

**Joseph Kay's nightmare:
A Kafkaesque non-promotion case**

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Abstract

While business schools may engage students with cases that involve organizational decisions, this case involves an individual's decision within an organization. However, this case is intended to demonstrate how tools employed for business analysis can also be used in another context. In this case, our protagonist must decide what to do when faced with a decision to either to continue to fight for his original goal or to move on to what he is advised may be the best arrangement he is likely to obtain. By defining goals, employing stakeholder analysis and applying some analytical techniques, we can help advise the decision maker in this case to analyze his alternatives and find the best course of action.

Joseph Kay's nightmare: A Kafkaesque non-promotion case*

This is the story of Joseph Kay's attempt at a university promotion. Names, certain policy wording and dates have been disguised. As Joseph, or Joe, will tell you:

"I've been run down. / I've been lied to. / And I don't know why..."

Allman (1969a)

Joe actually now knows why. For over a year and a half he did not. This is the circuitous story of that discovery. 'Josefk.' is actually a character from Franz Kafka's *The Trial*.¹ *The Trial*, as our Joe explained it, was a story of a man accused of crime but one where he was never fully informed of exactly what. Joe was never accused of a crime or directly accused of anything improper – but the insinuation was there.

Joe is a numbers guy with an undergraduate accounting degree. He will tell you he was the only one in a class of 160 to score 100% on his first accounting test. He earned a CPA and received an MBA in Management Information Systems. When he realized the folks in that specialization at the time seemed too much like accountants he left behind, he went for a PhD in Social Issues in Management (Ethics, Corporate Social Responsibility, Corporate Governance) and Strategy ("*a more 'in demand' area*" as he told it). He had served on a number of faculty tenure committees four separate times for a total of six years and felt familiar with his university's standards and procedures.

After receiving his PhD in 1991 he began work at the Business School at James McDougall² University (hereafter JMU) – a well-regarded Canadian university of over 35,000 students (approximately 90 percent undergraduate and 20 percent international students). The Business School was fully accredited and had an enrollment of almost 5,000 students – of which about 25 percent were graduate students. At the age of 64 and nearing retirement (but yet undeclared), he decided to apply for promotion to Full Professor.

As Joe tells it, "*So, I still look at things through a number's lens. When your only tool is a hammer, everything looks like a nail. The h-index was my nail. 'This is where my troubles began'.*"³

The h-index, or h-score is best thought of as some vague measure of one's recognition as an academic. If, you are at all interested in how this score is derived, its calculation is included in Exhibit 1. For Joe's purposes, the h-score was the hurdle he felt he must overcome. No one that he knew of in his area of specialization had been promoted with an h-score of less than 11.

Exhibit 1: Example of the h-score Calculation

Calculation	Rank	Cites	Year
	1 <	30	2011
This researcher's h-score of 7 means seven of their papers have at least seven cites each, and the others have no more than seven cites each;	2 <	21	2005
	3 <	17	2011
	4 <	15	2015
	5 <	12	2007
The h-score is the last time a paper's rank is less than the number of cites. →	6 <	12	2012
	7 <	8	2003
	8 >	4	2008
	20 >	0	...

Source: Pagell (2008) p. 54.

* While business schools may use cases involving managerial decisions, this case involves an individual's decision within an organization. Our protagonist must decide what to do when faced with a decision to fight a perceived wrong or to take what you are advised is the best arrangement you are likely to get.

Though applying for promotion to Full Professor was not mandatory and Joe was already a tenured Associate Professor he felt the need to end his career on a high note. With Google Scholar showing that his h-score was 10 he felt he could apply for promotion. To convince himself that he had, in fact, reached the 11 h-score threshold, he investigated other databases and was able to compile a list of over 1000 citations to provide him an h-score of 13. With this data in hand, he was ready to face the gauntlet of promotion.

The Beginnings of the Long and Winding Road⁴

The promotion process begins from the bottom-up – starting, in this case, with the business school. JMU’s policies and contract with its Faculty Union stipulated that “*to be considered for promotion to Full Professor a faculty member will submit a written request including a full curriculum vitae to the Chair of the Faculty Tenure and Promotions Committee [the FTPC] asking for consideration by March 15th.*” If the faculty member’s application is successful, they would know a final decision no more than 15 months later – by the end of the following May. The promotion takes place a year and a half after the effort begins – on September 1st of the following year. In contravention of the union contract, Joe would not find out a final decision for two and a half years.

Submissions

JMU’s union contract details a myriad of materials and deadlines involved with the promotion process. Evaluation of a faculty member’s scholarly work was done by external referees with appropriate expertise. The FTPC was to factor in the academic stature and the independence of each referee in weighing its assessment. To be considered promotion, a faculty member must provide the FTPC with the following:

- “*By May 1st: 1. The faculty member supplies copies of at least three of their peer-reviewed published research or its equivalent and any other materials they wish to be given to the referees.*
- 2. The faculty member must submit a list of five or more referees to the FTPC Chair. Referees should be at arm’s length from the candidate, i.e., not a recent thesis supervisor, collaborator, or personal friend. University faculty or staff (including retirees) are not acceptable.*
 - 3. The FTPC develops a list of at least 5 potential referees and provides the list to the member.*
 - 4. The Member and FTPC has the opportunity to comment on the other’s list.”*

After May 1st the procedure then moves onto the FTPC requesting confidential reference letters from a minimum of six referees – at least half of which must be from the faculty member’s list. The FTPC must receive agreement from at least five potential referees to proceed; at least two of which must be from the faculty member’s list, and at least two from the FTPC’s list.⁵

Simultaneously, the Faculty Member submits a research dossier. On May 1st, 2023, Joe submitted a 123-page dossier consisting of the items shown in Exhibit 2. This information was then sent to the referees with a standardized cover letter, a description of what JMU’s standards for promotion are, and the essential question that, given those standards, would the referee recommend promotion? To take a step back and review what can, at times, can be a convoluted process, the entire process is flowcharted in Exhibit 3.

