

Faculty Tenure in Academe: The Evolution, Benefits and Implications of an Important Tradition

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Introduction

The tenure system within higher education has been defined as “the basic concept that faculty members who have served a proper period of apprenticeship shall enjoy security in their posts and be subject to removal only for ‘adequate cause’” (Byse & Joughin, 1959, p. v). The goal of tenure is to create a contractual relationship between a professor and the college or university that is enforceable in a court of law. In fact, Byse and Joughin (1959) likened academic tenure with the lifetime appointment of judges that is found in the United States federal courts. In 1787, the Founding Fathers decided that federal judges should be immune from the caprice of public opinion and established a system of lifetime appointment of judges to the federal bench. Similarly, the system of tenure mirrors this idea by seeking to protect academic freedom from the “opinion” of the college or university administration, faculty, and students alike.

From its emergence in the middle ages to its presence in contemporary higher education, tenure remains a loosely defined and complex benefit afforded to the accomplished professoriate. Despite the subjective nature of academic tenure, the 1940 Statement of Principles on Academic Freedom and Tenure (the “1940 Statement”), published by the American Association of University Professors (“AAUP”), provides the most comprehensive outline of guidelines surrounding professorial tenure and its implementation within higher education.

Despite the tradition, the tenure system has elicited an ongoing debate between critics and supporters. Critics often suggest that the benefit of academic freedom promotes a laissez fair work ethic (Finkelstein & Schuster, 2001). Similarly, the concept that faculty tenure pollutes the academic experiences of students and stifles progress within the institution is a conviction held by many student affairs personnel at colleges and universities across the nation. That said, the article *Tenure: Why Faculty, and the Nation, Need it*, by Professor Henry Lee Allen (2000), actively combats these allegations. Allen (2000) addresses the necessity for faculty tenure and comments on the lack of research conducted to quantitatively support the view that tenure results in an unproductive faculty.

Undoubtedly the debate over tenure will continue *ad infinitum*. However, at a time when faculty tenure is decreasing substantially within the American higher education system and more contingent faculty are entering classrooms, it is critical that the college and university administrations remain aware of the dramatic impact faculty tenure can have on the student body and the institution as a whole.

History and Evolution

The practice of assuring scholars safety in their academic pursuits dates back to the year 1158. At this time, the Holy Roman Emperor Frederick Barbarossa issued an edict protecting scholars in their journeys (Metzger, 1973). This edict set a precedent in the university that significantly influenced the rapidly growing academic mission of the Roman Papacy. Over centuries, the same tenure example would spread world-wide and enter the expanding higher education system in the United States.

In the 1700s academic tenure faced a critical junction as lay people attempted to gain control of the academy. After the American Revolution, neither king nor episcopacy remained and the system of tenure had no foundation on which to stand (Metzger, 1973). For example, in 1790, Reverend John Bracken was removed from his professorship at William and Mary College without trial. The lay board's attorney, John Marshall, prevailed in court after he argued that "the will of the visitors is decisive" (Metzger, 1973, p. 114). It was not until the early 1800s that Harvard College appointed faculty "indefinite" positions that would consequently change the tenure landscape in the United States higher education sector (Metzger, 1973).

In the nineteenth century, professors at colleges and universities worked to satisfy the demands of boards of trustees. In fact, major donors could sometimes mandate the removal of a faculty member that performed to his or her disliking. However, this system of tenure changed in the first part of the twentieth century as Harvard University, Columbia University, and the University of Chicago implemented policies prohibiting donors from advocating for the termination of faculty members. Simultaneously, a *de facto* tenure system appeared in religious institutions where professors were subject to termination for expressing viewpoints that conflicted with the institution's religious creed.

