



UTAH VALLEY UNIVERSITY Policies and Procedures

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| POLICY TITLE | Faculty Appeals for Retention, Tenure, and Promotion | Policy Number | 646 |
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1.0 PURPOSE

1.1 This policy provides a consistent, institution-wide appeal procedure for faculty members who wish to appeal (1) a midterm tenure review decision or (2) a final decision involving the denial of tenure or promotion in rank. This policy also establishes who has the authority and responsibility to manage the appeal process and who makes decisions through this process.

2.0 REFERENCES

- 2.1** *Administrative Procedure Act*, 5 U.S.C. § 706(2)(A) (1946)
- 2.2** *State System of Higher Education*, Utah Code § 53B-2-104
- 2.3** American Association of University Professors, *Recommended Institutional Regulations on Academic Freedom and Tenure*
- 2.4** Utah Board of Higher Education Policy R254 *Secure Area Hearing Rooms*
- 2.5** UVU Policy 162 *Title IX Sexual Harassment*
- 2.6** UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 2.7** UVU Policy 168 *Whistleblower Anti-Retaliation*
- 2.8** UVU Policy 632 *Assignment and Advancement in Academic Rank*
- 2.9** UVU Policy 635 *Faculty Rights and Professional Responsibilities*
- 2.10** UVU Policy 637 *Faculty Tenure*

3.0 DEFINITIONS

3.1 Appeal committee: The committee that hears an appeal of a decision related to midterm review, tenure, or promotion and is comprised of an associate dean from a different college and



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four tenured faculty members from the Retention, Tenure, Promotion, and Appeals (RTP&A) committee, University Tenure Advisory Committee, and/or from a trained pool of faculty. (See section 5.2.)

3.2 Appellant: A tenure-track faculty member appealing a midterm review or final tenure decision, or a tenured faculty member appealing a denial in promotion in rank.

3.3 Arbitrary and capricious: A decision is arbitrary and capricious if it so substantially departs from accepted academic norms as to demonstrate that the person or committee responsible did not actually exercise professional judgment. This could be the case, for example, if the decision maker relied on improper or irrelevant factors, entirely failed to consider an important aspect of the problem, offered an explanation for their decision that runs counter to officially approved RTP criteria or evidence, or is so implausible that it could not be ascribed to a difference in view or a product of the decision maker's expertise. The decision was based on something other than the faculty member's tenure or promotion portfolio, the approved department RTP criteria, and professional conduct as outlined in university policies.

3.4 Clear and convincing: Clear and convincing evidence is an intermediate standard that requires more than a preponderance of evidence but does not require proof beyond a reasonable doubt. It requires existence of facts that make a conclusion highly probable.

3.5 Department: A group of salaried, benefits-eligible faculty members from the same or related disciplines that are authorized by the Provost to act as an academic unit to evaluate faculty peers for retention, tenure, and promotion.

3.6 Faculty member's portfolio: A collection of documents prepared by a faculty member as evidence of their contributions in teaching, scholarly and/or creative works, and service as required in university policy and their approved department criteria. This portfolio is distinct from the "tenure or promotion portfolio." (See UVU Policy 637 *Faculty Tenure* for the recommended storage method.)

3.7 Faculty Senate Retention, Tenure, Promotion, and Appeals (RTP&A) committee: A standing committee of the Faculty Senate that encourages equity and rigor in department rank and promotion criteria, promotes adherence to university policies, considers appeals of midterm review, tenure review, and promotion decisions, and advises on matters of tenure and promotion policy.

3.8 Reevaluation committee: A committee of an odd number of at least three tenured UVU faculty members appointed jointly by the Faculty Senate president and the Provost to evaluate a faculty member for renewal of appointment, tenure, or promotion after their appeal is granted. (See section 5.9.1.)

3.9 Respondent: The entity responding to the appellant's claim. In this case, the respondent is the Provost or their appointed representative.



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3.10 Retention, Tenure, and Promotion committee (RTP committee): A group of tenured faculty members that evaluates faculty peers for recommendations for or against retention, tenure, or promotion. RTP committees serve a single academic department, a cluster of academic departments in the same school/college, or an entire school/college. (See UVU Policy 637 *Faculty Tenure*.)

3.11 Secure area: A room that meets the criteria set forth in Utah Board of Higher Education Policy R254 *Secure Area Hearing Rooms* that restricts individuals from transporting any firearm, ammunition, dangerous weapon, or explosive.

