

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

Jacob Kogan
10114 Treetop Lane
Lanham, MD 20706
301-794-2248
Plaintiff
v.
Nagaraj K. Neerchal
Department of Mathematics & Statistics
University of Maryland, Baltimore County
1000 Hilltop Circle
Baltimore, MD 21250
410-455-2412
Defendant

COMPLAINT

CAL14-02375

COMPLAINT

NATURE OF THE ACTION

1. Plaintiff brings this lawsuit under the Maryland Public Information Act, Md. [State Gov't] Code, §10-611 et seq., seeking access to various specified information that heretofore wrongfully has been denied by Defendant.

THE PARTIES

2. Jacob Kogan is a Professor in the Department of Mathematics & Statistics, University of Maryland, Baltimore County residing at 10114 Treetop Lane, Prince George's County, Lanham, MD 20706.
3. Nagaraj K. Neerchal is the Chair of the Department of Mathematics & Statistics, University of Maryland, Baltimore County, 1000 Hilltop Circle Baltimore, MD 21250.

JURISDICTION AND VENUE

4. Jurisdiction over this claim is conferred by Md. [State Gov't] Code, §10-623 (a)(1).
5. Pursuant to Md. [Cts. & Jud. Proc.] Code, §6-102 (a), the Court has personal jurisdiction over the Defendant, who resides in, is organized under the law of, or who maintains his principal place of business in the State.

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Clerk of the
Circuit Court

6. Venue is proper in Prince George's County pursuant to Md. [State Gov't] Code, §10-623 (a)(1).

FACTUAL ALLEGATIONS

7. On July 15, 2013 Plaintiff emailed Defendant with request for documentation pertaining to University Authorities approvals of the two documents:
 - A. March 1999 Department of Mathematics and Statistics Statement of Performance Expectations (**document A**),
 - B. April 28, 2010 Addendum to the Statement of Performance Expectations (**document B**)(Exhibit 1).
8. On July 19, 2013 Defendant responded acknowledging the request receipt (Exhibit 2).
9. On August 20, 2013 Plaintiff reiterated his request for documentation (Exhibit 3).
10. On September 9, 2013 having received none of the requested documents Plaintiff filed a formal request under the Maryland Public Information Act (Exhibit 4). The UMBC Faculty Handbook requires documents A and B to be approved by:
 - (a) the appropriate Dean,
 - (b) the Provost,
 - (c) the UMBC Faculty Senate(Exhibit 5). The Plaintiff requested inspection of all records in Defendant's custody and control pertaining to the six approvals of documents A and B.
11. Two days later, on September 11, Defendant provided only the Provost's approval for document A, and notified Plaintiff that no approvals for document B exist (Exhibit 6). Defendant failed to provide any grounds for the denial a part of Plaintiff's request as provided by SG §10-614(b)(3)

12. On September 19, 2013 and again on September 26, 2013 Plaintiff reiterated his MPIA requests for document A approvals by the Dean and the Senate (Exhibit 7).
13. On October 9, 2013 Defendant responded claiming “you currently have all the documents responsive to your prior requests.” Defendant failed to provide:
 - (a) the Dean’s approval of document A,
 - (b) the Faculty Senate’s approval of document A,
 - (c) grounds for the denial of this part of the MPIA request(Exhibit 8).
14. On November 18, 2013 Defendant reiterated “Let me assure you again that I have tried my best to provide all the documentation you requested” (Exhibit 9). None of the three items listed in 13 above and required by law has been provided by Defendant.

COUNT I – MARYLAND PUBLIC INFORMATION ACT

15. Plaintiff hereby incorporates the allegations of paragraphs 1 through 14 by reference as if specifically contained therein.
16. By his acts set forth above, Defendant knowingly and willfully failed to disclose documents related to the policy and procedures for the Departmental Comprehensive Review of Tenured Faculty, which are public records, but not publicly available, that Plaintiff is entitled to inspect under Md. [State Gov’t] Code, §10-623.
17. Plaintiff has been harmed by Defendant’s denial of Plaintiff’s request to review the requested Dean’s and Provost’s approvals of March 1999 Department of Mathematics and Statistics Statement of Performance Expectations.
18. In light of the forgoing Plaintiff is entitled to remedies provided for in Md. [State Gov’t] Code, §10-623.

Wherefore, Plaintiff demands judgment in his favor and against Defendant:

1. that Defendant be required to produce to Plaintiff the requested documents;

2. that Defendant be required to pay to Plaintiff actual damages and any punitive damages that the Court considers appropriate;
3. that Defendant be required to pay to Plaintiff costs incurred in this action; and
4. that Defendant be required to pay to Plaintiff such other and further relief as this Court may deem just and proper.