In the spring of 1913, a group of eighteen full professors on the faculty of Johns Hopkins University signed a letter urging other professors to join their newly founded association that would protect their scholarly mission from the unruly societies (Metzger, 1973). Over the span of two years, a group of six hundred scholars would come together to form the AAUP. This was followed by the 1915 declaration of principles of the AAUP, which supported formal academic tenure with clearly stated grounds for dismissal. The early 1940s brought about an AAUP recommendation which stated that

(i) the academic tenure probationary period be seven years; (ii) tenured professors only be terminated for adequate cause except “under extraordinary circumstances because of financial emergencies;” and (iii) a professor be given written reasons for dismissal and an opportunity to be heard in self-defense (Rudolph, 1990).

The most significant changes to the tenure system occurred in the post-World War II era, as soldiers returning from the war were able to take advantage of the newly mandated GI Bill and descend upon America’s colleges and universities (Metzger, 1973). This phenomenon led to the quick expansion of colleges and universities and, in return, a severe shortage of professors. To overcome this problem, colleges and universities began to offer formal tenure as a “side benefit,” and the number of tenure issuances increased significantly.

During the McCarthy Era of the 1950s, the government forced many state employees to take loyalty oaths, and tenure was not a protection from termination in these occurrences. In many instances, professors who were dismissed because of their political views were told that their termination resulted from professional incompetence or insubordination (Brown & Kurland, 1990). Governmental influence of the political expression of college and university professors diminished during the 1960s as many professors supported the anti-war movement. Even though state legislatures called for specific terminations of certain professors, colleges and universities maintained their independence and suffered no consequences.

In 1972, two United States Supreme Court case decisions changed the tenure landscape. In *Board of Regents of State College v. Roth* and *Perry v. Sindermann*, the Court held that if a tenured professor’s employment is terminated, the professor is entitled to due process, including the right to appear personally in a hearing, the right to examine evidence and respond to accusations, and the right to legal counsel (Rudolph, 1990). Subsequently, the number of cases filed because of improper termination of tenured professors skyrocketed from 36 cases filed from 1965 to 1976 to 81 cases filed from 1980 to 1985.

The 1980s and 1990s brought several attempts by some universities to re-evaluate the tenure system as the cohort of tenured faculty hired to teach baby-boomers approached retirement (Brown & Kurland 1990). In 1982 the National Commission on Higher Education placed the issue of post-tenure review on a national agenda, encouraging the development of a formal post-tenure review (Goodman, 1990). In 1990, the academic community began to debate the issue of mandatory retirement for tenured professors. Despite several attempts to end a faculty member’s tenure, today tenured faculty are not required to retire because of their age (Brown & Kurland 1990).

Tenure remains a critical issue in contemporary higher education, with many young professors and administrators criticizing the system as the number of faculty tenure issuances and tenure-track positions decrease. Young professors often view the tenured faculty as an unfair obstacle towards full-time or tenured employment because he or she speculates that tenured professors are remaining in their roles beyond a normal retirement age (Perley, 1998). Additionally, they deem tenure track positions increasingly more difficult to obtain and the criteria to be unclear. It is not uncommon for a recent doctoral graduate to serve a one or two year visiting faculty appointment as a prerequisite to obtaining a tenure-track position at a college or university (Curtis & Jacobe, 2006). Joseph Fashing (1976) stated that the system of obtaining tenure has “loosely established criteria of performance” which has made the tenure process “frequently inequitable and irrational” (Fashing, 1976, p. 206).

College and university administrations are often critical of the tenure process because it becomes costly to maintain a tenured faculty. Deborah Louis (2009), reported that tenured faculty at the institution that she is associated with are paid twice the amount of the adjunct faculty. Without consideration given to scholarship or performance in the classroom, the Chair of the Governor’s Task Force on Education Reform in Oklahoma suggested that an expiration date be added to the contracts of tenure issuances in 1997 to control the long-term cost of a faculty member (Perley, 1998).

