

**Proposed Faculty Reappointment, Tenure and Promotion Appeal
Policy (FAP)**

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**A joint proposal by the TCU Faculty Senate
and the Provost's Council.**

Tenure and Promotion Grievance Committee Members

Cynthia Chapa, Department of Modern Languages

Lynn Flahive, Department of Communication Sciences and Disorders

Gina Hill, Department of Nutritional Sciences

Dianna McFarland, Department of Psychology (Chair)

Ranjan Muttiah, Department of Geology

Greg Stephens, Department of Management

Task Force Members

Nowell Donovan, Provost

Dianna McFarland, Committee Chair, Faculty Senate Tenure & Promotion Grievance
Committee; Department of Psychology

Mike McCracken, Dean, College of Science and Engineering

Andy Schoolmaster, Dean, AddRan College of Humanities and Social Sciences

Scott Sullivan, Dean, College of Fine Arts

Greg Stephens, Member, Faculty Senate Tenure and Grievance Committee; Chair, Department
of Management

Stuart Youngblood, Chair, Faculty Senate, Department of Management

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Faculty Reappointment, Tenure and Promotion Appeal Policy

This policy applies exclusively to faculty for whom a promotional track exists (e.g., tenure-track faculty, professors of professional practice) who wish to appeal promotion and/or tenure denial decisions. All other types of appeals are to be addressed by the *Conflict Resolution Policy for Faculty* (see *Handbook for Faculty & Staff 2007-2008*). Disputes that may occur during the tenure probation period, such as those that relate to the annual review, for example, are handled through the *Conflict Resolution Policy for Faculty*.

I. Purpose

This policy intends to provide a respectful, fair, collaborative, timely and understandable process for the appeal of the denial of tenure and/or promotion decisions. This policy applies only to those decisions that result in the termination of faculty, to tenure and/or promotion decisions that result in the termination of a faculty, or to a promotion denial decision of a tenured or ranked (e.g., professors of professional practice) Faculty Member. Historically, in many appeal cases the claims or reasons brought forward by the appealing Faculty Member are both substantive and procedural in nature. Toward a comprehensive, fully legitimate process and within restricted boundaries, this policy intends to provide a “second look” for the Faculty Member’s appeal based on either or both substantive and procedural issues (see Section III. C.1.)

II. Administrative Responsibility

Academic Affairs (the Provost’s office) and the University Ombudsperson are responsible for administering this policy. Related to this administrative responsibility, Faculty Members shall not fear reprisal or prejudice from exercising their rights under the appeal policy. The Ombud shall ensure that the appeal process timeline is followed or that it may be altered by mutual consent of the parties.

III. Appeal Process

Overview

The Table of Contents directs interested parties to the relevant portions of the policy. Section IV of this document is a Definitions of Terms.

Any eligible Faculty Member may choose to appeal a tenure and/or promotion denial decision at whichever level the decision originates (i.e., Department, School, College, or University) using the procedures described here. The appeal may begin as early as five days from the date the Faculty Member is first given formal notification of the denial, or the appeal may begin as late as five days from the date of final formal notification of the denial by the university. The process is initiated when the Faculty Member contacts the University Ombudsperson (or Ombud; see Section IV. Definitions) who will meet with and advise the Faculty Member. The appeal will originate at the level at which the denial took place and the appeal shall move from lower levels to higher levels within the university. That is, the case will move forward from the Department to the College and finally to the Faculty Appeal Hearing Committee. For example, an appeal

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that originates in the Department may not bypass the College Level Review. The Faculty Member may terminate or end the appeal process at any time. If the denial is overturned, the appeal process is ended or if the denial is upheld at all Levels through the Faculty Appeal Hearing Committee, (the final appeal step), the appeal process is ended.

Briefly stated, the appeal process is a review or a series of reviews of the Faculty Member's Appeal File. The process may, but does not have to, include Informal Facilitated Discussions (see Section III. B. and Section IV. Definitions). An Informal Facilitated Discussion can be requested by any appropriate party at any point in the appeal process to promote communication and clarification of relevant issues.

