

WHAT'S WRONG WITH THE JA'S RESPONSE
TO FACULTY REQUEST FOR EVALUATION CRITERIA?

The Junta Administrativa's [JA] response to the Dec. 2, 2008 Arts and Sciences faculty request (channeled through the Academic Senate) for detailed descriptions of the evaluation criteria used in conceding tenure and promotions is that:

they [JA members] believe the process is contained in the certification 86-87-476 (124 pages in pdf), AND that the process is currently under consideration for changes [the work of the CIEPD, which produced the COE and which asked faculty (around March, 2009) to review and validate the proposed forms or appendices which would replace current forms F, G, I, L, and add a form for evaluating Service] and that once the work is given to them they will let us know.

Below, copied, is the text of the JA response:

Note that the response is dated March 16th, 2009; it was received March 18th, 2009; that it relates a decision or position discussed December 18th, 2008. You and I did not receive this until the afternoon of Friday, May 15th, 2009 during final exams, by email, with the following subject heading "[AC] Comunicaciones relacionadas con mociones aprobadas en reuniones de facultad." **Did you realize your questions had been answered? ?Sabía que le había contestado sus preguntas?**



Recinto Universitario de Mayagüez
Senado Académico, Junta Administrativa y Claustro



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de Historia

16 de marzo de 2009

Dr. Moisés Orengo Avilés
Decano
Colegio de Artes y Ciencias
Recinto Universitario de Mayagüez

Estimado doctor Orengo Avilés:

En la reunión de la Junta Administrativa del jueves, 18 de diciembre de 2008, se recibió una moción de la Facultad de Artes y Ciencias, aprobada el 2 de diciembre de 2008, en la que solicitan al Senado Académico que gestione de la Junta Administrativa copias impresas de sus actuales guías, estándares, pesos para los renglones de las evaluaciones, puntuaciones y cualquier otro material necesario para entender su procedimiento de evaluación a cada miembro de los comités de personal y de la facultad antes del 15 de febrero de 2009. Si es que esas guías, estándares y otros materiales han cambiado dentro de los últimos cinco años, la Junta debe proveer una copia de cada diferente conjunto de materiales que han sido utilizados en ese período junto con una explicación o justificación para los cambios. Además, la Junta debe informar al Senado Académico y al Claustro de cualquier intención de cambiar las guías en el futuro para alentar y facilitar un diálogo abierto y participación constructiva en este proceso.

De acuerdo a lo expresado en la Junta Administrativa, le informo que la evaluación del personal docente está establecida en la Certificación Número 86-87-476 – Manual de Procedimientos para la Evaluación del Personal Docente y que la mencionada certificación es objeto de revisión por un Comité Institucional que presentará sus recomendaciones al Senado Académico y luego de que sean analizadas por dicho cuerpo, se referirán a la Junta Administrativa para aprobación.

Since the JA has responded in this wholly inadequate and unacceptable fashion, we have tried to prepare a quick overview of WHY its response is insufficient as an answer to a reasonable request. The best way is to review the certification they mention in their message.

The quickest way to demonstrate the JA's lack of interest in providing an adequate response is to point to their failure to mention [in spite of it having been specifically requested] the changes that had been made in the certification within the last 5 years, specifically those intended to change the minimum scores for requiring departmental or faculty personnel committees to recommend a candidate for promotion or tenure [Certificación 05-06-329 from June of 2006]. By not mentioning it, perhaps the JA believed it would not then have to explain or discuss the possible justifications, or lack of justifications, for those changes. Or perhaps they felt it was unnecessary to discuss it because they revoked the changes without implementing them, leaving them “sin efecto” [Certificación 06-07-096 from November 2006] *due to faculty pressure and protest.*

In reviewing the certification, all page references that follow are to the page numbers of the pdf document [Certificación 86-87-476] found online and downloaded from this address: <http://www.uprm.edu/senadojunta/juntacereval.html>

So, beginning at the beginning, ...