3.12 Tenure or promotion portfolio: The collection of documents consisting of a faculty member's portfolio submitted for evaluation for midterm review, tenure review, or promotion; a copy of the relevant tenure or promotion criteria; any peer evaluations solicited by the RTP committee during the review process; and all applicable recommendations from the RTP committee, department chair, dean, provost, president, and Board of Trustees, as well as a written response from the faculty member during the review process (See UVU Policy 637 *Faculty Tenure*). This portfolio is distinct from the faculty portfolio.

3.13 University Tenure Advisory committee (Advisory committee): A Faculty Senate committee charged with reviewing tenure candidates' tenure review portfolios and advising the Provost on whether each portfolio is problematic or unproblematic with regard to university policies. (See UVU Policy 637 *Faculty Tenure*.)

4.0 POLICY

4.1 Policy Statement

4.1.1 A faculty member may appeal (1) a midterm tenure review decision or (2) a final decision involving the denial of tenure or promotion in rank. This policy provides the process, rights, roles, and responsibilities for this appeal process as well as any reevaluation process.

4.1.2 The tenure and promotion appeal process is led by faculty members who have been elected as chair and members of the Retention, Tenure, Promotion, and Appeals (RTP&A) committee.

4.2 Scope of Policy

4.2.1 This policy applies to faculty who are tenure track and wish to appeal (1) a midterm review decision or (2) a final decision involving the denial of tenure or promotion in rank.

4.3 Right to Legal Counsel

4.3.1 The appellant has the right to consult with legal counsel. The appellant is responsible for the cost of their legal counsel or other representation. The RTP&A chair will provide



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information about legal aid or other resources available to them through professional organizations.

4.3.2 The respondent shall consult with legal counsel appointed by the Office of General Counsel.

4.3.3 The appeal and revaluation committee shall consult with legal counsel appointed by the Office of General Counsel regarding legal, procedural, policy, and other questions as needed throughout the appeal process. This appointed counsel will not be the same person that advised the university decision makers at any earlier stage in the process or the same person appointed to counsel the respondent. This appointed counsel will be neutral as to any decisions or recommendations that are the subject of the appeal.

4.3.4 Legal counsel for all parties serve in purely advisory roles and shall focus primarily on activities outside of the context of any hearings, such as preparation of the written request for appeal, preparation of evidence, clarification of legal definitions of terms, and composition of the decision report by the appeal committee. Section 5.7.5 outlines the participation of legal counsel during hearings.

4.3.5 If at any point in the proceedings legal counsel for any party speaks or writes on behalf of their client, these communications must be processed through the Office of General Counsel.

4.4 Appeals Covered in Other Policies

4.4.1 If a faculty member believes a negative decision at midterm review, a denial of tenure, or a denial of promotion resulted from discriminatory or prejudicial treatment during the review process in violation of specific constitutional, or statutory, or other rights protected under employment law and/or university policy, the appropriate appeal process in UVU Policy 162 *Title IX Sexual Harassment*; UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*; or UVU Policy 168 *Whistleblower Anti-Retaliation* also applies.

4.4.2 The appeal committee under this policy is not authorized to make and shall not make judgment regarding alleged discriminatory or prejudicial behavior. The appeal committee is authorized to consider only the grounds for appeal alleged by the appellant outlined in section 4.6.

4.4.3 If a faculty member alleges discriminatory or prejudicial treatment and appeals one or more grounds outlined in this policy, they should pursue both appeals concurrently in consultation with the Faculty Senate president and/or the chair of the RTP&A committee. Faculty pursuing multiple appeals are particularly encouraged to seek support throughout the appeal process outlined in this policy, as indicated in sections 5.1.1, 5.3.2, 5.5.4, and 5.7.6, and in the appeals processes covered by other policies (see UVU Policies 162 *Title IX Sexual Harassment*, 165 *Discrimination, Harassment, and Affirmative Action*, and 168 *Whistleblower Anti-Retaliation*).



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4.4.4 If available, results from fact finding and/or the final investigative report from a formal complaint of discrimination or prejudicial treatment under another university policy (see section 4.5.1) may be included as evidence in an appeal of midterm review, tenure review, or promotion under this policy.

4.4.5 The appellant may submit a new written request for appeal if (1) an appeal under this policy is not granted prior to the conclusion of fact finding or a final investigation, and (2) the fact finding or final investigative report is in favor of the appellant.

4.4.6 The new written request for appeal shall be submitted within 15 business days after the date of the formal notification to the appellant of the result of the fact finding or final investigative report concerning the investigation under another university policy. The new written request must also comply with expectations outlined in section 5.1 below. The appeal will then proceed as outlined in this policy.