A. Ombud Consultation

1. Description

The Ombud is a third-party facilitator who is available to assist the Faculty Member in determining the basis and procedures for the appeal, to answer questions, or to provide clarification. The Ombud will continue to serve and consult with all the parties throughout the appeal process and is responsible for ensuring the timelines of the policy or to obtain mutual consent from all parties to alter the timelines.

The Faculty Member begins the appeal of a tenure and/or promotion denial by contacting the University Ombud to discuss his or her case. The Ombud will schedule an appointment with the Faculty Member within 3 days and will meet with the Faculty Member within 10 days of the Faculty Member's initial contact. The Ombud will meet with and advise the Faculty Member. The Faculty Member then will formally initiate the appeal of a denial of tenure and/or promotion by notifying the Ombud in writing (email notification satisfies this requirement). The procedure clock starts at this written notification.

2. The Appeal File

Within 3 days after the formal notification of the Faculty Member's appeal, the Faculty Member will provide the Ombud with a set of materials and documents in support of the appeal case. If the Faculty Member is on a tenure track, the supporting materials will include a copy of the Tenure and Promotion Application Packet along with a written statement and supporting recommendations or other relevant documents. If the Faculty Member is on a promotional ranked track (e.g., professors of clinical practice) the supporting materials will include copies of relevant materials or documents along with a written statement and supporting recommendations for the appeal case. The supporting materials and documents become the original documents of the Appeal File. Additional information may be added to this file as the appeal proceeds.

B. Informal Facilitated Discussion

1. Description

An Informal Facilitated Discussion is a meeting that occurs during the appeal process between the Faculty Member and appropriate level Administrators (e.g., if the appeal is at the Department Level, the appropriate level administrator is the Department Chair and/or the Department Advisory Committee). This meeting will include two trained mediators to facilitate conversation. The purpose of the Informal Facilitated Discussion is to promote open, confidential dialogue and to further explore and discuss reasons for the decision to deny tenure and/or promotion. The Informal Facilitated Discussion is a voluntary process and all parties involved in the discussion must agree to confidentiality concerning the content of these discussions. If the appeal case moves forward, additional Informal Facilitated Discussions may be requested by the Faculty Member, Administrators, or Committee Members.

2. Sequence and Timing

The Ombud will guide and be responsible for the sequence of events of the Informal Facilitated Discussion according to the following:

- a. If the Faculty Member or an appropriate-level Administrator requests an Informal Facilitated Discussion, the Ombud will contact the appropriate parties, determine their agreement to the session and then notify all parties that the discussion will occur. If one party does not agree to this discussion, it will not occur. The Ombud will assign 2 faculty mediators from a list of trained mediators.
- b. The informal discussion will take place within 10 days and may be extended by mutual consent of parties involved in the session.
- c. Within 3 days of the conclusion of the Informal Facilitated Discussion, the mediators will notify the Ombud of the session outcome. Within that same 3 days, parties other than the Faculty Member who are involved in the Discussion and in subsequent decisions from the Discussion will notify the Ombud in writing (email satisfies this requirement) concerning any decisions. For example, if the Informal Facilitated Discussion has occurred during a Review at the Departmental Level, the Department Chair or Department Advisory Committee Members will have 3 days after that discussion to issue a written response.
- d. Within an additional 3 days, the Faculty Member will notify the Ombud of his or her decision regarding the continuance of the appeal. That is, if the denial is overturned, the appeal case is ended; if the denial is upheld and the Faculty Member chooses not to continue the appeal, the appeal case is ended. Or, if the denial is upheld and the Faculty Member so chooses, the appeal will continue to the next level and will end with decisions made by the Faculty Appeal Hearing Committee.

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- e. The Ombud will report the outcome of the session and the Faculty Member's decision to all concerned parties within 1 day of notification by the Faculty Member. If the appeal continues, the Ombud will notify the appropriate party at the next Level in writing to request a review of the case. Within an additional 2 days, the Ombud shall assemble and/or forward the Appeal File for review to the appropriate Level.