Dated: February 3, 2014

Respectfully submitted,



Jacob Kogan
10114 Treetop Lane
Lanham, MD 20706
301-794-2248
Plaintiff

Exhibit 1
=====

Date: Mon, 15 Jul 2013 11:15:45 -0400 (EDT)
From: Jacob Kogan <kogan@umbc.edu>
To: nagaraj@umbc.edu
Cc: Jacob Kogan <kogan@math.umbc.edu>
Subject: request for documents

Dear Nagaraj,

On Friday, July 12, 2013 I received a copy of my Peer Review Committee Report. I am currently working on my respond to the chair. The additional information described below would greatly assist my work.

On November 28, 2012 you provided me with the following documents pertaining to the review process:

1. Faculty Comprehensive Review Check List.
2. Department of Mathematics and Statistics Statement of Performance Expectations.
3. Addendum to the Statement of Performance Expectations.

Please let me know whether the "Faculty Comprehensive Review Check List" was established in the Department of Mathematics and Statistics. If this is not the case please indicate the source.

As you know the Faculty Handbook requires each Department to have its statement of Performance Expectations and its statement of policy and procedures for the Departmental Comprehensive Review of Tenured Faculty to be submitted to the Faculty Senate, the appropriate dean and provost for review and approval (please see Section 6.5.2.5 Implementation, Faculty Handbook). Further, the Faculty Handbook provides that "...any changes shall be submitted to the Faculty Senate, the appropriate dean and provost for review and approval" (please see Section 6.5.2.5.1 Performance Expectations, Faculty Handbook).

Please let me know when the documents 2 and 3 above ("Department of Mathematics and Statistics Statement of Performance Expectations" and "Addendum to the Statement of Performance Expectations") were submitted to the Faculty Senate, the appropriate dean and provost for review and approval. If the documents are approved by the Faculty Senate, the dean and provost, then please provide the approvals.

If "Faculty Comprehensive Review Check List" is a Departmental documents, then please provide the same information and documentation as requested above for documents 2 and 3.

To allow me to verify compliance of evaluation procedure with that provided by the Faculty Handbook please let me know when your office received the report.

Thank you for your cooperation. Please provide information requested by the end of this week, Friday, July 19, 2013. Your timely response will allow me to provide you with my response by September 15, 2013 as provided by the Faculty Handbook. I am looking forward to working with you on this important issue.

With best regards,

Jacob Kogan

Jacob Kogan
<http://www.math.umbc.edu/~kogan>

Math and Stat, UMBC
410-455-3297, -1066 fax

Department of Mathematics and Statistics
Statement of Performance Expectations

Tenured members of the Department of Mathematics and Statistics have the dual responsibility for maintaining their personal scholarly agenda while assuming primary responsibility for the success of the department in meeting its obligations to its students and to the university in the general areas of teaching, scholarship and service. Accordingly, it is appropriate to consider expectations in the context of the responsibilities and the mission of the department itself. The following statement establishes the standards for acceptable performance with full recognition that most faculty members will substantially exceed them.

These performance expectations are not intended to replace the standards for promotion and tenure or the criteria for salary increments, both of which have a different purpose. Furthermore, in applying these standards, it is recognized that faculty members may contribute to the departmental mission in different ways at different stages of their career. Also, in accordance with the approved workload policy of the department, faculty members who make significant contributions to the productivity and/or mission of the department in one area may deviate from the expectations in another area.

Teaching

In accordance with the approved workload policy of the department, each faculty member is expected to devote 45% to 55% of his or her time during the academic year to teaching. This effort can include, but is not limited to, teaching and managing both regularly scheduled and reading courses at the undergraduate and graduate levels, developing new curricula and revising the syllabi of existing courses, advising and appropriately monitoring the performance of students, supervising teaching assistants and graders assigned to courses taught by the faculty member, guiding independent study at the undergraduate level and independent study and dissertation work at the graduate level, administering or writing graduate qualifying examinations, and generally supporting the department in its mission of providing quality instruction and education to the undergraduate and graduate students of UMBC.

The quality, quantity and significance of the total teaching contribution will be considered in evaluating a faculty member's contribution to the department. At a minimum, the faculty member should have demonstrated satisfactory performance in teaching and in managing assigned courses, maintained reasonable availability to students enrolled in assigned courses and to advisees as well, and contributed in other ways, as suggested above, to the mission of the department and to the intellectual life of students at UMBC. (These additional contributions may also be part of the faculty member's scholarly and service contributions.)

Scholarship

Each tenured faculty member is expected to spend 35% to 45% of his or her time in scholarly activities, maintaining a program of visible scholarship and contributing to the intellectual life of

the department. In evaluating this program of scholarship, both the quantity and the quality of the work shall be considered.

Indicators of the quality of scholarship include, but are not limited to, publications in peer-reviewed journals, writing professional books, securing externally funded research, delivering invited talks at professional meetings or at other universities, election to editorial boards or journal editorships, and the receipt of, or nomination for, research awards and fellowships. Other indicators of the quality of scholarship may include unfunded but well reviewed grant proposals, the direction of master's and doctoral dissertations, and the receipt of UMBC summer research stipends. A documented record of significant contributions to the intellectual life of the department may also serve to confirm an acceptable record of scholarship. In addition, a faculty member may demonstrate an acceptable record of scholarly activity even though that activity has not yet led to publications or to external funding.

