

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

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

Draft – April 29, 2008

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

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Additional Exhibits:

Exhibit A, Title 7, Chapter 154, Texas Civil Practices and Remedies Code

Exhibit B, Texas Mediation Trainer Roundtable Annotated Standards

Exhibit C, Standards of Practice established by Texas Association of Mediators

Exhibit D, Ethical Guidelines for Mediators, State Bar of Texas Alternative Dispute Resolution Section

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, clinical professors) 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 provides Appellants with a review of tenure and/or promotion denial 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 or clinical professors) faculty member. This policy provides a “second look” for the Appellant based on substantive and/or procedural issues.

II. Administrative Responsibility

Academic Affairs (the Provost’s office) and the University FAP Facilitator are responsible for administering this policy. Appellants shall not fear reprisal or prejudice from exercising their rights under this appeal policy. The FAP Facilitator shall ensure that the appeal process timeline is followed as stated or as altered by mutual consent of the parties.

III. Faculty Rights

Decisions regarding the awarding of tenure and promotion belong to the faculty. When a faculty Appellant questions either the process and/or outcome of tenure and promotion decisions, they are owed notice, an opportunity to be heard, and feedback regarding these decisions. This appeal process recognizes these due process rights and affords all faculty the right of a second look. Similarly, while Department Chairs, Deans, and the Provost may normally agree with faculty tenure and promotion recommendations, when they do not, they must respect the due process rights of faculty.

IV. Appeal Process

During the normal tenure and/or promotion recommendation process (see Appendix 1 for a description of this process) an appeal may originate at different organizational levels depending on where a denial decision occurs. Any eligible Appellant may choose to appeal a tenure and/or promotion denial decision regardless of which level the decision originates (i.e., Department, School, College, or University) using the procedures described here. See Figure 1 (p. 5) for a summary of the appeal process.

The appeal may begin as soon as the Appellant receives written formal notification of denial but no later than five days following such notification.

The process is initiated when the Appellant contacts the University FAP Facilitator (or FAP Facilitator; see Appendix 4: FAP Definitions, p.10)) who will meet with and advise the Appellant.

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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 appeal case will move forward from the Department to the College Level and finally to the Faculty Appeal Hearing Committee (FAHC). For example, an appeal that originates in the Department may not bypass the College Level Review. The Appellant may terminate the appeal process at any time.

If the appeal is upheld (that is, the denial is overturned), the appeal process is ended. If the denial is upheld at all levels through the FAHC, (the final appeal step), the appeal process is ended. If a tenure and/or promotion case appeal originating at the Department or College Level is upheld in favor of the Appellant, the case will then resume through the prescribed normal tenure and promotion recommendation process (see Appendix 1, p. 6). Denial appeals that originate at the University Level are appealed directly to the FAHC.

The appeal process may include Informal Facilitated Discussions (Appendix 4: FAP Definitions, p. 10). 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.

V. Summary of Review Steps Based on Appeal Origination

Departmental Level Review

If the original denial decision was made at the Departmental Level, the Department Chair and the Department Advisory Committee shall conduct the review of the Appellant's Appeal File. The Departmental Level Review includes appeals for any reason given by the Appellant.

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 Appellant's Appeal File. The College Level Review includes appeals for any reason given by the Appellant.