4.5 Grounds for Appeals

4.5.1 Faculty appeals must allege one or more of the following grounds:

4.5.1.1 The process leading to the adverse decision failed to follow university policies and procedures with respect to the application for retention, tenure, or promotion and the alleged failure to follow policies and procedures substantially influenced the adverse outcome of the person's application;

4.5.1.2 The decision was arbitrary or capricious; or

4.5.1.3 The decision was primarily a response to the faculty member's legitimate exercise of academic freedom.

4.5.2 The appellant must establish the grounds for the appeal by clear and convincing evidence.

5.0 PROCEDURES

5.1 Filing an Appeal

5.1.1 A faculty member considering appeal of a decision of midterm tenure review, tenure, or promotion in rank shall consult with the Faculty Senate president and/or the chair of the RTP&A committee to further understand the appeal process.

5.1.2 If the faculty member decides to proceed with the appeal, they shall submit a written request for appeal to the Faculty Senate president, the chair of the RTP&A committee, and the Provost within 15 business days from the date the written notification of non-renewal of appointment or denial of tenure or promotion was received by the candidate by electronic mail



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with return receipt noted. The appeal committee shall consider reasonable exceptions to the 15-day time limit under the parameters of section 5.10.2.

5.1.3 The written request for appeal shall state the name of the person making the appeal and the date of the decision being appealed. A copy of the letter that contains the notification of the decision being appealed must be attached. With reasonable clarity, the request must explain the basis for the appeal, alleging one or more grounds for appeal as described in section 4.5 and section 4.6 of this policy and providing as much detail as possible to support the validity of the appeal. The initial request should be as comprehensive as possible but does not have to be exhaustive, as additional grounds and/or evidence may emerge as the appellant prepares their appeal.

5.1.4 If desired, the faculty member can request support in preparing their appeal from the chair of the RTP&A committee, in which case the chair must excuse themselves from serving on the appeal committee for that faculty member. Support from the RTP&A committee chair in the preparation of the appeal does not constitute legal advice and does not guarantee a successful appeal.

5.1.5 Within five business days of receipt of a timely written request for appeal, the RTP&A Chair will notify the Office of Academic Affairs of the appeal and the Office of Academic Affairs shall prepare a secure digital space to store all evidence and copies of official communication for the appeal proceedings and notify the Office of General Counsel of the appeal. The digital space will be made available to the appellant, respondent, and all members of the appeal committee.

5.1.6 The Office of Academic Affairs will ensure digital access to the appellant's tenure or promotion portfolio, including all letters of recommendation and decision and rebuttals, in the secure digital space. The RTP&A committee chair will include the initial request for appeal in this secure digital space.

5.2 Composition and Organization of the Appeal Committee

5.2.1 Within 10 business days of receipt of a timely written request for appeal, the RTP&A committee chair must propose an appeal committee of an even number of at least four tenured faculty members to hear the appeal. In addition, one associate dean or executive member having tenure to a UVU department shall be appointed to the committee. The Deputy Provost cannot be a member of the appeal committee. Faculty will compose the majority of the appeal committee and should be members of the RTP&A committee when possible. When at least four members of the RTP&A committee are not available, substitute members, from the University Tenure Advisory Committee or from a trained pool of tenured faculty of the university, may be jointly appointed by the Faculty Senate president and the RTP&A committee chair.

5.2.2 The RTP&A committee, in partnership with the Office of General Counsel, will conduct trainings and keep the training materials current and aligned with policy.



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5.2.3 The RTP&A committee chair must notify the appellant and respondent by email or otherwise in writing of the proposed committee members, providing the opportunity for both parties to indicate any potential conflict of interest among the committee members as specified in section 5.3.

5.2.4 Once the appeal committee has been approved by both the appellant and respondent, the chair of the RTP&A committee will convene the appeal committee and train them on their responsibilities. The appeal committee must select a chairperson from among its members to receive the written appeal from the RTP&A committee chair and to chair the appeal proceedings. It is best practice that the chair of the appeal committee be a member of the RTP&A committee; however, in the rare case when this is not possible due to unavailability, the RTP&A chair will make a determination for chair of the appeal committee.

5.2.5 The chair of the appeal committee shall manage all aspects of the appeal process with guidance from the RTP&A committee chair and the committee's legal counsel. This includes scheduling any committee meetings and hearings and conducting all communications regarding the appeal for the committee.