C. Review Process for all Levels

1. Overview

When a Faculty Member has been denied tenure and/or promotion the Faculty Member initiates the appeal process with the Ombud Consultation. The appeal will ensue at the Level (i.e., Department, School, College, or University) at which the denial originated and will move forward from that Level. The Faculty Member will decide whether or not to request an Informal Facilitated Discussion to clarify elements of the tenure/promotion denial (see Section III. B) prior to requesting a Review of the Appeal File. The Faculty Member may pursue the appeal without the Informal Facilitated Discussion through directly requesting a Review of the Appeal File. The Ombud will inform appropriate Administrator (e.g., Department Chair, Dean) of the request for a reconsideration of the tenure and or promotion denial decision. The administrator in consultation with the relevant advisory committee (e.g., Department Advisory Committee) will conduct the review of the case.

As stated in the Purpose (Section I) of this policy, many times an appealing Faculty Member will request reconsideration of a decision based on both substantive and procedural claims. Toward a comprehensive, fully legitimate appeal process and within certain restrictions, this policy provides a respectful and honest "second look" of the Faculty Member's case by allowing either or both substantive and procedural arguments. Procedural arguments will be considered at all Levels, especially in that final decisions in the appeal case are made by the Faculty Appeal Hearing Committee based solely on procedural considerations. However, particular restrictions apply to substantive concerns. A Faculty Member may request a review or reconsideration based on substantive issues only within the Faculty Member's academic unit in which the academic expertise resides. That is, only the Department and the College may consider and make decisions of a substantive nature. In sum, procedural and substantive issues are both considered at the Department and College Levels, but once an appeal continues beyond the College Level, only procedural issues are considered.

2. Review Levels

a. Departmental Level Review

If the original denial decision was made at the Departmental Level of the university, the Department Chair and the Department Advisory Committee shall conduct the review of the Faculty Member's Appeal File. The Departmental

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Level Review includes consideration of both procedural and substantive concerns provided by the Faculty Member. The sequence and timing of the process appears below.

b. College Level Review

If the original denial decision was made at the College Level, or if the appeal reaches the College Level, the Dean in consultation with the College Advisory Committee shall conduct the review of the Faculty Member's Appeal File. The College Level Review includes consideration of both procedural and substantive concerns provided by the Faculty Member. The sequence and timing of the process appears below.

c. University Level Review

If the original denial decision was made at the University Level then the Faculty Member may continue the appeal by requesting a review at this level. The Provost, in consultation with the Provost Review Committee, will conduct the review. This Provost Review Committee includes members of the University Advisory Committee and the Faculty Senate Chair. If the Faculty Senate Chair is in the same department or college as the Faculty Member, the past Faculty Senate Chair will serve instead. The University Level Review includes consideration of only procedural concerns provided by the Faculty Member. The sequence and timing of the process appears below.

d. Faculty Appeal Hearing Committee Review

If a Faculty Member continues through all prior Levels of appeal, the final step is the Faculty Appeal Hearing Committee. This committee is formed on an ad hoc basis as needed by a particular case. Only issues of a procedural nature may be considered by this committee. The Faculty Appeal Hearing Committee shall consist of five employees of Texas Christian University, one selected by the Faculty Member, one selected by the Dean of the Faculty Member's college and three from a list of 10 in accord with the following plan. The Faculty Senate Executive Committee will identify the names of 10 faculty members as potential members. The Faculty Senate Chair shall then present this list of 10 names to the two parties for ranking according to their preferences for membership on the Hearing Committee. The chairperson of the Senate, or designated representative, shall then select the three names most preferred by both parties, breaking any tied rankings by a method s/he deems appropriate. These three persons shall then designate one among themselves to serve as Chair of the five-person Hearing Committee. The committee is named on an ad hoc basis for each appeal case and will disband upon the completion of the case. The members will hear the case, review the Appeal File, and when or if necessary, request an Informal Facilitated Discussion and/or consult with the relevant parties to the case. A final report will be written and sent to the Faculty Member, Ombud, and Provost within 10 days of receiving the Appeal File from the Ombud. Faculty Appeal Hearing Committee decisions are final and may not be appealed.