Perhaps the cries of the young faculty and administration were heard. Full-time tenured faculty totals within U.S. degree granting institutions has seen an estimated 12 percent decrease in the last quarter decade, and the number of full-time tenure-tracked faculty has seen a similar decrease (Curtis & Jacobe, 2006). Today, an estimated 800,000, or two-thirds of the nation’s college and university faculty, are adjunct or contingent (Louis, 2009). As the requirements for tenure become more ambiguous and grueling, it is important for institutions to evaluate the necessity of tenure within higher education. Should tenure remain active within higher education? Are the benefits of tenure worth the effort of the professoriate?

Benefits of Tenure

When one analyzes the advantages of tenure, it is critical to look at the university community as a whole. The administration is responsible for the management of the university while the faculty is accountable for the curriculum. Thus, the faculty acts as an advocate for the curriculum and are thereby afforded the authority to foster an academic environment that advances both student learning and the institution alike. Tenure is essential because it fosters stability and productivity in academic organizations (Allen, 1997). To obtain a tenured faculty position, an individual must have obtained a terminal degree, demonstrated a mastery of classroom teaching, and

actively engaged in publishing scholarly material at a state, regional, national, and international level. Thus, tenure demonstrates a high quality of faculty. Having a tenured faculty keeps seasoned and experienced faculty members invested in an institution. Were it not for the tenure tract, colleges and universities would be filled with a nascent faculty that would lack institutional knowledge and serve as an insufficient resource, especially in the area of faculty advising. Moreover, a tenured faculty can serve as a role model and motivational tool for junior faculty as they encounter the trials of academia.

Further, tenure helps to create and preserve the intellectual paradigm of academia and, consequently, improve the academic experience of students. According to a recent study, a non-tenure track faculty adversely affects the five and six year graduation rates of students (Ehrenberg & Zhang, 2005). If colleges and universities continue to employ non-tenure track faculty, declining admissions requirements and rising grade inflation could result in order to maintain a student body. A tenured faculty does not share directly in the profits of the college or university and is more motivated by a need to preserve academic excellence than a need to maintain enrollment. The idea of a tenured faculty has deep roots in academic tradition. "Without such faculty, higher education cannot remain the vital institution it has become in American society" (Curtis & Jacobe, 2006, p. 16). The higher education sector as a whole, as well as individual institutions, will lose students and close without a faculty (Allen, 1997). Certainly, the academic community should not hold on to an ideal solely because of its ancestry in tradition. However, when the reasons discussed above are combined with the time-honored tradition of having a tenured faculty, one can make a reasoned argument in favor of a tenured faculty as opposed to one that is subject to the whim of the university administration.

Finkelstein and Schuster (2001) believe that tenure promotes laziness and acts as a safeguard for complacent faculty, undermining the quest for excellence in higher education. While this statement would certainly resonate among non-tenured faculty and administration, most tenured faculty may have distinct views to the contrary. In fact, a survey conducted by Theodore Walden (1980) determined that 95% of over three hundred faculty noted that their productivity after being granted tenure either increased or remained consistent.

In fact, a tenured faculty promotes academic freedom. Having a faculty that feels free from retribution on the basis of speech will promote a productive and forward-thinking university environment. A non-tenured faculty member, on the other hand, might have trouble speaking truthfully at a curriculum meeting to the dean, who is part of the administration, without fear of repercussions. Finkelstein and Schuster (2001) also fail to realize the influence that the administration can ultimately have over the faculty. An underperforming faculty member could be given assignments to the least

desired committees or courses and denied access to coveted conferences. Over time, intentionally destructive mandates from the administration can discourage faculty from persisting in their tenured positions.

Arguments that academic tenure perpetuates the employment of unqualified professors can be refuted by the fact that there are systems in place that deal with termination of tenure. The mechanisms that are in place to terminate tenure are based on those of the federal judiciary. The Constitution authorizes the House of Representatives to impeach a federal judge and the Senate to convict and remove a federal judge that they deem unfit for office. While this safeguard is in place which should assure critics that unproductive or insubordinate faculty can be dismissed, the process of tenure termination is not neatly defined, therefore promoting ample debate.

