

## 35. UNIVERSITY PROMOTION AND TENURE DOCUMENT

### Preamble

Among the most important decisions of a university are those regarding tenure and promotion of its faculty. At a university such as Ball State, the diverse nature of colleges and departments must be respected in any document pertaining to the university as a whole. However, a degree of continuity across disciplines is necessary to ensure equitable decisions for individuals. Consequently, the purpose of this document is to provide a set of common policies and procedures governing all promotion and tenure decisions at Ball State University. Although the Promotion and Tenure Documents of all colleges and departments must be consistent with this document in both spirit and detail, it is expected that these documents may also need to contain a variety of additional elements not included here.

The promotion and tenure expectations for each faculty member are dependent on the individuals’ particular assignment and are defined by university, college, and departmental documents. It is the responsibility of each faculty member to become familiar with all three applicable documents.

### 35.1. PRINCIPLES FOR PROMOTION AND TENURE

35.1.1. The evaluation of a faculty member's eligibility for promotion or tenure shall be conducted in light of the University Mission Statement and shall be based on evidence of a continuing pattern of achievement throughout the faculty member’s professional career in the following areas:

35.1.1.1. Teaching;

35.1.1.2. Scholarship;

35.1.1.3. Service in a professional capacity.

35.1.2. Policies and criteria related to recommending promotion and tenure shall be clear, specific, and accessible to all personnel.

35.1.3. Each affected department, school, and college must have formal criteria, procedures, and policies for recommendations for promotion and tenure.

35.1.4. Policies and criteria for promotion and tenure shall be subject to annual evaluation and review and to periodic revision.

35.1.5. Departmental policies and criteria for promotion and tenure must be approved by the College Promotion and Tenure Committee and the University Promotion and Tenure Committee and shall be on file with the academic dean and the ex officio member of the University Promotion and Tenure Committee.

35.1.6. The collegiate policies and criteria for promotion and tenure must be approved by the University Promotion and Tenure Committee and must be on

file with the University Promotion and Tenure Committee and the Office of the Provost and Executive Vice President for Academic Affairs.

35.1.7. Experiential learning in all its forms (internships, field trips, practica, student teaching, study abroad, immersive learning projects, etc.) is and has been a hallmark of a Ball State University education. Faculty who lead these types of activities should receive consideration for their involvement as they contribute to the established standards for Teaching, Scholarship and Service.

35.1.8 At Ball State University, we recognize the importance of inclusiveness, which we define as our commitment to respect and embrace equity, inclusion, and diversity in people, ideas, and opinions. Inclusiveness is integral to fulfilling our mission and our strategic plan.

35.1.8.1. Therefore, and in accordance with the principles of the Ball State Policy on Freedom of Expression (FPHB 1.1), the AAUP Statement on Professional Ethics (FPHB 33), Ball State's definition of Academic Freedom as stated in the Bill of Rights (FPHB 7, especially 7.1.2), and pursuant to our obligations under Indiana Code 21-39.5, a faculty member may not be granted tenure or a promotion by the institution if, based on past performance or other determination by the board of trustees, the faculty member is:

35.1.8.1.1 Unlikely to foster a culture of free inquiry, free expression, and intellectual diversity within the institution;

35.1.8.1.2 Unlikely to expose students to scholarly works from a variety of political or ideological frameworks that may exist within and are relevant and applicable to the faculty member's academic discipline; or

35.1.8.1.3 Likely, while performing teaching duties within the scope of the faculty member's employment, to subject students to political or ideological views and opinions that are unrelated to the faculty member's academic discipline or assigned course of instruction.

35.1.8.1.4 The bodies involved with the tenure and promotion process, including the Provost and Executive Vice President for Academic Affairs, the President of the University, and the Board of Trustees, may not consider the following actions by a faculty member when determining whether a faculty member may not be granted tenure or a promotion by Ball State University:

35.1.8.1.4.1 Expressing dissent or engaging in research or public commentary on subjects.

35.1.8.1.4.2 Criticizing the leadership of Ball State University.

35.1.8.1.4.3 Engaging in any political activity conducted outside the faculty member's teaching or mentoring duties at Ball State University.

35.1.8.2 In addition, once every five years after a faculty member is granted tenure, each faculty member will be evaluated as to whether the faculty member:

35.1.8.2.1 Helped Ball State University foster a culture of free inquiry, free expression, and intellectual diversity within the University.

35.1.8.2.2 Where relevant and appropriate to the faculty member's discipline, introduced students to scholarly works from a variety of political or ideological frameworks that may exist within the curricula established by the Board of Trustees of Ball State University under IC 21-41-2-1(b) or the faculty of Ball State University acting under authority delegated by the Board of Trustees of Ball State University.

35.1.8.2.3 While performing teaching duties, refrained from subjecting students to views and opinions concerning matters not related to the faculty member's academic discipline or assigned course of instruction.