Exhibit 2: Joseph Kay’s Research Dossier Documents

A four-page *Statement of Research Interests and Accomplishments*.

A current *Curriculum Vita* (CV) – entailing a two-page summary and a longer full 15-page CV.

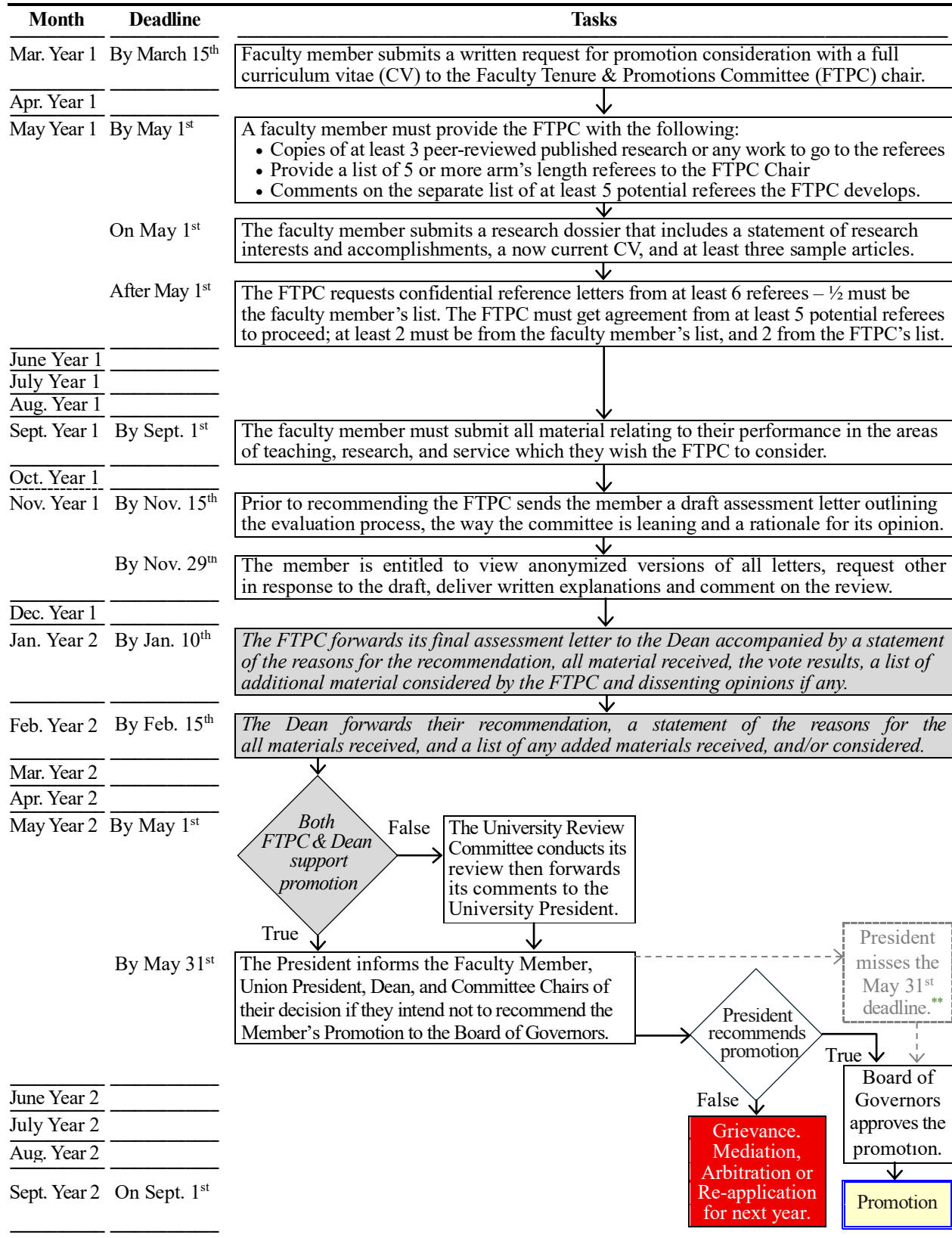
Three *Sample Articles* (his most cited paper and two papers written after promotion to Associate Prof.)

Three *Supporting Appendices* that include:

- A one-page summary of his research streams,
 - A fifteen-page summary of citations to support his h-score,
 - A three-page summary of citations of several editions of a textbook in which he was co-author.
-

Source: Joseph Kay’s Research Dossier (2023).

Exhibit 3: Basic Flowchart of the JMU Promotion Process



** This grey dashed alternate path represents the wording of contract but not the university's interpretation of that wording.

By September 1st the faculty member must submit all material relating to their performance in the areas of teaching, research, and service which they wish the FTPC to consider.

