

1 UNIVERSITY OF OREGON COUNTERPROPOSAL (March 14, 204)
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4

5 **Document Key**

6 UA new | ~~UA-deletion~~ | UO new | ~~UO-deletion~~ | Accepted | Deleted | Status Quo | Restored
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8 **ARTICLE 21. REVIEW DECISION APPEALS**
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10 **Preamble.** Days means calendar days, unless otherwise specified (Article 46).
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12 **Section 1. Scope of Article.** This Article provides the only process through which a bargaining
13 unit faculty member may appeal a denial of promotion in rank, denial of tenure, or a decision to
14 place a tenure-track faculty member on a terminal contract following a mid-term review. No
15 other grievance or appeal process shall apply to such appeals, except for alleged prohibited
16 discrimination or procedural violations, which shall be governed by Articles 22 and 23 of this
17 Agreement. Decisions related to development plans, salary increases, and performance reviews
18 are not subject to review under this Article. Only the affected bargaining unit faculty member
19 may initiate an appeal under this Article.
20

21 **Section 2. Grounds for Appeal.** A reviewable decision of the Provost may be appealed only on
22 the following grounds: (1) whether the Provost was presented with errors of fact that materially
23 affected their decision; (2) whether the Provost disregarded or overlooked material evidence that
24 was provided to them; (3) whether material information was unavailable to reviewers through no
25 fault of the candidate; and (4) whether the Provost's decision was arbitrary or capricious.
26

27 **Section 3. Appeal Guidance.** The Union and Office of the Provost will jointly be responsible
28 for providing all bargaining unit faculty members who have received a reviewable decision
29 under Section 1 with information about the appeals process. Bargaining unit faculty members
30 shall be notified of their right to seek counsel from the Union in the written reviewable decision
31 notice. Upon a bargaining unit faculty member's request, the Union shall provide a
32 representative to provide appropriate guidance through the appeal process. The faculty member
33 may have a union representative present at formal hearings; however, the union representative
34 cannot speak for the bargaining unit faculty member. The union representative may, however,
35 ask clarifying questions.
36

37 **Section 4. Review File Access.** The bargaining unit faculty member may review, at any time in
38 the appeals process, that portion of the review file which is open and a copy of the closed
39 portion, which will be redacted in accordance with the waiver status to protect personally
40 identifiable information.
41

42 Requests for access to the review file must be submitted by the bargaining unit faculty member
43 in writing to the Office of the Provost, which will provide the file to the bargaining unit faculty
44 member for review as soon as possible, but no later than ~~21~~ ~~15~~ ~~five~~ ~~business~~ days after the
45 receipt of the request. If, for any reason, the Office of the Provost provides the file to the
46 bargaining unit faculty member later than ~~21~~ ~~15~~ ~~five~~ ~~business~~ days after the receipt of the
47 request, the timeline to file an appeal of tenure or promotion denial shall be ~~suspended~~ ~~suspended~~

48 until the file is provided to the bargaining unit faculty member.

49

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

55

56 a. **Scope of Review.** The TTRAC’s review is focused on the procedural elements of the
57 review decision relevant to the grounds for appeal. The TTRAC is not charged with re-
58 reviewing the case or evaluating any of the academic judgments made during the original
59 review of the case.

60

61 b. **Membership.** The three standing members and four alternates will be mutually agreed to
62 by the parties. Alternate members will fill in vacancies created by peremptory challenges
63 and recusals. When committee members are required to carry out their service during the
64 summer months, they will receive a stipend of \$1,000 (unless they are on a 12-month
65 appointment). The parties will work together to ensure that the committee has full
66 membership, and the Office of the Provost will provide staff support for the committee’s
67 operation.

68

69 c. **Investigatory Role.** In its investigatory role, the TTRAC has the sole discretion to
70 request additional documents and call witnesses, though the bargaining unit member may
71 inform the TTRAC of individuals who may have relevant information. No oral testimony
72 by witnesses will be allowed at the hearing unless called for by the TTRAC as part of its
73 investigatory role.

74

75 d. **Deliberations.** The deliberations of the committee shall be closed to all, including the
76 bargaining unit faculty member and the Provost or designee, except for the staff to the
77 TTRAC. Should the TTRAC need procedural advice from the Office of General Counsel,
78 the University’s Office of General Counsel can be called into the deliberations of the
79 committee by the TTRAC.

80

81 **Section 6. Appeals Process**

82

83 • **Step 1. Initiating an Appeal.** A bargaining unit faculty member may initiate an appeal of
84 a reviewable decision by providing a written statement of appeal to the Provost within 30
85 days of the review decision being sent to the faculty member’s official @uoregon.edu
86 email address. To be considered, the appeal statement must be signed and dated and must
87 include the following:

88 a. the ground(s) from Section 2 for appeal being alleged;

89 b. all arguments and supporting evidence the bargaining unit faculty member wishes
90 to be considered;

91 c. proposed resolution;

92 d. designation of a union representative (if desired);

93 e. and whether a formal or informal process is requested. The bargaining unit faculty

94 member may elect to have the appeal considered either informally or formally,
95 but not both. In selecting the informal process, the bargaining unit member waives
96 the right to a formal hearing. In selecting the formal process, the bargaining unit
97 member waives the right to use the informal process, and they must specify if the
98 formal hearing shall be closed or open (see Step 5).
99