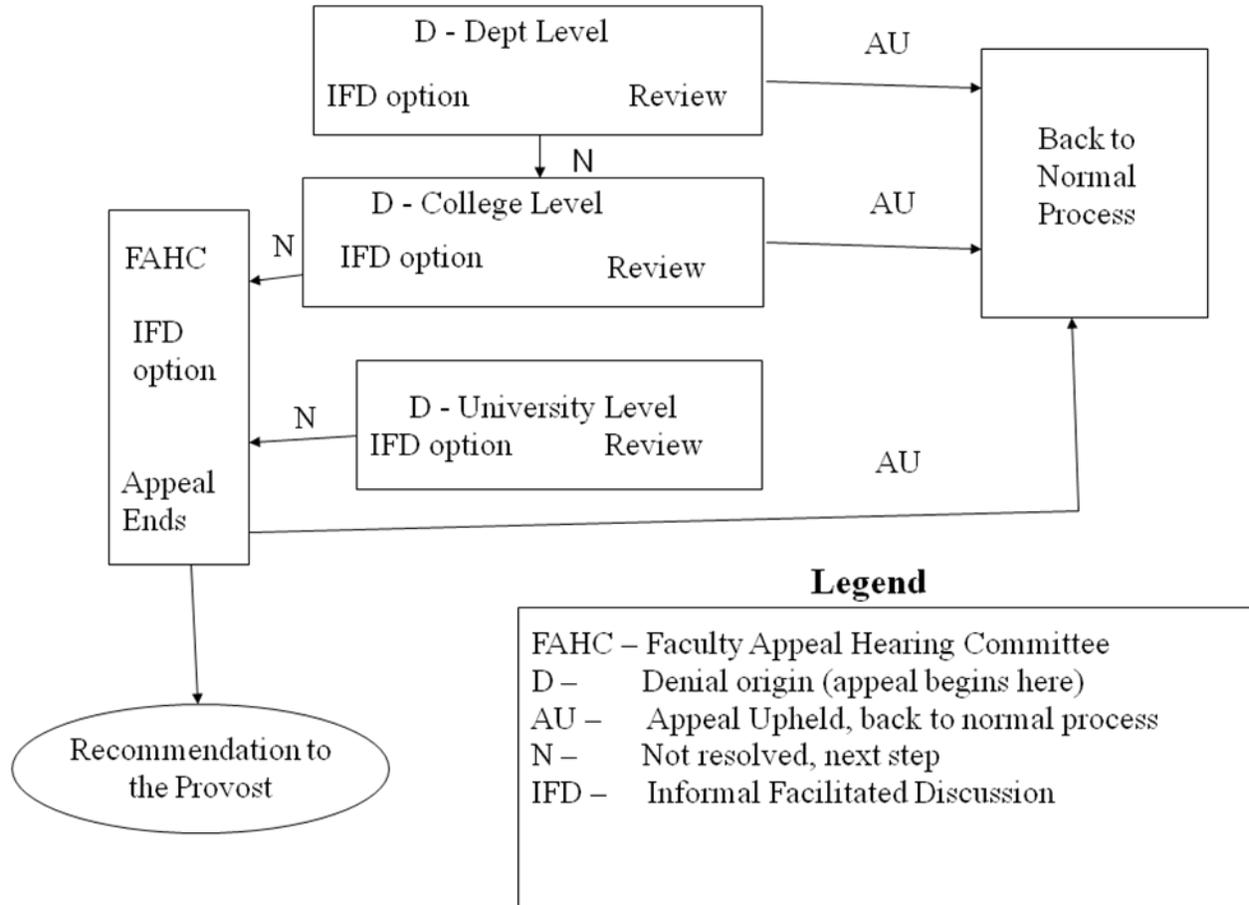
University Level Review

If the original denial decision was made by the University Advisory Council or by the Provost then the Appellant may continue the appeal by requesting a review by the FAHC. The FAHC will consider appeals based on any reason given by the Appellant. The FAHC may always choose to consult with the Departmental and/or College Advisory Committee members as well as the Department Chair and College Dean before rendering a decision.

Faculty Appeal Hearing Committee (FAHC) Review

The final step of any appeal is a review by the FAHC. Appeals arrive at the FAHC for one of two reasons: the Appellant requests a review of a College Level Denial (e.g., from the Dean) or the Appellant requests an appeal of a University Level Denial (e.g., from the Provost). The FAHC is created 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 Appellant, FAP Facilitator, and Provost within 10 days of receiving the Appeal File from the FAP Facilitator. FAHC decisions are final and may not be appealed. The sequence and timing of each of these steps in the process are further described in Appendix 2 (p. 7).

Figure 1
OVERVIEW OF APPEAL PROCESS



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**Appendix 1: NORMAL TENURE/PROMOTION RECOMMENDATION
PROCESS (2007-2008 Academic Year)**

The following deadline dates and sequence of procedures for the review of nontenured tenure track faculty and tenure/promotion recommendations have been established.