Indicators of the quantity of scholarship include, but are not limited to, the number of publications submitted to refereed journals or conference proceedings, the number of grant proposals pending or submitted, scholarly manuscripts completed or nearing completion, recent technical reports, and scholarly presentations at university and department seminars and colloquia. In addition consulting relationships or collaborative research with colleagues in industry, government or other departments which benefit students or which enhance the research program of the faculty member or the intellectual life of the department may provide evidence of scholarly activity.

An important aspect of the faculty members responsibility is the enhancement of the intellectual life of the department. In addition to the examples cited above, a faculty member can also contribute to the scholarly life of the department in a variety of ways such as active participation in departmental or university colloquia or seminars, supervising extracurricular problem sessions, and collaborating with department colleagues in both research and pedagogical projects.

Service

Each faculty member is expected to spend 5% to 15% of the academic year effort in service to the department, to the university or to the local or national community. As with teaching and scholarship, the actual contribution may vary from year to year as the faculty member contributes more in one area than another.

A faculty member is expected to be an active and responsible colleague by accepting and fulfilling departmental and university assignments. Within the department these assignments include, but are not limited to, standing and special departmental committees, recruitment committees, and promotion and tenure committees. In addition each faculty member is expected to participate in and contribute to departmental scholarly activities.

At the university level, assignments include serving on standing and ad hoc University Senate committees, on interdisciplinary curriculum and grant proposal committees, on promotion and tenure committees of other departments, and on various advisory panels. Major assignments which may necessitate a reduction in a faculty member's teaching and research responsibilities include serving as Senate President, as chair of one of the major Senate committees such as the Academic Planning and Budget Committee or the Undergraduate Council, or serving on the University Faculty Review Committee.

Service functions beyond the campus are also highly desirable when they benefit the community and/or enhance the reputation of the university. Examples of such activities include presentations to school and civic groups and other community outreach, consultation to industry, government or civic agencies, committee work in professional organizations, and serving as a reviewer for journals or for granting agencies.

A tenured faculty member should participate fully on assigned promotion and tenure committees. In addition to meeting those responsibilities, an acceptable record of service includes other contributions, including but not limited to activities such as full participation on at least one other assigned departmental committee, management of a regularly scheduled seminar or colloquium, service as department senator or on a standing Senate committee, service on a major university committee, or active service as an editor or associate editor of a professional journal. A faculty member may also establish an acceptable record of service by demonstrating a reasonable record of other service activities, which may include but not be restricted to consulting work.

dept/98major

Revised: March, 1999

Addendum to the Statement of Performance Expectations

1 Preamble

The document titled "*Department of Mathematics and Statistics, Statement of Performance Expectations*", dated March 1999, lays out performance expectations for tenured faculty at all ranks. The university's P&T guidelines make it clear, however, that greater expectations are associated with faculty at higher ranks. Indeed, a promotion is granted with the expectation that the promoted faculty member will perform according to the more elevated demands of the rank.

The purpose of this *Addendum* is to stress the elevated expectations of faculty at higher ranks but it is not intended to be an exhaustive list of all possible contributions nor as a list of mandatory yearly tasks. To provide context, Section 2 summarizes the major points of *Statement of Performance Expectations* document as lists of bulleted items. Section 3 contains the addendum.

The discussion of the summary points in the March 10, 2010 faculty meeting brought out minor defects of wording and intent of the March 1999 document and suggestions for improvements were made. These are not reflected in Section 2 because the intent there is make a faithful presentation of the existing document. The suggested changes were recorded and can be incorporated in the future versions, upon the faculty's approval.

2 Summary of *Statement of Performance Expectations*

2.1 Teaching

- Teaching and managing regularly scheduled and reading courses both at the undergraduate and graduate levels
- Developing new curricula
- Revising the syllabi of existing courses
- Student advising and mentoring
- Supervising TAs and graders
- Guiding independent study at undergraduate and graduate levels
- Guiding dissertation work at the graduate level
- Preparing, administering, grading of comprehensive examinations

- Maintaining reasonable availability to students taking courses and seeking advisement

2.2 Scholarship

Both quality and quantity are considered

2.2.1 Quality indicators

- Publications in peer-reviewed journals
- Writing professional books
- Securing externally funded research
- Delivering invited talks at professional meetings
- Delivering invited talks at other universities
- Election to editorial boards of professional journals
- Receipt or nomination of research awards and fellowships

2.2.2 Other quality indicators

- Well-reviewed (albeit unfunded) proposals
- The direction of master's or doctoral dissertations
- Receipt of UMBC Summer Research awards
- Significant contributions to the department's intellectual life
- Demonstration of acceptable scholarly activity although it may not have yet lead to publications or external funding
- Participation in the scholarly life of the department, such as attending colloquia and seminars, and establishing collaborations with other colleagues

2.2.3 Quantity indicators

- The number of publications submitted to refereed journals or conference proceedings
- The number of grant proposals pending or submitted
- Manuscripts completed or nearing completion

- Recent technical reports
- Scholarly presentations at university and department seminars and colloquia
- Consulting or collaboration with government entities and industry which a) benefit students, b) enhance the faculty member's research program, c) the intellectual life of the department.

