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No member of the junior Faculty has a right to tenure at Harvard. But every member of the junior Faculty who rises through the ranks and fully performs his duties under his contract has a right to a fair process of review, and at the very least a process consistent with Harvard's own formal procedures.

I believe that in my tenure review Harvard failed to comply with its own formal procedures, institutional policies and norms of fundamental fairness enshrined in them. The associate provost of the University vigorously led opposition against me within my department (which nevertheless recommended me for tenure); the ad hoc committee, which advised the president about my tenure and was assembled by the office of the dean where the associate provost's spouse serves as associate dean for academic affairs, was severely flawed; and my candidacy for tenure was denied in April 1997 without explanation by the University president, who is the associate provost's close long-time personal friend and professional associate.

An unfair tenure process, I am told, is not unusual at Harvard. Aspiring junior faculty who are cut down by it are expected to go away complaisantly.

What is uncommon in my case is the extent of Harvard's disregard of its own rules for tenure review and its flouting of basic requirements of fair process. What also sets my case apart is that a member of the Harvard senior faculty, with imagination, audacity and an unusually lively sense of fair play took an interest in what happened and concluded that something should and could be done about it.

With the help of Harvard Law School Professor Charles Nesson, I initiated an appeal now a year and a half ago and am still appealing to Harvard through its own procedures. From the outset we have sought no more than fair process.

At first we moved discreetly, quietly addressing a petition to the Joint Committee on Appointments, whose members are drawn from Harvard's governing boards and whose job is to approve the president's affirmative tenure recommendations. (Legal investiture of tenure technically comes from the governing boards.) My petition was summarily dismissed, not by the Joint Committee, but by Harvard Vice President and General Counsel Anne Taylor, who said she had investigated my complaint and found it to be without merit, and who, yes, represents the president whose decision I am appealing. Apparently, callousness to conflict of interest pervades the process.

The general counsel refused to disclose what investigation she had made. We then investigated on our own. We found that members of the ad hoc committee that advised President Rudenstine on my tenure displayed bias, were entangled in conflicts of interest and lacked relevant expertise. And we found no evidence whatever that the general counsel had, despite her assurances, conducted an investigation. We made our findings public, , and openly prepared to return again to the committee of the governing boards with our evidence.

At this point, the secretary of the University, and then the provost, and later the general counsel, each independently, suggested to us that instead of the Joint Committee on Appointments we should go through the grievance procedure administered by Jeremy R. Knowles, dean of the Faculty of Arts and Sciences (FAS). Initially, we reacted with incredulity. How, we asked, could the dean of a particular Faculty review a decision taken by the University's president? How could we expect fairness in a process run by the very dean's office that assembled the ad hoc committee whose flaws I was contesting? How could the dean of FAS preside over an appeal that alleges violations in the procedures that he is responsible for administering?

Nonetheless, it was and is our strategy to take advantage of every opportunity within Harvard to have my grievance heard, and to give the Harvard administration every opportunity to demonstrate its commitment to fairness.

Throughout the fall semester I pursued the informal mechanisms in FAS for resolving grievances. When these were exhausted, I submitted on January 6, 1999, my grievance in writing--38 pages in length with approximately 150 pages of supporting materials--to the Office of the Dean of FAS.

Under the FAS grievance procedures, the first step in the formal process is for the FAS Docket Committee to perform a "preliminary screening." The Docket Committee is required to advise the dean to form a Faculty committee to consider the merits of the grievance unless it finds the grievance to be "clearly without merit."

This of course is an exceedingly low threshold, which befits a committee that lacks authority to sit in judgment as a deliberative body. Yet the elected members of the Docket Committee have had the question of whether my grievance is "clearly without merit" under "consideration" for now approaching five months, once again threatening to make a mockery of Harvard's own process. And time is of the essence for a member of the junior Faculty who must move on.

Professor Nesson and I have confidence in the justice of my claims and we shall persist in the quest to vindicate them. At the same time, we have come to see more clearly that our struggle with Harvard touches concerns that go beyond the particulars of my case. We have come to better understand that my case raises complex and urgent issues about the ethics of academic life and the practice of university self-governance.

My appeal does not question the institution of tenure. It is fair consideration for tenure that I seek. Without tenure, perhaps even Professor Nesson would hide or lose his independence.

My appeal does not question the need for expert judgment in the tenure process. Competent and unbiased judgement is essential to the integrity of formal procedure.

My appeal does not question the need for confidentiality in tenure review. Confidentiality can be critical to candid appraisal.

My appeal does not question Harvard's commitment to academic excellence. I believe that Harvard should maintain its devotion to the highest ideals of scholarship and teaching.

Rather, my appeal challenges a process in which extreme secrecy is used to cover bias, conflict of interest, lack of competence and an utter absence of accountability.

Surprisingly, questions about the place of independence, judgment, integrity, confidentiality, competence and accountability in the life of the university are nowhere systematically addressed at Harvard University.

To be sure, Harvard's professional schools have incorporated into their curriculums required courses on professional ethics. Yet nowhere at Harvard--not even in the University-wide Program in Ethics and the Professions--does Harvard University take the initiative to examine the principles that underlie university self-governance and to explore the array of issues surrounding the ethics of academic life.

The time has come for Harvard to remedy this oversight.

Harvard is a precious resource and a unique institution. It should now do for itself and for higher education what it seeks to do for other communities and professions. In order to remain true to its mission, to govern itself wisely in a challenging and rapidly changing world, and to meet better its obligations to both students and faculty, Harvard should establish a center devoted to the study of university self-governance and the ethics of academic life.

The idea behind such a center has informed my appeal from the beginning: Harvard must be challenged and must challenge itself to practice the virtues and live up to the principles that it rightly professes. *Peter Berkowitz is associate professor of government.*