

# UNIVERSITY OF OREGON PROPOSAL (February 1, 2024)

## Document Key

UA new | ~~UA deletion~~ | UO new | ~~UO deletion~~ | Accepted | ~~Deleted~~ | Status Quo | Restored

## ARTICLE 21. REVIEW DECISION APPEALS

**Preamble.** Days means calendar days, unless otherwise specified (Article 46).

**Section 1. Scope of Article.** This Article provides the only process through which a bargaining unit faculty member may appeal a denial of promotion in rank, denial of tenure, or a decision to place a tenure-track faculty member on a terminal contract following a mid-term review. No other grievance or appeal process shall apply to such appeals, except for alleged prohibited discrimination or procedural violations, which shall be governed by Articles 22 and 23 of this Agreement. Decisions related to development plans, salary increases, and performance reviews are not subject to review under this Article. Only the affected bargaining unit faculty member may initiate an appeal under this Article.

**Section 2. Grounds for Appeal.** A reviewable decision of the Provost may be appealed only on the following grounds: (1) whether the Provost was presented with errors of fact that materially affected their decision; (2) whether the Provost disregarded or overlooked material evidence that was provided to them; (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 Office of the Provost will jointly be responsible for providing all bargaining unit faculty members who have received a reviewable decision under Section 1 with information about the appeals process. Bargaining unit faculty members shall be notified of their right to seek counsel from the Union in the written reviewable decision notice. Upon a bargaining unit faculty member's request, the Union shall provide a representative to provide appropriate guidance through the appeal process. The faculty member may have a union representative present at formal hearings; however, the union representative cannot speak for the bargaining unit faculty member. The union representative may, however, ask clarifying questions.

**Section 4. Review File Access.** The bargaining unit faculty member may review, at any time in the appeals process, that portion of the review file which is open and a copy of the closed portion, which will be redacted in accordance with the waiver status to protect personally identifiable information.

Requests for access to the review file must be submitted by the bargaining unit faculty member in writing to the Office of the Provost, which will provide the file to the bargaining unit faculty member for review as soon as possible, but no later than ~~15 five~~ business days after the receipt of the request. If, for any reason, the Office of the Provost provides the file to the bargaining unit faculty member later than ~~15 five~~ business 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.

**Section 5. Tenure Track Review Appeals Committee (TTRAC).** The purpose of the TTRAC is to consider appeals under this Article. The TTRAC is a standing committee consisting of three full professors who have served at least one term on a college-level tenure and promotion review committee, as a member of the University Faculty Personnel Committee, as a department or unit head, or equivalent experience as determined by the Office of the Provost.

- a. **Scope of Review.** The TTRAC's review is focused on the procedural elements of the review decision relevant to the grounds for appeal. The TTRAC is not charged with re-reviewing the case or evaluating any of the academic judgments made during the original review of the case.
- b. **Membership.** The three standing members and four alternates will be mutually agreed to by the parties. Alternate members will fill in vacancies created by peremptory challenges and recusals. When committee members are required to carry out their service during the summer months, they will receive a stipend of \$1,000 (unless they are on a 12-month appointment). The parties will work together to ensure that the committee has full membership, and the Office of the Provost will provide staff support for the committee's operation.
- c. **Investigatory Role.** In its investigatory role, the TTRAC has the sole discretion to request additional documents and call witnesses, though the bargaining unit member may inform the TTRAC of individuals who may have relevant information. No oral testimony by witnesses will be allowed at the hearing unless called for by the TTRAC as part of its investigatory role.
- d. **Deliberations.** 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 TTRAC. Should the TTRAC 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 TTRAC.

## **Section 6. Appeals Process**

- **Step 1. Initiating an Appeal.** A bargaining unit faculty member may initiate an appeal of a reviewable decision by providing a written statement of appeal to the Provost within 30 days of the review decision being sent to the faculty member's official @uoregon.edu email address. To be considered, the appeal statement must be signed and dated and must include the following:
  - a. the ground(s) from Section 2 for appeal being alleged;
  - b. all arguments and supporting evidence the bargaining unit faculty member wishes to be considered;
  - c. proposed resolution;
  - d. designation of a union representative (if desired);
  - e. 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, [and they must specify if the formal hearing shall be closed or open \(see Step 5\)](#).

