

1 UNIVERSITY PROPOSAL

2 8-29-13

3
4 ARTICLE 14

5 APPEAL FROM THE DENIAL OF TENURE OR PROMOTION

6
7 **Section 1. Scope of Article.** This Article provides the only process through which a
8 bargaining unit faculty member may appeal a decision of the Provost to deny tenure or
9 promotion. No other grievance or appeal process shall apply.

10
11 **Section 2. Grounds for Appeal.** A decision of the Provost to deny tenure or promotion
12 may be appealed only on the following grounds: (1) whether the Provost was presented
13 with errors of fact that materially affected his or her decision; (2) whether the Provost
14 disregarded or overlooked material evidence that was provided to him or her; and (3)
15 whether the Provost's decision was arbitrary or capricious.

16
17 **Section 3. Access to Promotion and/or Tenure File.** The bargaining unit faculty
18 member may review that portion of the promotion and/or tenure file which is open. In
19 addition, the bargaining unit faculty member may review a redacted copy of the closed
20 portion of the file. If simple redaction would not guarantee the confidentiality of the
21 sources of the documents in accordance with the bargaining unit faculty member's signed
22 waiver statement, such documents may be replaced with substantive summaries.
23 Requests for access to the promotion and/or tenure file must be submitted by the
24 bargaining unit faculty member in writing to the Office of Academic Affairs, who will
25 provide the file to the bargaining unit faculty member for review within 21 days of the
26 receipt of the request.

27
28 **Section 4. Election by Faculty Member.** A bargaining unit faculty member may elect
29 either to pursue his or her constitutional, statutory or common law rights with regard to a
30 denial of tenure or promotion or seek appeal under this Article. The election to pursue
31 such statutory or common law rights shall preclude the filing of an appeal under this
32 Article regarding the subject denial. The election to file an appeal under this Article shall
33 constitute a release and waiver by the bargaining unit faculty member of his or her
34 constitutional, statutory and common law claims with regard to the subject denial.

35
36 **Appeal of Tenure or Promotion Denial Where Such Notice Results in Terminal**
37 **Appointment.**

38
39 **Section 5. Initiating an Appeal.** A bargaining unit faculty member who is denied tenure
40 or promotion and receives a terminal appointment may seek review of the decision by
41 providing a written statement of appeal to the Provost no later 90 days following receipt
42 of the written decision denying tenure or promotion. A decision denying tenure or

1 promotion is deemed received on the day sent to the official uoregon.edu email address
2 of the bargaining unit faculty member.

3
4 To be considered, the appeal statement must be signed and dated and must include the
5 following:

6
7 (1) the ground(s) for appeal being alleged;

8
9 (2) all arguments and supporting evidence the bargaining unit faculty member wishes to
10 be considered;

11
12 (3) proposed resolution; and

13
14 (4) whether a formal or informal process is requested.

15
16 The bargaining unit faculty member may elect to have the appeal considered either
17 informally or formally, but not both. In selecting the informal process, the bargaining
18 unit member waives the right to a formal hearing. In selecting the formal process the
19 bargaining unit member waives the right to use the informal process.

20
21 **Section 6. Provost's Response to Appeal.** Within 30 days of the receipt of the appeal,
22 the Provost or designee shall prepare a written response and forward the appeal, together
23 with his or her response, to the Chair of the University Promotion and Tenure Review
24 Appeal Committee.

25
26 **Section 7. Informal Process: Review of Written Materials by PTRAC.** The
27 University Promotion and Tenure Review Appeal Committee (PTRAC) will consider the
28 appeal on the basis of the written materials, consisting of the complete and unredacted
29 tenure file, the bargaining unit faculty member's statement of appeal, and the response
30 from the Provost. The PTRAC will prepare a written report based upon the evidence
31 and submit it to the Provost within 30 days of the receipt of the appeal. Should the
32 PTRAC conclude that (1) the Provost was presented with errors of fact that materially
33 affected his or her decision; (2) that the Provost disregarded or overlooked material
34 evidence that was provided to him or her, or (3) that the Provost's decision was arbitrary
35 or capricious, it shall so advise the Provost.