The Faculty Tenure and Promotions Committee

By November 15th, prior to voting and making a recommendation, the FTPC provides the member with a draft assessment letter, in a way that maintains referee confidentiality. On that date Joe received a negative 11-page letter outlining the evaluation process, as well as indicating the way the committee was leaning and a rationale for its opinion at that point in time. At this point, university policy dictated two weeks to provide the FTPC with written explanations or request additional material in response to the draft.

Joe also had the right to view anonymized versions of all letters and comment on his review. Of the five referee's letters, four were positive. While such letters are anonymized, it was possible to, in most cases, to discern who wrote which letter – like the only referee who mentions, from first-hand experience, that they also worked on a textbook (and written a seminal piece in the field) or, more obviously, the referee who leaves their school's name in the file properties – a letter from Professor Tom Midgley.

Professor Midgley stated that he would “*not offer a recommendation whether the record meets the JMU standards.*” Literally, the referee did not answer the question he was asked. Professor Midgley did note that “*Dr. Kay's record does not meet standards for promotion at the universities where I have worked.*” However, Professor Midgley worked at several universities as a Visiting Professor and would have not been privy to the details of their promotion processes. Additionally, FTPC was interested in the application of JMU's standards and not those of some other University. Finally, further investigation by Joe revealed that Professor Midgley worked at least three schools where faculty were promoted to full professor in Joe's research area with lower citation counts and h-scores than those possessed by Joe.

On November 28th, 2023, Joe replied to the draft assessment letter addressing the committee's comments along four main streams. One, Joe endeavoured to correct misstatements regarding his citation counts and h-score. Two, he cited several family and personal health problems that created time gaps noted in his publication record. Three, regarding his performance since promotion to Associate Professor, he noted: (a) the number of appearances in top tier journals were comparable with other recent promotions in his area of specialization, (b) recent publications in good to top tier journals showed that he had ongoing research endeavors, and (c) he also pointed out where he could show continuing growth and deepening research activity over a wider range of relevant topics. Finally, he addressed Professor Midgley's non-recommendation and the referee's views of recognized journal quality where Joe's publications appeared.

In accordance with university policy the FTPC forwarded its final denial assessment letter to the Dean on January 10th. This letter was accompanied by a statement of the reasons for the recommendation, all material received, the vote results, a list of any additional material considered by the FTPC and dissenting opinions if any – which in this case, much to Joe's disappointment, there were none. All members of the FTPC are to be given the opportunity to review the statements referred to above before they are sent to the Dean. This would be the last deadline that the university would meet.

Onward to the Dean

As noted in the JMU policy “*A faculty member has the opportunity to provide the Dean with their comments on the recommendation of the FTPC within two weeks of its transmittal to them.*” The union contract also allowed for the faculty member to “*meet with the Dean and be accompanied by a support person or represented by the union at any such meeting.*” On January 30th, 2024, Joe and his union representative, Matt Henson, met with the Dean of the business school, Jane Cochran. They discussed what her primary concerns may be this promotion case. She stressed a need for a letter from Dr. Kay that emphasized the positive aspects of his case for Promotion.

On February 8th the Dean received Joe's comments regarding his promotion case. This eight-page letter noted the positive comments from reviewers (emphasis added):

Referee # 1: *“Overall, I have a favorable view of Dr. Kay’s scholarship. It is thoughtful, insightful, and well crafted. Clearly, I strongly support his application for promotion to Full Professor.”*

Referee #2: *“I believe that Dr. Kay meets the criteria set out for promotion to Full Professor JMU. Therefore, I support his application.”*

Referee #3: *“Overall, I believe that Dr. Kay has made many important contributions... In my view, he is a strong candidate for promotion to the rank of Professor at JMU.”*

Referee #4: *“Dr. Kay continues to add to a research program with theoretical and practical impact. He is an influential contributor to our community of scholars and has shown commitment and contributions in the areas of teaching and service, commensurate with the promotion to Full Professor that he is seeking. I fully support his promotion to Full Professor.”*

The letter reiterated the committee’s positive points regarding Joe’s originality, creativity and international reputation. As the University’s policy supports *“other research output such as publications in non-refereed outlets, peer-reviewed conferences, conference proceedings,”* Joe noted these and quoted referees that also pointed out these contributions. He outlined how his work appeared in top journals and how those contributions compared favorably to others recently promoted in his area.

While these early parts of the letter were positive, Joe had to correct the FTPC’s article and citation counts. As well, he noted that the FTPC’s letter acknowledged that he was indeed working throughout the period of his family and personal medical problems in the late 1990s and early 2010s. Joe also pointed out that their letter stressed that one reason for deciding against promotion was the view of him not having a record of sustained scholarly achievement in those same periods. He observed that while the FTPC noted in one part of their letter that his *“ongoing research program shows every sign of continuing”* but would later *“encourage Dr. Kay to apply again for promotion to full professor in the future when his research publications clearly show evidence of growth and deepening of research.”* As Joe would note in his letter to the Dean, *“The FTPC essentially wants to see a continuation of the very thing they say they already see.”*

Joe’s letter ends by pointing to the credentials of known positive referees and summarizing his arguments – stressing two main points. First, he notes the FTPC’s paradoxical comments regarding his health situation corresponding to slow publication periods. Second, he reiterates his comments noted above regarding Professor Midgley’s non-recommendation. The later point he details in one of the nine supporting appendices attached to his letter.

