State of New Hampshire

PERSONNEL APPEALS BOARD
State **House** Annex
Concord, New Hampshire 03301
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1988-0-116

APPEAL OF RICHARD OUELLET
Postsecondary Technical Education
NHTC/Berlin

The Personnel Appeals Board (McNicholas, Cushman and Johnson) met Wednesday, May 10, 1989 to hear the appeal of Richard Ouellet, an employee of the New Hampshire Technical College (formerly NHVTC) at Berlin. Mr. Ouellet had appealed the college's decision not to promote him from Associate Professor to Professor. The central issue from which this appeal arises concerns the interpretation of the Faculty Promotion Guidelines under which Mr. Ouellet requested promotion to the rank of Professor.

In his written summary to the Board dated May 9, 1989, President Twitchell stated, "Mr. Ouellet requested evaluation of his candidacy on the basis of professional credits, a vehicle established and employed to promote vocational and technical faculty, not general education faculty. General education faculty at the rank of professor in our System hold appropriate academic credentials. In every instance this means a minimum of a Master's Degree, or a minimum of 30 semester hours beyond the baccalaureate degree. Mr. Ouellet has not submitted anything to document additional formal education beyond the B.A. from Carleton University in 1971."

While the Board would agree with President Twitchell's rationale for denying Mr. Ouellet's promotion request, and with Postsecondary Education's legitimate concerns that faculty not be allowed to expect promotion based solely upon longevity, the documentation submitted by both the agency and the appellant provide nothing to distinguish between promotion for general academic faculty and technical or vocational faculty. The "Guidelines" (SEA Exhibit J) include as requirements for promotion,

1 CRITERIA FOR FACULTY PROMOTION

1. Minimum Qualifications - Faculty members submitting requests for promotion consideration shall meet the minimum qualifications for the rank that they are seeking as set forth by the State Department of Personnel for the Technical Institute and Vocational-Technical Colleges."

In the job specification submitted (SEA Exhibit K) there are three separate sets of "Minimum Qualifications" for the classification of Vocational Technical College Professor. The first requires possession of a Master's Degree and five years teaching and/or work experience in the area in which teaching vacancy exists. The second requires possession of a Bachelor's degree and an additional 15 semester hours, plus eight years' teaching and/or work experience in the area in which teaching vacancy exists. The last set of qualifications calls for "Forty-five Professional Credits" which will be "evaluated by the Vocational-Technical College if they use this qualification method". Mr. Ouellet appears to meet the minimum qualifications for professor under the alternative listed on the specification. Nothing in the Faculty Promotion Guidelines or class specification for Vocational Technical College Professor submitted distinguishes between general academic and technical/vocational classifications or teaching assignments.

State's Exhibit 1 purports to define the difference between academic and vocational approaches for qualification for promotion. "...the professional credits should be applied to the Vocational-Technical College job descriptions to enable the colleges as well as the Technical Institute to hire and/or promote faculty who have the technical expertise and professional experience that is so necessary for instruction in technical areas.. ." (Emphasis added) That information, however, is only found in the inter-departmental correspondence between several of the college presidents and Neal D. Andrew, former Deputy Commissioner of Education. That standard was never included either explicitly or implicitly in the Faculty Promotion Guidelines. Thus, an employee would not know by reviewing the Guidelines that he might be prohibited from utilizing the Professional Credits option when seeking promotion in a General Education position.

State's Exhibit 4 also highlights the College's position that "a non-traditional approach, such as yours, may be used but 'approval should be obtained from the individual's Department Chairperson if an activity is to be considered for a promotion'". Mr. Twitchell alludes to the requirement for prior approval of same. A requirement for prior approval is not evident in the Faculty Promotion Guidelines.

The evidence does indicate approval by the Department Chairperson of Mr. Ouellet's decision to utilize the professional credits method for promotion. Mr. Ouellet, in his letter of October 28, 1986 to Dean Urekew (SEA Exhibit B) stated, "I am requesting that you assess my qualifications on the basis of the forty-five professional hours method." On January 14, 1987, (SEA Exhibit C) Mr. Urekew forwarded Appellant's promotional request to President Twitchell, stating, "...Mr. Ouellet exceeds minimum requirements for the rank of Professor..." That recommendation for promotion to professor was made with full knowledge of the method chosen. "In his letter to me requesting promotion, Mr. Ouellet has asked to be evaluated according to the criteria for forty-five professional credits for the rank of professor."

