



9-2016

Writing Tenure Review Letters

Eric Goldman

Santa Clara University School of Law

Follow this and additional works at: <https://digitalcommons.law.scu.edu/facpubs>



Part of the [Law Commons](#)

Automated Citation

Eric Goldman, *Writing Tenure Review Letters*, 19 357 (2016),
Available at: <https://digitalcommons.law.scu.edu/facpubs/941>

This Article is brought to you for free and open access by the Faculty Scholarship at Santa Clara Law Digital Commons. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact sculawlibrarian@gmail.com, pamjadi@scu.edu.



WRITING TENURE REVIEW LETTERS MY TOP 10 SUGGESTIONS

Eric Goldman

LETTERS FROM PEERS evaluating the work of a tenure candidate are an important – and, to the tenure candidate, scary – part of most tenure approval processes. I’ll call these letters “tenure review letters,”¹ although this discussion applies to all peer letters written for the tenure or promotion process. I’ll focus on letters written by peers at other institutions than the tenure candidate’s (“external” letters), though much of this discussion applies to any internal tenure review letters produced as well.

Despite their ubiquity, tenure review letters remain quite mysterious both inside and outside academic communities – and especially to tenure candidates. Most tenure candidates never see a tenure review letter before they apply for tenure, so some of their trepidation reflects fear of the unknown. Further, the letters, and the authors’ identities, often remain shrouded from the candidate due to confidentiality, adding to their mystique.

After tenure, the tenure review letter doesn’t get demystified much. Professors (at least in my peer group) rarely discuss how to write these

Eric Goldman is a Professor of Law at Santa Clara University School of Law (egoldman@gmail.com, www.ericgoldman.org). This essay was inspired by a Facebook post of Professor Michael Zimmer at the University of Wisconsin-Milwaukee and the responding comments. Copyright 2016 Eric Goldman.

¹ Synonyms include “tenure letters,” “tenure and promotion letters,” “external evaluation letters,” “external review letters,” “tenure file reviews” and more.

letters or what makes a letter more or less useful.² No one taught me or gave me any guidance on how to write a tenure review letter, nor have I gotten any meaningful feedback from tenure committees about how my letters helped, or could have been more helpful to, their evaluation. Many tenured professors are regularly writing tenure review letters, but as a community we're not regularly discussing how we should be doing so.

As academics, we are trained to gather and evaluate information carefully and follow sound scientific procedures. Yet, ironically, when making tenure decisions – decisions that have significant long-term economic, professional and community-wide consequences – schools rely upon the letters even though the production of such information is undertheorized and probably did not follow rigorous scientific practices.³

This essay does not attempt to provide a definitive explanation of how to write useful and academically rigorous tenure review letters. Norms and practices across academic disciplines vary widely, and bright minds

² My literature search on tenure review letters revealed a modest number of blog posts and an occasional passing reference in an academic article, but few academic discussions in any depth. In the legal academic literature, the closest precedent I found was this brief essay: Ellen S. Podgor, *Blogs and the Promotion and Tenure Letter*, 84 WASH. U. L. REV. 1109 (2006).

Oddly, despite the dearth of topical articles, I did find a couple of “joke” articles on the subject. See Alleen Pace Nilsen and Sandra Luehrsen, *How to Keep Even Your Best Friend from Getting Tenure*, 72 THE PHI DELTA KAPPAN 153 (Oct. 1990) (discussing the letters that departmental chairs and deans write when forwarding a candidate’s file to their university’s promotion and tenure committee); David L. Shapiro, *After Reading Too Many Tenure Files*, 37 J. LEGAL EDUC. 203 (June 1987); see also Lawproflawg, *Every Tenure Letter Ever Written*, Above the Law, Sept. 29, 2015, abovethelaw.com/2015/09/every-tenure-letter-ever-written/.

Obviously there is extensive discussion about how to be a good scholar or teacher and how to measure scholarship or teaching excellence, but that discussion rarely extends to the mechanics of evaluating those activities when writing tenure letters.