2.3 Service

- Standing and special departmental committees, including recruitment and P&T
- Standing and ad hoc University Senate committees
- P&T committees of other departments
- Presentations to schools, civic groups, and other community outreach
- Consultation to industry and government
- Committee work in professional organizations
- Serving as reviewer for journals and granting agencies
- Managing regularly scheduled seminars and colloquia

3 Addendum: Expectations Associated with Higher Ranks

The expectations formulated in the previous sections are generic, in the sense that they apply to all tenured faculty. The purpose of this addendum is to highlight the elevated expectations of faculty at higher ranks, viz., those in the rank of *Professor*, but it is not intended to be an exhaustive list of all acceptable contributions nor as a list of mandatory yearly tasks.

A representative list of the more demanding tasks commensurate with higher ranks are:

- Contributing to the mathematics community at large, such as organizing conferences, serving on journal editorial boards, serving in professional organizations as committee members or officers
- Maintaining a visible profile in campus by participating on campuswide functions such as convocations, commencements, and admissions events
- Serving on high-impact campus or system-level committees and possibly chairing them
- Pursuing large, individual or multi-investigator and multi-departmental grants

- Participating in one or more of the campus's research centers
- Serving on multiple departmental committees
- Seeking and obtaining funding to support graduate students and postdoctoral associates
- Seeking and obtaining fellowships, honors, and awards that are recognized and valued by the department, institutions, and the professional community
- Participating in the graduate student recruiting process
- Other activities that enhance the awareness of the external community of the department's features and strengths
- Serving as the department's GPD or UGPD

These duties are not in lieu of those outlined in the previous sections. Rather, these are additional responsibilities associated with the higher rank. One may compensate for the lack of involvement in such activities by taking on additional teaching and significant service responsibilities. It is understood, however, that the demands of some activities, such as that of a GPD, are too excessive to be sustained for any length of time without a reduction in other responsibilities. Such balancing adjustments will be made at the discretion of the department's Chair.

Approved by the vote of the faculty: April 28, 2010

Exhibit 2

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Date: Fri, 19 Jul 2013 21:13:21 -0400 (EDT)
From: Nagaraj K. Neerchal <nagaraj@umbc.edu>
To: kogan@umbc.edu
Cc: Deneen Blair <dblair@math.umbc.edu>, Janet Burgee <jburgee@umbc.edu>
Subject: Re: request for documents

Dear Jacob,

With the help of Deneen and Janet, I am trying to locate the information you requested. As you know PTR was instituted more than 10 years ago. Archives may not go that far back.

I will let you know when we have been able to collect the information.

Nagaraj

Date: Tue, 20 Aug 2013 21:51:00 -0400 (EDT)
From: Jacob Kogan <kogan@umbc.edu>
To: nagaraj@umbc.edu
Cc: Jacob Kogan <kogan@math.umbc.edu>
Subject: extension request

Exhibit 3
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Dear Nagaraj,

1. Do you have any new information concerning the three documents pertaining to the Comprehensive Review of Tenured Faculty:

- Faculty Comprehensive Review Check List,
- Department of Mathematics and Statistics Statement of Performance Expectations,
- Addendum to the Statement of Performance Expectations,

I requested on July 15, 2013?

2. The Faculty Handbook provides that "One copy of the Peer Review Committee Report shall be forwarded to the department chair along with the Comprehensive Review File. At the same time a copy will be delivered to the faculty member under review..." and sets September 15 as a deadline for the faculty member under review to respond to the Chair.

3. The Report was completed and forwarded to your office on June 10, 2013. However, in violation of the Faculty Handbook, the report was not delivered to me at the same time. Only after my repeated requests the report in its entirety was delivered to me on July 16, 2013. Today, more than one month after I received the report and requested to see administration and Faculty Senate approvals of the documents that, by the committee's own admission have been a guiding principle in the review, the approvals are not available and the legal status of the documents is not clear.

4. The delay with clarification I requested on July 15, 2013 hinders my work on the response to the Chair. Please consider this email as a formal request for extension of the September 15, 2013 response deadline to three months after you provide me with the clarifications I requested.

Please let me know by the end of this week, Friday, August 23, 2013 whether the extension request is granted. Thank you for your cooperation.

With best regards,

Jacob Kogan

Jacob Kogan
<http://www.math.umbc.edu/~kogan>

Math and Stat, UMBC
410-455-3297, -1066 fax

Jacob Kogan
10114 Treetop Ln., Lanham, MD 20706
jacob.kogan@gmail.com

September 9, 2013

Dr. Nagaraj Neerchal, Chair
Department of Mathematics & Statistics
University of Maryland Baltimore County
1000 Hilltop Circle
Baltimore, Maryland 21250

Dear Dr. Neerchal:

This is a request under the Maryland Public Information Act, State Government Article §§10-611 to 630. I wish to inspect all records in your custody and control pertaining to the Dean's, Provost's, and the UMBC Faculty Senate approvals of the following Department of Mathematics & Statistics documents:

1. March 1999 Department of Mathematics and Statistics Statement of Performance Expectations.
2. April 28, 2010 Addendum to the Statement of Performance Expectations.

