

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 and Academic Affairs will jointly be responsible for providing all bargaining unit faculty members denied tenure or promotion with information about the appeals process. Accordingly, bargaining unit faculty members, in the written decision denying tenure or promotion, shall be notified of their right to seek counsel from the Union. Upon a bargaining unit faculty member's request, the Union shall provide a representative to provide appropriate guidance through the appeal process.

Section 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 copy of the closed portion of the file that has been redacted in accordance with the waiver status to protect personally identifiable information.

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 as soon as possible, but no later than five days after the receipt of the request. If, for any reason, the Office of Academic Affairs provides the file to the bargaining unit faculty member later than five days after the receipt of the request, the timeline to file an appeal of tenure or promotion denial shall be suspended until the file is provided to the bargaining unit faculty member.

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 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;
- designation of a union representative (if desired); 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. The bargaining unit faculty member may make a peremptory challenge of one member of the PTRAC. That member shall be replaced by one of three tenured candidates selected to serve pro tem by the appellant from a list proposed by the Faculty Advisory Council.

Section 8. Informal Process: Review of Written Materials by the 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 9. Formal Process: Review by and Hearing before the PTRAC. In addition to a review of the written materials as described in Section 7, the PTRAC shall conduct a hearing, the purpose of which is for members of the PTRAC to ask questions of the Provost or designee, the bargaining unit faculty member, and any witnesses called by the PTRAC. The PTRAC will hold a hearing within 60 days of the receipt of the appeal, or within 30 days of the start of the Fall term classes, whichever is later. 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, the bargaining unit member's representative and/or legal counsel, the Provost or designee and his or her representative, the University's legal counsel, staff to the PTRAC, and any witnesses called by the PTRAC may be present at the hearing. The

representatives shall be observers only, unless asked to participate by the PTRAC. The bargaining unit faculty member and the Provost or designee are responsible for any expenses incurred in having a representative present.

Though it is expected that all information relevant to the appeal is included in the initial appeal packet, newly discovered materials or materials otherwise unavailable to the bargaining unit faculty member may be submitted to the PTRAC and the Provost or designee at least five days prior to the hearing. No oral testimony by witnesses will be allowed at the hearing unless called for by the PTRAC as part of its investigatory role.

The bargaining unit faculty member has the right to have the hearing open to the public. Should the bargaining unit faculty member choose to have a closed hearing, the hearing shall be closed to all except the PTRAC, the bargaining unit faculty member, the bargaining unit faculty member's union representative and/or legal counsel, the Provost or designee and his or her representative, the University's legal counsel, staff to the PTRAC, and any witnesses called by the PTRAC.

In its investigatory role, the PTRAC has the sole discretion to call witnesses, though the bargaining unit member may inform the PTRAC of individuals who may have relevant information.

The deliberations of the committee shall be closed to all, including the bargaining unit faculty member and the Provost or designee, except for the staff to the PTRAC. Should the PTRAC need procedural advice from the Office of General Counsel, the University's Office of General Counsel can be called into the deliberations of the committee by the PTRAC.

The hearing shall be recorded. The bargaining unit faculty member shall have access to the appropriately 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 and the bargaining unit member within 15 days of the conclusion of the hearing.

Section 10. Decision by the Provost. The Provost will consider the report of the PTRAC, through either the informal or formal process, 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 11. 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 12. 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 13. 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.

Section 14. Grievance Committee. 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 bargaining unit faculty member has the prerogative of striking one committee member and requesting a replacement member to be chosen by the Provost. 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.

Section 15. Decision by the Provost. The Provost will consider the report of the committee and notify the bargaining unit faculty member in writing of his or her decision on appeal within 21 days of the receipt of the committee’s report.

Section 16. Final Appeal to the President. 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.