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3. Sequence and Timing for all Review Levels

The Ombud will guide and be responsible for the remaining sequence of events according to the following.

- a. Within 3 days of the Faculty Member's decision to request a Review, the Ombud will notify the appropriate administrator of the Faculty Member's appeal and will forward the Faculty Member's Appeal File to those individual and relevant advisory committee members.

In the case of a review by the Faculty Appeal Hearing Committee, the appropriate administrator is the College Dean and the Chair of the Faculty Senate.

The selection process for the Hearing Committee shall occur within 10 days and the steps as shown below will apply.

- b. The administrator, advisory committee members, or Faculty Appeal Hearing Committee members may request an Informal Facilitated Discussion for communication and clarification. This request is made of the Ombud. The Review process is temporarily stopped by mutual consent and the sequence and timing steps of the Informal Facilitated Discussion (Section III. B. 2.) are followed.
- c. The administrator or appropriate committee members have 10 days from the receipt of the Appeal file to review the Faculty Member's case and issue a written response to the Faculty Member and Ombud. This document becomes part of the Appeal File. In the case of a Review by the Faculty Appeal Hearing Committee, their written response is the final decision in the case; the response and decisions are forwarded to the Faculty Member, Ombud and Provost (along with recommendations); the appeal ends at this step. In the case of a Review by the Department, College, or University, the following steps of this process will apply.
- d. Within 3 days of the receipt of the Department Chair's written response, the Faculty Member will notify the Ombud of the decision either to: a) end the appeal process; b) request an Informal Facilitated Discussion or c) continue the appeal through the next step.
- e. Within 1 day of the Faculty Member's notification, the Ombud will report the decision to the Department Chair.
- f. If the Faculty Member has chosen to continue the appeal, s/he must generate a written response to the Review which had been completed. This response is to be provided to the Ombud within 2 days of the Faculty Member's notification to continue the appeal. This document becomes part of the Appeal File.

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- g. Within 1 day of receipt of the Faculty Member's written response, the Ombud shall send in writing a request of the appropriate Level for either an Informal Facilitated Discussion or a Review.
- h. Faculty Members whose appeals originate at the Department Level may not bypass College Level Review and final decisions in the case are made by the Faculty Appeal Hearing Committee.

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IV. Definitions

Appeal: An appeal is any complaint or concern voiced by the appellant regarding the failure to recommend the appellant for tenure and/or promotion or the denial of tenure and/or promotion.

Appeal File: A file containing the Faculty Member's original tenure and promotion application packet and all relevant documents needed for a formal review of the promotion or tenure denial decision. The file consists of a brief written statement by the appellant, written recommendations of the Department Chair, Dean, and/or Advisory Committees, and any other documents produced during the appeal process.

Appellant: An appellant is any tenure-track or tenured Faculty Member who seeks to appeal a tenure and/or promotion denial decision using the procedures available within this process.

Faculty Appeal Hearing Committee: After the appeal process has moved through all relevant levels and the Faculty Member chooses to pursue the appeal, the final decision on the case will be made by the Faculty Appeal Hearing Committee. This committee serves as an independent peer group who will consider solely procedural matters. The Faculty Tenure Hearing Committee shall consist of five employees of Texas Christian University, one selected by the faculty member in question, one selected by the Dean of the Faculty member's college and three selected from a list of 10 in accord with the following plan. The Faculty Senate Executive Committee will identify the names of 10 faculty members as potential members. The Faculty Senate Chair shall then present this list of 10 names to the two parties for ranking according to their preferences for membership on the Hearing Committee. The chairperson of the Senate, or designated representative, shall then select the three names most preferred by both parties, breaking any tied rankings by a method s/he deems appropriate. These three persons shall then designate one among themselves to serve as Chair of the five-person Hearing Committee. The committee is named on an ad hoc basis for each appeal case and will disband upon the completion of the case. The members will hear the case, review the Appeal File, and when or if necessary, request an Informal Facilitated Discussion and/or consult with the relevant parties to the case. A final report will be written and sent to the Faculty Member, Ombud, and Provost within 10 days of receiving the Appeal File from the Ombud. Faculty Appeal Hearing Committee decisions are final and may not be appealed.