If all or any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial as provided by SG §10-614(b)(3). If you determine that some portions of the requested records are exempt from disclosure, please provide me with the portions that can be disclosed.

Please advise me as to the cost, if any, for inspecting the records described above. I anticipate that I will want copies of some or all of the records sought. If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy.

I look forward to receiving disclosable records promptly and, in any event, to a decision about all of the requested records within 30 days as provided by SG §10-614(b)(2). Thank you for your cooperation. If you have any questions regarding this request, please contact me at the above email address.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kogan', written in a cursive style.

Jacob Kogan

committee. The faculty member being reviewed is to be notified of the composition of the committee, and may object to any member to the department chair. The reason for any such objection shall be held confidential, and the chair shall evaluate and act on the substance of the objection. Where the faculty member holds a joint appointment, the relevant chairs and/or deans shall determine an appropriate ad hoc mechanism for establishing a committee.

The peer review committee shall consider only materials included as part of a Comprehensive Review File. The faculty member being reviewed shall be allowed to inspect the contents of this file prior to its viewing by the peer review committee. The committee shall prepare, sign, and forward to the chair and faculty member, a written Peer Review Committee Report on its evaluation of the faculty member's performance during the period under review. When performance is below the minimum departmental expectations, the Peer Review Committee Report will include a recommendation to the department chair that a professional development plan be formulated for the purpose of improving specific aspects of performance. For cases in which a faculty member's personal statement includes a proposed professional development plan designed either to improve performance, or to further enhance satisfactory performance, the Peer Review Committee Report will include an assessment of the proposed plan in the context of past performance. This report must be completed by June 30 of the calendar year when the review occurs.

One copy of the Peer Review Committee Report shall be forwarded to the department chair along with the Comprehensive Review File. At the same time a copy will be delivered to the faculty member under review, who may respond in writing to the chair, but is not required to do so. Any such response must be received by the department before September 15 of the same calendar year. The review is concluded at this point.

6.5.2.5 Implementation

Each department (no later than December 1, 1998) shall submit its statement of Performance Expectations and its statement of policy and procedures for the Departmental Comprehensive Review of Tenured Faculty developed in response to this document to the Faculty Senate, the appropriate dean and the provost for review and approval. A schedule for the first round of comprehensive reviews shall be included. This schedule should be updated annually and reported to the dean.

6.5.2.5.1 Performance Expectations

Each department shall establish a written statement of performance expectations for tenured faculty. These expectations in research, scholarship, creative activity, teaching, and service shall be consistent with campus and unit missions and with related policies, such as departmental, UMBC, and BOR workload policies. They should be sufficiently flexible and comprehensive to accommodate faculty with differing interests and responsibilities, and different ranks and conditions of appointment. Each department may reconsider its statement of performance expectations at any time; any changes shall be submitted to the Faculty Senate, the appropriate dean and the provost for review and approval.

UMBC


AN HONORS UNIVERSITY IN MARYLAND

Department of Mathematics and Statistics
University of Maryland, Baltimore County
1000 Hilltop Circle, MP 410
Baltimore, Maryland 21250

Phone: (410) 455-2412
FAX: (410) 455-1066
VOICE/TTY: (410) 455-3233
www.math.umbc.edu

Memorandum

To: Dr. Jacob Kogan
Professor, Mathematics and Statistics
UMBC

From: Dr. Nagaraj K. Neerchal 
Professor and Chair, Mathematics and Statistics
UMBC

Cc: Dean William LaCourse, CNMS, UMBC
Provost Philip Rous, UMBC

Enclosures (4)

Date: 9/11/2013

Re: Your recent emails and extension request of the deadline for the response to the PTR report

I am writing in response to your recent emails requesting the approval status of three departmental documents related to the Comprehensive Review of Tenured Faculty Policy, and to your request for an extension to the deadline for your response to the Peer Review Committee Report provided to you in its entirety on July 16, 2013.

Specifically, you have asked for the documentation verifying approval of 1) the Faculty Comprehensive Review Checklist; 2) the Department of Mathematics and Statistics Statement of Performance Expectations; and 3) the Addendum to the Statement of Performance Expectations. I will address the status of each document below. I thank you for your patience while the search for approval documents was conducted. I am sure you can understand, finding the approval evidence of an issue from fourteen years ago took some time and the assistance of units outside the department.

The Comprehensive Review Checklist is nothing more than a recital in bullet form of the governing policy's requirements. It is not a change. No approval was required or sought.