There is an analogous literature on letters of recommendation/reference letters that may be worth mining for additional insights. See, e.g., Thomas C. Peters & Rosemary Bedoya, *Gender and Letters of Reference in Education*, TEACHER EDUC. Q., Spring 1995, at 117. Dipping into that literature is beyond this essay’s scope, but it would be a great follow-up to this essay.

³ See Ralph Wedgwood, comment to *The Importance of Doing Unfavorable Tenure Reviews*, Leiter Reports: A Philosophy Blog, June 19, 2012, leiterreports.typepad.com/blog/2012/06/unfavorabletenure.html#comment-6a00d8341c2e6353ef017615a2b729970c (enumerating some of the analytical deficiencies of relying upon external tenure review letters).

Writing Tenure Review Letters

will disagree about many judgment calls even within an academic community. Still, I hope some personal perspectives will help authors of tenure review letters, both novices and veterans.

With that in mind, my top 10 suggestions for writing tenure review letters:

1. SAY YES IF ASKED TO WRITE A LETTER (UNLESS . . .)

What should you do if you get a request to write a tenure review letter? Odds are that you won't be excited about being asked. Few professors *enjoy* writing tenure review letters,⁴ few professors earn any professional credit for writing the letters, and writing a good letter takes a fair amount of time. As a result, recruiting qualified tenure reviewers is a tedious and thankless job, and most requests to write tenure review letters are received lukewarmly at best – even when the school offers an honorarium.⁵

There are a wide range of views about when a professor should agree to write a tenure review letter. Some of the more common perspectives:

A. Presumptively say yes, . . .

. . . subject only to lack of substantive expertise,⁶ intractable scheduling constraints or concerns about undue bias⁷ towards the candidate. Some

⁴ See, e.g., DAVID D. PERLMUTTER, PROMOTION AND TENURE CONFIDENTIAL 165 (2010) (calling writing letters “the most challenging” duty of professors because of the high-stakes consequences); Keith DeRose, comment to *Tenure Letters: Some Questions*, Leiter Reports: A Philosophy Blog, June 25, 2008, leiterreports.typepad.com/blog/2008/06/tenure-letters.html#comment-6a00d8341c2e6353ef00e5538bb4608834 (calling writing letters “unpleasant”).

⁵ I have received honoraria for some of the tenure reviews I've done, and the amount has ranged from \$200 to \$1,000. I have not noticed any correlation between the honorarium amount and (1) the amount of work required (i.e., critique just one article or the candidate's entire oeuvre), or (2) the requesting school's prestige. For a general discussion of honoraria, see Lawrence Cunningham, *Paying for Tenure Letters?*, Concurring Opinions, Oct. 28, 2010, concurringopinions.com/archives/2010/10/paying-for-tenure-letters.html.

⁶ Such requests may occur if the tenure committee misapprehends the reviewer's true expertise. For example, I have been occasionally asked to review patent scholars. Although I have substantial intellectual property expertise, my scholarly work in the patent niche is thin. In those circumstances, I will immediately explain my thin expertise to the requester before agreeing to do the review.

⁷ I say “undue” bias because every evaluation is shaped by the author's explicit and implicit

professors take this approach but impose a cap on the total number of reviews they will do in a year (to manage the overall time consumed by letter-writing).

B. Say yes only when the letter will be positive

There are several reasons why professors adopt this approach: writing a negative letter is even less fun to write than a positive letter; a negative letter entails some legal risk; a negative letter is likely to cause social friction and political tensions even if no lawsuit ensues; and a negative letter could very well harm a colleague's reputation, career and personal life (and most people don't want to feel personal responsibility for those repercussions, even if those outcomes are objectively appropriate).

Also, some professors might adopt this approach because they assume tenure committees don't really want negative feedback about the candidate or the potential problems that come with it, so the committee might disregard or marginalize a negative letter. Because of this, writing a negative letter might feel like a waste of time.