35.1.8.2.4 Continues to show a pattern of achievement in performing academic duties and obligations.

35.1.8.2.5 In determining whether a faculty member has adequately met the criteria above, the Board of Trustees may not consider the following actions by a faculty member:

35.1.8.2.5.1 Expressing dissent or engaging in research or public commentary on subjects.

35.1.8.2.5.2 Criticizing the leadership of Ball State University.

35.1.8.2.5.3 Engaging in any political activity conducted outside the faculty member's teaching duties at Ball State University.

35.1.8.2.6 If the Board of Trustees determines that a faculty member has failed to meet the criteria outlined in 35.1.8.2.1 through 35.1.8.2.4, the faculty member will be subject to disciplinary actions, up to and including termination; demotion; salary reduction; other disciplinary action as determined by the Board of Trustees; or any combination of these actions.

35.1.8.3 Faculty members who engage in activities that promote inclusive excellence (training, development, intergroup dialogue, pedagogies and curriculum, community and campus partnerships, mentoring, peer-reviewed research, etc.) will receive credit for their involvement as they contribute to the established standards for Teaching, Scholarship and Service.

## 35.2. DEFINITIONS<sup>33</sup>

- 35.2.1. Department and departmental refer to schools and academic departments located within the seven colleges.
- 35.2.2. College and collegiate refer to the seven academic colleges
- 35.2.3. Reconsideration is the act whereby a candidate may request that an initial adverse decision by the department, college, or Provost be re-examined. Reconsideration provides an opportunity for the candidate to clarify content of materials. A decision in favor of the candidate does not guarantee tenure and/or promotion.
- 35.2.4. Appeal is the act whereby a candidate alleges that a violation of existing policy and/or procedure, or unfair treatment, or discriminatory treatment by the department, college, or Provost has resulted in an adverse decision. An appeal may be filed without following the reconsideration process. Appeals examine the process followed and not the content of materials. A decision in favor of the appellant does not guarantee tenure and/or promotion.
- 35.2.5. Working days are those days when Ball State University administrative offices are open.
- 35.2.6. Calendar days are the days which appear on a calendar, including Saturday, Sunday, and holidays. They do not relate to the Ball State academic schedule or calendar.
- 35.2.7. Tenure is a means to certain ends; specifically: (1) freedom of teaching and research, and of extramural activities and (2) a sufficient degree of economic security to make the profession attractive to individuals of ability. (Faculty Handbook: Appointment, Academic Freedom, and Tenure, Section 24). Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

- 35.2.8. Tenure-track faculty are those who are currently in the seven-year probationary tenure period.
- 35.2.9. Tenured faculty are those faculty who have been granted tenure.
- 35.2.10 Joint appointments are when a faculty member holds instructional, research, or clinical instructional appointments in two or more units such as schools, colleges, departments/programs, or between an academic unit and another unit on campus.
- 35.2.11. Scholarship is the process of attaining new knowledge, creating a new work, or recreating/interpreting existing works, and disseminating the results. Generally this takes the form of appropriate peer reviewed publications, presentations or exhibits, performances, other creative endeavors and grant proposals. Scholarship can occur in four areas: discovery, integration, application, and teaching.
  - 35.2.11.1. The scholarship of discovery is traditional research and creative endeavors, that pursue and contribute to new knowledge for its own sake.
  - 35.2.11.2. The scholarship of integration makes connections across disciplines, bringing together isolated knowledge from two or more disciplines or fields to create new insights and understanding.
  - 35.2.11.3. The scholarship of application applies knowledge to address significant societal issues.
  - 35.2.11.4. The scholarship of teaching studies the development of knowledge, skill, mind, character, and/or ability of others.
- 35.2.12. At promotion and tenure committee meetings where candidate decisions are made, all committee members (or their alternates) must be present. A quorum for these meetings therefore means a committee of the whole.

### **35.3. ACADEMIC RANK**

- 35.3.1. There are three basic academic ranks:

- 35.3.1.1. ASSISTANT PROFESSOR

- 35.3.1.2. ASSOCIATE PROFESSOR

- 35.3.1.3. PROFESSOR

Qualifications for rank are set by the individual colleges and must be approved by the University Promotion and Tenure Committee.

- 35.3.2. ADVANCEMENT IN RANK

This is based on a continuing pattern of achievement throughout the faculty member's professional career in:

- 35.3.2.1. Teaching;
  - 35.3.2.2. Scholarship;
  - 35.3.2.3. Service in a professional capacity.
- 35.3.3. A terminal degree in the faculty member's specialty area is usually required for either hiring at, or advancement to, associate or full professor. However, certain kinds of expertise, experience, and/or recognition may be accepted by individual colleges as appropriate qualifications for either rank, upon approval of the Provost and Executive Vice President for Academic Affairs.

