

Use of Student Evaluations in Tenure Decision Upheld.

The South Dakota Supreme Court recently considered the appropriateness of using student evaluations in a faculty member's tenure review. The plaintiff in the case, Yarcheski, was a first year tenure-track faculty member at the University of South Dakota. Early in his first semester, several students complained about Yarcheski's teaching being disorganized. Members of the administration met with Yarcheski and suggested ways he might improve the organization and presentation of course material. They also observed Yarcheski's classes and informed him that his classes were "fairly rambling," not "particularly well-taught," and "in general, poorly conducted." Yarcheski was formally evaluated as unsatisfactory in teaching, with the following commentary:

"[S]tudent evaluations indicated students did not learn relevant material. Indicated assignments were not helpful, and there was a lack of systematic presentations."

By letter, Yarcheski was informed that his contract would not be renewed based upon "inadequate teaching."

Yarcheski filed a grievance arguing that his non-renewal resulted solely from student evaluations and further taking the position that "the evaluation of teaching performance belongs to the professoriat; we have a duty to evaluate each other; I don't believe it's the duty of students to evaluate the professoriat." The grievance was denied. In appealing this denial, Yarcheski claimed that the university violated his academic freedom by over-reliance upon student evaluations.

In denying Yarcheski's appeal, the Court first noted that academic freedom generally assures educators that there will be no interference in their First Amendment pursuits by administrators, other faculty, or students. On the other hand, universities also have an interest, likewise under the aegis of academic freedom, to "determine ... on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study." The Court cited earlier cases holding that the First Amendment guarantee of academic freedom does not require a university to tolerate any method of teaching a professor may elect to employ. A university may further lawfully choose not to renew the contract of a nontenured professor whose pedagogical attitude and teaching methods fail to conform to the institution's standards. Finally, the Court concluded that the use of student surveys as part of the evaluation process is not an infringement of academic freedom, since educational institutions have the right to expect that their teachers will be able to teach. *Yarcheski v. Reiner*, No. 22617 (SD Sept 3, 2003).