Dates

Procedures

Mon., September 24	The department chair* will have initiated the collection of appropriate materials for tenure and/or promotion review from all appropriate faculty in his/her department. The faculty member may submit any other information considered relevant by the faculty member.
Mon., October 8	The faculty member will have submitted the materials requested and any other information considered relevant to the appropriate department chair.
Mon., October 22	The tenured faculty and department chair* will have reviewed the materials submitted by nontenured tenure track faculty members. The University, school/college and departmental criteria statements, as appropriate, shall form the basis of review regarding progress toward tenure. For faculty in their final probationary year, a written recommendation to grant or withhold tenure will have been made by the tenured faculty to the department chair*.
Thurs., October 25	The chair* will have issued a written tenure progress report to all nontenured tenure track faculty who are in at least their second year <u>with copies to the dean and to the Provost/Vice Chancellor for Academic Affairs</u> . The University, school/college and departmental criteria statements, as appropriate, shall form the basis of review regarding progress toward tenure. In the year in which the tenure decision is made, the written tenure progress report for the last year will be incorporated in the written recommendation to grant or withhold tenure.
Mon., October 29	The department chair (except in the College of Education) will have met with the department advisory committee and will have presented written recommendations for tenure/promotion along with supporting evidence.
Mon., November 5	The department advisory committee (except in the College of Education) will have submitted in writing its judgment of the tenure/promotion recommendations to the chair.

Appendix 2: Sequence and Timing for all Review Levels

The FAP Facilitator will guide this sequence of events:

1. Within 3 days of the Appellant's decision to request a Review, the FAP Facilitator will notify the appropriate administrator of the appeal and will forward the Appellant's Appeal File to those individual and relevant advisory committee members.

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

The selection process for the FAHC (see Appendix 4, FAP Definitions, p. 10) shall occur within 10 days and the steps as shown below will apply.

2. The administrator, advisory committee members, or FAHC members may request an Informal Facilitated Discussion for communication and clarification. This request is made of the FAP Facilitator. The Review process is temporarily stopped by mutual consent and the sequence and timing steps of the Informal Facilitated Discussion (Appendix 3, p. 8) are followed.
3. The administrator or appropriate committee members have 10 days from the receipt of the Appeal File to review the Appellant's case and issue a written response to the Appellant and FAP Facilitator. This document becomes part of the Appeal File. In the case of a Review by the FAHC, their written response is the final decision in the case; the response and decisions are forwarded to the Appellant, FAP Facilitator 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.
4. Within 3 days of the receipt of the Department Chair's, Dean's or Provost's written response, the Appellant will notify the FAP Facilitator 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.
5. Within 1 day of the Appellant's notification, the FAP Facilitator will report the decision to the Department Chair.
6. If the Appellant 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 FAP Facilitator within 2 days of the Appellant's notification to continue the appeal. This document becomes part of the Appeal File.
7. Within 1 day of receipt of the Appellant's written response, the FAP Facilitator shall send in writing a request of the appropriate Level for either an Informal Facilitated Discussion or a Review.
8. Appellants whose appeals originate at the Department Level may not bypass College Level Review. The appeal case stops with a ruling by the FAHC or by earlier resolution at the Department or College Level.

Appendix 3: FAP Facilitator Consultation & Informal Facilitated Discussion

The FAP Facilitator is a third-party facilitator who is available to assist the Appellant in determining the basis and procedures for the appeal, to answer questions, or to provide clarification. The FAP Facilitator 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 Appellant begins the appeal of a tenure and/or promotion denial by contacting the FAP Facilitator to discuss his or her case. The FAP Facilitator will schedule an appointment with the Appellant within 3 days and will meet with the Appellant within 10 days of the Appellant's initial contact. The FAP Facilitator will meet with and advise the Appellant. The Appellant then will formally initiate the appeal of a denial of tenure and/or promotion by notifying the FAP Facilitator in writing (email notification satisfies this requirement). The procedure clock starts at this written notification.

Within 3 days after the formal notification of the appeal, the Appellant will provide the FAP Facilitator with a set of materials and documents in support of the appeal case. These materials will constitute the Appeal File. Only written responses at each appeal step may be added to this Appeal File. If the Appellant 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 Appellant 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.

Informal Facilitated Discussion

An Informal Facilitated Discussion is a meeting that occurs during the appeal process between the Appellant 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 Appellant, Administrators, or Committee Members.

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

1. If the Appellant or an appropriate-level Administrator requests an Informal Facilitated Discussion, the FAP Facilitator 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 FAP Facilitator will assign 2 faculty mediators from a list of trained mediators.

