

POLICY 9-5.3 REV 15

DATE OCTOBER 8, 2001

**SUBJECT: FACULTY REGULATIONS - Chapter V - Section 4
APPOINTMENTS, RETENTION, PROMOTION, AND TENURE**

SECTION 4. UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE

A. MEMBERSHIP. SEE FACULTY REGULATIONS, CHAPTER III, SECTION 4.A.(6).

B. DUTIES: STANDARDS. THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE SHALL DEVELOP AND IMPLEMENT PROCEDURES WITH WHICH IT WILL REVIEW AND APPROVE DEPARTMENT AND/OR COLLEGE RETENTION/PROMOTION/TENURE CRITERIA, AND THE APPLICATION OF THOSE CRITERIA TO RPT DECISIONS WITHIN A DEPARTMENT OR COLLEGE WITH DUE CONCERN TO THE UNIQUE CHARACTERISTICS OR REQUIREMENTS OF THE DISCIPLINE AND WITH THE OBJECTIVE OF IMPROVING THE STATURE OF THE UNIVERSITY. SUCH REVIEWS OF RPT CRITERIA WILL BE DONE IN CONJUNCTION WITH THE FACULTY AND ADMINISTRATORS OF THE DEPARTMENT/COLLEGE BEING REVIEWED. ANY DEPARTMENT OR COLLEGE MAY BE REVIEWED AT THE INITIATIVE OF THE COMMITTEE. REQUESTS FOR REVIEW MAY BE MADE IN THE FALL SEMESTER TO THE COMMITTEE BY THE SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS OR THE SENIOR VICE PRESIDENT FOR HEALTH SCIENCES, OR THE UNIVERSITY PROMOTION AND TENURE ADVISORY COMMITTEE, OR BY THE GRADUATE COUNCIL AS WELL AS BY DEANS, DEPARTMENT CHAIRPERSONS, OR INDIVIDUAL FACULTY MEMBERS. THE COMMITTEE SHALL USE ITS JUDGMENT AND DISCRETION IN FORMULATING RESPONSES TO SUCH REQUESTS. THE COMMITTEE SHALL ANNUALLY REPORT ON ITS REVIEWS TO THE ACADEMIC SENATE AND TO THE UNIVERSITY PROMOTION AND TENURE ADVISORY COMMITTEE.

C. DUTIES: APPEALS. THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE SHALL CONSIDER ANY AUTHORIZED AND TIMELY APPEAL FOR REVIEW OF THE SENIOR VICE PRESIDENT'S RECOMMENDATION TO THE PRESIDENT AT THE CONCLUSION OF A FORMAL RETENTION/PROMOTION/TENURE REVIEW. AUTHORIZED APPEALS MAY BE INITIATED BY THE CANDIDATE, THE DEPARTMENT STUDENT ADVISORY COMMITTEE, A MAJORITY OF THE DEPARTMENT FACULTY ADVISORY COMMITTEE, THE DEPARTMENT CHAIRPERSON, THE DEAN, OR THE SENIOR VICE PRESIDENT. TO QUALIFY AS TIMELY, NOTICE OF THE INTENT TO FILE AN APPEAL MUST BE MADE IN WRITING TO THE SENIOR VICE-PRESIDENT WITHIN SEVEN CALENDAR DAYS OF NOTIFICATION OF THE SENIOR VICE-PRESIDENT'S RECOMMENDATION, AND THEN AN APPEAL MUST BE SUBMITTED TO THE CHAIRPERSON OF THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE NOT LATER THAN THE THIRTIETH CALENDAR DAY AFTER THE DATE ON WHICH NOTICE OF THE SENIOR VICE PRESIDENT'S RECOMMENDATION IS SENT TO THE INDIVIDUALS AND COMMITTEES AUTHORIZED TO INITIATE AN APPEAL. ONCE THE SENIOR VICE-PRESIDENT HAS RECEIVED NOTICE OF THE INTENT TO FILE AN APPEAL, THE FILE WILL NOT BE TRANSFERRED TO THE PRESIDENT'S OFFICE UNTIL THIRTY DAYS HAVE PASSED WITHOUT RECEIVING THE APPEAL OR, FOLLOWING RECEIPT OF AN APPEAL, THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE HAS CONSIDERED THE APPEAL. IF THEY CHOOSE TO DO

SO, TWO OR MORE INDIVIDUALS OR COMMITTEES AUTHORIZED TO APPEAL MAY SUBMIT A JOINT APPEAL.