36
37 **Section 8. Formal Process: Review by and Hearing before PTRAC.** In addition to a
38 review of the written materials as described in Section 7, the PTRAC may conduct a
39 hearing, the purpose of which is for members of the PTRAC to ask questions of the
40 Provost or designee and the bargaining unit faculty member. The bargaining unit faculty
41 member and the Provost or designee will be given at least five days' notice of the time
42 and place for the hearing. The bargaining unit faculty member and his or her
43 representative, the Provost or designee and his or her representative, the University's

1 legal counsel, and staff to the PTRAC may be present at the hearing. The representatives
2 shall be observers only. The bargaining unit faculty member and the Provost or designee
3 are responsible for any expenses incurred in having a representative present.
4

5 The hearing shall be closed to all except the PTRAC, the bargaining unit faculty member,
6 the Provost or designee, their representatives, the University's legal counsel, and staff to
7 the PTRAC. The deliberations of the committee shall be closed to all, including the
8 bargaining unit faculty member and the Provost or designee, except for the University's
9 legal counsel and staff to the PTRAC.
10

11 The bargaining unit faculty member shall have access to the redacted record of the appeal
12 (as it exists at any given time) and to recordings of the hearing. Neither the committee
13 nor the University shall have any obligation to provide a transcript of the recording.
14

15 The PTRAC will prepare a written report based upon the evidence and submit it to the
16 Provost within 15 days of the receipt of the hearing. The committee will also provide a
17 copy of its report to the bargaining unit faculty member.
18

19 **Section 9. Decision by the Provost.** The Provost will consider the report of the PTRAC
20 and notify the bargaining unit faculty member in writing of his or her decision on appeal
21 within 21 days of the receipt of the PTRAC's report.
22

23 **Section 10. Final Appeal to the President.** If the bargaining unit faculty member
24 disagrees with the Provost's decision on appeal, the faculty member may appeal in
25 writing to the President of the University within 10 days of the receipt of the Provost's
26 written decision. The President will notify the bargaining unit faculty member in writing
27 of his or her decision within 21 days of receipt of the written appeal. The President's
28 decision is final and binding and is not subject to grievance, arbitration or further appeal.
29

30 **Section 11. Timelines.** The bargaining unit faculty member and the PTRAC may agree
31 in writing to an extension of the response time of the PTRAC. The bargaining unit
32 member and the Provost or designee may agree in writing to an extension of the initial
33 appeal deadline or the response time of the Provost or designee. The bargaining unit
34 member and the President or designee may agree in writing to an extension of the appeal
35 deadline to the President or the response time of the President.
36

37 "Days" means calendar days.
38

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

40

41 **Section 13. Avenue of Appeal.** A bargaining unit faculty member who is denied
42 promotion that does not result in a terminal appointment may file a grievance under
43 Article 15, Grievance Procedure, at Step 3, based only on the grounds described in

1 Section 2 of this Article. The grievance will be heard by the Provost or designee. As part
2 of the grievance process, the Provost or designee will appoint a committee of three
3 faculty members at or above the rank to which the bargaining unit faculty member seeks
4 to be promoted. The committee will review the promotion file and make a written report
5 to the Provost as to (1) whether the Provost was presented with errors of fact that
6 materially affected his or her decision; (2) whether the Provost disregarded or
7 overlooked material evidence that was provided to him or her; and (3) whether the
8 decision was arbitrary or capricious.

9
10 If the Provost upholds the promotion denial, the bargaining unit faculty member may
11 appeal to the President or designee, who will review the file materials, including the
12 committee report, and issue a written decision to the bargaining unit faculty member
13 within 21 days of receipt of the written appeal. The President's decision is final and
14 binding and is not subject to further grievance, arbitration or further appeal.
15
16