JMU policy states that *“the Dean will make their recommendation after considering the recommendation from the FTPC, the comments, if any, of the Member, and such other information as the Dean considers relevant.”* An important consideration in the policy here was that *“if the Dean chooses to obtain additional letters of reference, they will go back to the Member and the FTPC for suggestions of other potential referees.”* Business School Dean Jane Cochran did not request additional letters.

JMU policy requires that *“by February 15th, the Dean will forward their recommendation, a complete statement of the reasons for the recommendation, all materials received, and a list of any added materials considered.”* A copy of this recommendation was sent to the FTPC Chair, the member and either the University President or the University Review Committee (the URC). In the cases where both the FTPC and the Dean support promotion, the recommendation goes to the President; in all other cases it goes to the URC. The composition of the URC for any particular case differs depending on the candidate for promotion belongs to – thus a Business School candidate will have different members on the review committee than, say, someone in the Science Faculty. The composition of the URC is shown in Exhibit 4.

On March 10th, 2024, based on her assessment of Joe’s research, teaching, and service (good, satisfactory and very good, respectively) the Business School Dean recommended Dr. Kay be promoted to Full Professor. Because the FTPC did not recommend for promotion the next part of the process meant the recommendation went to the URC. There was one slight problem. This was a problem that Dean Cochran, Joe, and even Union President PJ Quinlan would not discover for months – the committee did not exist.

Exhibit 4: University Review Committee Composition

The URC consists of six members as follows:

- *Four continuing faculty members chosen from the Faculty College [explained below].*
 - *Two of the Faculty College members will be from the faculty from which the case arises, and two will be from other faculties.*
 - *The University and the Union each nominate two Faculty College members (one from inside the faculty and one from another faculty).*
 - *Composition of the URC should reflect the nature of the case to be reviewed [i.e. committee members should have knowledge related to a candidate's area of expertise].*
 - One Dean chosen by the four Faculty College members of the committee. The Dean must be from a faculty other than the one from which the case arises.
 - A non-voting chair chosen by the University's Academic Vice President.
 - URCs must demonstrate gender diversity.
 - All members of an FRC must be present at all meetings of the FRC.
-

As per University Policy the Faculty College was an elected body whose purpose was to provide a pool of individuals to serve on a University Review Committee or a University Salary Appeal Committee where needed. Each Faculty was allocated four spaces for the Faculty College for a total of thirty-six members.

Source: James McDougall University Faculty Union Contract (2023).

Dark Days

"Ain't nothing new..."

Davies (1979a)

Here was where deadlines would begin to fall by the wayside. By May 1st, 2024, the URC was to finish its review and then forward its comments to the University President. Then by May 31st, 2024, Clause 42.18 of the Union Contract / University Policy stipulates that President Martha Canary should inform the Faculty Member, Union President, Dean, and Committee Chairs of her decision if she *"intends not to recommend to the Board of Governors promotion for the Member. Otherwise, the President will forward recommendations for promotion to the Board of Governors for approval."* The deadline came and went.

On August 5th, 2024 – two months after the President's deadline, and after the exchange of many e-mails between Joe and Union Representative Matt Henson – Joe received a message from Matt that he had received an answer to his inquiries. He reported to Joe that representatives from those in the Academic Vice President's office could not address Joe's promotion because they were basically 'too busy.'

In early September 2024 Matt informed Joe that University Review Committee could not be formed because the group that its members were to be selected from – the Faculty College – had insufficient members to draw from. Of the 36 positions in the Faculty College, 24 were vacant. Among those vacancies were all four of the representatives that should have come from the Business School. This was the committee that the University should have started to work on assembling in January when the FTPC brought down its negative decision. Eight months later and no effort had been started to put the committee together.

Matt noted the lack of a committee was, in general terms, a failure of both the administration and faculty regarding shared governance. Matt then reported on Halloween that a mid October call for Members to serve on the Faculty College had gotten exactly zero volunteers. In that same post, Matt indicated that a URC had allegedly been formed. In mid-December 2024 Matt confirmed the formation of the committee.

The URC

In accordance with university policy, the URC was bound by several rules regarding their review of the case. These include the following:

“Prior to making a recommendation, the URC must confer separately with the Dean, FTPC Chair, two FTPC representatives elected by and from the FTPC, and with the Member, in that order.”

“At the conclusion of each meeting the URC will prepare a summary of all additional information concerning the case (i.e. information not part of the written record) obtained during the interview. - Summaries will be provided to the faculty member at least five days before their URC interview.”

“If a URC chooses to attain more reference letters, procedures used by the FTPC will be followed.”

Joe’s meeting with the URC was now scheduled for March 14th, 2025.⁶ The next day would be the last day that he could reapply for promotion for the year. He received no copies of any additional information obtained by the URC regarding his case. The Committee did want to know details regarding Joe’s text and case book contributions, and to know what guidance he received in presenting his scholarly and teaching record. As well, the Committee wanted details regarding his record since applying for promotion two years prior – specifically, his current publications, presentations, works under review and in progress. These details were presented to the committee via Zoom meeting on that date.

Matt had requested that a verbal decision be communicated to Joe that day, as the process was already a year delayed. While the committee had the right to request letters from additional referees, the delays in the process likely forced them to make their decision that day. Later on March 14th Committee Chair Joan Lowell phoned Joe to inform him the Committee had voted against his promotion. At this point Joe decided that it would be best to await the written details of the decision to form a response to deliver to the University President. Thus, there was no follow-up detail requested or provided from Joan on that date.