5.3 Conflict of Interest

5.3.1 The University is committed to ensuring that its appeal process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome. All members of the appeal committee shall be impartial in appeals brought to the committee, favoring neither the appellant nor respondent.

5.3.2 Any potential appeal committee member who was involved in any way with the process that led to the decision being appealed (whether by serving on an RTP committee or as department chair, or as an advocate or advisory for the appellant or respondent, or otherwise), or who has a conflict of interest or any bias for or against the appellant or respondent, is not eligible to serve on the appeal committee for that appeal. Potential members of the appeal committee shall recuse themselves if they feel they cannot be impartial in reviewing the appeal.

5.3.3 If either the appellant or respondent believes that a member of the appeal committee may have some bias or conflict of interest, they may submit a written request within five business days of notification of the proposed committee membership. The request to remove the person from the process must be submitted to the chair of the RTP&A. If the request is not submitted within the five days, any potential bias or conflict of the appeal committee members will be deemed waived. The written request must include the specific rationale as to why the requestor believes the committee member has a bias or conflict and how that bias or conflict could substantially impact the outcome of the proceedings.

5.3.4 Upon receipt of a timely request to remove an appeal committee member for possible bias or a conflict, the RTP&A committee chair shall promptly remove that committee member and propose another committee member using the standard specified in section 5.2. The appellant



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and respondent shall have the opportunity to review the new member as outlined in section 5.3.3. Removal from an appeal committee is not a disciplinary action.

5.4 Confidentiality

5.4.1 The chair shall disclose to all parties any communication with individuals outside of the appeal process that are deemed necessary by the chair.

5.4.2 At any point in the appeal proceedings and hearing process, the appellant may seek advice, counsel, or support from an individual (see section 5.7.7). This support person/advisor shall be made known to the appeal committee chair in advance of their involvement, and they must agree to maintain the confidentiality of the proceedings. The appeal committee chair shall inform all parties of the participation of any support person/advisor and their role(s).

5.4.3 An individual who violates required confidentiality is subject to dismissal from appeal proceedings by the RTP&A chair, where feasible, and/or a letter of reprimand, or other applicable disciplinary action or sanction.

5.5 Proceedings

5.5.1 It is the responsibility of the appeal committee chair and the RTP&A chair to ensure that the appellant, respondent, appeal committee members, and other participants are treated equitably and with respect throughout all proceedings. Any concerns about inequity or disrespect should be directed to the RTP&A chair.

5.5.2 The appeal committee chair will communicate to all parties the procedures of the appeal and the rights and responsibilities of all parties via email, phone, online meeting, or in-person.

5.5.3 The official proceedings of an appeal include the following:

5.5.3.1 The appellant and respondent collect and submit initial evidence in support of or in response to the claims made in the written request for appeal;

5.5.3.2 The appellant, respondent, and appeal committee review the initial evidence;

5.5.3.3 The related parties collect and submit additional evidence in response to the evidence initially submitted or at the request of the appeal committee, as needed;

5.5.3.4 The appellant, respondent, and appeal committee complete a second review, as needed;

5.5.3.5 The appeal committee holds hearings to clarify evidence and/or ask questions of the appellant, respondent, and/or relevant witnesses. (This does not apply if the appeal committee has determined pursuant to section 5.6.10 that a hearing is not necessary.);



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5.5.3.6 The appeal committee completes a final review and decides the outcome of the appeal;

5.5.3.7 A reevaluation committee considers a new mid-term review or tenure/promotion decision if the appeal is granted; and

5.5.3.8 The president and board of trustees review the decision, if recommended by the reevaluation committee.

5.5.4 The appeal proceedings must be conducted in a timely manner (see section 5.10). Every effort shall be made to complete appeal proceedings no later than July 1st, unless both parties agree to extend to a specified date. Exceptions to the timeline may be granted in extenuating circumstances if agreed upon by both parties (see section 5.10.2). If either party to the appeal does not act within this policy's prescribed timelines and no extensions have been negotiated and agreed upon, then the appeal committee shall make its decision according to the evidence provided up to that point.

5.5.5 The appellant or anyone involved in the tenure or promotion in rank decision-making chain pertaining to the appeal shall have the right to assistance throughout the proceedings, which may include members of the faculty, staff, or legal counsel.

5.5.6 The appellant, respondent, and other participants shall not knowingly make false statements or knowingly submit false information.

5.5.7 The appellant, respondent, and other participants may at any time request accommodations under the *Americans with Disabilities Act (ADA)* through the RTP&A committee chair who will notify the appeal committee chair and Faculty Senate president and then refer the request to the employee ADA coordinator and implement approved accommodations.