The Tenure Termination Debate

The systems in place at America's colleges and universities are much more diverse and incorporate many divergent views on the criteria for termination of tenure. Some colleges and universities employ a system whereby a professor previously granted tenure may be terminated "for cause" (Byse & Joughin, 1959). "For cause" termination provides some degree of comfort to a tenured professor because he or she can only be terminated for a just reason. On the other hand, "at will" employment is where an employee may be terminated for a specified reason or no reason at all. However, "for cause" termination for a professor is an amorphous and vague concept, and the college or university administration can create clever reasons for terminating a professor with tenure when the tenure system allows for "for cause" termination (Byse & Joughin, 1959).

Byse and Joughin (1959) suggest the following as possible criteria for termination of tenure: cause, professional incompetence, immorality, crime – including treason, incapacity, or disability. Without a doubt, this list would be unacceptable on a college or university campus today, although such criteria may have been appropriate when proposed in the 1950s. Interestingly, Byse and Joughin criticize "for cause" termination as being "unnecessarily vague" yet include immorality in their list of criteria. The authors fail to offer a definition of immorality or suggest where to look for such a definition. Would they look to the laws of the relevant state where the college or university is located? If the college or university is religiously affiliated, would they look to the doctrines of that particular religion? Some religious denominations prohibit divorce. Would Byse and Joughin have a tenured professor terminated on account of immorality if that professor instituted divorce proceedings and worked at such a religiously affiliated college or university? The obvious answer to these questions today is a resounding no, but such questions and answers might not have seemed inappropriate in the 1950s.

The 1940 Statement lists the following as grounds for the termination of tenure: adequate cause, incompetence, moral turpitude, failure of institutional relationship, religious criteria, and termination because of financial exigencies. While the 1940 Statement indeed provides more guidelines than Byse and Joughin, the criteria for tenure termination continues to be unnecessarily vague. To reiterate, termination for adequate cause is problematic because it allows administrative officials great leeway in terminating tenured professors. Further, termination for moral turpitude presents challenges based on its amorphous definitions, interpretations, and ambiguous sources.

Interestingly, the 1940 Statement permits college and university administrations to terminate tenured professors on the basis of religious criteria (Byse & Joughin, 1959). A similar situation might arise in Catholic colleges and universities today. The Code of Canon Law requires that those who teach Catholic theology in a Catholic institution have a mandate, or *mandatum*, from the local bishop. The mandate is an acknowledgement that the faculty member is teaching in full communion with the Catholic Church.

What would happen to a tenured theology professor at a Catholic university who did not receive a mandate from the local bishop? If the university followed the 1940 Statement, they would be within their rights to terminate this tenured professor. An interesting question would arise in regards to this situation if the university did not include religion as part of its criteria for termination of tenured professor. An argument can be made that the professor in this situation could be terminated for cause, as he or she would not be permitted to teach theology without a mandate. There is, of course, no easy answer to this question or any of the questions, for that matter, surrounding the issue of what constitutes just cause for termination of a tenured professor. Defined criteria, either from the 1940 Statement or from a college or university's own tenure termination policy, leave open the possibility that tenured professors can be terminated for a variety of reasons. More research must be conducted in the area of tenure termination, and clearer criteria defining tenure termination should be established at colleges and universities to more comprehensively define the parameters of their relationship.

The Future of Faculty Tenure

It is clear that a system of tenure is needed to protect academic freedom. At a time when freedom of speech is one of the most fundamental concepts valued by contemporary society, the question arises as to why institutions need a structure in place to protect academic freedom. Faculty and students alike should feel free to voice their opinions. Once institutions begin to stifle speech, they begin to stifle learning. When institutions stifle learning, they destroy the academic experience of students and the enterprise as a

whole deteriorates. Since tenure is necessary to protect speech within the classroom, then it is a noble and worthwhile idea.

