

APPENDIX 4.

PROCEDURES FOR APPEALING A DECISION NOT TO CONDUCT A TENURE REVIEW AT THE END OF THE ORDINARY TENURE PROBATION PERIOD ON THE BASIS OF FACTORS OTHER THAN THE CANDIDATE'S MERITS

NOTE: These procedures do not apply to decisions not to conduct an early tenure review. Such decisions, as opposed to a denial of tenure following a review, are not appealable whether initiated by the department or at the request of the faculty member.

I. RIGHTS OF FACULTY MEMBERS WHO ARE NOT REVIEWED FOR TENURE

A. Right to Appeal

Any faculty member in probationary tenure status who is at the appropriate point in his or her career to be reviewed for tenure, and who is neither reappointed nor reviewed for tenure may appeal that decision at either the departmental or the college level, and at the University level. The candidate shall be informed of this right, and the procedures for exercising it, when he or she is first notified in writing of the decision not to initiate a tenure review.

B. Extension of Appointments

For the purpose of determining the start of the terminal appointment of a faculty member who is not reviewed for tenure, the date of notification shall be considered to be the date of written notification of the first negative decision, and shall be unaffected by subsequent appeals. Notice of a terminal appointment must be given in writing to an individual, which allows that individual to serve two full academic terms following receipt of the first written notice of the negative decision. An academic term [i.e. semester] is the period of time beginning two working days before registration and ending on the last day of final exams. For those notified of nonrenewal before the start of the final year of appointment, the final year fulfills the requirement of two terms of notice. However, if an appeal of that decision within the University is in progress at the end of the terminal appointment, the appointment shall be extended until the appeal is complete.

Should any party involved in an appeal find that he or she is unable to comply with one or more of the deadlines specified in this document, that party may, prior to the lapsing of the deadline, apply to the Dean of the Faculty for an extension. If the Dean finds the reasons given for an extension sufficient to justify it, the extension shall be granted and all involved parties notified. All extensions shall be for a specified period of time. In cases where an extension is granted at the request of the appellant, the appellant's appointment shall not be extended under I.B. beyond the duration of the normal term of an appeal without the consent of the Provost.

C. Role of the Ombudsman

Faculty members shall retain full access to the office of the Ombudsman prior to and in the course of the appeals process.

D. Waiver or Loss of Appeal Rights

The candidate may waive the right to written explanations from the department chair and the dean, or may decline to pursue the appeals procedure at any stage. However, the appeal procedures herein described must be followed sequentially. Waiver of any stage of the appeals procedure shall cause the candidate's right to proceed further to be forfeited. Thus, failure to request reconsideration of a negative departmental decision (see Section II) will constitute waiver of further appeal rights.

II. APPEAL AT THE DEPARTMENTAL LEVEL

A. Reconsideration by the Department

Any faculty member for whom a departmental tenure review is not initiated and who is eligible to appeal that decision (see I.A.) has a right to have the decision reconsidered by the department before it is forwarded to the dean.

1. Within one week after being notified of the departmental decision not to initiate a tenure review, the candidate may request a written statement of the reasons for that decision. If such a statement is requested, it shall be provided to the candidate by the chair within two weeks of the departmental decision. The statement shall respect the limits set by the need to preserve confidentiality.
2. If the candidate wishes to have the departmental decision reconsidered, he or she shall respond to the chair in writing within three weeks of receipt of the chair's statement of reasons. The candidate may address any issue or present any evidence that he or she deems appropriate.
3. The eligible voting faculty shall consider the chair's statement and the candidate's response, and a second vote shall be taken. The final departmental decision and the reasons for it shall be provided in writing to the candidate within three weeks of receipt of the candidate's response.

[Note: In those schools and colleges without a departmental structure, "department" shall refer to those faculty who make the decision not to initiate a tenure review, and "chair" shall refer to the appropriate faculty member.]

III. APPEAL AT THE COLLEGE LEVEL

If a dean makes a preliminary decision not to initiate a tenure review, he or she shall inform the candidate and the department in writing of the reasons for that decision. For a two-week period following receipt of the dean's statement, the candidate and/or the department shall have the opportunity to respond to the dean, prior to the dean's final decision.