5.6 Evidence

5.6.1 The appeal committee may request evidence and information from the appellant or the respondent that it deems relevant to the appeal at any time during the appeal proceedings. The appeal committee shall have the right to seek the assistance of relevant experts, other committees, or individuals it deems appropriate to facilitate the appeal process.

5.6.2 The appeal committee chair will negotiate with both parties to determine an agreed upon date for the submission of initial evidence. This date should be within ten business days after the formation of the committee while providing sufficient time for the collection of evidence by both parties.

5.6.3 The appeal committee chair will also negotiate with both parties to determine an acceptable date for a hearing. This date should be within five business days after the consideration of evidence in section 5.6.8.



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5.6.4 The evidence considered by the appeal committee shall be limited to the scope of the appeal and must be relevant to actions by parties in the tenure or promotion decision-making chain. The burden of proof is on the appellant (see section 4.5.2).

5.6.5 Evidence may include a list of witnesses and a summary of what the witnesses might say in a hearing that is pertinent to the grounds for appeal. The appeal is not an opportunity to add materials that were missing from the portfolio during the decision-making process. The appeal committee shall determine the relevancy and appropriateness of all evidence in consultation with their appointed legal counsel from the Office of General Counsel.

5.6.6 During the collection of initial evidence, should the appellant discover evidence for additional grounds for appeal and/or further information that was not included in the initial written request for appeal, the appeal may be amended and that evidence may be submitted. If this evidence reveals additional grounds for appeal, the process in section 5.6.8 must be followed to allow the respondent to collect evidence connected to the new ground.

5.6.7 Both parties will submit their initial evidence in the secure digital space by the agreed upon date. The appeal committee chair will formally acknowledge the end of the collection of initial evidence to both parties via email. Both parties and the appeal committee will review all evidence.

5.6.8 If needed and agreed upon by both parties, a second opportunity for collection of evidence may be given to allow each to respond to the evidence provided by the other party. In this case, both parties may submit additional evidence and potential witnesses within 10 business days of the acknowledgment of the end of initial collection. The appeal committee may also ask for additional evidence during this period.

5.6.9 At the end of this 10-day period or earlier if agreed upon by all parties, the appeal committee chair will officially acknowledge the end of the collection of additional evidence to both parties via email. Both parties and the appeal committee will then review all evidence within five business days.

5.6.10 The appeal committee may resolve the appeal without conducting a hearing if (a) the appeal committee unanimously determines, in consultation with their appointed legal counsel, that the evidence is sufficiently clear that there remain no substantial questions, gaps, or ambiguities in the appeal documents that may prevent the committee members arriving at a well-reasoned decision, and (b) both the appellant and the respondent agree in writing that no hearing is needed. If the appeal committee decides pursuant to this section that the appeal can be resolved without conducting a hearing, the committee chair shall notify the parties of the decision to proceed without a hearing and the basis for that decision, following the notification procedures in section 5.8.5, within five business days of the receipt of evidence pursuant to section 5.6.8.



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5.6.11 The appellant and respondent must have five business days to agree or disagree with the decision to proceed without a hearing. Their response must be submitted in writing to the appeal committee chair. If either party disagrees with the decision or does not respond within the five-day timeframe, the hearing will proceed as originally scheduled. If both parties agree with the decision in writing, the appeal committee must cancel the scheduled hearing and issue its final report and decision on the appeal pursuant to section 5.8 within five business days after the expiration of that deadline.

5.7 Hearings

5.7.1 Unless the appeal committee has decided pursuant to section 5.6.11 to proceed without a hearing, the chair of the appeal committee must schedule hearings to clarify evidence and/or ask questions of the appellant, respondent, and/or additional witnesses pertaining to the appeal.

5.7.2 The parties to the appeal (the appellant and respondent) must each submit a list of witnesses with the evidence, in accordance with the process in section 5.6.5.

5.7.3 The hearing(s) will be conducted according to RTP&A committee guidelines. The hearing may be conducted in multiple sessions if needed. The hearing(s) may be conducted face-to-face, by videoconference, or by any other method that is agreed upon by the appellant, respondent, and appeal committee. In the case of face-to-face hearing(s), the University will establish a secure hearing room space and screen for firearms and other dangerous weapons pursuant to Utah Board of Higher Education R254 *Secure Area Hearing Rooms*.