On January 13, 1999, the Provost's office approved the annual review policy, the Departmental Policy and Procedure for Comprehensive Review, and the Statement of Performance Expectations, with minor corrections and suggestions along with interpretation principles. The notice of full approval of the Department of Mathematics and Statistics Statement of Performance Expectations was sent by the Provost's office to Dr. Rouben Rostamian, who was the chair of the department, on March 18, 1999. Copies of both letters are enclosed as Enclosures 1 and 2 respectively.

As for the Addendum developed and approved by the department faculty, the Addendum's intent was to call out or "highlight" the commonly held and applied principle that faculty are expected to contribute to the departmental mission in different ways at different stages in our careers: that senior faculty should be capable of contributing more fully than junior faculty. This principle is found in the approved Statement of Performance Expectations, the USM faculty position descriptions found in the USM AR&T policy, and inherent in the salary differentials between the faculty ranks. This same principle is annunciated in the AAUP minimum standards for good practice in post-tenure review systems: "Post-tenure review should be flexible enough to acknowledge different expectations in different disciplines and changing expectations at different stages of faculty careers." The application of this principle was the central topic of the departmental meetings in March and April 2010, which culminated in the departmental approval of the Addendum without opposition by voice vote on April 28, 2010. The notes of the faculty meetings on March 10, April 14, and April 28 are enclosed at Enclosure 3.

Although no approval was necessary, the Addendum was provided to the Dean (Dr. Rous at that time), who concurred that no approval was necessary in keeping with the Faculty Senate guidance on the issue from December 1998 (see Enclosure 4).

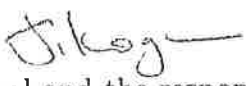
In light of the additional time necessary to find the documents responsive to your inquiry, I will extend the September 30th extension I previously granted you (please see my email of August 22, 2013) until October 15, 2013. I look forward to receiving your response at that time.



Department of Mathematics and Statistics
University of Maryland Baltimore County

MEMORANDUM

To: Dr. Nagaraj K. Neerchal
Professor and Chair

From: Dr. Jacob Kogan 

Re: PTR documents approval and the response extension deadline

Date: September 19, 2013

Dear Nagaraj,

Thank you again for the September 11, 2013 memorandum and the enclosed documents. While working on my response I would like to make sure I fully understand the content of your memo and the supporting documents. Further, it appears that additional documents/clarifications are needed.

In what follows I refer to documentation I requested and the documentation you provided:

1. March 1999 Department of Mathematics and Statistics Statement of Performance Expectations.
 - On January 13, 1999 Provost's office conditionally approved the document and reiterated: "departmental policies will be reviewed and approved by the Faculty Senate, the appropriate Dean, and the Provost." The approval issue is brought up by the Provost's office again on March 18, 1999: "If, in the future, the department amends this policy please submit updated copies to this office and to the dean for our files."
 - No approval by the Dean is provided.
 - No approval by the Faculty Senate is provided.
2. April 28, 2010 Addendum to the Statement of Performance Expectations.
 - No approval by the Dean is provided.
 - No approval by the Provost is provided.
 - No approval by the Faculty Senate is provided.
3. The UMBC Faculty Senate November 10, 1998 minutes you provided addresses the Departmental policies on comprehensive review and repeats: "approval authority rests in the Faculty Senate."
4. Contrary to the Faculty Handbook, the Provost's office, and the Faculty Senate you claim that only Department's approval is necessary for the Addendum. The memo indicates that on unspecified date the Addendum was provided to the Dean, and the Dean concurred that his approval is not necessary. Please provide appropriate documentation confirming submission of the Addendum to the Dean, and the Dean's decision that his approval is not needed.

5. Enclosure 3 includes notes of March 10, April 14, and April 28, 2010 Department of Mathematics and Statistics Faculty Meetings. Since the Department does not keep meeting minutes please let me know who compiled the notes, and whether these notes are approved by the Department.
6. On July 15, 2013 I requested to know the source of the Faculty Comprehensive review checklist. Your memo is silent on this issue. Contrary to your statement the checklist fails to copy the governing policy requirements found in the Faculty Handbook. I repeat my request to know who created the checklist distributed by the Chair in Fall 2012.

I thank you very much for your help and the extension of the deadline to my response by one month, to October 15, 2013. I am looking forward to receiving the documents/clarifications I requested in this memo in the expeditious manner (please note that on September 9, 2013 I filed a request under the Maryland Public Information Act, and the law provides 30 days for you to respond).

Today, while not all necessary documents are available, you already set up a deadline for my response. Your deadline provides me with less than 30 day. This is far less than the time provided by the Faculty Handbook to UMBC faculty members for a response preparation. I respectfully request to be provided with the same response time every UMBC faculty member is entitled to have.

I am looking forward to your reply that will greatly assist my work.



To: Dr. Nagaraj K. Neerchal
Professor and Chair

From: Dr. Jacob Kogan *J. Kogan*

Cc: Dean William LaCourse, CNMS, UMBC
Provost Philip Rous, UMBC

Re: your September 19, 2013 memo

Date: September 26, 2013

Dear Nagaraj,

I am writing to address a number of statements made in your September 19, 2013 memo.