Page 1 gives the background where the Junta Administrativa (JA) certifies that in a regularly scheduled meeting, its members unanimously approved the Manual for Evaluation Procedures for Teaching Personnel....:

ordinaria celebrada el día 31 de marzo de 1987, este organismo aprobó por unanimidad el MANUAL DE PROCEDIMIENTOS PARA LA EVALUACION DE PERSONAL DOCENTE que se incluye y se hace formar parte de esta certificación. El Manual incluye los instrumentos diseñados para el proceso de evaluación, los cuales cumplen con los criterios especificados en las Normas y Procedimientos para la Evaluación del Personal Docente (Profesores, Investigadores, Extensionistas y Bibliotecarios) aprobados por el Senado Académico de Mayagüez según consta de las Certificaciones 81-39, 82-14, 83-9 y 83-15.

Page 3 , which presents the principles of adequate, effective, and justifiable evaluation, includes the clear statement in item 1.2.5 that those being evaluated must know in advance in what areas they will be evaluated and what are the relative weights or values assigned to the different areas:

1.2 PRINCIPIOS QUE RIGEN LA EVALUACION

La evaluación debe basarse en las siguientes premisas:

5. Existir un conocimiento previo del personal sobre los aspectos a evaluarse y la importancia relativa a éstos.

Page 4, where you will notice that there is no mention, much less description, of a special or different procedure or protocol or any other considerations to be followed by the Junta Administrativa in the evaluation process.

1.4 CONTENIDO DEL MANUAL

Este manual está dividido en cinco partes, a saber: (1) frecuencia de la evaluación; (2) procedimiento de evaluación del Comité de Personal Departamental o de Región o de Servicio Extensión Agrícola (SEA); (3) procedimiento de evaluación del Comité de Personal de Facultad; (4) instrumentos de evaluación; (5) prerrogativas y deberes del evaluado.

Pages 5-8 describe the evaluation process, the instruments to use, etc. P. 8, item 3.1.10 states:

En los casos de consideración obligatoria para ascenso, según definido por el Reglamento General de la Universidad de Puerto Rico, el Comité recomendará aquellos que obtengan en el promedio total de los años evaluados una puntuación de cuatro o más y no recomendará aquellos con puntuación de dos o menos. En cuanto a los casos que obtengan puntuación diferente a éstas, el Comité tomará una decisión utilizando su mejor juicio.

For English dominant speakers, “recomendará” means “will recommend”, not may, might, could, can, or any other modal variant of recommend. This is one of the clauses that protects you from arbitrary, capricious, and discriminatory decisions by a personnel committee and also protects and defends the concept of merit which underlies the evaluation process.

p. 10 at bottom and top of page 11:

This explains what the faculty level personnel committee does and under what circumstances it is authorized to do that work. This item also provides valuable safeguards from arbitrary, capricious, and discriminatory decisions, and also in those cases where you appeal a decision made by your departmental personnel committee.

4. PROCEDIMIENTO DE EVALUACION DEL COMITE DE PERSONAL DE FACULTAD

La función principal del Comité de Personal de Facultad consiste en ratificar las recomendaciones provenientes de los Comités de Personal Departamentales o Regionales o del Servicio de Extensión Agrícola o de la Estación Experimental Agrícola. En adición, estudiará y adjudicará aquellos casos donde haya objeciones escritas del evaluado sobre una

**La Biblioteca se considera como un departamento.

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decisión del Comité Departamental o Regional o del Servicio de Extensión Agrícola o de la Estación Experimental Agrícola o un informe por separado del Director o Supervisor.

