

March 6, 2024

Appealing a Denial of Tenure, Promotion, or Reappointment

X.1. Scope of article

X.1.1. Any bargaining unit member may challenge a denial of tenure, promotion, or reappointment in violation of any provision of this Agreement through the procedures set forth in Article [Grievance and Arbitration]. In a case where the denial was a result of the University's failure to uphold the standard of consideration set forth in Section 2 of this Article, the bargaining unit member may, at their option, pursue the procedures set forth in this Article.

X.1.2. Unless a state of financial exigency has been determined to exist as provided in Article [Financial Exigency], non-reappointment of a probationary tenure-track faculty member may only occur following a third-year review. Besides the third year, reappointment of tenure-track faculty members following each other year of the probationary period is mandatory. This includes a terminal year for a candidate who is denied tenure.

X.2. Standard of consideration of candidate's academic record

X.2.1. In evaluating a candidate's academic record for tenure, promotion, or reappointment, the parties recognize the importance of consistently applying the policies of the University (including the division and department) and of respecting professional and disciplinary norms and expectations in matters that are not clearly and explicitly addressed by these policies. The University's judgment of a candidate must be based on equitable consideration of the candidate's academic record in accordance with these policies, norms, and expectations.

X.2.2. In cases of tenure and/or promotion, the candidate's academic record is presumed to be represented by the candidate's dossier and supporting materials, including letters from external reviewers.

- 37 X.2.3. In the third-year review of a probationary tenure-track faculty member, the
 38 candidate is judged as in Section 2.1, but on progress toward meeting the
 39 standards for tenure. The candidate shall be reappointed unless there is a
 40 substantial deficit in this progress that is very unlikely to be rectified in the
 41 remainder of the probationary period. Any factors beyond the candidate's control
 42 that slowed this progress shall be considered as mitigating circumstances.
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- 44 X.3. Appeal to Faculty Rights and Responsibilities Committee
- 45 X.3.1. A candidate who has been denied tenure, promotion, or reappointment and
 46 believes that the standard of consideration expressed in Section 2 of this article
 47 has been violated may appeal the denial to the Faculty Rights and Responsibilities
 48 committee.
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- 50 X.3.2. The candidate is recommended to consult with a representative of the Union and
 51 exhaust any applicable reconsideration procedures before exercising this option.
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- 53 X.3.3. The candidate's written notice of appeal shall state the basis for the appeal, and
 54 should be addressed to the Committee on Faculty Rights and Responsibilities and
 55 delivered to the Office of the Provost within fifteen (15) working days of the
 56 candidate's notification of the result of the last consideration or reconsideration
 57 that resulted in the denial.
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- 59 X.3.4. The candidate may request from the Provost an extension of the time limit for
 60 bringing an appeal, and such request shall not be unreasonably denied.
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- 62 X.3.5. If such an appeal is made, the time limit for bringing a grievance under Article
 63 [Grievance and Arbitration] is suspended.
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- 65 X.4. Investigation and report of Faculty Rights and Responsibilities Committee
- 66 X.4.1. The University shall permit the Committee to investigate the case according to the
 67 Committee's established procedures.
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- 69 X.4.2. Unless the appeal is withdrawn by the candidate prior to completion of the
 70 investigation, the Committee will write a report recording its findings of fact and
 71 describing any violations of the standard of consideration expressed in Section 2
 72 of this article. The Committee will not make a judgment on the merits of the
 73 candidate's academic record except insofar as such a judgment may be implied in
 74 applying this standard.

- 75
76 X.4.3. The Committee will send its report to the President, the candidate, and the Union.
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- 78 X.5. President's response
- 79 X.5.1. Within ten (10) calendar days of receipt of the report of the Faculty Rights and
80 Responsibilities Committee, the President shall take one of the following actions,
81 with notification to the candidate and to the Union:
- 82 X.5.1.1. Recommend the candidate's tenure and/or promotion to the board of
83 trustees,
- 84 X.5.1.2. Issue a directive that the candidate be considered for tenure and/or
85 promotion the following year, including specific instructions to
86 committees and/or individuals to ensure proper consideration,
- 87 X.5.1.3. Reappoint the candidate for the expected term appropriate to their rank, or
88 X.5.1.4. Issue a written response addressing the committee's findings.
- 89
- 90 X.5.2. In the event of a directive by the President that the candidate be considered for
91 tenure and/or promotion the following year, a previous positive recommendation
92 by a committee or individual may be reversed by the committee or individual only
93 on the basis of deteriorating performance, or the discovery of evidence not
94 previously available, as it relates to the criteria applicable at the time the original
95 recommendation was made.
96
- 97 X.6. Filing a grievance
- 98 X.6.1. If the case was appealed to the Faculty Rights and Responsibilities Committee
99 and the candidate is not satisfied by the President's subsequent disposition of the
100 case, the Union may submit the matter to arbitration as described in Article
101 [Grievance and Arbitration] within twenty (20) calendar days of notification of
102 the President's action or response. The arbitrator should duly consider the
103 Committee's report and defer to its findings on the matter of any violations of the
104 standard of consideration in Section 2, unless those findings are against the
105 greater weight of the evidence.
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- 107 X.6.2. If the case was not appealed to the Faculty Rights and Responsibilities
108 Committee, the candidate may, with the Union's approval, initiate a grievance at
109 Step Three of the procedure described in Article [Grievance and Arbitration].