



Secretary of the University

Lubar Hall N450
414 251-8122 *phone*
414 229-5198 *fax*
www4.uwm.edu/secu

MEMORANDUM

TO: All Candidates for Promotion and/or Tenure

FROM: John Reisel, Ph.D., Secretary of the University

DATE: May 2024

RE: Candidate's Rights Under Wisconsin State Open Meeting Law and UWM *Policies and Procedures*

This is to advise candidates of rights with regard to notification of decision of tenure, open meetings, and faculty tenure and promotion decisions. The following policies are in effect:

UWM Policy and Procedures, Chapter 5, Faculty Personnel

5.136 Notification of Decision of Tenure by Executive Committee

A decision of tenure, favorable or unfavorable, must be made at least 12 months prior to the completion of the maximum probationary period (or equivalent), unless this right is waived, in writing, by the candidate. The executive committee must initiate the review process soon enough to allow for the required notification listed in Chapter 5.19 (3) to take place following a negative decision. If the decision is negative, the appointment for the following year becomes a terminal one.

- (1) After a negative decision, the executive committee may agree, but is not required, to conduct a tenure review and render a decision during the terminal year. A decision to conduct a tenure review in the terminal year will be communicated to the candidate in writing.
- (2) A faculty member who waives his/her right for tenure review or who submits their resignation, may serve out the terminal year without a tenure decision being rendered.
- (3) A faculty member who waives his/her right for a tenure review prior to the terminal year, may request, in writing, to be reviewed during their terminal year. The executive committee, at its discretion, may or may not agree to conduct a tenure review during the terminal year. Its decision will be communicated to the candidate in writing.

UWM Policy and Procedures, Chapter 3, Faculty Divisional Systems

Invitation to Departmental Observer: According to legislation [Chapter 3.04(2)] adopted by the faculty senate in February 1994, the divisional executive committee shall invite the executive committee of the candidate's department to designate one of its members who is not currently serving on the divisional executive committee to observe the deliberation and voting on the committee's recommendation. Also, members of the candidate's department, chosen by the department's executive committee, shall be provided the opportunity to present the candidate's case during the evidentiary phase of the divisional committee's meeting. These provisions apply whether the divisional executive committee is open or closed. There is no requirement that the candidate have an open meeting.

Wisconsin Statutes 19.85 (1) (b) and 19.85 (1) (c) Exemptions to Wisconsin Open Meeting Law

Candidates Seeking Tenure Status: Wis. Stats. 19.85(1) (b) states that candidates seeking tenure have the right to request an "open meeting"; that is, the executive committee meeting is open to the public and no confidential material is entered as evidence. This right may be exercised at both the departmental and divisional executive committee meetings.

Candidates Seeking Promotion Only: Wis. Stats. 19.85(1) (c) states that meetings held for the purpose of promotion, compensation, or performance evaluation are exempt from the open meeting law; i.e., candidates for promotion where tenure is not involved do not have a statutory right to an open meeting. However, in Chapter 3.14(3) of the UWM *Policies and Procedures*, the faculty senate has extended to candidates seeking promotion to full professor the right to an open meeting of the divisional executive committee. There is no similar conferral of that right at the departmental executive committee level of review. The departmental executive committee is not, therefore, obliged to honor a request for an open meeting when considering promotion to full professor, but may do so if it chooses.

Solicited confidential letters of evaluation cannot be used to aid either the departmental or divisional executive committee's decision when the meeting is open. If, following a closed meeting at the departmental level, you choose to exercise your right to an open meeting at the divisional level all confidential letters of evaluation will be removed from the tenure or promotion file. It will be your responsibility, and that of your chairperson, to replace the confidential letters with non-confidential letters of evaluation. Since the divisional executive committee will take no action until your file is complete, a change from a closed to an open meeting could result in significant delays in your tenure consideration.

Candidate Statement regarding rights under Wisconsin Statutes 19.85 and UWM Policies and Procedures, Chapter 3.14 (3)

When submitting documents to the dean and the divisional executive committee for tenure or promotion, the candidate is required to:

1. include a signed statement indicating his or her understanding of rights under 19.85, Wis. Stats. or 3.14(3), UWM *Policies and Procedures*, and
2. indicate whether the divisional executive committee meeting is to be open or closed.

It is imperative that the candidate follows divisional directions for the submission of promotion/tenure materials. Failure to adhere to these directions could result in materials being returned to the departmental executive committee.

Copies of UWM Policies and Procedures Chapter 3.14 "Advice on Tenured Appointment as Professor or Promotion to Professor" and Wisconsin Statute 19.85 can be found at the following:

UWM Policies and Procedures
<https://uwm.edu/secu/policies/faculty/>

Wisconsin Statute 19.85, Exemptions to Open Meetings Law
<https://docs.legis.wisconsin.gov/statutes/statutes/19/V/85>

For additional information or assistance please contact me at Reisel@uwm.edu or 229-4671 or Jake Azinger, Governance Secretary, at Tazinger@uwm.edu or 414-251-8122.