In order to know if a candidate's letter will be positive, either you will need to be already familiar with the candidate's work, or you will have to do some pre-vetting of the candidate, such as by taking a quick look at the candidate's CV or a few of their articles.⁸

C. Presumptively say no

Some professors adopt this stance because the author does not derive any personal benefits from writing tenure review letters or does not feel comfortable contributing to a system filled with implicit biases.⁹

biases. Idiosyncratic biases partially get smoothed out from the collective effect of multiple review letters, which means outlier biases will be made clear by the other authors' feedback.

⁸ Then again, if you keep up with the literature in your field, you might conclude that any candidate you need to pre-vet will not warrant a positive letter because the candidate's scholarship hasn't generated enough impact or visibility to reach you. If you take this view, then you would write letters only for candidates you already know and view positively.

⁹ See V. Alan White, comment to *The Importance of Doing Unfavorable Tenure Reviews*, Leiter Reports: A Philosophy Blog, June 18, 2012, leiterreports.typepad.com/blog/2012/06/unfavorabletenure.html#comment-6a00d8341c2e6353ef016306b6b39d970d; see also Jon Cogburn, *Under What Conditions Should You Decline An Invitation To Review A Tenure File?*, New APPS: Art, Politics, Philosophy, Science, June 20, 2012, www.newappsblog.com/2012/06/under-what-conditions-should-you-decline-an-invitation-to-review-a-tenure-file.

Writing Tenure Review Letters

Your first request to write a tenure review letter will prompt you to consider which perspective feels most comfortable to you. Of course you can make different choices over time, but recognize how your response to the initial request will play a significant role in defining your post-tenure professional self-identity.

I have adopted the first approach, *i.e.*, I say yes to requests to write tenure review letters unless I lack sufficient expertise, my schedule won't permit me to complete the work on time or I think I'll have undue bias (a situation I have not encountered yet). I hope you'll choose the first approach as well. You will earn good karma and contribute to the social good by doing this community service.¹⁰ Plus, in niche academic communities, there may not be enough other qualified reviewers to do it if you don't.¹¹ Finally, schools may keep tallies on how many potential reviewers decline and their reasons for declining,¹² so saying no could implicitly hurt the candidate.

I hope you will think carefully before concluding that you will write only positive letters.¹³ The tenure system becomes imperiled if professors

html (suggesting ways that a reviewer might exhibit explicit or unintentional bias towards a candidate).

¹⁰ Cf. Cass Sunstein, *On the Expressive Function of Law*, 144 U. PA. L. REV. 2021, 2030 (1996) (giving tenure review letters as an example of a community service that depends on a cooperation norm).

¹¹ For example, this is a known problem for interdisciplinary/multidisciplinary scholars. See, e.g., *White Paper on Strengthening the APT Process for Interdisciplinary Scholars*, ADVANCE Policy Review Committee, University of Maryland at College Park, Sept. 15, 2013, at 9, www.advance.umd.edu/sites/default/files/documents/resources/2013-Final-White-Paper-on-Strengthening-APT-for-IDR-Faculty.pdf.

¹² See Brian Leiter, *Tenure Letters: Some Questions*, Leiter Reports: A Philosophy Blog, June 26, 2008, leiterreports.typepad.com/blog/2008/06/tenure-letters.html; Brian Leiter, "Industry Standard" on Tenure and Promotion Reviews?, Leiter Reports: A Philosophy Blog, June 15, 2012, leiterreports.typepad.com/blog/2012/06/industry-standard-on-tenure-and-promotion-reviews.html; Peter Klein, comment to *Annoying Summertime Pursuit Numero Uno: Writing Tenure Letters*, Organizations and Markets, June 12, 2012, organizationsandmarkets.com/2012/06/12/annoying-summertime-pursuit-numero-uno-writing-tenure-letters/. Cf. Andreas Beger et al., *The Split Population Logit (SPopLogit): Modeling Measurement Bias in Binary Data* (Feb. 28, 2011), papers.ssrn.com/sol3/papers.cfm?abstract_id=1773594 (giving the hypothetical situation of strategic declining to write tenure review letters as a test case for statistical modeling).