- 100 • **Step 2. Provost’s Response to Appeal.** Within 30 calendar days of the receipt of the
101 appeal, the Provost or designee shall prepare a written response and forward the appeal,
102 together with their response, to the Chair of TTRAC and the bargaining unit faculty
103 member. The Provost may also choose to change the initial decision.
104
- 105 • **Step 3. Amendments to the Appeal.** A bargaining unit faculty member may amend their
106 appeal arguments within 30 days of receiving the Provost response. Though it is expected
107 that all information relevant to the appeal is included in the initial appeal packet, newly
108 discovered materials or materials otherwise unavailable to the bargaining unit faculty
109 member may be submitted to the TTRAC and the Provost or designee at least five
110 calendar days prior to the hearing or informal review meeting. A bargaining unit faculty
111 member may also choose to withdraw their appeal, accepting the decision of the Provost.
112
- 113 • **Step 4. Peremptory Challenge and Recusal.** The bargaining unit faculty member may
114 make a peremptory challenge of one member of the TTRAC within 10 days of being
115 made aware of the committee membership. Standing committee members may also need
116 to recuse themselves. Vacancies will be filled by members on the alternate list, with final
117 committee composition being mutually agreed upon by the Union and the University.
118
- 119 • **Step 5. TTRAC Review.** TTRAC considerations will be either informal or formal.
120
 - 121 a. **Informal Written Materials Review:** The TTRAC will consider the appeal
122 solely on the basis of the written materials, consisting of the complete and
123 unredacted tenure file, the bargaining unit faculty member’s statement of appeal,
124 and the written response from the Provost. The TTRAC may request additional
125 documents consistent with Section 5.c. The TTRAC will hold an informal review
126 meeting within 60 days of the receipt of the appeal in Step 2 or, if applicable,
127 amendments to the appeal in Step 3.
128
 - 129 b. **Formal Hearing:** In addition to a review of the written materials as described in
130 Step 5.a., the TTRAC shall conduct a hearing, the purpose of which is for
131 members of the TTRAC to ask questions of the Provost or designee, the
132 bargaining unit faculty member, and any witnesses called by the TTRAC. The
133 TTRAC will hold a hearing within 60 days of the receipt of the appeal in Step 2
134 or, if applicable, amendments to the appeal in Step 3. The bargaining unit faculty
135 member and the Provost or designee will ~~consult and agree~~ within 10 days on an
136 acceptable date and time for the hearing and. If a date and time cannot be agreed
137 upon between the Provost or designee and the bargaining unit faculty member, the
138 bargaining unit faculty member will be given at least five days’ notice of the time
139 and place for the hearing set by the Provost or designee.

140
141 The bargaining unit faculty member has the right to have either an open or closed
142 hearing ~~the hearing open to the public~~.

- 143
144 i. **Closed Formal Hearing.** Should the bargaining unit faculty member
145 choose to have a closed hearing, the hearing shall be closed to all except
146 the TTRAC, the bargaining unit faculty member, the bargaining unit
147 faculty member’s union representative and/or legal counsel, the Provost or
148 designee and their representative, the University’s legal counsel, staff to
149 the TTRAC, and any witnesses called by the TTRAC. The representatives
150 shall be observers only, unless asked to participate by the TTRAC. The
151 bargaining unit faculty member and the Provost or designee are each
152 responsible for any expenses incurred in having their representative
153 present.
154
155 ii. **Open Formal Hearing.** In addition to those allowed in a closed hearing,
156 should the bargaining unit faculty member choose to have an open
157 hearing, members of the public may attend; however, they shall be
158 observers only.

159
160 The hearing shall be recorded. The bargaining unit faculty member shall have access to
161 the appropriately redacted record of the appeal (as it exists at any given time) and to
162 recordings of the hearing. Neither the committee nor the University shall have any
163 obligation to provide a transcript of the recording.
164

- 165 • **Step 6. TTRAC Recommendation.** The TTRAC will prepare a written report based
166 upon an impartial evaluation of the evidence. The report will conclude if any of the
167 grounds for the appeals set forth in Section 2 are present and whether other action is
168 recommended in light of their findings. The TTRAC will submit the report to the Office
169 of the Provost and the bargaining unit faculty member within 15 days of the hearing or
170 informal review meeting.
171
172 • **Step 7. Decision by the Provost.** The Provost will consider the report of the TTRAC and
173 notify the bargaining unit faculty member in writing of their decision and rationale on the
174 appeal within 21 calendar days of receiving the TTRAC report. For decisions that cannot
175 be appealed under Step 8, the Provost’s decision is final and binding and is not subject to
176 grievance, arbitration, or further appeal.
177
178 • **Step 8. Appeals to the President.** In decisions to deny tenure and/or promotion to a
179 bargaining unit faculty member in the Tenure-Track and Tenured classification, the
180 faculty member will have 10 days to appeal the Provost’s Step 7 decision in writing to the
181 President.
182
183 • **Step 9. Decision by the President.** The President will consider the review file materials,
184 including the report of the TTRAC and the Provost’s Step 7 decision, and notify the
185 bargaining unit faculty member in writing of their decision on the appeal within 21

186 calendar days of the receipt of the Step 8 appeal. The President’s decision is final and
187 binding and is not subject to grievance, arbitration, or further appeal.
188

189 **Section 7. Timelines.** The bargaining unit faculty member and the TTRAC may agree in
190 writing to an extension of the response time of the TTRAC. The bargaining unit member and
191 the Provost or designee may agree in writing to an extension of the initial appeal deadline or the
192 response time of the Provost or designee. The bargaining unit member and the President or
193 designee may agree in writing to an extension of the appeal deadline to the President or the
194 response time of the President.