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2. The informal discussion will take place within 10 days and may be extended by mutual consent of parties involved in the session.
3. Within 3 days of the conclusion of the Informal Facilitated Discussion, the mediators will notify the FAP Facilitator of the session outcome. Within that same 3 days, parties other than the Appellant who are involved in the Discussion and in subsequent decisions from the Discussion will notify the FAP Facilitator 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.
4. Within an additional 3 days, the Appellant will notify the FAP Facilitator 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 Appellant chooses not to continue the appeal, the appeal case is ended. Or, if the denial is upheld and the Appellant so chooses, the appeal will continue to the next level and will end with decisions made by the Faculty Appeal Hearing Committee.
5. The FAP Facilitator will report the outcome of the session and the Appellant's decision to all concerned parties within 1 day of notification by the Appellant. If the appeal continues, the FAP Facilitator will notify the appropriate party at the next Level in writing to request a review of the case. Within an additional 2 days, the FAP Facilitator shall assemble and/or forward the Appeal File for review to the appropriate Level.

Appendix 4: FAP 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 Appellant'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 promotional track faculty (e.g., professor of professional practice or clinical professor) or tenure-track or tenured faculty who seeks to appeal a tenure and/or promotion denial decision using the procedures available under this FAP process.

Faculty Appeal Hearing Committee (FAHC): The Faculty Appeal Hearing Committee shall consist of five employees of Texas Christian University, one selected by the Appellant in question, one selected by the Dean of the Appellant'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 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 Faculty Appeal 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 Appellant, FAP Facilitator, and Provost within 10 days of receiving the Appeal File from the FAP Facilitator. Faculty Appeal Hearing Committee decisions are final and end the appeal process.

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 FAP Facilitator 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 Exhibit A), and consistent with the Texas Mediation Trainer Roundtable Annotated Standards (see Exhibit B). The mediators must abide by the Standards of Practice established by the Texas Association of Mediators (see Exhibit C) and the Ethical Guidelines for Mediators established by the State Bar of Texas Alternative Dispute Resolution Section (see Exhibit D).

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. 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

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trained to guide others' dialogue impartially (see Faculty Mediator above). The sessions are discussions, thus more than one meeting may be needed as questions are raised and solutions sought. This process allows Appellants, 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 their dispute.

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

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

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

Appendix 5 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, redundant 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 (see Appendix 6, p.16).

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 faculty 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 Appellant'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. Normally, procedural concerns only will be considered at the College Level Review but at this level, in special circumstances the Faculty Appeal Hearing Committee will be permitted to consult with Department and College Advisory Committees if substantive concerns are raised.

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What is an FAP Facilitator and how will this person function under the new policy?

An FAP Facilitator is a neutral representative of the appeal policy. The FAP Facilitator does not represent either the Appellant or the academic unit where the tenure/promotion denial has occurred. The FAP Facilitator'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 FAP Facilitator?

Most FAP Facilitators 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 FAP Facilitator, in consultation with the Chancellor.

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

The FAP Facilitator job description may evolve over time with experience. Promotion and/or tenure denials are not routine or frequent events at the university. The FAP Facilitator 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 Appellant without a mediator present. But, if either party (e.g., Appellant or Chair) requests an Informal Facilitated 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 FAP Facilitator, 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

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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 Level to the College Level, University Level or Faculty Appeal Hearing Committee, seeking resolution at each level means that any party (Appellant, 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 Appellant 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 FAP Facilitator and b) the Faculty Senate Chair in conjunction with the FSEC nominate faculty to serve on 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 both in the tenure and promotion procedures and in addition through the FAP by voluntarily participating in Informal Facilitated Discussions with involved parties.

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 FAP Facilitator 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 consists of an independent review of the appeal by a panel of faculty peers.

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

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(Appellant, Department Chair, Dean, Provost, FAP Facilitator, 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.

Who does this policy really serve, the Faculty or TCU Administrators?

Actually, both. For example, when a faculty member is denied tenure and promotion at the Department Level, the untenured faculty member has a grievance with his Departmental tenured colleagues and/or the Department Chair. This FAP is designed to address that tension. Similarly, when a Department recommends a faculty member for tenure and promotion, and that recommendation is denied at the College Level, then the Department has a grievance with the College Advisory Committee and /or the Dean. This FAP is designed to address that tension.

What does “second look” mean?

By second look we mean that regardless of what level the denial takes place, the process requires those making the denial decision to revisit that decision; that is, to give the appellant’s case a second look. A second “second look,” if will, takes place at the final step of the appeal process, the review of the appeal by the Faculty Appeal Hearing Committee, an independent body of faculty peers.

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Appendix 6: Summary of 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 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 (Grievance 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 and 5 alternate faculty. These faculty 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.