The Weight of the Wait

“But nothin' seems to change / The bad times stay the same”

Allman (1969b)

Clearly, to respond to the URC Chair’s recommendation, Joe needed Joan Lowell’s statement. While the saying is that March comes in like a lion, and goes out like a lamb, both were silent regarding Joe’s case.

May’s Victoria Day came and went. To bring his case to the attention of the Union President, Joe dashed off a nine-page missive to PJ Quinlan on May 31st, 2025. This dispatch again outlined his case and noted four additional points regarding the Union Contract:

1. The Union Contract tasks the President to *“review the recommendations they receive from the Deans and University Review Committees”* in May [emphasis added]. Having the Dean’s recommendation, means the president could have decided by the May 31st, 2024, deadline. The fact that she did not, brings into consideration other contract wording – that Joe be promoted given that the President had failed to inform him that she intended not to recommend promotion to the Board of Governors.
2. The inability to recruit people for their contractually obligated URC seemed odd given that JMU possessed expertise in getting people to do things they might not otherwise do – i.e. experts in human resource management, organizational behaviour, political science, psychology, and sociology.
3. Only when faced with the fact that a new batch of tenure and promotion cases may need a URC in the up-coming year did the administration seem to begin to address the situation.
4. Earlier administrative layoffs at the University may have aggravated the delay – except that they did not occur until long after the URC should have completed its work.

Joe’s communiqué also included three pages of applicable contract clauses and two pages of anomalies at the FTPC level. Joe was increasingly convinced that at details and results of his case were not adding up. Either that or he had entered the Twilight Zone and was just waiting for host Rod Serling to explain

everything. It would turn out, as we shall see later, that the explanation as to what had happened would be a large redaction from his recommendations and PJ Quinlan's inquiries regarding the missing information.

June's National Day for Truth and Reconciliation in 2025 did not reconcile Joe with the URC's letter. However, on June 19th the Union filed a grievance on behalf of Joe, outlining the points of Joe's May 31st letter to PJ, as well as noting the loss of his ability to reapply because of delays. The grievance asked for Joe's retroactive promotion, retroactive payment of any salary increases, and pension payments missed due to the delay, as well as any other steps as may be required to make him whole. The Union Contract stipulated that the parties to a "*grievance will meet within 10 working days of receipt of the Grievance and will make every reasonable effort to resolve the Grievance and commit the settlement to writing within five working days of the resolution.*" It was also possible that the Grievance may not be resolved at a meeting of the parties and then "*the representative of the party that received the Grievance must provide the other party with written reasons for denying the Grievance within five working days of the last meeting.*"

July's Canada Day came and went without any progress on the grievance that was filed. Throughout it all Joe was devoting increasing amounts of time communicating with Union Executive PJ Quinlan.

Coming into the Dog-days of August, the Toronto Blue Jays were doing well, and Joe was getting nowhere with the Promotion process. In early August, Joe composed a letter to the University President. After reviewing the letter with PJ Quinlan, the letter – as shown in Exhibit 5 – was sent to the President on the morning of August 11th, 2025.

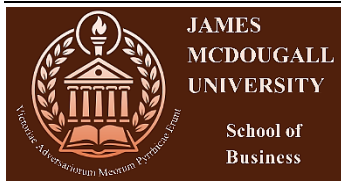
The Wrecking Ball

On the evening of August 11th, 2025, after months of waiting, Joe received URC Chair Joan Lowell's seven-page recommendation – more accurately, her rejection. Joe shared the correspondence with his Union Advisor Matt Henson and Union Executive PJ Quinlan. Matt noted that "*there is a lot in the letter that isn't really necessary to make that case, and it's surprisingly negative for a process that should be collegial and ultimately supportive, even for unsuccessful applications.*" The letter left Joe with many questions. He would now have to pose them to the President. These questions fell into four main areas:

1. Wording and interpretation:
 - Why was the tone of letter so negative?
 - Why would the Dean's use of "*satisfactory*" instead "*excel*" in the job rating not be interpreted as meeting the performance standard for promotion to Full Professor?
2. Logical problems:
 - Why would the URC say that "*it would consider the case on its merits and not simply adopt the reasoning of the FTPC and Dean,*" then totally adopt the FTPC's lower erroneous journal count?
 - Doesn't a comparable record and extra time meet the URC's claim that "*the appropriate approach regarding family and personal challenges is to provide more time rather than lower expectations*"?
 - Why would the URC accept the word of a reviewer who, after being provided with the university's standards for promotion said, "*I also do not know the standards at JMU*"?
3. Recent events:
 - Why did the Business School promote someone in 2025 who had one major article as an Associate Professor while Joe "*lacked growth*" as an Associate with three major articles after promotion?
4. Mystery Review:
 - If the URC letter represents the whole committee, did the whole committee review it?
 - What committee would approve a letter with such a large block of redacted text?
 - How can one make a reasoned response to such a huge redaction?

It was this last set of mysterious points that particularly concerned Joe. Why would a committee redact so much information? The extent of this redaction is shown in Exhibit 6.