5.7.4 When legal counsel for the appellant is present at any appeal hearing, legal counsel for the respondent must also be present. The appellant must notify the appeal committee chair and respondent of the intended presence of legal counsel at least five business days prior to any hearing to facilitate scheduling. If legal counsel for the appellant is present at any hearing without prior timely notification and legal counsel for the respondent is not present, the hearing shall be canceled and rescheduled.

5.7.5 Legal counsel for the appeal committee shall be present at all hearings to assist the committee during the hearings and in their deliberations.

5.7.6 Legal counsel for any party, if present, shall play an advisory role only. They are not to present evidence, question witnesses, or otherwise participate in any hearing. Any party may request an adjournment to consult with their legal counsel (for a reasonable amount of time to be determined by the appeal committee chair) in private outside of and separate from the hearing proceedings. Legal counsel for the appellant and the respondent shall have no other role in any appeal hearing. Legal counsel for the appeal committee may be consulted during the hearing regarding procedural questions relating to the conduct of the hearing. Any legal counsel who violates this section will be dismissed from the hearing by the appeal committee chair.



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5.7.7 The appellant shall have the right to have support from a support person throughout the appeal proceedings and in any hearings. The support person must be an advisor only. This person/advisor is not considered legal counsel; however, they may serve as a witness during the proceedings. Support person/advisor and their role(s) must be disclosed to the appeal committee at least eight business days prior to the hearing. Support persons/advisors are not to present evidence, question witnesses or otherwise participate in any hearing.

5.7.8 If either party fails to attend the hearing without prior notice to the appeal committee chair and good cause, the appeal hearing may proceed. Neither party is required to participate in the hearing for the hearing to proceed.

5.7.9 For good cause, the appeal committee may consider additional documentary evidence produced at the hearing itself. Any evidence submitted at the hearing by the appellant, the respondent, or any witnesses must be provided to all parties as well as to the appeal committee. The appeal committee has the right to grant adjournments to investigate or follow up on the evidence presented and to provide the other party with an opportunity to adequately respond.

5.7.10 The testimony and any additional evidence submitted at the hearing(s) shall be limited to the scope of the appeal and must be relevant to actions by parties in the tenure or promotion decision-making chain, demonstrating how the alleged violation adversely affected the faculty member's rights.

5.7.11 The hearing, except for deliberations, shall be recorded by the appeal committee chair or designee. Academic Affairs shall preserve recordings in digital audio format and include them in the secure digital space for the appeal. All parties to the appeal shall have the right to review and make copies of hearing recordings. The University shall retain recording for a period of five years following completion of the appeal. The University prohibits participants from recording the deliberations of the hearing or other meetings that precede or follow the hearing.

5.8 Decision

5.8.1 Upon concluding their consideration of evidence at any hearing, the appeal committee must deliberate and agree upon a decision. This deliberation may require multiple meetings and other communications.

5.8.2 . Deliberations and voting sessions are restricted to committee members only.

5.8.3 All members of the appeal committee, including the chair, are voting members. Any appeal committee member may request an anonymous ballot when voting on a decision. All committee members present at the hearing must participate in the decision. If the committee feels it necessary, the chair may request a designated secure area in which to conduct their deliberations (see UBHE Policy R254). Additionally, the committee must consult legal counsel as it makes its decision and composes its report. The advising attorney may remain present for appeal committee deliberations but cannot vote.



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5.8.4 Votes must be cast by secret ballot for each of the grounds for appeal. By majority vote, the appeal committee must reach one of the following decisions:

5.8.4.1 Deny the appeal. The appellant did not provide clear and convincing evidence to establish any grounds for the appeal. In this case, the original decision of non-renewal of appointment at midterm review or denial of tenure or promotion stands. The appeal committee must prepare a detailed report explaining this decision.

5.8.4.2 Grant the appeal. Any of the issues raised by the appellant were found by clear and convincing evidence to merit reevaluation of the candidate's tenure or promotion file (see section 5.9). The appeal committee must prepare a detailed report that addresses each of the grounds of the appeal. For each ground of appeal, the report must (a) identify the specific provisions of policy that have been violated, (b) state the particular points that were found in favor of the appellant and the particular points that were not, and (c) thoroughly explain the rationale of the committee's decision for that ground of appeal.

5.8.5 Within 10 business days of the final hearing, the chair of the appeal committee shall communicate the committee's report and decision via email and certified mail to the appellant, and via email to the chair of the department RTP committee, chair of the RTP&A committee, department chair, dean, Faculty Senate president, and Provost. The report shall also be included in the secure digital space for the appeal by the appeal committee chair. If the appeal committee decided the appeal without conducting a hearing pursuant to section 5.6.10, the report shall be communicated by the deadline specified in section 5.6.10.

