

November 15, 2011

Professor Todd A. Mooradian
President, William & Mary Faculty Assembly
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Dear Professor Mooradian:

For several years, the Procedural Review Committee (PRC) has struggled with the term “inadequate consideration” as a ground for appeal of decisions against renewal, tenure, or promotion and for appeal of major sanctions or unresolved grievances. In the Faculty Handbook, some of the references to the PRC include statements that the term “adequate consideration” refers to procedural, rather than substantive, issues” as well as the statement, “the standard of adequate consideration does not permit the Procedural Review Committee to substitute its judgement on the merits of the case... .” (Both quotations are from page 37 of the Handbook.).

Nonetheless, the PRC still sees ambiguity in the term “consideration.” For example, an appellant could argue that too little (or too much) weight (consideration) was given to the recommendation(s) from external reviewer(s). Would the PRC decide not to hear the appeal, as it would be a judgement on the merit of the case, or would the PRC decide to hear it as it would not have been clear that the recommendation(s) had been given adequate consideration which might be construed as a procedural issue? Also, interpreting the adjective “adequate” is a subjective exercise.

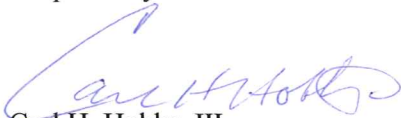
Given the qualifying statements above, the PRC suggests that “inadequate consideration” be dropped as a ground for appeal and that “failure to follow procedure” become a basis for appeal and that the Faculty Handbook be revised to reflect these changes. The PRC interprets “procedures” as requirements given in the Faculty Handbook, in the formal personal policy and procedure documents of the various departments and schools, and letters or similar documents promulgated by the Deans of the various schools or the Provost.

In recent practice, the PRC has been guided by the concept of “failure to follow procedure.” Revising the Faculty Handbook would make it clear that the Procedural Review Committee reviews the application of procedures and does not address the more general idea of “consideration.”

Should the Faculty Assembly prefer not to amend the Handbook, the PRC would appreciate guidance as to how the Committee might disseminate its interpretation of its charge.

Please contact me should you wish to discuss this.

Respectfully



Carl H. Hobbs, III
Chair, Procedural Review Committee

References to “inadequate consideration” in the Faculty Handbook.
sec II-E-3, pg 14, last sentence of top paragraph
sec III-C-1-d, pg 34, item (ii) in the top paragraph
sec III-C-1-d-ii, pg 37
sec III-F-1-l, pg 51
sec III-F-6-a, pg 72
sec III-G-1, pg 77