The propriety of faculty tenure has been debated in great length and will continue to be a topic of interest going forward. While there are no definite ways of predicting the future of higher education, quantitative data demonstrate that tenure is progressively becoming less prevalent within colleges and universities. This decrease in popularity is largely due to the cost-effective decision to hire part-time or adjunct faculty members. Additionally, the increase in online degree programs diminishes the need for tenure-track faculty, let alone the presence of faculty within the classroom. As distance education and online course options become more established in contemporary higher education, the spotlight will turn to emphasize the impact that distance learning will have on tenured faculty members.

Given the current reality, in the future, institutions should not rely on tenure to maintain a strong and committed faculty. Rather, the focus should be on improving institutional productivity and taking advantage of the added benefits tenure will bring to the institution. While tenure is only one factor that aids in maintaining a distinguished faculty, it remains a very strong element within the current higher education system.

While most agree that tenure serves an important purpose in promoting and safeguarding academic freedom, others suggest that some unfortunate circumstances have arisen where professors have become lazy and complacent and that the tenure system should be abolished to deal with those problems. Despite this observation, statistics and research show that faculty members are working diligently both in the classroom and beyond to provide quality education to those students who pass through the college or university doors. Today, tenure seems to be one of the few characteristics of the professoriate that transcends a business model and embodies the mission of a true scholar.

Tenure is a standard practice in the overwhelming majority of colleges and universities in the United States. Overall, a tenured faculty serves as role models for junior faculty while securing academic freedom and promoting quality education. Further, a tenured faculty improves the academic experience of students by demonstrating commitment to the scholarly growth of students, improving graduation rates, and promoting retention. In the interest of the students, college and university administrators must recognize the benefits that tenured faculty bring to their institutions and be supportive of this important academic tradition.

References

- Allen, H. L. (2000). Tenure: Why Faculty, and the Nation, Need It. *Thought and Action*, 16, 2, pp. 95-110.
- Brown, R. & Kurland, J. (1990). Academic Tenure and Academic Freedom. *Law and Contemporary Problems*, 53, 3, pp. 325-355.
- Byse, C. & Joughin, L. (1959). *Tenure in American Higher Education: Plans, Practices, and the Law*. Ithaca, New York: Cornell University Press.
- Ehrenberg, R. & Zhang, L (2005). Do Tenured and Tenure-Track Faculty Matter? *The Journal of Human Resources*, 40, 3, pp. 647-659.
- Fashing, J. (1976). On "Coming Up" for Tenure. *The American Sociologist*, 11, pp. 199-208.
- Finkelstein, M. & Schuster, J. (2001). "Assessing the Silent Revolution: How Changing Demographics are Reshaping the Academic Profession." *AAHE Bulletin*, 54, pp. 3-7.
- Goodman, M. (1990). The Review of Tenured Faculty: A Collegial Model. *The Journal of Higher Education*, 61, 4, pp. 408-424.
- Hechinger, F. M. (1970). Academic Freedom in America. *Change*, 2, 6, pp. 32-36.
- Louis, D. (2009). Adjuncts: Solutions for a Mistreated Majority. *The Chronicle of Higher Education*, 55, 39, pp. 72.
- Metzger, W. (1973). Academic Tenure in America: A Historical Essay. *Faculty Tenure: A Report and Recommendations by the Commission on Academic Tenure in Higher Education*. San Francisco, California: Jossey-Bass.
- Metzger, W. (1990). The 1940 Statement of Principles on Academic Freedom and Tenure. *Law and Contemporary Problems*, 53, 3, pp. 3-77.
- Rudolph, F. (1990). *American College and University: A History*. Athens, Georgia: University of Georgia Press.
- Walden, T. (1980). Higher Education: Attitudes toward Tenure. *The Phi Delta Kappan*, 62, 3, pp. 216-217.