¹³ See, e.g., the debates at Brian Leiter, "Industry Standard" on Tenure and Promotion Reviews?,

routinely adopt this approach. If we cannot provide honest negative peer assessments, legislatures and other stakeholders cannot entrust us with the power to make tenure decisions.¹⁴ Instead, because we are given such a high degree of academic freedom, I think every professor has a personal obligation to say what needs to be said in a fair and impartial way.

2. ANSWER THE QUESTIONS ASKED

We teach our students to make sure they answer the questions we ask on our exams. Follow the same principle here. Typically a school will send a letter asking one or more questions about the candidate and including the school's tenure standards. (If the school doesn't provide such instructions, it's fair to ask the school to tell you what questions they want answered). With explicit caveats as appropriate, I answer every question I'm asked.¹⁵

Two curious questions come up frequently enough that they deserve special consideration (I'm paraphrasing, of course):

- “you probably have no clue about School X's tenure deliberations, but do you think the candidate would earn tenure at School X?”
- “in a knife fight (or a faculty meeting . . . to the extent that's different), would you prefer to have the candidate or School X's rising star professor Jane Smith as your colleague?”

Leiter Reports: A Philosophy Blog, June 15, 2012, leiterreports.typepad.com/blog/2012/06/industry-standard-on-tenure-and-promotion-reviews.html, and Brian Leiter, *The Importance Of Doing Unfavorable Tenure Reviews*, Leiter Reports: A Philosophy Blog, June 18, 2012, leiterreports.typepad.com/blog/2012/06/unfavorabletenure.html.

¹⁴ See Kurt Weyland, *The Logic of the Tenure Decision: “In Dubio” Contra “Reum,”* 44 PS: POLITICAL SCI. & POLITICS 357, 362 (2011) (expressing doubts about the utility of tenure review letters because professors are afraid to write negative letters).

¹⁵ See Jacob Vidor, *Reflections on Tenure IV: The Art of the Letter*, The Perfect and the Free, Oct. 2, 2013, perfect-free.typepad.com/the-perfect-and-the-free/2013/10/reflections-on-tenure-iv-the-art-of-the-letter.html; Christopher Hitchcock, comment to *Under What Conditions Should You Decline An Invitation To Review A Tenure File?*, New APPS: Art, Politics, Philosophy, Science, June 21, 2012, www.newappsblog.com/2012/06/under-what-conditions-should-you-decline-an-invitation-to-review-a-tenure-file.html#comment-6a00d8341ef41d53ef017615b34dff970c.

Writing Tenure Review Letters

You have my permission to sidestep both questions, but you should do so expressly. For example, in one letter asking me about the candidate's likely tenure-worthiness at other institutions, I replied: "I am not sure I can opine about the tenure standards at other institutions comparable to yours. I can only offer the perspective from the two law schools I've worked at."

3. APPLY THE REQUESTING SCHOOL'S TENURE STANDARDS

The school's tenure standards explain what the school wanted the candidate to accomplish, so your evaluation should mirror those standards. Because schools' tenure standards vary widely (at least in the details), you need to familiarize yourself with the standards that actually apply to the candidate and then apply those standards, rather than evaluate the candidate in the abstract, based on your home institution's standards,¹⁶ or based on some hypothetical standard (unless the school asks you to do that).

A recent experience reminded me of the importance of adhering to the requesting school's tenure standards. After reading the candidate's works, I felt those works were consistently less ambitious than works by the candidate's pre-tenure peers. However, when I re-reviewed the applicable tenure standards, it was clear that the candidate had produced exactly the kind of works specified in the tenure standards. Properly (re)oriented, what might have been a less-than-enthusiastic letter about the candidate's deviations from our community's norms became an emphatic letter that the candidate had satisfied the school's standards.