Based upon the record before it, the Board voted to grant Mr. Ouellet's appeal for promotion to professor.

The Board also voted to strongly recommend that the Department of Postsecondary Technical Education undertake an immediate and careful revision of its Faculty Promotion Guidelines. The Department of Postsecondary Technical Education enjoys a nearly unique status in the State Classified Service by being able to offer to its faculty both promotions and salary increases without requiring that incumbents take promotion to vacant positions, or request reclassification and upgrading of their current positions. If the Department wishes to avoid the possibility that faculty members might take unfair advantage of that system, then the Promotion Guidelines should be revised accordingly.

When considering amendment to those Guidelines, the Board suggests the Department address the issues raised during the course of the appeal, and the questions posed by President Twitchell in his May 9, 1989 letter to the Board.

1. Can or should a General Education instructor be allowed to use the professional credit option for promotion?

That question, the Board believes, can only be answered by the Department of Postsecondary Education. If General Education faculty should be ineligible for promotion under the professional credit option, then the Faculty Promotion Guidelines should so state, as clearly and concisely as possible. Also, if a faculty member desiring to utilize the professional credit option needs prior approval from the Department Chairperson, as alluded to by President Twitchell, the Guidelines should outline the method whereby candidates seek and obtain such prior approval.

2. Is it reasonable for a General Education instructor to expect to promote from the lowest faculty rank to the highest by simply staying around long enough?

The Board believes that no faculty member should enjoy promotion simply by virtue of longevity. Again, the Board would recommend that the issue of length of service be more clearly defined in the Guidelines for promotional purposes.

3. Is it reasonable for a Department Chair, a Dean or a President to expect or demand documentation of professional development activities from each faculty member?

Again, the Board can only respond by stating that the standards for promotion, and the nature of the documentation required, should be explicit in the Guidelines themselves.

4. Is it reasonable to expect additional professional growth and educational experience in their respective discipline area before promoting a faculty member to a higher rank?

The Board believes such expectations are reasonable. However, the manner in which that "additional professional growth and educational experience" are gained and evaluated are not clearly defined in the Guidelines in effect when Mr. Ouellet applied for promotion.

> "Recommendations are positive (but rarely are any other kind submitted). "

If the Department of Postsecondary Technical Education believes that recommendations for promotion will all be favorable, they would appear to be essentially meaningless for the purposes of evaluating a candidate's qualifications for the requested rank. If such is the case, then the Board would suggest that such recommendations be eliminated from the review process.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

George R. Cushman, Jr., Member

Robert J. Johnson, Member

cc: Jean Chellis, SEA Field Representative
Larry B. Twitchell, President, NHTC/Berlin
Mary P. Brown, Commissioner, Postsecondary Technical Education
Virginia A. Vogel, Director of Personnel

DATED: September 25, 1989

State of New Hampshire

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APPEAL OF RICHARD OUELLET
March 13, 1989

On October 12, 1988, the Personnel Appeals Board, Commissioners Cushman and Platt sitting, held a status conference in the above-captioned matter. The Board noted that the February 19, 1987 decision of President Twitchell not to recommend appellant's promotion invited appellant to present additional information for President Twitchell's consideration. Appellant presented additional information, and President Twitchell again decided not to recommend promotion by letter dated March 26, 1987. Appellant filed his appeal with the Board on or about April 2, 1987. In light of these facts, the Board found that the appeal was timely filed.[1]

The Board further decided that a hearing on this matter would be held before the full Personnel Appeals Board. The Board shall be guided by the so-called Faculty Promotion Guidelines adopted by the Department of Education, Division of Postsecondary Education in judging the merits of this appeal.

The parties shall be notified upon the scheduling of a hearing in this matter.

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1 Because the timeliness of an appeal presents a jurisdictional issue, it is appropriate for the Boar to raise the issue on its own motion.

FOR THE PERSONNEL APPEALS BOARD

Mary Ann Steele

Executive Secretary

LSP/mas

cc: Larry Twitchell, President
N.H. Vocational Technical College, Berlin

Claire Gregory, Attorney
Attorney General's Office

Michael C. Reynolds, SEA General Counsel

Virginia A. Vogel
Director of Personnel