Faculty Mediator: A faculty mediator serves as a neutral third party who listens to both sides of a dispute. A mediator does not issue a decision, but rather assists all parties to the conflict to reach their own settlement. The Ombud will typically appoint two faculty mediators from the Mediators Committee when mediation is requested. All appointed faculty mediators (either TCU-employed or non TCU-employed mediators) will have received 40 hours of training in compliance with Title 7, Chapter 154, Texas Civil Practice and Remedies Code (See Appendix 1), and consistent with the Texas Mediation Trainer Roundtable Annotated Standards (See Appendix 2). The mediators must abide by the Standards of Practice established by the Texas Association of Mediators (see Appendix 3) and the Ethical Guidelines for Mediators established by the State Bar of Texas Alternative Dispute Resolution Section (See Appendix 4).

Informal Facilitated Discussion: An Informal Facilitated Discussion is designed to promote open dialogue between parties as they inquire, clarify, or explore relevant issues and concerns.

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These mediated sessions are voluntary and based on agreement by each party that confidentiality of the information shared in the discussion will be maintained. The discussions are informal in that the format is conversational. The discussion is facilitated by two Faculty Mediators who are professionally trained to guide others' dialogue impartially (see Faculty Mediator above). The sessions are discussions, thus there may be a need for more than one meeting as questions are raised and solutions sought. This process allows Faculty Members, Department Chairs, Deans, and the Provost to meet informally and talk about the elements of the case and is an opportunity for all parties to seek win-win outcomes in this dispute.

Ombudsperson (Ombud): The Ombud is a current TCU tenured faculty member who represents and assists the parties engaged in the Faculty Reappointment, Tenure and Promotion Appeal Policy. The Ombud will not make decisions for the parties. The Ombud is neither a representative of the appellant, the faculty, or the administration. The Ombud, similar to the mediators (see below), will receive 40 hours of training in compliance with Title 7, Chapter 154, Texas Civil Practice and Remedies Code (See Appendix 1). Ombuds may also receive additional training related to dispute resolution. The Provost, in consultation with the Faculty Senate Executive Committee, will appoint: a) an Ombud for a term of five years, and b) an Ombud Alternate, for a five year period, who serves as both an apprentice to the Ombud, and where necessary (e.g., a conflict of interest situation) as a substitute for the Ombud. Normally, the Ombud Alternate will succeed the Ombud upon completion of the five year appointment. The Ombud and Ombud Alternate will report to the Faculty Senate Chair who will consult with the Provost as needed. The Ombuds will serve terms with a two year overlap.

Parties: Under the policy, parties to the appeal may include any of the following: the Faculty Member, Department Chair, Dean, Provost, Department, College, Faculty Appeal Hearing Committee, or University Advisory Committees.

Provost Review Committee: The Provost convenes this committee to serve in an advisory capacity in reviewing promotion and/or tenure denial appeal cases. The members of the committee are the University Advisory Committee and the Faculty Senate Chair.

Time limits: A day refers to normal business days during the academic year (i.e., fall and spring academic semesters). The parties and/or Ombud may, after mutual agreement, extend the time limits of the process.

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Faculty Reappointment, Tenure and Promotion Appeal Policy Frequently Asked Questions (FAQ)

Why is a revision of the current policy needed?

A review of the current policy and feedback from across the university suggest that the current policy is cumbersome, hard to understand, and worst of all, not timely in addressing the appeals of faculty who are not nominated for tenure or are denied promotion. The current policy relies on a formalistic approach with heavy reliance on the faculty senate for resolving tenure/promotion disputes without the benefit of informal dispute resolution procedures. See the current Faculty Grievance Policy of the TCU Handbook for Faculty & Staff, 2007-2008 (pp.38-41) and the interpretive guide to the current policy (attached here).

What is new in the proposed policy and how does it differ from the current policy?