5.9 Reevaluation

5.9.1 If the appeal is granted, a reevaluation committee consisting of an odd number of at least three tenured faculty members shall be proposed by the Faculty Senate president and Provost within 15 business days of their receipt of the appeal committee's report. The Faculty Senate president will notify the appellant of the proposed membership via email.

5.9.2 At least one member of the reevaluation committee shall be from the same or a similar discipline as the appellant. If the appeal is for promotion to full professor, at least one member of the reevaluation committee shall be a full professor in the same or a related discipline as the appellant. No member of the reevaluation committee may have been involved in any capacity in the decision being reevaluated (whether by serving as an RTP committee member or department chair, as a member of the appeal committee, as a support person/advisor for the appellant or respondent, or otherwise).

5.9.3 In most instances, the reevaluation committee shall be composed of UVU faculty members; however, when justified and agreed to by all parties, tenured faculty from other similar regionally accredited public institutions of higher education may be invited to participate, particularly when a suitable member from the candidate's discipline at UVU is not available.



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5.9.4 In all cases, candidates for the reevaluation committee must recuse themselves if a conflict of interest exists. If the appellant or respondent believes that a member of the reevaluation committee may have some bias or conflict of interest, they may submit a written request to the Faculty Senate president to remove the person from the process. This written request must be received by the faculty senate president within five business days of notification of the formation of the reevaluation committee; otherwise, any potential bias or conflict of the reevaluation committee members will be deemed waived. The written request, by either party, must include the specific rationale as to why the requestor believes the committee member has a bias or conflict. Upon receipt of a timely request to remove a reevaluation committee member for possible bias or a conflict, the Faculty Senate president must promptly remove that committee member and appoint another committee member using the standards as specified in section 5.9.2. Removal of a reevaluation committee member is not a disciplinary action.

5.9.5 The Office of Academic Affairs shall arrange for the reevaluation committee to review the appellant's tenure or promotion portfolio relative to the appropriate departmental criteria and university policy. A copy of the report of the appeal committee shall also be given to the reevaluation committee. The reevaluation committee shall write a detailed report in which they recommend for or against (1) retention of the appellant in the case of midterm review, (2) granting tenure of the appellant, or (3) promotion in rank of the appellant, as applicable. The reevaluation committee shall thoroughly explain their rationale.

5.9.6 Within 15 business days of the formation of the reevaluation committee, the reevaluation committee's report shall be forwarded with the candidate's tenure or promotion portfolio to (1) the University President, in cases of tenure and promotion appeals, or (2) the Provost, in cases of midterm review appeals. Copies of the report will be emailed to the appellant, department RTP committee chair, RTP&A committee chair, department chair, dean, Faculty Senate president, and Provost. The Office of Academic Affairs shall include the report in the secure digital space for the appeal. In extenuating circumstances, the Faculty Senate president, in collaboration with the Deputy Provost, may make exceptions to the reevaluation timeline that is outlined in section 5.10, and communicate such exceptions to all parties.

5.9.7 Upon receipt of the reevaluation committee's report, the appellant, department RTP committee chair, department chair, Dean, Faculty Senate president, and Provost may each submit a written response to the report directly to the President. Such a response may contain any information relating the report that the respondent believes is pertinent to the President's review of the report. In order to be considered by the President, written responses submitted pursuant to this section must be received by the President within five business days of the date the reevaluation committee's report was sent to the appellant.

5.9.8 The University President will conduct a new review of the candidate's tenure or promotion portfolio, along with the appeal committee's report, the reevaluation committee's report, and any written responses from the parties listed in section 5.9.7. The President shall not consider any information beyond the scope of the candidate's tenure or promotion portfolio and the appeal



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proceedings, unless the nature of that information is communicated via email or otherwise in writing to both parties and both parties are given five business days to respond to that information. Following consultation with the Board of Trustees, the President shall write a detailed report in which they decide for or against (1) retention of the appellant in the case of midterm review, (2) granting tenure of the appellant, or (3) promotion in rank of the appellant, as applicable. The President shall thoroughly explain their rationale for their decision.

5.9.9 The President's determination will be communicated via email and certified letter to the appellant, and via email to the department RTP committee chair, the RTP&A committee chair, department chair, dean, Faculty Senate president, and Provost. The Office of Academic Affairs shall include the determination in the secure digital space for the appeal.