Exhibit 5: Letter to the University President



Joseph Kay, Ph.D.
 #432, 1000 University Street
 Unlikely, AF Canada F0A 2B3
 992-555-1234 | Kay@jmu.ca
 August 11, 2025

President Martha Canary,
 James McDougall University

RE: Promotion Crisis

Dear President Canary,

My promotion case is in its third year. After waiting a year to meet with the University Review Committee (URC), I have now waited over five months to see their review. Per University Policy and Union Contract (UP/UC) the URC part of this process is supposed to take 11 weeks – it has now gone on for 17 months. Wanting to avoid protracted and expensive arbitration I am asking for your aid to move my case forward. Per the UC/UP this appears to be well within your power.

A review of the case that adhered to the schedule set out in the UP/UC is as follows:

2023	Mar. 15 th	Filed for promotion as directed by the Faculty Tenure & Promotions Committee (FTPC) Chair.
	May 1 st	Other materials were added as required and reviewers selected.
	Nov. 15 th	Per the UP/UC received the FTPC’s draft assessment letter.
	Nov. 28 th	Submitted written response to the FTPC’s draft assessment.
2024	Jan. 10 th	The FTPC’s negative review meant an URC was required and one should have been formed.
	Feb. 11 th	Provided the Dean with written comments regarding the promotion case.
	Feb. 15 th	Per the UP/UC this was the deadline for the Dean’s recommendation.

From this point onward (see below), deadlines were not met and, in many cases, have yet to be met. This is ongoing after 28 months into a process that should have left the President’s hands after 14 months.

2024	Mar. 10 th	Received the Dean’s positive recommendation in favour of promotion.
	Apr. 30 th	The URC misses the deadline to finish its review and forward comments to the President (per the UP/UC). To date, I have not seen a URC recommendation that follows standards set down in UP/UC.
	May	Per the UP/UC the President will review recommendations they receive from the Deans and Committees. The President was cc-ed in the Dean’s letter and that was the extent of the letters she received.
	May 31 st	UP/UC requires the President to inform the faculty member if they intend not to recommend promotion... “Otherwise, the President will forward recommendations for... promotion to the Board of Governors.”
	Dec. 18 th	I am informed that the URC has been formed (almost a year late) and who its members are.

Friday, I learned that two of my Business School colleagues who applied for promotion a year after I did will be promoted this September. In the meantime, 2025 has unfolded for me as follows – with my case still pending:

2025	Jan. - Mar.	Per the UP/UC, the URC conferred with the Dean and FTPC. The URC has not provided a summary of additional information from these interviews (if any) as required by the UP/UC.
	Mar. 14 th	I met with the URC on Zoom. I later received a phone call and was told their decision. I have yet to receive information regarding the basis on which the recommendation was to be made (violating the UP/UC).
	Apr. 15 th	As my case was neither successful nor unsuccessful, I could not re-apply for promotion (as per the UP/UC).
	June 19 th	Per the UP/UC a grievance was filed asking the President to recommend promotion to the Board of Governors for approval retroactive to 2024 as per the UP/UC. Faculty Relations has yet to respond.
	Aug. 7 th	Discussed the lack of grievance progress and possible arbitration with Union President PJ Quinlan.

Rather than arbitration, I am asking for your assistance to positively resolve this unacceptably Kafkaesque case by applying what is directed by the UP/CP and approving the promotion. This situation has gone on far too long and I would greatly appreciate the opportunity to discuss with you remedying this quandary at your earliest convenience.

All the best,

Joseph Kay

Joseph Kay, Ph.D.

Victoriae Adversariorum Meorum Pyrrhicae Erunt



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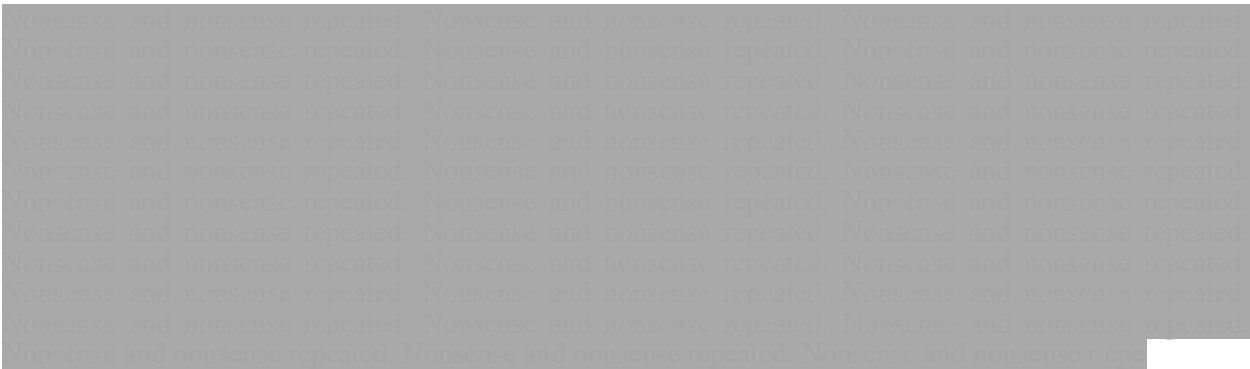
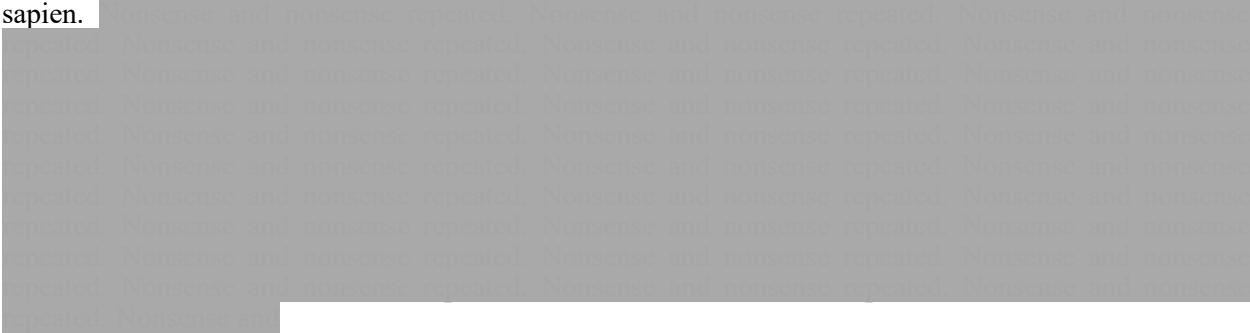
Source: Disguised from Joseph Kay’s personal files (2025).

