

November 29, 2021

Vicki Román-Lagunas, Executive Vice Chancellor for Academic Affairs
Indiana University Northwest
3400 Broadway
Gary, IN 46408

Dear EVCAA Román-Lagunas,

The Faculty Board of Review was charged on August 27, 2021 on the case of Professor McPhail's appeal of the August 17, 2021 administrative action that removed him from teaching and service duties during Fall 2021 and reduced his salary by 75% for that semester.

In accordance with the protocols dictated by the Constitution of the Faculty Organization, this committee reviewed all provided and solicited documents and conducted hearings with the parties involved. What follows is our response to Professor McPhail's appeal. All members of the Faculty Board of Review are in full agreement on the terms of this response.

The administrative action being appealed was the Administration's response to Professor McPhail's perceived failures in his service and teaching practice. We agree that Dr. McPhail's performance of his teaching duties showed reasons for concern. Chief among them are the following: 1) The Chair of the Communications Department noted in her 2017 Faculty Annual Report (FAR) Evaluation that Dr. McPhail did not adhere to departmental curriculum guidelines in the communication courses he taught; 2) The rate of DFW in Dr. McPhail's courses was consistently and significantly higher than the average DFW rates for the department; 3) Some courses showed unusually low student evaluation scores. While we acknowledge that Dr. McPhail's teaching practice needed attention and called for some form of intervention in support of his pedagogy, we find that the Administration chose to address these concerns through a process that compromised due process and an action that lacked a fundamental sense of fairness.

In reviewing the appeal, this Board found that Dean Klamen did not follow campus practice in his writing of Dr. McPhail's 2020 FAR evaluation. The time period covered by Dean Klamen's evaluation is irregular. Campus practice is that supervisors submit FAR evaluations for the calendar year for which faculty are to be evaluated. The IU Northwest Office of Academic Affairs provides a link to a document that outlines how to submit Faculty Annual Reports (<https://www.iun.edu/academic-affairs/faculty-affairs/faculty-evaluation.htm>). On p. 3, the document states, "consistent with past practice, there will be a due date for faculty to 'finalize' their activity report *for the previous calendar year*" (emphasis added) (<https://iu.app.box.com/s/gndhr26exwyi2fqiqygyiy8w0wjp253r>). Dr. McPhail's FAR evaluation should have covered the 2020 calendar year. Instead, the performance evaluation is for the 2020-2021 academic year, thus evaluating Dr. McPhail's performance for a four-month period for which he had not/was not yet required to submit a report. This put Dr. McPhail at a disadvantage insofar as 1) the negative evaluation of his teaching and service was based in part on 2021 data that were incomplete at the time of Dean Klamen's analysis; 2) Dr. McPhail's performance was

not evaluated in accordance with the same schedule as the rest of the IU Northwest faculty. His activities for the 2021 calendar year should not have been included in the evaluation.

Dean Klamen's 2020 FAR evaluation was not made available to Dr. McPhail until August 3. His ensuing sanction recommendation and the EVCAA's determination that the sanction be carried out came on August 12 and 13, respectively, just ten days (six business days) before the beginning of the Fall 2021 semester. It is doubtful that the sanctioned faculty member had adequate time to consider how to remediate the issues, nor to prepare for the drastic reduction in salary. The severe sanction was implemented without warning that this action was on the horizon and without a substantive teaching remediation plan in place. The Faculty Board of Review struggled to understand how losing 75% of one's salary would correct the problems highlighted in Dr. McPhail's performance review and in the Dean's recommendation for sanctions.

Before new events led to the dismissal of Dr. McPhail, the EVCAA and the SOA Dean anticipated that he would return to his teaching and service schedule in the Spring of 2022. It is not clear to us whether, at the beginning of the Fall of 2021, there was a plan in place to assist Dr. McPhail with efforts for improving his teaching and service during that semester. No mention of pedagogical remediation procedures is included in any the documents authored by the Administration. And even if there was such a plan, it is hard to see how a faculty member who must live on only 25% of his salary could have been in the right frame of mind to do some serious work on his teaching and make extensive improvements to it. A sudden and drastic reduction in income is likely to usher in serious financial consequences, grave worries, and the need for many practical and lifestyle adjustments. If the goal was to have Dr. McPhail become a better teacher and a more dedicated servant of the University in the Fall of 2021, a drastic change in his life circumstances was unlikely to assist him in completing the task. A 75% reduction in salary is so overtly punitive that it should be kept as a last resort and reserved for circumstances where every other avenue of intervention has proved ineffective.

IU Northwest and most universities traditionally rely on a system of remediation and progressive discipline when tenured faculty exhibit disciplinary concerns and/or need for pedagogical intervention. Failing to use a system of progressive discipline (warning, 1-day suspension with no pay, etc.) violates a fundamental sense of fairness which should be inherent in our faculty disciplinary structure.