The proposed new policy originated in 2005 from a *clean sheet* approach taken by the Tenure, Promotion, and Grievance (TPG) Committee of the Faculty Senate in consultation with the faculty, Department Chairs, academic Deans, and the Provost.

The proposed policy replaces the current 5-step process involving administrative appellate processes in addition to the use of three faculty senate committee reviews (mediator's, grievance, and hearing committees) with a 4-step procedure involving Department, College, University, and Faculty Appeal Hearing Committee level review, if needed. At each level, an informal process or facilitated discussion is available to the parties if they request and agree to use it. All appeals stop after the review by the Faculty Appeal Hearing Committee.

Finally, a feature of the new policy is a provision, under certain restrictions, to allow a Faculty Member to appeal a tenure/promotion denial on both substantive and/or procedural grounds. Historically, only issues of a procedural nature have been allowed as legitimate for consideration. The decision in the new policy to include consideration of substantive issues emerged from reports by tenured faculty, past Faculty Senate Chairs (who have been involved in appeals), Department Chairs, academic Deans, and the Provost. Faculty who are grieving or appealing often believe that a mistake of a substantive nature has occurred, such as materials or documents not having been completely examined or that substantive information that arrived late for inclusion in their Tenure Application Packet, etc was overlooked. These faculty wish to gain certainty that the decisions related to their years of effort toward gaining tenure and/or promotion have indeed been given full consideration. If a Faculty Member leaves the university, they may be able to do so with more information and greater clarity which may serve them in their future endeavors. If a mistake has been made of a substantive nature, this new policy provides a clear method for the university to correct its decisions. Regardless, this policy provides a "second look" at contested decisions.

Appeal of substantive issues, however, always respects the autonomy and expertise of academic units who possess the relevant expertise to make these decisions. The Faculty member's Department and College are able to consider substantive concerns in addition to procedural concerns. No other considerations of a substantive nature will be made within the appeal policy

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although procedural concerns will be considered at the University Level Review and especially by the Faculty Appeal Hearing Committee.

What is an Ombudsperson (Ombud) and how will this person function under the new policy?

An Ombudsperson is a neutral representative of the appeal policy. The Ombud does not represent either the appealing Faculty Member or the academic unit where the tenure/promotion denial has occurred. The Ombud's job is to protect the fairness and timeliness of the appeal process and assist the parties in using the appeal procedures outlined in the policy.

Who can serve as an Ombud?

Most Ombudspersons have training in alternative dispute resolution in addition to having served as Faculty Members and having tenure with the organization such that they are knowledgeable of University policies and practices. Typically, the Faculty Senate Executive Committee and Provost appoint an Ombud, in consultation with the Chancellor.

Won't this procedure make a large demand on the Ombud since grievances would only occur in the spring when tenure denial occurs?

The Ombud job description may evolve over time with experience. Promotion and/or tenure denials are not routine or frequent events at the university. The Ombud role may entail a negotiation of release time and consideration tailored to the needs of the job based on experience.

What is an "Informal Facilitated Discussion" and why is it needed in this appeal process?

The Informal Facilitated Discussion is a voluntary and confidential process involving the disputing parties and two trained mediators. These sessions assist the parties by facilitating dialogue. The facilitated discussion is a tool for creating shared meaning that can lead to resolution of the dispute. Facilitated discussion promotes conversation among the parties in conflict that in turn can lead to understanding, reconciliation or resolution.

The mediators in an informal facilitated discussion serve only as objective third parties interested in moderating others' conversation. The only persons who can influence outcomes of a faculty appeal are the parties in dispute, not the mediators. This type of discussion sometimes benefits the party who feels less influential or powerful to express his/her point of view and seeks to either be heard more clearly or to gain information often not completely expressed in formal documents.

Parties to facilitated discussion and mediation often discover that a neutral third party in the room encourages all parties to behave professionally. Managers sometimes appreciate the role mediators can serve in doing reality testing with all the parties while preserving face with each party. Not all faculty appeals will include this type of mediation. Some managers are quite skilled at conducting a conversation with an aggrieved Faculty Member without a mediator present. But, if either party (e.g., Faculty Member or Chair) requests an Informal Facilitated

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Discussion and both parties agree, the discussion is always available to assist parties in holding a conversation about the tenure/promotion denial decision.