Exhibit 6: The Most Extensive Redaction on the URC’s Recommendation Letter

Dr. Joseph Kay – Promotion Decision

August 11, 2025

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Source: Disguised from Joseph Kay’s personal files (2025).

Particularly concerning to Joe was that he felt that this large redaction would violate the Union contract clause that stated:

“In developing a recommendation, each level of review must specify the basis on which the recommendation is made and information that is relied on in formulating the recommendation. This must be set out in sufficient detail to allow the Member to make a full response” [emphasis added].

The Presidential Seal of Disapproval

Joe said he always knew this case would end-up with the president. This was the last obvious avenue of appeal. The President’s office initially scheduled the meeting for September 24th, 2025⁷, but the meeting was moved back to September 10th, 2025 due to scheduling conflicts for Joe. Joe presented the entirety of the above case to the President on that date.

On September 22nd, 2025⁸ Joe received a short two-page letter from University President Martha Canary concluding with good wishes for Joe’s future endeavours and the statement he really did not want to see: *“After review of the materials, I concur with the recommendation of both the FTPC and the URC not to recommend your promotion to Professor.”* There was no mention of the Dean’s positive comments.

In the preamble to President Canary’s recommendation were three items of note. One, reviews by the committees, Dean and President go beyond the referee letters and look at all the materials submitted in their holistic context. Two, she recognized the personal challenges Joe had experienced and overcome and, in general, that working life can present challenges. Third, she addressed the case’s procedural concerns. In part, she noted *“that the ability to share new information at each stage of review (e.g., new publications that were not complete at the time the earlier recommendations were drafted) deals with any potential prejudice flowing from a delay.”* And while she acknowledged that this process took too long, she did *“not agree that the Union Contract provides for automatic promotion when the timelines are not met.”* This despite the fact that Clause 42.18 stipulates that the President must inform the involved parties by May 31st that she *“intends not to recommend to the Board of Governors promotion for the Member [and]... Otherwise, the President will forward recommendations for promotion to the Board of Governors for approval.”* Joe commented, *“at least we know what Clause 42.18 doesn’t mean. I wonder what it does mean.”*

Answers to Nagging Questions

“I can’t believe that I’m still around”

Davies (1979b)

Another Halloween arrived and Joe still wanted to know about the mystery redaction. Such editing was typically done to protect the identity of a reviewer – particularly one providing a negative review. Discussions between Joe, PJ Quinlan, University representatives, and some lawyers, eventually concluded that the university might be well within their legal rights to redact this much information. However, PJ reported that the university representatives disclosed that the URC members did see and approve the letter, but not the redacted version – that was done by general counsel anytime a letter like this was released. Thus, the committee members were unaware of what Joe would see in the letter.

The university administration was also willing to share with PJ what was in the redacted section. On Thanksgiving 2025 – over 30 months since the process began – Joe would find out. PJ reported that the redacted portions were generally about one referee who it appears used to work at JMU’s Business School and was, at that point in time, a colleague. The redactions were because the comments about that referee could identify them. That was all PJ could tell Joe. To hear Joe tell it:

“For me, it was like a heavy curtain being lifted. Everything that made no sense to me in my case fell into place. I knew immediately who this was: Virji Vora. He was one of the referees I had selected. He had worked at JMU more than 15 years ago and I doubt I had spoken with him much more than a couple times since he left – mostly regarding an article that was appearing in a publication he was editing.

“The way I saw it now was that this was a problem starting at the FTPC. No one else would have such information. Having not disclosed this issue in their recommendation would mean that the Dean was totally unaware of this. That may have explained the positive recommendation from the Dean and the negative ones from the URC and President, since they would have been aware of it. This is all conjecture on my part though.

“To say it was Kafkaesque would be generous. I was never even directly accused of something so I couldn’t defend myself against anything. Though it seems to me that this was some kind of nebulous insinuation that I was trying to cheat the system. Which I was not. I would think that if those in the process thought such a thing they would have directly confronted me with the problem.”