1. My September 9, 2013 request under the Maryland Public Information Act (MPIA).

On July 15, 2013 I requested from you documentation pertaining to the Dean's, the Provost's and Faculty Senate reviews and approvals of two Departmental documents (March 1999 Department of Mathematics and Statistics Statement of Performance Expectations, and April 28, 2010 Addendum to the Statement of Performance Expectations) my Peer Review Committee used as a guideline while reviewing my case.

Two months later, on September 9, having received none of the requested documents, I filed a formal request under MPIA. Two days later, on September 11, you produced a response that contains only the Provost's approval of March 1999 Department of Mathematics and Statistics Statement of Performance Expectations.

Please provide all documentation I requested under MPIA as provided by law. If any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial as provided by SG §10-614(b)(3).

2. My August 20, 2013 extension request.

On August 20, 2013 I requested an extension for submission of my response to the Chair until after the documents I requested on July 15, 2013 are provided. This is the only extension I requested. So far you failed to provide the documents and granted the deadline extension to October 15. You write: "I fail to see what reasonable benefits a further extension would provide." In what follows I list two reasonable benefits the extension I requested would provide.

Provide your faculty with same opportunities every UMBC faculty is entitled to have. The Faculty Handbook sets June 30 as a deadline for a Peer Review Committee to complete the report, and September 15 as the deadline for the faculty member under review to respond to the Chair. Every UMBC faculty member is provided with at least two and a half months time-frame to prepare the response (if the report is completed and delivered before the July 30 deadline the response time period is even longer). My report was completed and delivered to the Chair on June 10, 2013. The

Faculty Handbook provides: "One copy of the Peer Review Committee Report shall be forwarded to the department chair along with the Comprehensive Review File. At the same time a copy will be delivered to the faculty member under review." Only after my multiple requests the first part of the report was made available to me on July 12. After an additional request I received the remaining part on July 16. In both cases the documentation came from Dr. Gowda acting on behalf of the Peer Review Committee. Contrary to your statement you did not provide a copy of the report to me on July 16, 2014. The delay caused loss of valuable time for response preparation.

As of today you failed to clarify the legal status of the Peer Review Committee "guiding principle" in my review. This uncertainty does not allow me to produce a meaningful response. This is the reason articulated in my August 20, 2013 request for extension of the September 15, 2013 response deadline to three months after you provide me with the documents I originally requested on July 15, and again on September 9, 2013.

A professional evaluation of five years faculty member research, teaching, and service contributions is a serious task that requires time and effort. Indeed, my dossier was submitted for the review on December 2, 2012, and the report was completed six months later, on June 10, 2013. As you know analysis of the report, and response preparation require time and effort. This is also well recognized by the Faculty Handbook that grants faculty members at least two and a half months time-frame to prepare the response.

Support research and graduate instruction in the Department.

As you know collaboration with Dr. Keren and submission of a joint research proposal are the tasks outlined in my sabbatical request. Right now we are working on a joint paper to be submitted to the SIAM Conference on Data Mining (SDM, submission deadline October 13, 2013). SDM is the major national data mining conference, and the paper presentation at this event provides an excellent opportunity to expose the research to experts in the field who are also potential proposal's reviewers.

From May 2013 I am working with a graduate student in the Department. The student, Maria Barouti, is interested in doing her Ph.D. under my guidance. In addition to the regular teaching load I am currently conducting an independent study MATH699 with Maria. Introduction of a graduate student into an active research area takes time and effort, yet, I feel Maria's contribution already warrants listing her as a co-author on the paper we preparing for SDM. I plan to request for a graduate student support in the proposal's budget. Support request for a student already participating in research will enhance proposal's funding chances, and bring additional benefits to the Department.

I expect my efforts to secure funds for research and graduate education in the Department to be supported and encouraged. With all due respect I am sorry to say that the October 15 deadline coupled with failure to provide requested and needed documentation unduly diverts me from my primary areas of productivity.

3. Documents showing my positive vote.

I have not received documents showing my own positive vote for the Department's policy in 1999 as you claim in the memo. Please provide the documents you refer to.

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Memorandum

To: Dr. Jacob Kogan
Professor, Mathematics and Statistics
UMBC

From: Dr. Nagaraj K. Neerchal 
Professor and Chair, Mathematics and Statistics
UMBC

Cc: Dean William LaCourse, CNMS, UMBC
Provost Philip Rous, UMBC

Enclosure (1) 9/23/2010 Email to Dr. Philp Rous

Date: 10/09/2013

Re: Your recent memos dated 9/19/2013 and 9/26/2013

I received your memos of September 19 and 26, 2013. With respect your September 19th memo items 1 through 3, you currently have all the documents responsive to your prior requests. You have my interpretation of the communications and the applicable policies. I disagree with your views on these matters, but note your views:

Regarding item 4, I am enclosing an email dated September 23, 2010 to then Dean Philip Rous forwarding the Addendum. The remainder of my discussion with Dr. Rous was verbal.