What is the role of the mediators in a tenure and/or promotion denial appeal process?

Mediators, like the Ombud, are neutrals. They *do not make decisions* for the parties. They are there to facilitate understanding, reconciliation, and resolution of conflicts that brought the parties to mediation. Mediators do not and cannot force either party to change a previously made decision or to lobby for a compromise. Mediators receive at a minimum, 40 hours of professional training before serving. All appeals will be co-mediated, that is, two mediators will serve to facilitate the informal discussion.

How does the Informal Facilitated Discussion function within the steps of the process?

The Informal Facilitated Discussion is not a step in the FAP process. Rather, it is a tool to facilitate dialogue among aggrieved parties at any step in the process. As the appeal moves through the levels from the Department to the College, University Level or Faculty Appeal Hearing Committee, seeking resolution at each level means that any party (Faculty Member, Department Chair, Dean, Committee Member, etc) can ask for a facilitated discussion for any number of reasons such as to: clarify information; seek additional information; express concerns; or make requests. If Informal Facilitated Discussions bring the parties together to resolve their own disputes, then this is a positive outcome for both the Faculty Member and the university.

Won't this proposal require a lot more trained mediators than we have at TCU?

Currently, 11 faculty are trained as mediators and serve TCU under both the staff and faculty Conflict Resolution Policies. Additional faculty may undergo training to support this policy.

Why isn't the Faculty Senate or Faculty Senate Chair as involved in the proposed policy as they have been in the current policy? What is the involvement of the Department Chairs, Deans, and Provost?

The Faculty Senate has two primary roles under the new policy: a) the Faculty Senate Executive Committee and the Provost jointly name a campus Ombudsperson b) the Faculty Senate Chair serves on the Provost Advisory Committee (along with the Provost and the University Advisory Committee) who are responsible for conducting the University Level Review of all tenure denials if unresolved at lower levels, and c) The Faculty Senate Chair along with the Faculty Senate Executive Committee is involved in naming members of the Faculty Appeal Hearing Committee.

A tenure or promotion denial can originate at the Department Level, the College Level or the University Level. Therefore, the appeal for the denial will begin at the same level of the denial. Depending on the level at which the appeal originates, the Department Chair, Dean, and Provost may participate in Informal Facilitated Discussions as part of the process of leading the review of the appeal case with the advice of their respective advisory committees.

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What is the peer or faculty review step in the proposed policy?

The process currently in use at the university relies to a certain degree on peer review of tenure track faculty for recommendation for tenure and/or promotion. Additionally, the informal steps proposed in this new policy permit both the Ombud and/or mediators to confer with these peers over a tenure/promotion denial dispute. Lastly, the Faculty Appeal Hearing Committee is the final step of the appeal and this is the largest independent review by peers. The committee only considers issues of a procedural nature.

Won't this policy cost more than the current policy?

The greatest cost to the current policy is time. Not only the time commitment made of so many involved in numerous committee structures, but also the time investment of the appellant and the time delays in concluding the appeal. The proposed policy clarifies the roles of disputants and facilitators (Faculty Member, Department Chair, Dean, Provost, Ombud, Mediators, Department Advisory Committee, College Advisory Committee, Provost Advisory Committee, and Faculty Appeal Hearing Committee). Moreover, reduction in lawsuits or fair employment practice complaints because appellants are afforded strong internal due process procedures can result in significant cost savings to the university and the appellant. Provision of strong internal due process procedures also discourages the sole use of litigation as a means of resolving tenure/promotion disputes.

Does having a clearer or simpler policy invite more grievances?

With any new procedure and increased awareness of the procedure, there is understandably a concern that supply will create its own demand. These concerns were raised both with the adoption of the staff conflict resolution policy and the faculty conflict resolution policy. Our experience at TCU with these two dispute resolution systems suggests that this concern will not be an issue if the new policy is adopted.

