

A resolution to clarify the grievance procedures for nonreappointment and for denial of promotion and/or tenure

May 11, 2009

Passed

Whereas Cases heard by the Faculty Senate P&T Committee in the Fall of 2008 have identified problems in the language of the faculty handbook. And

Whereas The appeal process as presented in the faculty handbook (Section II.F) should be streamlined so that a final decision can be reached in a timely manner. And

Whereas Language in Section II.F of the faculty handbook should be changed to reflect the quarters to semesters transition as well as current technology.

Be it resolved that Section II.E.4 of the faculty handbook shall be changed as follows:

All awards of tenure and all promotions in rank must originate in a positive recommendation by the appropriate departmental committee or after a formal hearing and presidential review in cases that have gone through the grievance procedure as in Section II.F.

Be it further resolved that Section II.F of the faculty handbook shall be replaced by the following:

F. Grievance Procedures for Nonreappointment and for Denial of Promotion and/or Tenure

1. If a faculty member believes there is cause for grievance relative to nonreappointment or denial of promotion and/or tenure, an appeal of a negative decision may be initiated at the level at which the decision was made, i.e., either within the department, or at the level of the dean or of the Executive Vice President and Provost (Provost hereafter). Should the appeal be denied at any of these levels, the faculty member may take the appeal to the next level. The grievance can involve one or more of the following allegations: inadequate consideration, denial of due process (including failure to follow designated procedures), or denial of academic freedom.

- 2 a. Denial at the Department/School level

If the denial occurs at the department/school level, the faculty member must direct their appeal to the appropriate departmental/school committee through the department chair/school director. If the appeal is denied the faculty member may then appeal to the dean. If the dean supports the appeal the case will be returned to the department/school for **reconsideration**. If the department/school again denies the appeal the faculty member may continue the grievance process by appealing the case to the Provost. If the Provost supports the appeal the case will be forwarded to the Standing Committee on Promotion and Tenure of the Faculty Senate. If the Standing Committee on Promotion and Tenure of the Faculty Senate supports the appeal, the case may proceed to the formal hearing unless the faculty member withdraws the appeal (see Section II.F.7).

If the dean denies the appeal the faculty member may continue the grievance process by appealing the case to the Provost. If the Provost supports the appeal the case will be returned to the department/school for **reconsideration**. If the department/school again denies the appeal the faculty member may appeal to the Standing Committee on Promotion and Tenure of the Faculty Senate. If the Provost denies the appeal, the faculty member may appeal to the Standing Committee on Promotion and Tenure of the Faculty Senate. If the Standing Committee on Promotion and Tenure of the Faculty Senate supports the appeal, the case may proceed to the formal hearing unless the faculty member withdraws the appeal (see Section II.F.7).

If the dean and the Provost deny the appeal the faculty member may appeal to the Standing Committee on Promotion and Tenure of the Faculty Senate. If the Standing Committee on Promotion and Tenure of the Faculty Senate supports the appeal, the case will be returned to the department/school for reconsideration. If the department/school again denies the appeal the case may proceed to the formal hearing at the request of the faculty member (see Section II.F.7).

- b. Denial at the Dean level

If the department/school voted in favor of granting promotion and/or tenure but the dean denies the case, then the faculty member must direct the appeal to the dean. If the dean denies the appeal the faculty member may appeal to the Provost. If the Provost supports the appeal **the case will be forwarded to the President for reconsideration**. If the Provost denies the appeal, the faculty member may appeal to the Standing Committee on Promotion and Tenure of the Faculty Senate. If the Standing Committee on Promotion and Tenure of the Faculty Senate supports the appeal, the case may proceed to the formal hearing unless the faculty member withdraws the appeal (see Section II.F.7).

- c. Denial at the Provost level

If the department/school and dean were in favor of granting promotion and/or tenure but the Provost denies the case, then the faculty member must direct the appeal to the Provost. If the Provost denies the appeal, the faculty member may appeal to the Standing Committee on Promotion and Tenure of the Faculty Senate. If the Standing Committee on Promotion and Tenure of the Faculty Senate supports the appeal, the case may proceed to the formal hearing unless the faculty member withdraws the appeal (see Section II.F.7).

d. Deadlines

The initial appeal by the faculty member must be made within 45 calendar days from the date of notification of nonreappointment or denial of promotion and/or tenure; subsequent appeals to higher administrative levels including to the Standing Committee on Promotion and Tenure of the Faculty Senate must be made within 30 calendar days of the receipt of the response at the previous level. These deadlines are to be interpreted as excluding winter intersession, the summer term, and breaks between terms. Additionally, if the deadline falls on a weekend or holiday the next workday shall be considered the deadline.

Responses to appeals on the part of the dean or Provost are to be made within 30 calendar days of receipt of the appeal. If the deadline falls on a weekend or holiday the next workday shall be considered the deadline. Responses to appeals on the part of the department/school or Standing Committee on Promotion and Tenure of the Faculty Senate are to be made within 30 calendar days of receipt of the appeal excluding winter intersession, the summer term, and breaks between terms. If the deadline falls on a weekend or holiday the next workday shall be considered the deadline. Appeals at the departmental level are to be directed through the departmental chair to the chair of the departmental committee responsible for promotion, tenure, or nonreappointment recommendations. The departmental chair is responsible for conveying the decision of the committee to the person making the appeal. In cases in which positive recommendations of departmental promotion and tenure committees are not sustained at the level of the dean or of the Provost, the committees shall enjoy the right to support faculty appeals including providing supporting documentation.