Regarding your item 5, as Department Chair, I made the notes of the department meetings as a function of my position and to aid in the administration of the department. The notes were created contemporaneously with the meetings. As such, the notes constitute business records of the department. I provided them to you as part of your request for records regarding the Comprehensive Review policy.

With regard to item 6, the Checklist pre-dates my term as department chair. It is my belief that Drs. Pittenger and Mathew created the checklist in 2003. To my knowledge, it has been in use since that time as an administrative procedural tool to track the process steps.

You now have all the records responsive to your records requests. No record has been denied. I can only provide to you what documents exist, and I have done so.

Within both memos you have again requested an extension. You have had the Comprehensive Review report in its entirety since July 16, 2013, so you have had more than two months already to prepare a response to the substance of the report. The extension provided you with a total of three months in which to prepare a response. You appear to have chosen to research the process, but the fact remains that you have had more time to respond to the report than any other member of the department. The response time in the policy builds in an already lengthy period to provide nine-month faculty time to respond at the beginning of the new semester.

You need not respond, but should you do so, please ensure delivery of your response on or before October 15, 2013. After October 15th, I look forward to discussing and developing a professional development plan with you as required by Section 6.5.2.6 of the Faculty Handbook. It would be helpful to have your substantive response prior to drafting the proposed development plan so that we can have a productive conversation.

MEMO

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To: Dr. Jacob Kogan
Department of Math and Stat, UMBC

From: Prof. Nagaraj Neerchal, Chair of Math and Stat, UMBC

Cc: Dr. William LaCourse, Dean, CNMS
Dr. Philip Rous, Provost, UMBC

Date: 11/18/2013

Re: Professional Development Plan following your Post Tenure Comprehensive Review



The department has conducted a comprehensive review of the dossier supplied by you as required by the laws approved by the department and the campus. The committee, consisting of Profs. Bell (chair), Gobbert and Mathew, has determined that you have not met the expectations of a faculty member in rank and has recommended that a professional development plan be created for you.

I am in receipt of your "Response to the Chair" document dated October 15, 2013. Thank you for providing the response within the extended deadline of October 15, 2013.

Let me assure you again that I have tried my best to provide all the documentations you requested. To the best of my knowledge the department has conducted the post tenure reviews according to the existing guidelines. The next step is to set up a professional development plan.

Attached please find a proposed professional development plan. This is my earnest attempt to address the points raised by your PTR committee. I will be glad to meet with you to discuss these points.

PROPOSED PROFESSIONAL DEVELOPMENT PLAN FOR PROF. JACOB KOGAN DEVELOPED AS A RESPONSE TO THE POST TENURE REVIEW (PTR) COMMITTEE'S EVALUATION THAT HE DOES NOT MEET THE MINIMUM EXPECTATIONS FOR THOSE AT THE RANK OF PROFESSOR IN THE DEPARTMENT OF MATHEMATICS AND STATISTICS

Upon reviewing the committee's report, there are three key issues to be addressed:

1. "Professor Kogan has done almost all his teaching at 100 and 200 level. The committee noticed for each course the consistently lower than typical SCEQ response rates".

Chair's response and a PDP proposal

- a. The specific courses taught by a faculty are largely a function of scheduling needs of the department and the schedule preferences of individual faculty. Scheduling Team (UGPD, Program Coordinator) will be asked to take this comment by the PTR committee into consideration in the future course assignments to Professor Kogan.
 - b. Professor Kogan is encouraged to contact the Director of Faculty Development Center, and have his class evaluated. It is recommended that Professor Kogan attend at least one teaching improvement related seminar/workshop hosted by FDC.
2. "...apparent drop off of productivity during the review period, and concluded that this does not meet minimum expectations for a tenured faculty member, particularly one at the senior rank."

Chair's response and a PDP proposal

- a. Based on the research statement submitted by Professor Kogan as a part of his sabbatical request, it appears that he is well on his way to address these comments. He is planning to spend some time during his sabbatical with well known researchers in US as well as Israel, and has plans for submitting grants and papers.
 - b. Professor Kogan also mentioned in the addendum to the sabbatical research statement that a current student has approached him for a reading course, and potentially is interested in working under his supervision.
 - c. Professor Kogan is encouraged to attend conferences, organize sessions and conferences.
3. "During this review period, Professor Kogan has served on the Faculty Senate Grievance....concluded that this does not meet minimum expectations for a tenured faculty member, particularly one at the senior rank."

Chair's response and a PDP proposal

- a. Due to confidentiality issues, a lot of the work done by members of the Faculty Grievance Committee is not widely publicized. Perhaps this makes it difficult for Professor Kogan to document his hard work in this committee?
- b. The service portion of Professor Kogan's self-assessment (supplied by him) does not explicitly mention his service to the department as its Senator, while it is listed in his CV.
- c. Professor Kogan is encouraged to continue his service to the department and campus and expand his activities beyond the campus by volunteering for offices in SIAM and similar professional organizations.