5.9.10 In the case of non-renewal of a tenure-track appointment pursuant to a midterm review, the Provost's determination is final.

5.9.11 There shall be no further appeal under this policy once the final decision is rendered.

5.9.12 The President shall communicate the final decision via email and certified letter to the appellant, and via email to the department RTP committee chair, department chair, dean, Faculty Senate president, and Provost within 10 business days of when the decision was made. The Faculty Senate president will forward the decision to the RTP&A committee chair. The Office of Academic Affairs shall include the determination in the secure digital space for the appeal.

5.10 Timeline

5.10.1 The following table identifies the required timelines for appeals and hearings. Time is indicated in business days barring exceptions set forth in section 5.10.2:



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| Action | Timing (Business Days) |
|--|--|
| 1) The faculty appellant submits a written appeal of the decision to the faculty senate president and RTP&A committee chair. | No more than 15 days after the date on the non-renewal or denial letter (see section 5.1). |
| 2) The Office of Academic Affairs creates a secure digital space for appeal materials, including a copy of the appellant's portfolio. | No more than 5 days from the receipt of the written request for appeal (see section 5.1). |
| 3) The appellant or respondent submit(s) any written requests to the RTP&A committee chair for removal of committee members who may have bias or a conflict of interest. | No more than 5 days from notification of committee membership (see section 5.3). |
| 4) The RTP&A committee chair appoints substitute committee members, as needed. | No more than 5 days from written request for removal (see section 5.3). |
| 5) The appellant and respondent submit evidence, including a list of any witnesses for a hearing, in support of/response to the claims made in the written request for appeal, as well as any further grounds/evidence the appellant may have discovered. Evidence is made available to both parties through the secure digital space. | No more than 10 days after the appeal committee is formed, as coordinated with the appellant and respondent (see section 5.6). |
| 6) The appellant and respondent review the evidence provided by the other party and submit evidence, including a list of any witnesses for a hearing, in response, as needed. The appeal committee may request additional documentation. | No more than 10 days after the agreed upon date of submission of evidence (see section 5.6). |



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| Action | Timing (Business Days) |
|--|---|
| 7) All parties review the evidence. The appeal committee determines the need for a hearing. The appellant and/or respondent may request a hearing. | No more than 5 days after the submission of final evidence (see section 5.6). |
| 8) The appeal committee chair schedules a hearing if needed. | No more than 5 days possible after the evidence has been reviewed, as coordinated with the appellant and respondent; date agreed upon by all parties (see section 5.7). |
| 9) The appeal committee conducts a hearing according to RTP&A committee guidelines. The hearing may be conducted in multiple sessions if needed. | As scheduled, preferably before the beginning of the next academic year (see section 5.7). |
| 10) The appeal committee renders its decision in writing and notifies the relevant parties. | No more than 10 days after the conclusion of the final hearing or decision that a hearing is not necessary (see section 5.8). |
| 11) If the appeal committee grants the appeal, the Faculty Senate president and Provost form a reevaluation committee. | No more than 15 days after the date on the appeal committee's report (see section 5.9.1). |
| 12) The reevaluation committee renders its decision in writing and notifies the relevant parties. | No more than 15 days after the formation of the reevaluation committee (see section 5.9.5). |
| 13) Invited parties submit responses to the University President. | No more than 5 days after the date on the reevaluation committee's recommendation letter to the University President (see section 5.9.6). |
| 14) The University President renders a final decision on the reevaluation or gives their recommendation to the Board of Trustees. | Within a reasonable amount of time after the date on the reevaluation committee's recommendation letter to the University President (see section 5.9.8). |
| 15) The President communicates the final decision to the relevant parties. | No more than 5 days after the final decision was made (see section 5.9.12). |



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5.10.2 Exceptions to the timeline may be made based on disability, religious, pregnancy accommodations, military service or leave, and/or medical leave or emergency, or in the case of a natural disaster or other extenuating circumstances. Either party may submit requests for exception. Requests must be submitted to the Faculty Senate president and the appeal committee chair (if the committee has been formed) in writing and must be agreed on by all parties.

| POLICY HISTORY | | |
|----------------------------|-----------------------------------|---------------------------|
| Date of Last Action | Action Taken | Authorizing Entity |
| April 15, 2010 | Regular policy approved. | UVU Board of Trustees |
| March 30, 2023 | Revised, regular policy approved. | UVU Board of Trustees |
| September 12, 2024 | Compliance change approved. | UVU President's Council |
| September 26, 2024 | Compliance change ratified. | UVU Board of Trustees |