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Interpretive Guide to the Current Faculty Grievance Policy (The current policy is in the Handbook for Faculty & Staff, TCU 2007-2008)

Notification

Step 1: Administrative Appellate Processes (AAP)

- Within 15 days of the grievant becoming aware of the issue for which the grievance is based, the AAP must be initiated. (III.D)
- The grievant is to notify the Department Chair, Dean, or Provost, respectively.
- The AAP must be completed within 10 academic days. At the conclusion of the AAP, the grievant has 5 days to begin the grievance process. (III.D)

Informal (Mediation)

Step 2: Mediator's Committee

- A grievance must be initiated within 5 days of the completion of the appellate process. (IV.A.3.a)
- The grievant must present a written, signed statement of the grievance along with an explicit statement that this material constitutes an informal grievance.
- The chair of the Grievance Committee will confirm that the individual against whom the grievance is being lodged has been notified and is aware of informal proceedings.
- The first meeting between mediators and grievant begins a time limit of 20 academic days for filing a formal grievance. This time limit may be waived with consent of both parties and the Grievance Committee. If mediation procedures are unable to resolve issue, a written grievance report must be filed by the grievant with the Grievance Committee. (IV.B.3.a)

Formal (Grand Jury)

Step 3: Grievance Committee (Faculty Senate Executive Committee)

- The Grievance Committee may interview the grievant or the defendant, as well as any other individuals pertinent to the case, to determine validity of the grievance.
- Within 15 academic days, the Grievance Committee will issue a written report, which will either document the grievable issues referred to the Hearing Committee, or explain to the grievant and defendant that there is no reasonable information to conclude that a grievance has occurred. (IV.B.3.c)
- If the Grievance Committee recommends that the Hearing Committee hear the case, a date will be set, normally within 10 academic days, when the hearing will begin. (IV.B.3.e)

Formal (Jury)

Step 4: Hearing Committee

- Documents and statements will be made available to both parties at least 5 academic days prior to hearing. (IV.C.3.a)
- During proceedings, both parties are entitled to an academic advisor. Should the grievant engage legal counsel, the defendant may also engage legal counsel. If legal counsel is engaged, the Hearing Committee must be notified at least 5 days prior to hearing. Legal counsel may only act as advisors during proceedings, and may not participate directly. (IV.B.3.b)
- Verbatim records will be kept during proceedings, but will not be reproduced. Access will be given to grievant or defendant upon request.
- The Hearing Committee should complete hearing and deliberations as promptly as permits and report conclusions and recommendations as quickly as reasonable.
- The Hearing Committee will file a written report containing the nature of the grievance, the conclusions, and recommendations with the disputants, Grievance Committee and the Chancellor.
- Once the Chancellor receives the report, the Chancellor has the responsibility to accept or reject the findings of the report. If accepted, resolutions/recommendations should be implemented in a timely manner. If rejected, a written statement by the Chancellor giving reasons as to rejection shall be issued to both parties and the Hearing Committee.

Formal (Chancellor Recommends to Board)

Step 5: Chancellor recommends tenure, advancement, or appointment to the Board of Trustees.

Draft Faculty Reappointment, Tenure and Promotion Appeal Policy (FAP)

Committee Definitions

Mediator's Committee

The Mediator's Committee consists of 5 tenured Faculty Members. These Faculty Members are nominated by the Committee on Committees of the Faculty Senate, approved by the Senate, and appointed by the Chancellor. Members of the Mediator's Committee are appointed for 3-year terms, with no more than two terms expiring each year. The Chancellor appoints the Chair of the Mediator's Committee.

Faculty Executive Senate Committee

The Faculty Executive Senate Committee consists of the Chair, the Secretary, the Chair-elect, the Assistant Secretary, and the immediate past Chair of the Faculty Senate.

Hearing Committee

The Hearing Committee consists of 3 tenured Faculty Members and 5 alternate Faculty Members. These Faculty Members are nominated by the Committee on Committees of the Faculty Senate, approved by the Senate, and appointed by the Chancellor. Members of the Hearing Committee are appointed for 3-year terms, which are staggered to ensure continuity. The Grievance Committee appoints the Chair of the Hearing Committee.