

ARTICLE 21. APPEAL FROM THE DENIAL OF TENURE OR PROMOTION

Section 1. Scope of Article. This Article provides the only process through which a bargaining unit faculty member may appeal a decision of the Provost to deny tenure or promotion. No other grievance or appeal process shall apply, except for alleged procedural violations, which shall be governed by Articles 22 and 23 of this Agreement.

Section 2. Grounds for Appeal. A decision of the Provost to deny tenure or promotion may be appealed only on the following grounds: (1) whether the Provost was presented with errors of fact that materially affected his or her decision; (2) whether the Provost disregarded or overlooked material evidence that was provided to him or her; (3) whether material information was unavailable to reviewers through no fault of the candidate; and (4) whether the Provost's decision was arbitrary or capricious.

Section 3. Appeal Guidance. The Union will be responsible for providing all bargaining unit faculty members denied tenure or promotion with information about the appeals process and providing appropriate guidance through the process. Accordingly, the Union shall be notified of a denial of tenure or promotion no later than 5 days after the bargaining unit faculty member has been notified.

Section 3 4. Access to Promotion and/or Tenure File. The bargaining unit faculty member may review, **at any time**, that portion of the promotion and/or tenure file which is open. In addition, the bargaining unit faculty member may review, **at any time**, a redacted copy of the closed portion of the file **that has been redacted solely to protect the confidentiality of sources**. ~~If simple redaction would not guarantee the confidentiality of the sources of the documents in accordance with the bargaining unit faculty member's signed waiver statement, such documents may be replaced with substantive summaries.~~ Requests for access to the promotion and/or tenure file must be submitted by the bargaining unit faculty member in writing to the Office of Academic Affairs, who will provide the file to the bargaining unit faculty member for review within ~~21~~ **5** days of the receipt of the request.

Section 4 5. Election by Faculty Member. ~~If a bargaining unit faculty member may has elected either to pursue his or her constitutional, statutory, or common law rights with regard to a denial of tenure or promotion or seek appeal under this Article, the election to pursue such statutory or common law rights shall preclude the filing of an appeal under this Article regarding the subject denial. The election to file an appeal under this Article shall constitute a release and waiver by the bargaining unit faculty member of his or her constitutional, statutory and common law claims with regard to the subject denial.~~

Appeal of Tenure or Promotion Denial Where Such Notice Results in Terminal Appointment.

Section 5 6. Initiating an Appeal. A bargaining unit faculty member who is denied tenure or promotion and receives a terminal appointment may seek review of the decision by ~~providing~~ **sending** a written statement of appeal to the Provost no later than 90 days following receipt of the written decision denying tenure or promotion. A decision denying tenure or promotion is deemed received on the day sent to the official uoregon.edu email address of the bargaining unit faculty member.

To be considered, the appeal statement must be signed and dated and must include the following:

- the ground(s) for appeal being alleged;
- ~~all~~ arguments and supporting evidence the bargaining unit faculty member wishes to be considered;
- proposed resolution; and
- whether a formal or informal process is requested.

The bargaining unit faculty member may elect to have the appeal considered either informally or formally, but not both. In selecting the informal process, the bargaining unit member waives the right to a formal hearing. In selecting the formal process the bargaining unit member waives the right to use the informal process.

Section 6 7. Provost’s Response to Appeal. Within 30 days of the receipt of the appeal, the Provost or designee shall prepare a written response and forward the appeal, together with his or her response, to the Chair of the University Promotion and Tenure Review Appeal Committee (PTRAC).

Section 7 8. Informal Process: Review of Written Materials by PTRAC. The PTRAC will consider the appeal **solely** on the basis of the written materials, consisting of the complete and unredacted tenure file, the bargaining unit faculty member’s statement of appeal, and the **written** response from the Provost. The PTRAC will prepare a written report based upon the evidence and submit it to the Provost **and the bargaining unit faculty member** within 30 days of the receipt of the appeal, or within 30 days of the start of Fall term classes, if the appeal is received by the PTRAC between May 1 and the start of Fall term. Should the PTRAC conclude that any of the grounds for appeal set forth in Section 2 of this Article are present, it shall so advise the Provost.

Section 8 9. Formal Process: Review by and Hearing before PTRAC. In addition to a review of the written materials as described in Section 7, the PTRAC ~~may~~ **shall** conduct a hearing, the purpose of which is for members of the PTRAC to ask questions of the Provost or designee, ~~and~~ the bargaining unit faculty member, **and any witnesses**. The bargaining unit faculty member and the Provost or designee will be given at least five days’ notice of the time and place for the hearing. The bargaining unit faculty

1 member ~~and his or her representative~~, **the bargaining unit member’s representative**
 2 **and/or legal counsel**, the Provost or designee and his or her representative, the
 3 University’s legal counsel, ~~and~~ staff to the PTRAC, **and any witnesses** may be present
 4 at the hearing. ~~The representatives shall be observers only.~~ The bargaining unit
 5 faculty member and the Provost or designee are responsible for any expenses incurred
 6 in having a representative present.