4. BE SUCCINCT

I have read many overlong tenure review letters where the author provided a multi-page "summary" of the major disputes in an academic niche or engaged in an extended discourse about how the candidate's work

¹⁶ See, e.g., MARCIA L. WHICKER ET AL., GETTING TENURE 63 (1993) (discussing the risk that professors at higher-ranked institutions will write letters for candidates at lower-ranked institutions saying things like "Although the candidate would not obtain tenure here, the record appears more appropriate for your level of institution" or "This candidate's rate of scholarly productivity is only half that of recent candidates in this department").

proves that the author's own work was brilliant.¹⁷ While some contextualization about the candidate's academic niche helps readers (especially those unfamiliar with the niche), succinct and on-point letters are more likely to be read in full and thus are more likely to help in the deliberation process.

5. REMEMBER WHEN YOU WERE YOUNG

Typically, tenure candidates are still comparatively junior, which means their professorial skills are still developing even as they are applying for tenure. Therefore, it's usually not fair to expect tenure candidates to produce works comparable to those written by more experienced professors. I try to note when I see a candidate's improvement over time, but (unless the tenure standards require it) I don't expect tenure candidates to start their careers producing flawless masterpieces.

6. ASSESS THE CANDIDATE'S OEUVRE

If it's consistent with the questions asked by the school, it can be quite helpful to provide an overall assessment of the candidate's oeuvre in addition to critiques of each work individually.¹⁸ As a reader of tenure review letters, I prioritize these overview assessments. I especially find it enlightening if a reviewer can explain a professor's competitive differentiation from his/her peers.

7. PUBLICATION PLACEMENT IS A POOR QUALITY PROXY

In the legal academic field, most publication decisions are made by law students instead of peer review;¹⁹ and many authors pre-place their works in symposium issues or books rather than write and circulate the articles "on spec" to publications accepting unsolicited submissions. Unquestionably, the most prestigious journals are the hardest to get a publication offer from, but because of the dubious selection process, a publication's prestige

¹⁷ See Female Science Professor, *To Tenure or Not to Tenure?*, CHRON. HIGHER ED., Sept. 10, 2014, chronicle.com/article/To-Tenure-or-Not-to-Tenure-/148699 (giving suggestions of how to reduce the length of tenure review letters).

¹⁸ See Vigdor, *supra* note 15 (praising "meta-commentary" in review letters).

¹⁹ See, e.g., James W. Harper, *Why Student-Run Law Reviews?*, 82 MINN. L. REV. 1261 (1998).

Writing Tenure Review Letters

has, at best, a loose correlation with the work's merit. As a result, rather than give credit to the fanciness of each work's placement, I read each work from scratch with no bias or presumption attributable to its publication venue.

I have less experience with peer review publications, but I have heard enough troubling peer review placement stories to believe that peer review does not magically fix the prestige/quality correlation.

Where appropriate and favorable to the candidate, I try to highlight other quantitative evidence of the candidate's scholarly impact that the committee (and even the candidate) might not think to consider, such as the number or identity of Twitter followers, Google Scholar citation counts, SSRN download counts or RSS subscriber counts. I think showcasing these alternative data sources is especially important when scholars have high-profile social media presences but outdated tenure standards don't expressly recognize such efforts.

8. CONSTRUCTIVE FEEDBACK IS OK

No tenure candidate is flawless; even the strongest candidates can improve. I think it's OK for a tenure review letter to note those areas for potential improvement.²⁰ First, the honest critiques enhance the credibility of the compliments.²¹ Second, if the tenure review process works properly, the tenure committee will aggregate and share the constructive

²⁰ Compare Vigdor, *supra* note 15 ("The main reason that tenure letters end up being unhelpful is that their authors are afraid of saying anything negative about the candidate.") with Karen Kelsky, *The Professor Is In: Getting External-Review Letters*, Vitae, Apr. 28, 2015, chroniclevitae.com/news/988-the-professor-is-in-getting-external-review-letters ("American tenure reviewers generally understand the task at hand very well, and will not submit a review that has any hint of disapproval or ambivalence (unless they are actually trying to sabotage a tenure case, which does, unfortunately, happen every so often). International tenure reviewers, however, do not understand U.S. conventions, and often write letters that are disastrous for the candidate (and the department that supports her), out of an innocent and very reasonable desire to present an evenhanded and objective evaluation of someone's strengths and weaknesses. In American tenure cases, there can be no weaknesses. None at all.")

