

31st & Pearl

Codification of “Zantow Rule” Puts USM in Legal Jeopardy

According to the proposed T&P policies circulated via e-mail throughout the CoB by Interim Dean Alvin Williams, “Under extenuating circumstances, the Dean of the College of Business may choose to extend the [third-year] review for one additional year, at which time a positive or negative decision must be rendered.” That’s interesting. The *USM Faculty Handbook* (9.7.1 and 9.7.2) says something quite different by stating [emphasis added] that third-year reviews “must be conducted for all non-tenured faculty members *during* their third year of employment as full-time faculty members,” and that the renewal or non-renewal of employment contracts after the third-year review comes “at the discretion of the President . . .” So, once again, the CoB will be voting to codify a provision that is both made from whole cloth *and*, as we can all expect, will be used inconsistently.

The language in the proposal contained in Williams’ e-mail says that the third-year review of CoB faculty may occur either *during* one’s third year of employment, as called for by usual protocol, or *during* one’s third and fourth years of employment, as called for by the CoB’s Dean. Thus, the CoB T&P policies proposal makes the length of a third-year review – 1 or 2 years – the prerogative of the CoB Dean. The *USM Faculty Handbook* states, however, that third-year reviews are to be conducted *during* one’s third year of employment, *not during* one’s third *and* fourth years. The *USM Faculty Handbook* also says the University President, at his or her discretion, can terminate non-tenured faculty after their *third*-year review. Conflicting statements? That’s the way a jury will see it.

Once again CoB faculty will be called upon, this time on 31 August 2007, to approve (by vote) the untoward. To paraphrase EFIB Chair George Carter, it may not be right, and it may be unacceptable, but that’s (the untoward) what the CoB is going to do. You can count on it.