Page 11 provides a list of the documents or forms [for example: appendices F, G, H/now the COE, I, and L, which correspond to the items A, B, C, D, and G in the list below] to use in evaluating professors, according to their particular cases. **These appendices, specifically, give the departmental and faculty personnel committees, and those individuals being evaluated, the advance knowledge mentioned earlier regarding in**

which areas they will be evaluated and what are the relative weights or values assigned to the different areas:

5. INSTRUMENTO DE EVALUACION

El instrumento de evaluación del personal docente consta de varios módulos. Cada módulo atiende una función particular de las labores del personal docente. Estos son:

- A. EVALUACION GENERAL
- B. EVALUACION DE LA ENSEÑANZA
- C. EVALUACION DE LA ENSEÑANZA POR LOS ESTUDIANTES
- D. EVALUACION DE LA INVESTIGACION
- E. EVALUACION DE BIBLIOTECARIOS
- F. EVALUACION DE EXTENSIONISTAS
- G. EVALUACION DE LA GERENCIA ACADEMICA

Page 12 explains that the number of questions in a particular document or appendix reflects the weights of different components of the evaluation. For this reason, the forms used in professors' evaluations are chosen based on their academic workloads and already reflect the weights of each component on which any individual professor will be evaluated.

Cada pregunta tiene el mismo peso en la evaluación total del cuestionario. Sin embargo, por reconocer que algunas áreas son más importantes que otras, se incluye un número de preguntas en cada área que refleje su importancia relativa evitando de esta forma complicar los documentos.

Pages 13-15 describe the documents or forms listed earlier [form F, G, H—now replaced by the COE, form I, Form L, and those related to librarians and extension agents.

Pages 15-16 describe the rights and duties of the person being evaluated.

Pages 17-18 describe the basic rules, the areas to be evaluated, and the waiting periods for the different promotions.

Pages 19-55 list and show examples of the different forms or appendices to be used in creating a case for tenure or promotion.

Pages 56-61 include several certifications that affect waiting periods, ranks at hiring, etc.

Pages 62-71 describe the evaluation process for librarians.

Pages 72--124 contain the earlier certifications mentioned on page 1 regarding the formation of evaluation committees and evaluation of teaching personnel, investigators, librarians, and agricultural extension agents.

***NOWHERE in cert 86-87-476 is there any discussion of instruments, criteria, weights, or other elements of evaluation to be used by any evaluating entity in addition to or in lieu of those established by the forms or appendices described and discussed in the certification and used by the departmental and faculty personnel committees and publicly known to and available to faculty members being evaluated.**

NOWHERE in cert 86-87-476 are budget considerations discussed as criteria, qualifiers, or conditions to be taken into account in determining eligibility or receipt of promotions or tenures. HOWEVER, IN 2008, IN RESPONSE TO OUR ACADEMIC SENATE'S POSITION ON DENYING PROMOTIONS FOR BUDGET REASONS, the Rector presented in a JA meeting the Certificación de la Junta de Síndicos (DAJS) Número 19 (2007-2008) que contiene la decisión tomada en el caso de apelaciónMediante ésta la Junta de Síndicos acuerda denegar la apelación y sostener la decisión de la Junta Universitaria que validó la negativa de la Junta Administrativa del Recinto de Mayaguez a la solicitud de ascenso en rango presentada por el apelante, por razones presupuestarias.

*NOWHERE in cert 86-87-476 is there any clause excluding, exempting, or otherwise releasing the Junta Administrativa from the requirement of following the rules it has promulgated.

***The use of different or additional criteria beyond those clearly established in cert 86-87-476, or the claim of some exemption from having to follow its own rules in evaluating a candidate for tenure or promotion would constitute a crass violation of one of the guiding principles in the JA's own description [item 1.2.5 on page 3] of its evaluation policy—that a person should know in advance the areas in which he or she will be evaluated and the relative weights of those areas.** It would also create a classic example for a claim of arbitrary or capricious evaluation procedures.

Lcda. Emanuelli gave us this information in her PC training on Oct. 18th, 2007.

http://www.capr.org/index.php?option=com_content&task=view&id=4199&Itemid=97

“en *García Cabán v. UPR*, 120 D.P.R. 167 (1987), se resolvió que “una vez una agencia ha promulgado unos reglamentos para facilitar su proceso decisonal y limitar el alcance de su discreción, viene obligada a observarlos estrictamente”.