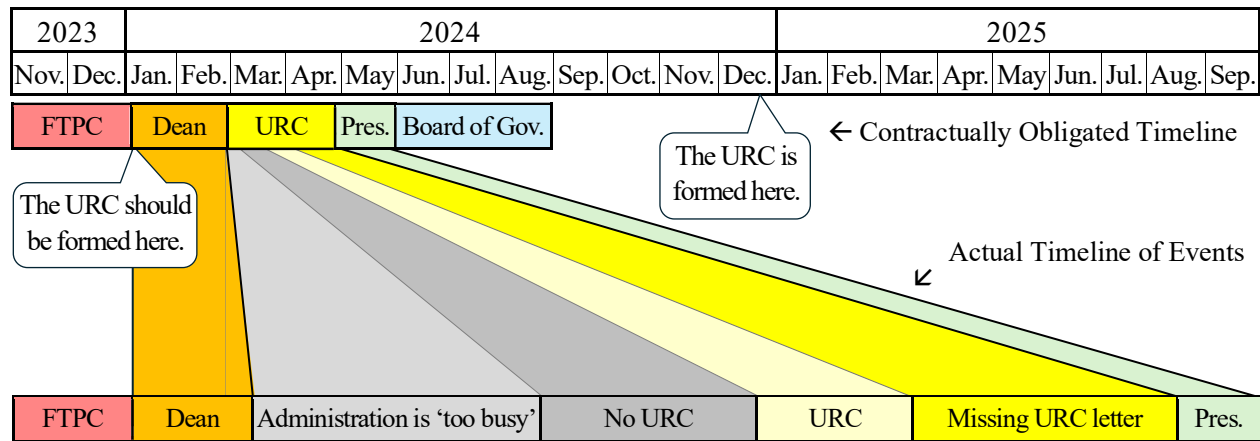
Joe Needs to Make a Decision

“Just when I thought I was out, they pull me back in.”

Coppola (1990).

After almost 33 months the process was not complete. As shown in Exhibit 7, the process had been strung out for far too long. There was still an outstanding Union grievance, the possibility of mediation, arbitration or later legal action to correct for any delays or perceived errors made in the case. PJ told Joe that despite the clear wording of Clause 42.18 and the President’s missed deadline, the Union’s labour lawyers did not feel the unions legal position would be in anyway ironclad should the issue end up in a court.

Exhibit 7: The Delay of Events



Source: Joseph Kay’s personal files (2025).

A first step to wrapping up the whole process would be to try mediation with the University. Since mediation was non-binding, the only concern was the time to spend doing it. In November 2025, Joe had to decide whether to give his consent for PJ to develop a mediated settlement with the University. PJ’s advice was that some sort of mediated settlement might be the best result they could reasonably hope for. In early discussions with a mediator, PJ was able to garner some preliminary indications of settlement terms. These are outlined in Exhibit 8.

Exhibit 8: Proposed / Possible Clauses from the Mediator

-
- If Dr. Kay is promoted in the next two years, JMU may backdate the promotion to September 1st, 2026.
 - Some combination of letters from the 2023 promotion application and some new ones may be allowed.
-
- A mediator enforced agreement that would mandate:
 - No more than a set number of days for JMU to correspond with a member in the promotion process.
 - JMU commit itself to follow contract timelines for everyone, with the following specifics:
 - JMU will set aside days for URC hearings at the beginning of the year so that scheduling does not have to start only after the FRC is formed.
 - The time trying to find URC members will be capped at a definitive number of days.
 - If the Faculty College does not have enough members, alternates will be chosen.
 - Once formed, the URC will have a limited time to begin meeting and complete its process.
 - The URC will communicate its decision within days of its last meeting on a case.
 - The URC will provide written reasons for its recommendation within a month of its last meeting.
-
- The mediator would retain jurisdiction to immediately hear about and rule on any violations of the above and order remedies and/or order damages as appropriate if JMU breaches these commitments.
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Source: Joseph Kay's personal files (2025).

It was fairly galling to Joe that this many errors by the university would go without any kind of rebuke. He felt that his sense of justice was being pitted against the practical matters of time, expense, and the probability of winning. At this point Joe had to ask:

- What are my goals with continuing this effort?
- What would I want out of a mediated settlement?
- What kind of deal might we strike that is acceptable?
- If you feel you've been wronged, shouldn't you fight to make it right?
- What happens to the good letters that serious people had taken the time to write?

In the end, Joe wants to know what you think he should do, and why.

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Notes

- ¹ Josef K is also the name of a Scottish punk band from the early 1980s.
- ² James McDougall (about 1773 - 1851) was an early 19th century Canadian fur trader and explorer.
- ³ Not to imply that Joe's troubles here were near as severe as what Art Spiegelman (1992) relates to us.
- ⁴ According to its composer, Paul McCartney, *The Long and Winding Road* is "*a sad song because it's all about the unattainable... The door you never quite reach. This is the road that you never get to the end of*" (Crossley, 2025, citing Miles, 1998). It's much like this case for that reason.
- ⁵ JMU's union contract also notes that FTPC "*should not consider unsolicited letters of reference from faculty members at the University, including retired faculty members, or from other members of the University community.*" In addition, the FTPC is also not allowed to solicit such internal letters of reference. According to Joseph Kay, these restrictions stem from an earlier case involving his tenure decision.
- ⁶ Concurrently, this was also the Jewish holiday of Purim that year.
- ⁷ Coincidentally, this was the last day of the Jewish holiday of Rosh Hashanah for that year.
- ⁸ Simultaneously, the Jewish holiday of Rosh Hashanah began that evening.