actually has a dossier with no negative letters at all. The president said yes, and Len asked, "And you believe them?" Everyone laughed, but I think that part of the reason for the laughter was that it was a point well made.

**9/22/94:** Some of the suspense ended today... In a very well-written and well-reasoned letter, the hearing panel gave me virtually a complete victory. They argued that the administration had not followed the proper procedures by failing to notify me that my dossier was incomplete; that this may have adversely affected the quality of my dossier by depriving me of a chance to solicit letters from students; and that the student and faculty letters in the dossier had been misinterpreted. Accordingly, they recommended that I be re-evaluated for tenure.

This victory means a lot to me, both as a moral victory and as a decision that will wipe the “black mark” off my record if I apply to other institutions for a job. Now, instead of giving my personal opinion that the tenure decision was misguided, I have an official determination from a faculty committee that was able to examine all the evidence.

*Some of the passages from the Grievance Panel's report were quite tart, and I read them with a great sense of vindication. A few of them are given below:*

*The Faculty Handbook states that during the evaluation for appointment without limit: 'By January 31, the Provost will inform the faculty member which materials and letters from the evaluators chosen by the member have not been received.' By the Provost's own admission, one faculty letter and several student letters remained outstanding at this time. Yet Mackenzie was never informed; and the dossier remained incomplete when the decision was made. It must be emphasized that all persons evaluated deserve at minimum a dossier compiled according to our basic regulations. That the rule regarding notification is routinely ignored, as the Provost testified, does not in any way excuse this lapse... The failure to notify was particularly serious given that the missing items related specifically to teaching, the area where deficiencies proved decisive in the review...*

*The central reason for denying tenure to Mackenzie was his performance in teaching introductory Calculus, and the main evidence for his inadequacy in that area was the student letters. But the Provost's interpretation of that evidence... seems to us in several respects an unreasonable representation of the student letters. The provost claims that 'Students from the introductory calculus sequence tend to be simply unenthusiastic about your teaching.' We found however that some of those students were in fact extremely enthusiastic. The provost writes that there is 'a large majority of letters that are mixed or negative.' Although there clearly are letters that are mixed or negative, they do not in our view constitute a majority, let alone a large majority...*

*Whatever strengths [students from upper-level courses] saw were wrongly interpreted by the Provost as mainly or merely compensation for weaknesses. On the contrary, our sense was that in the main the advanced students saw Mackenzie's teaching as exceptionally positive...*

*Given the administrators' acknowledgement of the standards and candor of the Math faculty, it is particularly disturbing that the Chair... was invited for a critical meeting without knowledge that the subject concerned an impending negative decision on Mackenzie. This ignorance was intended, the Provost states, to prevent [the Chair] from somehow making inappropriate preparations for the discussion. As a result [the Chair] felt he inadequately defended Mackenzie's record, and the administrators incorrectly inferred that he did not significantly dispute their conclusions...*

**9/30/94:** [In] my mailbox I found a letter from the president that was as welcome as the letter that I waited for in vain on April 25. In five terse lines, the president acknowledged the grievance panel's recommendation that I be re-evaluated for tenure and said that he accepted the recommendation.

To return to the guillotine metaphor I used last April, I guess I feel now like someone whose head has been sewn back on: giddy with relief, but still in somewhat precarious health.

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