(1) APPEAL. APPEALS TO THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE FALL INTO TWO CATEGORIES: SUBSTANTIVE AND PROCEDURAL ISSUES. THE INITIATOR(S) OF A FORMAL APPEAL IS (ARE) OBLIGED TO STATE SUCCINCTLY IN WRITING THE REASON(S) FOR OBJECTING TO THE SENIOR VICE PRESIDENT'S RECOMMENDATION AND THE SPECIFIC GROUND(S) UPON WHICH THE APPELLANT SEEKS TO HAVE THAT RECOMMENDATION OVERRULED.

(2) PRELIMINARY RESPONSE. UPON RECEIPT OF AN APPEAL, THE CHAIRPERSON OF THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE SHALL SEND A COPY OF THE APPEAL TO THE SENIOR VICE PRESIDENT'S AND TO EACH OF THE INDIVIDUALS AND COMMITTEES AUTHORIZED TO APPEAL. IF ANY OF THE RECIPIENTS OF A COPY OF THE APPEAL WISH TO RESPOND, THEY MUST DO SO IN WRITING TO THE CHAIRPERSON OF THE COMMITTEE NOT LATER THAN THE SEVENTH CALENDAR DAY AFTER THE DATE ON WHICH COPIES OF THE APPEAL ARE DISTRIBUTED BY THE CHAIRPERSON OF THE COMMITTEE.

(3) PRESUMPTION. THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE SHALL OBSERVE A STRONG PRESUMPTION THAT THE SENIOR VICE PRESIDENT'S RECOMMENDATION WAS MADE IN THE BEST INTEREST OF THE UNIVERSITY.

(4) SUBSTANTIVE ISSUES. THE ABOVE PRESUMPTION CAN BE OVERCOME ONLY IF THE APPELLANT(S) CAN SATISFY THE BURDEN OF PROVING BY CLEAR AND CONVINCING EVIDENCE THAT THE SENIOR VICE PRESIDENT'S RECOMMENDATION IS BASED ON GROUNDS THAT ARE ARBITRARY, CAPRICIOUS, UNREASONABLE, OR DISCRIMINATORY WITH RESPECT TO CRITERIA WHICH ARE LEGALLY IMPERMISSIBLE.

(5) PROCEDURAL ISSUES. IN ADDITION TO THE ISSUES ENUMERATED IN PARAGRAPH (4) IMMEDIATELY ABOVE, THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE MAY EXAMINE THE PROCEDURES FOLLOWED AT ANY OR ALL STAGES IN THE FORMAL REVIEW PROCESS TO DETERMINE WHETHER SUCH PROCEDURES WERE CONSISTENT WITH HIS CHAPTER AND WITHOUT SUBSTANTIAL DEFECTS WHICH OPERATED TO DENY THE APPELLANT(S) BASIC FAIRNESS AND DUE PROCESS. THE BURDEN OF ESTABLISHING BY A PREPONDERANCE OF EVIDENCE THAT PROCEDURAL DEFECTS, IF ANY, OPERATED TO DENY BASIC FAIRNESS AND DUE PROCESS RESTS UPON THE APPELLANT(S).

(6) UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE PROCEDURES. AFTER RECEIVING AND READING A TIMELY APPEAL, AND ANY TIMELY RESPONSES THERETO, THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE, OR A DULY CONSTITUTED SUBCOMMITTEE THEREOF SHALL EXAMINE THE CANDIDATE'S FORMAL REVIEW FILE AND THEN DECIDE TO TAKE ONE OR MORE OF THE FOLLOWING STEPS:

(A) TO MAKE WRITTEN REQUESTS FOR CLARIFICATION OF AMBIGUITIES IN THE APPEAL, THE RESPONSE(S) TO THE APPEAL, AND/OR THE CANDIDATES' FORMAL REVIEW FILE;

(B) TO MEET INFORMALLY WITH THE APPELLANT(S), THE CANDIDATE AND/OR THE SENIOR VICE PRESIDENT AND/OR THE SENIOR VICE PRESIDENT'S REPRESENTATIVE;

(C) TO OBTAIN ADVICE FROM, AND POSSIBLY TO REFER THE CASE TO, THE ACADEMIC FREEDOM AND TENURE COMMITTEE IF IT BECOMES APPARENT THAT THE CANDIDATE'S ACADEMIC FREEDOM MIGHT BE IN JEOPARDY, OR THE DISCRIMINATION GRIEVANCE HEARING COMMITTEE, IF IT BECOMES APPARENT THAT THE CANDIDATE MAY HAVE EXPERIENCED INVIDIOUS DISCRIMINATION OR INEQUALITY;

(D) TO CONVENE A FORMAL HEARING.

