

## **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 (3) whether the Provost's decision was arbitrary or capricious.

**Section 3. Access to Promotion and/or Tenure File.** The bargaining unit faculty member may review that portion of the promotion and/or tenure file which is open. In addition, the bargaining unit faculty member may review a redacted copy of the closed portion of the file. 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 days of the receipt of the request.

**Section 4. Election by Faculty Member.** A bargaining unit faculty member may elect 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. 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 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. 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. Informal Process: Review of Written Materials by PTRAC.** The PTRAC will consider the appeal 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 response from the Provost. The PTRAC will prepare a written report based upon the evidence and submit it to the Provost 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. 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 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. 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 member and his or her representative, the Provost or designee and his or her representative, the University's legal counsel, and staff to the PTRAC may be present at the hearing. The representatives shall be observers only. The bargaining unit faculty member and the Provost or designee are responsible for any expenses incurred in having a representative present.

The hearing shall be closed to all except the PTRAC, the bargaining unit faculty member, the Provost or designee, their representatives, the University's legal counsel, and staff to the PTRAC. The deliberations of the committee shall be closed to all, including the bargaining unit faculty member and the Provost or designee, except for the University's legal counsel and staff to the PTRAC.

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

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

**Section 9. Decision by the Provost.** The Provost will consider the report of the PTRAC and notify the bargaining unit faculty member in writing of his or her decision on appeal within 21 days of the receipt of the PTRAC's report.

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

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

"Days" means calendar days.

### **Appeal of Promotion Not Resulting in a Terminal Appointment**

**Section 12. Avenue of Appeal.** A bargaining unit faculty member who is denied promotion that does not result in a terminal appointment may file a grievance under Article 22, Grievance Procedure, at Step 3, based only on the grounds described in Section 2 of this Article. The grievance must be filed no later than 90 days from the receipt of the decision denying promotion. The grievance will be heard by the Provost or designee. As part of the grievance process, the Provost or designee will appoint a committee of three faculty members at or above the rank to which the bargaining unit faculty member seeks to be promoted. At least one of the faculty members shall be appointed from a list of nominees furnished by the Union, and at least one of the committee members will be a bargaining unit faculty member. The committee will review the promotion file and make a written report to the Provost as to whether any of the grounds for appeal set forth in Section 2 of this Article are present.

If the Provost upholds the promotion denial, the bargaining unit faculty member may appeal to the President or designee in writing, within 10 days of the issuance of the

Provost's decision. The President will review the file materials, including the committee report, and issue a written decision to the bargaining unit faculty member within 21 days of receipt of the written appeal. The President's decision is final and binding and is not subject to further grievance, arbitration or further appeal.