8 **The bargaining unit faculty member has the right to have the hearing open to the public.**
 9 **Should the bargaining unit faculty member choose to have a closed hearing,** ~~the~~
 10 hearing shall be closed to all except the PTRAC, the bargaining unit faculty member, **the**
 11 **bargaining unit member’s representative and/or legal counsel**, the Provost or designee
 12 **and his or her representative**, ~~their representatives~~, the University’s legal counsel, ~~and~~
 13 staff to the PTRAC, **and any witnesses**. The deliberations of the committee shall be
 14 closed to all, including the bargaining unit faculty member and the Provost or designee,
 15 except for the ~~University’s legal counsel and~~ staff to the PTRAC.

17 **The hearing shall be recorded.** The bargaining unit faculty member shall have access to
 18 the ~~redacted record of the appeal (as it exists at any given time) and to~~ **full** recordings
 19 of the hearing. Neither the committee nor the University shall have any obligation to
 20 provide a transcript of the recording.

22 The PTRAC will prepare a written report based upon the evidence and submit it to the
 23 Provost **and the bargaining unit faculty member** within 15 days of the ~~receipt of the~~
 24 hearing. ~~The committee will also provide a copy of its report to the bargaining unit~~
 25 ~~faculty member.~~

27 **Section 9 10. Decision by the Provost.** The Provost will consider the report of the
 28 PTRAC, **through either the informal or formal process**, and notify the bargaining unit
 29 faculty member in writing of his or her decision on appeal within 21 days of the
 30 receipt of the PTRAC’s report.

32 **Section 10 11. Final Appeal to the President.** If the bargaining unit faculty member
 33 disagrees with the Provost’s decision on appeal, the faculty member may appeal in
 34 writing to the President of the University within 10 days of the receipt of the Provost’s
 35 written decision. The President will notify the bargaining unit faculty member in
 36 writing of his or her decision within 21 days of receipt of the written appeal. The
 37 President’s decision is final and binding and is not subject to grievance, arbitration or
 38 further appeal.

40 **Section 11 12. Timelines.** The bargaining unit faculty member and the PTRAC may
 41 agree in writing to an extension of the response time of the PTRAC. The bargaining
 42 unit member and the Provost or designee may agree in writing to an extension of the
 43 initial appeal deadline or the response time of the Provost or designee. The bargaining
 44 unit member and the President or designee may agree in writing to an extension of the
 45 appeal deadline to the President or the response time of the President.

1 “Days” means calendar days.
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3 **Appeal of Promotion Not Resulting in a Terminal Appointment**
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5 **Section 12 13. Avenue of Appeal.** A bargaining unit faculty member who is denied
6 promotion that does not result in a terminal appointment may file a grievance under
7 Article 22, Grievance Procedure, at Step 3, based only on the grounds described in
8 Section 2 of this Article. The grievance must be filed no later than 90 days from the
9 receipt of the decision denying promotion. The grievance will be heard by the Provost
10 or designee.
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12 **Section 14. Grievance Committee.** As part of the grievance process, the Provost or
13 designee will appoint a committee of three faculty members at or above the rank to
14 which the bargaining unit faculty member seeks to be promoted. At least one of the
15 faculty members shall be appointed from a list of nominees furnished by the Union,
16 and at least one of the committee members will be a bargaining unit faculty member.
17 **The bargaining unit faculty member has the prerogative of striking one committee**
18 **member and requesting a replacement member to be chosen by the Provost.** The
19 committee will review the promotion file and make a written report to the Provost as to
20 whether any of the grounds for appeal set forth in Section 2 of this Article are present.
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22 **Section 15. Decision by the Provost.** **The Provost will consider the report of the**
23 **committee and notify the bargaining unit faculty member in writing of his or her**
24 **decision on appeal within 21 days of the receipt of the committee’s report.**
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26 **Section 16. Final Appeal to the President.** If the Provost upholds the promotion
27 denial, the bargaining unit faculty member may appeal to the President or designee in
28 writing, within 10 days of the issuance of the Provost’s decision. The President will
29 review the file materials, including the committee report, and issue a written decision to
30 the bargaining unit faculty member within 21 days of receipt of the written appeal. The
31 President’s decision is final and binding and is not subject to further grievance,
32 arbitration or further appeal.