IF RESOLUTION OF APPEAL IS NOT ACCOMPLISHED BY ANY OR ALL OF THE ABOVE, THE RIGHT TO A FORMAL HEARING SHALL NOT BE DENIED THE CANDIDATE OR APPELLANT.

IF A DECISION IS MADE TO CONVENE A FORMAL HEARING, THE CHAIRPERSON OF THE COMMITTEE SHALL GIVE A MINIMUM OF FIFTEEN CALENDAR DAYS ADVANCE NOTICE TO THE SENIOR VICE PRESIDENT, AND TO ALL PARTIES AUTHORIZED TO APPEAL THE SENIOR VICE PRESIDENT'S RECOMMENDATION, OF THE TIME AND PLACE SELECTED FOR THE HEARING, AND OF THE MANNER IN WHICH THE HEARING WILL BE CONDUCTED. AT THE CONCLUSION OF ANY OR ALL OF THE STEPS ENUMERATED ABOVE, IF THE CASE HAS NOT BEEN REFERRED TO THE ACADEMIC FREEDOM AND TENURE COMMITTEE OR THE DISCRIMINATION GRIEVANCE HEARING COMMITTEE, THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE, MEETING PRIVATELY, SHALL FORMULATE ITS FINDINGS AND RECOMMENDATIONS FOR TRANSMITTAL TO THE PRESIDENT. THE COMMITTEE SHALL SEND COPIES OF ITS REPORT TO THE PRESIDENT, TO THE SENIOR VICE PRESIDENT, AND TO ALL PARTIES AUTHORIZED TO APPEAL THE SENIOR VICE PRESIDENT'S RECOMMENDATION.

(7) DISQUALIFICATION. NO COMMITTEE MEMBER SHALL BE PRESENT DURING THE CONSIDERATION OF MAY CASE FROM A DEPARTMENT WITH WHICH HE/SHE IS ASSOCIATED AS A FACULTY MEMBER OR FOR ANY CASE IN WHICH HE/SHE HAS BEEN INVOLVED IN THE SEQUENCE OF REVIEW. IN ADDITION, COMMITTEE MEMBERS SHALL DECLINE TO PARTICIPATE IN THE CONSIDERATION OF ANY CASE IN WHICH THEY HAVE A PERSONAL BIAS OR INTEREST WHICH WOULD PRECLUDE THEIR MAKING A FAIR AND OBJECTIVE DECISION.

(8) PRESIDENT'S DECISION. AFTER CONSIDERING THE REPORT AND RECOMMENDATION OF THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE, THE SENIOR VICE PRESIDENT'S RECOMMENDATION, AND THE CANDIDATE'S FORMAL REVIEW FILE, THE PRESIDENT SHALL MAKE A FINAL DECISION ON THE CASE, AND SHALL REPORT THAT DECISION, STATING THE REASONS THEREFOR, TO THE CANDIDATE, THE SENIOR VICE PRESIDENT, THE DEAN, THE DEPARTMENT CHAIRPERSON, AND THE CHAIRPERSON OF THE UNIVERSITY RPT STANDARDS AND APPEALS COMMITTEE. IF THE PRESIDENT'S DECISION IS TO TERMINATE THE CANDIDATE'S PRETENURE PROBATIONARY APPOINTMENT, THE CANDIDATE SHALL BE GIVEN WRITTEN NOTICE IN ACCORD WITH THE PROVISIONS OF UNIVERSITY REGULATIONS CHAPTER VI, SECTION 3, UNLESS SUCH NOTICE HAS BEEN GIVEN PREVIOUSLY, PURSUANT TO PARAGRAPH H(3) OF SECTION 2 OF THIS CHAPTER.

D. REPORT. THE COMMITTEE MAY MAKE A CONFIDENTIAL REQUEST TO THE ACADEMIC SENATE EXECUTIVE COMMITTEE THAT A REPORT OF SERIOUS CONCERN ABOUT THE SYSTEMIC OPERATION OF A PROGRAM, DEPARTMENT OR COLLEGE, BE MADE TO THE COGNIZANT VICE PRESIDENT.

APPROVED: ACADEMIC SENATE 6/5/01

APPROVED: BOARD OF TRUSTEES 10/8/01

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