A faculty member, who remains dissatisfied with the status of the grievance following the issuance of the report of the Standing Committee on Promotion and Tenure of the Faculty Senate, may, within 45 calendar days, petition the Standing Committee on Promotion and Tenure of the Faculty Senate to recommend that a formal proceeding be conducted, in accordance with Section II.F.7 below, with the burden of proof resting on the grievant. If this deadline falls on a weekend or holiday the next workday shall be considered the deadline. The appeals process may continue even if the proceedings extend beyond the termination date of the individual's contract.

- 3 Insofar as the petition for review alleges denial of due process, the functions of the Faculty Senate Promotion and Tenure committee shall be as follows:
 - a. To determine whether a denial of due process in fact occurred.
 - b. In the event it finds a denial of due process, to suggest a course of action that will equitably resolve the situation.
 - c. To provide copies of these findings and recommendations to the Chairperson of the Faculty Senate, the faculty member, the department concerned, the academic dean, and the Provost.
 - d. If necessary to decide whether the evidence warrants a recommendation that a formal proceeding be conducted (see Section II.F.7).

- 4 Insofar as the petition for review alleges inadequate consideration, the functions of the committee shall be the following:
 - a. To determine whether the decision of the appropriate party was a result of adequate consideration in terms of relevant standards of the institution, with the understanding that the review committee is not to substitute its judgment on the merits for that of the faculty body on the question of whether the faculty member meets these standards.
 - b. To request consideration by the appropriate party when the committee believes that adequate consideration was not given to the faculty member's qualifications. (In such instances, the committee should indicate the respects in which it believes the consideration may have been inadequate.)
 - c. To provide copies of its findings and recommendations to the Chairperson of the Faculty Senate, the faculty member, the department involved, the academic dean, and the Provost.
 - d. If necessary to decide whether the evidence warrants a recommendation that a formal proceeding be conducted (see Section II.F.7).
- 5 Insofar as the petition for review alleges denial of academic freedom, the functions of the committee shall be the following:
 - a. To determine whether the notice of nonreappointment constitutes on its face a violation of academic freedom.
 - b. To seek to settle the matter by informal methods.
 - c. To provide copies of its findings and recommendations to the Chairperson of the Faculty Senate, the faculty member, the department involved, the academic dean, and the Provost.
 - d. If necessary to decide whether the evidence warrants a recommendation that a formal proceeding be conducted (see Section II.F.7).
- 6 If the petition for review involves a regional campus faculty member, a copy of the findings and recommendations shall be sent to the Chairperson of the Faculty Senate, the faculty member, the regional campus academic group involved, the Athens campus department chairperson, the regional campus dean, the Vice President for Regional Higher Education, and the Provost.
- 7 If the Standing Committee on Promotion and Tenure of the Faculty Senate has found that a formal proceeding is warranted on the evidence presented to it, the committee will so inform the Chairperson of the Faculty Senate. In consultation with the Executive Committee of the Faculty Senate, the Chairperson shall appoint five tenured faculty members, at rank or above, none of whom shall be from the grievant's department, to constitute a hearing committee. He/she shall designate the chairperson of the formal proceeding committee.

In the discharge of its responsibilities, the formal proceeding committee shall proceed as follows:

- a. The committee shall determine the time and place of the hearing, which shall commence not later than thirty days from the date of the committee's appointment.
- b. No later than three days following the date of the committee's appointment, the chairperson shall notify the grievant of the time and place of the hearing, and inform him/her of the basic procedures governing the hearing, which shall be closed, unless the grievant requests an open hearing.
- c. At the hearing, the grievant shall bear the burden of proving, by a preponderance of the evidence presented, that the action taken (a) violated due process and/or (b) was based upon inadequate consideration and/or (c)

infringed upon academic freedom. The order of events at the hearing, which shall be determined by the committee, shall reflect this requirement.

- d. During the proceedings, the grievant shall be permitted to have as advisor either a faculty member or an academic administrator of his/her choice. Likewise, the senior administrator responsible for the grievant's area or his/her designated representative shall be permitted to have as advisor either a faculty member or an academic administrator of his/her choice. The responsibility for presenting the grievant's case is restricted to the grievant and/or his/her advisor. The functions to be performed by each advisor shall be determined by the person whom he/she is advising. A representative of an appropriate educational organization may be invited to be present.
- e. The grievant shall have the aid of the committee in securing the attendance of persons who possess relevant information, and in having access to information related to the case.
- f. The grievant and/or his/her advisor and the University representative and/or his/her advisor shall have the right to confront and question all persons who make statements before the committee.
- g. The full proceedings shall be recorded by the University, which, upon request, shall make a copy or written transcript available to the grievant, the committee, or the President. Upon completion of the hearing, the committee shall, within 15 calendar days, submit a written report of its findings and recommendations to the President, with copies to the grievant and the University representative. Within 30 calendar days of receiving the report, the President shall then reach a final decision in the case, which decision shall be communicated in writing to the grievant, the University representative, and the committee. The President shall not make a public announcement of his/her decision unless requested to do so by the grievant.