IU Northwest has a policy in place to address substandard performance of tenured faculty, namely the *Post-Tenure Review and Enhancement Policy* (<https://www.iun.edu/faculty-organization/docs/meetings/2005/posttenurereview.htm>). This Board believes that, by and large, this is the instrument that should have been activated to address Dr. McPhail's teaching and service shortcomings. The purpose of post-tenure review and enhancement is to focus on tenured faculty who "are failing to meet minimum levels of performance". This policy seeks to "provide a structure for the preparation and implementation of faculty and librarian development plans" that can meet the specific remediation needs of the faculty member. Through this policy, the faculty member cooperates with a committee of peers in drawing a development plan that a) identifies strengths and deficiencies; b) defines goals and outcomes; c) outlines specific activities for the achievement of these goals; d) sets a timeline for the achievement of these goals;

e) indicates benchmarks for monitoring progress; f) indicates the criteria for annual progress review, and g) identifies sources of funding.

We find that the process outlined in this policy would have been the appropriate way to address and solve the problems presented by Dr. McPhail's performance. The *Post-Tenure Review and Enhancement Policy* would have been the proper and effective choice because 1) unlike the administrative action being appealed, it provides a clear path towards improvement and a process for accountability, and 2) it is a policy "*clearly aimed at performance enhancement* rather than as a punishment for performance inadequacies". So, it prevents the sense of alienation and the human cost that severe punitive measures, such as the ones taken in this case, unavoidably bring about.

According to Subsection 7.1.1 of the Faculty Organization Constitution, the Faculty Board of Review "may also express its judgment to administrators on administrative action by giving an opinion and or a recommendation".

Having considered fully and carefully all aspects related to Dr. McPhail's case, this Board would like to respectfully recommend the following: 1) that Dr. McPhail's full academic salary and benefits be restored for the time of his employment during Fall 2021; 2) we understand that Dr. McPhail's employment status with IU Northwest has changed. However, if he were still employed by our campus, we would recommend the immediate and full reassignment of Prof. McPhail to his academic duties in the SOA. Full-time teaching equivalent workload should start now and be devoted to a teaching remediation plan developed with the assistance of CISTL teaching specialists. This line of work should continue until the end of the Fall Semester 2021; 3) the design of a pedagogical plan that will clearly define goals and outcomes for Prof. McPhail's future teaching practice and service at the SOA. The plan should outline specific activities for the achievement of teaching and service goals and set a timeline for monitoring progress and the achievement of these goals. The plan should also clearly state repercussions in the case of unfulfilled pedagogical and service-related goals; 4) due to the evident break in communication and collegial trust between Prof. McPhail and SOA Dean Klamen, we recommend that either COAS Dean Hoyert or SOBE Dean Roberts be assigned as Prof. McPhail's supervisor for the next two years.

We understand that, because of recent changes in Dr. McPhail's employment status at IU Northwest, it is not currently possible to implement recommendations 2-4. These recommendations should, however, serve as a precedent for addressing substandard performance of faculty. The changes in Dr. McPhail's employment status occurred after he had filed the present appeal with the Faculty Board of Review. Thus, our duty is to issue this judgement based on the merits of the case submitted to us, separately from, and without being influenced by, later events.

We would like to make two additional recommendations that arise from what we have learned in this case, and that we believe could be relevant and helpful to the IU Northwest academic community.

1. This Board recommends that the *Post-Tenure Review and Enhancement Policy* be brought to the attention of the Faculty Organization. We believe that faculty and administrators should be better educated about its role and implementation. The Faculty Organization could create a committee to examine the policy and update it as necessary, with input from everybody on campus.
2. This Board recommends that any IU Northwest unit using DFW rates for any evaluative purpose inform faculty at the beginning of each academic year of the purpose and nature of the collection of the data and the way(s) in which this information will be used that could impact faculty assessment. Faculty within departments should have the option to propose the collection of alternate data which could be more meaningful.

Thank you very much for your help. As a faculty-elected representative body, we are very invested in fostering an honest and trusting relationship with the Administration that advances our common institutional goals.

Please receive our best wishes.

Respectfully submitted,

(In alphabetical order)



Gianluca Di Muzio, Associate Professor of Philosophy



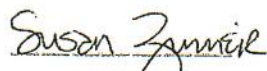
Kristin Huysken, Associate Professor of Geology and Assoc. Dean for Student Success, COAS



Zoran Kilibarda, Professor of Geosciences



Eva Mendieta, Professor of Spanish



Susan Zinner, Professor of Public and Environmental Affairs