IV. APPEAL AT THE UNIVERSITY LEVEL

A. Filing an Appeal

If a dean or a department makes a final decision not to initiate a tenure review, the candidate may appeal that decision at the University level. The appeal must be filed in writing with the dean of the college and the Dean of the Faculty within two weeks of notification of the dean's decision and must state the specific reasons for the appeal. The reasons must be based on one or more of the grounds listed in the following Section (IV.B.).

B. Grounds for an Appeal

The grounds for an appeal shall be limited to one or more of the following:

1. The stated reasons for the decision were contrary to the established regulations of the college or the University.
2. The stated reasons for the decision are unsupported by the evidence presented.

C. Selection of an Appeals Committee

An appeal shall be heard by an Appeals Committee composed of three tenured University faculty members. Within two weeks after the receipt of the appeal, the Dean of the Faculty shall be responsible for forming and charging an Appeals Committee to hear the appeal. Members of the Appeals Committee shall be selected in the following manner:

1. The appellant and the dean of the college shall each nominate two members of the University Appeals Panel. [Note: In cases where the appeal follows a departmental decision not to initiate a tenure review, the dean of the college shall consult with the department before making his or her nominations.] The appellant's nominees shall choose one of the dean's nominees, and the dean's nominees shall choose one of the appellant's nominees. The two so chosen shall then choose a third tenured University Faculty member, who shall chair the committee. The chair shall be from the college of the appellant, except in those colleges where all tenured faculty members participate in each tenure decision.
2. Any person nominated who has previously participated in the decision in question or feels unable to render an unbiased judgment or perceives a conflict of interest shall disqualify him or herself. However, in those colleges where all tenured faculty have participated in the decision, the automatic disqualification of that college's Appeals Committee members shall be waived if that is agreeable to both parties.

D. Principles and Restrictions to be Observed by the Appeals Committee

In its deliberations and findings, the Appeals Committee shall respect the following principles and restrictions:

1. The Committee's review shall be limited to determining whether any one of the two possible grounds for appeal (listed in Section IV.B.) has been established.
2. The dean of the college and the department have the responsibility of setting the priorities of the department and the college. Therefore, the Committee shall avoid substituting its judgment in those matters for that of the dean or the department.

E. Appeals Committee Procedures

The following procedures shall govern the activity of the Appeals Committee:

1. The Committee shall have access to the file of the appellant. The Committee shall scrupulously protect the confidentiality of all documents and testimony.
2. In addition to examining written material, the Committee may hear the views of the principal parties and others it deems appropriate.
3. The Committee shall not be required to keep a transcript of its proceedings. The Committee shall maintain a record of the names of the persons interviewed and the titles of the documents considered.

F. Findings by the Appeals Committee

1. The Committee shall report in writing within five weeks after being formed. The report shall be furnished to both parties. It shall give its findings, the reasons for those findings, and its recommendations. These findings should be directly responsive to the grounds for appeal listed in Section IV.B. Before issuing the report, the Committee shall circulate a draft to both parties and invite responses.
2. The report of the committee shall also be sent to the Provost for final action. Within four weeks, the decision of the Provost and the reasons for it shall be given in writing to both principal parties, and a copy shall be sent to the Committee. The decision of the Provost shall not be subject to further appeal within the University.

V. DISPOSITION OF RECORDS AND FILES

A. The Dean of the Faculty shall maintain copies of all reports of Appeals Committee and shall maintain records of all subsequent actions within the University that occur in these cases. At the completion of an appeal, all case files shall be returned to the dean of the college.

B. On completion of the appeal, the chairperson of the Appeals Committee shall provide to the Dean of the Faculty a letter describing any difficulties encountered in applying or interpreting these procedures. The Dean of the Faculty shall maintain a file

of these letters, a digest of their central points, and other documents useful to subsequent appeals committees or to anybody authorized by the FCR to evaluate these procedures.

Adopted by the Faculty Council of Representatives, May 13, 1981, Records, pp. 5342-54C; Executive Committee, Board of Trustees, May 30, 1981, Records, p. 10,808, Appendix D, Records, pp. 10,846-50; Board of Trustees, May 30, 1981, Records, p. 10,856; Faculty Council of Representatives, October 10, 1984, Records, pp. 5923-39C (with editorial and stylistic changes incorporated by the Dean of Faculty and University Counsel); Board of Trustees, January 25, 1985, Records, p. 357, Appendix A, Records, pp. 385-88. Amended by the Faculty Senate, March 13, 2002, Records, pp. 9393-9394S, Appendix 2; Board of Trustees, June 20, 2002.