[http://74.125.47.132/search?q=cache:TNdpLII7JV4J:daarrp.uprrp.edu/daa/presentaciones/aspectos_legales_reclutamiento_Docente.ppt+Garcia+Caban+vs.+UPR+120+D.P.R.+167+\(1987\)&cd=3&hl=es&ct=clnk&gl=pr](http://74.125.47.132/search?q=cache:TNdpLII7JV4J:daarrp.uprrp.edu/daa/presentaciones/aspectos_legales_reclutamiento_Docente.ppt+Garcia+Caban+vs.+UPR+120+D.P.R.+167+(1987)&cd=3&hl=es&ct=clnk&gl=pr)

García Cabán vs. UPR 120 D.P.R. 167

“Las cortes entrarán a revisar las acciones de personal de la **UPR** cuando la **UPR** violente sus propios procedimientos, violente derechos constitucionales, o sus propias normas sean inválidas ante la constitución.”

“Sabemos que la objetividad y la subjetividad son conceptos relativos. Las cortes van a revisar, por ejemplo, si existe una norma con “X” cantidad de requisitos aunque no entre

a revisar si cada requisito es o no factible o beneficioso para una disciplina académica en particular. Si el comité de personal evalúa a una aspirante bajo unos requisitos y a otra bajo otros requisitos para el mismo puesto, y recomienda a la primera y no recomienda a la segunda, la corte va a entrar a revisar y a declarar inválida esa acción desde un punto de vista OBJETIVO y de justicia.”

The JA’s historical attitude towards following its own rules leaves little to encourage us. Whenever it has deemed the 86-87-476 dispositions [usually items 3.1.9 and 3.1.10 regarding when to recommend cases] to be too limiting, it has simply emitted a certification effecting changes in the rules.

ONLY LOUD AND RAPID FACULTY PROTESTS HAVE FORCED THE ADMINISTRATION TO RETRACT ON THESE ISSUES. EXAMPLES:

Recently, on June 22, 2006 [and definitely within the 5-year period mentioned in the A&C faculty/AS request, the JA published **certification 05-06-329** changing items 3.1.9 and 3.1.10. On this occasion, it changed the minimum average score from 4.0 to 4.5 for in order for the departmental and faculty personnel committees to be obligated to recommend candidates for tenure or promotion.

AS A RESULT OF WIDESPREAD COMPLAINTS AND AN A&C FACULTY MOTION CHANNLED THROUGH THE ACADEMIC SENATE IN CERTIFICATION 06-51, THIS CHANGE WAS RETRACTED on **November 2, 2006**, with JA **certification 06-07-096**.

The 23rd of March 1999, [ancient history, and certainly a little outside of the 5 year period described in our request], the JA emitted **certification 98-99-332** changing the *text* in items 3.1.9 and 3.1.10 so that instead of saying that departmental/faculty committees “will recommend” those candidates with average scores of 4.0 or higher, they “could recommend” those candidates with average scores of 4.0 or higher. This would have allowed a departmental personnel committee to have not recommended a candidate with a score of 5.0 if it wanted! The same certification changed the text regarding the faculty level personnel committee and its function, using similar language to suggest that instead of “will ratify” department personnel committees’ recommendations that it “could ratify” those recommendations or “could decide to carry out its own evaluation.” THIS WAS ALSO RETURNED TO ITS ORIGINAL LANGUAGE AFTER MUCH PROTEST.

A FINAL NOTE ON THE JUNTA ADMINISTRATIVA’S RESPONSE TO OUR REQUEST:

There is an obvious need for having some sort of “standards” or minimum average scores which ensure that departmental and faculty personnel committees recommend candidates who meet or exceed those scores. Since the JA has already pointed to the current work being undertaken by the CIEPD in establishing new documents [forms] for the evaluation of teaching personnel, it is absolutely imperative to insist on maintaining some type of language and standards in any document defining future evaluation procedures. No new higher standards should be included until after the new evaluation documents [forms/appendices] have been tested and the effects of average scores derived from them can be examined.