²¹ Cf. Transcript – Afternoon Session, *The Legal Writing Institute: Celebrating 25 Years of Teaching & Scholarship: A Symposium of the Mercer Law Review*, 61 MERCER L. REV. 803, 820-21 (2010) (an audience member explained that she was instructed to be critical in her tenure letters to avoid the appearance that the community was closing ranks around one of its own).

feedback with the candidate. This should give candidates candid and valuable insights into how their peers view their work.

An obvious caveat: all constructive feedback must be fair. Tenure committees will focus on any negative remarks to determine how significant they are. A possible rule of thumb: don't say anything negative in the letter that you wouldn't say to the candidate's face.²² At minimum, tenure review letters are definitely not the place to air dirty laundry or unsubstantiated rumors.

9. CONFIDENTIALITY IS WISHFUL THINKING

In some cases, the candidate will be given your letter verbatim. However, even when a school represents that tenure review letters are confidential, that's more of a hope than a promise.

Sometimes, the tenure committee will summarize the letters for the candidate or provide redacted versions. Such summarizations and redactions might be sufficiently abstract that the candidate can't deduce the identity of individual letter-authors, but given the limited pool of likely reviewers (and the possibility that the candidate nominated you as a reviewer), it is hard to give useful feedback to the candidate without providing enough details that might help guess the author's identity.

No matter how vigorously the school promises confidentiality, the candidate can almost certainly get the letter – and the author's identity – in litigation.²³ Lawsuits over tenure denials are rare, and lawsuits against tenure review letter-authors are rarer still, but they do happen,²⁴ and don't underestimate a litigious unsuccessful tenure candidate.

²² See *Female Science Professor*, *supra* note 17 (“I write a balanced letter that contains statements that I truly stand by and could defend even if I had to say them out loud to the candidate in question”).

²³ *Univ. of Pa. v. E.E.O.C.*, 110 S. Ct. 577 (1990). Public records laws also may allow or require disclosure of the letters. For example, The Ohio State University takes the position that Ohio public records laws apply to tenure review letters. See Office of Academic Affairs Policies and Procedures Handbook Volume 3, rev. Dec. 2013, § 3.2, oaa.osu.edu/assets/files/documents/HBVol3.pdf; see also Anne Lawton, *Between Scylla and Charybdis: The Perils of Reporting Sexual Harassment*, 9 U. PA. J. LAB. & EMP. L. 603, 652 (2007) (mentioning how the author obtained tenure review letters through a public records request).

²⁴ See, e.g., *Wei-Kang Zhou v. Pittsburg State Univ.*, 2004 WL 1529252 (10th Cir. 2004).

10. SEND YOUR LETTER ON TIME

It takes a lot of time and energy for a tenure committee to assemble a fair and complete tenure file for the candidate. You can make the committee members' lives easier by delivering your review letter on time so that your letter doesn't hold up the entire process or create a hole in the candidate's file. Better yet, submit your letter early and you'll double your good karma score by reducing the committee members' anxiety.²⁵

To the extent your letter contains serious negative feedback that might surprise the committee, delivering the letter as early as possible gives the committee more time to do any investigations and proceed in a manner that is fairest to the tenure candidate.²⁶ Dropping a bomb on the tenure committee last-minute will add avoidable drama and stress to an already stressful process.



On behalf of tenure committee chairs and the entire academic community, let me say thanks for your thoughtful and diligent responses to requests to write tenure review letters. I hope these suggestions help you through the process.



²⁵ Cf. Terry Horgan, *Transvaluationism: a Dionysian Approach to Vagueness*, 33 SO. J. PHIL. 97 (1995) (discussing the philosophical implications of procrastinating on writing a tenure review letter).

²⁶ See Karen Kelsky, *The Professor Is in: A Nasty External Review*, Vitae, July 7, 2015, chroniclevitae.com/news/1057-the-professor-is-in-a-nasty-external-review (discussing some of the scrambling that takes place when a negative tenure review letter arrives).