- **Step 2. Provost's Response to Appeal.** Within 30 calendar days of the receipt of the appeal, the Provost or designee shall prepare a written response and forward the appeal, together with their response, to the Chair of TTRAC and the bargaining unit faculty member. The Provost may also choose to change the initial decision.
- **Step 3. Amendments to the Appeal.** A bargaining unit faculty member may amend their appeal arguments within 30 days of receiving the Provost response. 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 TTRAC and the Provost or designee at least five calendar days prior to the hearing or informal review meeting. A bargaining unit faculty member may also choose to withdraw their appeal, accepting the decision of the Provost.
- **Step 4. Peremptory Challenge and Recusal.** The bargaining unit faculty member may make a peremptory challenge of one member of the TTRAC [within 10 days of being made aware of the committee membership](#). Standing committee members may also need to recuse themselves. Vacancies will be filled by members on the alternate list, with final committee composition being mutually agreed upon by the Union and the University.
- **Step 5. TTRAC Review.** TTRAC considerations will be either informal or formal.
  - a. **Informal Written Materials Review:** The TTRAC 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 TTRAC may request additional documents consistent with Section 5.c](#). The TTRAC will hold an informal review meeting within 60 days of the receipt of the appeal [in Step 2 or, if applicable, amendments to the appeal in Step 3](#).
  - b. **Formal Hearing:** In addition to a review of the written materials as described in Step 5.a., the TTRAC shall conduct a hearing, the purpose of which is for members of the TTRAC to ask questions of the Provost or designee, the bargaining unit faculty member, and any witnesses called by the TTRAC. The TTRAC will hold a hearing within 60 days of the receipt of the appeal [in Step 2 or, if applicable, amendments to the appeal in Step 3](#). 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 has the right to have [either an open or closed hearing](#) ~~the hearing open to the public~~.

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- i. **Closed Formal Hearing.** Should the bargaining unit faculty member choose to have a closed hearing, the hearing shall be closed to all except the TTRAC, the bargaining unit faculty member, the bargaining unit faculty member's union representative and/or legal counsel, the Provost or designee and their representative, the University's legal counsel, staff to the TTRAC, and any witnesses called by the TTRAC. The representatives shall be observers only, unless asked to participate by the TTRAC. The bargaining unit faculty member and the Provost or designee are each responsible for any expenses incurred in having their representative present.
  - ii. **Open Formal Hearing.** In addition to those allowed in a closed hearing, should the bargaining unit faculty member choose to have an open hearing, members of the public may attend; however, they shall be observers only.

154 The hearing shall be recorded. The bargaining unit faculty member shall have access to

155 the appropriately redacted record of the appeal (as it exists at any given time) and to

156 recordings of the hearing. Neither the committee nor the University shall have any

157 obligation to provide a transcript of the recording.

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- **Step 6. TTRAC Recommendation.** The TTRAC will prepare a written report based upon an impartial evaluation of the evidence. The report will conclude if any of the grounds for the appeals set forth in Section 2 are present and whether other action is recommended in light of their findings. The TTRAC will submit the report to the Office of the Provost and the bargaining unit faculty member within 15 days of the hearing or informal review meeting.
  - **Step 7. Decision by the Provost.** The Provost will consider the report of the TTRAC and notify the bargaining unit faculty member in writing of their decision and rationale on the appeal within 21 calendar days of receiving the TTRAC report. For decisions that cannot be appealed under Step 8, the Provost's decision is final and binding and is not subject to grievance, arbitration, or further appeal.
  - **Step 8. Appeals to the President.** In decisions to deny tenure and/or promotion to a bargaining unit faculty member in the Tenure-Track and Tenured classification, the faculty member will have 10 days to appeal the Provost's Step 7 decision in writing to the President.
  - **Step 9. Decision by the President.** The President will consider the review file materials, including the report of the TTRAC and the Provost's Step 7 decision, and notify the bargaining unit faculty member in writing of their decision on the appeal within 21 calendar days of the receipt of the Step 8 appeal. The President's decision is final and binding and is not subject to grievance, arbitration, or further appeal.

183 **Section 7. Timelines.** The bargaining unit faculty member and the TTRAC may agree in  
184 writing to an extension of the response time of the TTRAC. The bargaining unit member and  
185 the Provost or designee may agree in writing to an extension of the initial appeal deadline or the  
186 response time of the Provost or designee. The bargaining unit member and the President or  
187 designee may agree in writing to an extension of the appeal deadline to the President or the  
188 response time of the President.