#### **35.4. PROMOTION AND TENURE COMMITTEE STRUCTURE**

##### **35.4.1. DEPARTMENT PROMOTION AND TENURE COMMITTEES**

###### **35.4.1.1. Membership**

35.4.1.1.1. The Department Promotion and Tenure Committee shall be elected annually by confidential ballot. The electorate shall consist of tenured and tenure-track faculty members of the affected unit.

35.4.1.1.2. The departmental committee shall consist of tenured faculty.

35.4.1.1.3. No person may serve as a member of a Department Promotion and Tenure Committee who is a candidate for promotion.

35.4.1.1.3.1. Once an individual submits a written statement to the department chair indicating the intent to apply for promotion, that person is considered to be a candidate and can no longer serve on the committee. Candidates shall declare their intentions no later than April 30th of the spring semester before they will be reviewed.

35.4.1.1.3.2. The one exception to these provisions involves the chairperson of the department when they are a candidate for promotion. In that circumstance, they shall not participate in their ex officio capacity during the deliberations of promotion to the same rank.

35.4.1.1.4. No candidate shall be evaluated by a Promotion and Tenure Committee of fewer than three (3) eligible voting members. Departments which under these or

any other conditions cannot form a Promotion and Tenure Committee of at least three voting members shall develop specific provisions subject to the approval of the College and the University Promotion and Tenure Committees.

- 35.4.1.1.5. If a sufficient number of tenured faculty is not available, the department promotion and tenure committee and department chair will propose a solution to the academic dean, including but not limited to, using tenured faculty from other departments. All committee members should be qualified to evaluate the candidate's credentials.
- 35.4.1.1.6. In the event of the resignation of an elected committee member, the Department shall have procedures in place for the replacement of the resigning member.
- 35.4.1.1.7. The department chairperson shall be an ex officio non-voting member.
- 35.4.1.1.8. The names of the committee members shall be forwarded to the academic dean by the second week in October of each academic year.

#### 35.4.1.2. Responsibilities

- 35.4.1.2.1. The committee shall implement departmental, collegiate, and University promotion and tenure policies and procedures; departmental policies and procedures must not conflict with those of the college and University.
- 35.4.1.2.2. The committee shall make recommendations concerning policy changes to both the collegiate and University committees.
- 35.4.1.2.3. The committee shall review and evaluate the credentials of all departmental candidates for tenure and/or promotion. It shall forward the credentials of those candidates being recommended favorably, with written recommendations, to the academic dean.
- 35.4.1.2.4. The committee shall review and respond to reconsideration requests submitted by the candidate.
- 35.4.1.2.5. The committee shall review and evaluate the credentials of all department tenure-track candidates and forward these credentials, with recommendations, to the academic dean.

35.4.1.2.6. Minutes of all committee actions must be maintained by the department chairperson in a secure and confidential manner.

#### 35.4.2. COLLEGE PROMOTION AND TENURE COMMITTEES

##### 35.4.2.1. Membership

35.4.2.1.1. Each department in a college shall be represented on the College Committee.

35.4.2.1.2. The College Committee shall consist of tenured faculty only.

35.4.2.1.3. No person may serve as a member of a College Promotion and Tenure Committee who is a candidate for promotion. An individual so elected who later becomes a candidate for promotion must resign from the committee. The one exception is, in the event that an associate dean is serving in an ex officio capacity on the College Promotion and Tenure Committee, they shall not participate in their ex officio capacity during the deliberations of promotion to the same rank.

35.4.2.1.4. In the event that the department representative to the College Committee should resign, the College and the Department shall have procedures in place for replacement of the resigning member.

35.4.2.1.5. The academic dean, or designee, shall be an ex officio non-voting member.

35.4.2.1.6. The elected college representative to the University Promotion and Tenure Committee shall meet with the College Promotion and Tenure Committee as an ex officio (non-voting) member.

##### 35.4.2.2. Responsibilities

35.4.2.2.1. The College Committee shall establish and implement collegiate promotion and tenure policies and procedures and implement those of the University; collegiate policies and procedures must not conflict with those of the University.

35.4.2.2.2. The committee shall make recommendations for policy changes to the University Committee.

35.4.2.2.3. The committee shall review departmental compliance with policy implementation.



- 35.4.2.2.4. The committee shall review and evaluate the credentials of all collegiate candidates for promotion/tenure. It shall forward the credentials of those candidates being recommended favorably for promotion/tenure, with recommendations, to the dean.
- 35.4.2.2.5. The committee shall review and respond to reconsideration requests submitted by the candidate.
- 35.4.2.2.6. The committee shall review and evaluate the credentials of all collegiate tenure-track candidates in year four and forward these credentials, with recommendations, to the dean.
- 35.4.2.2.7. The committee shall hear appeals from candidates who feel aggrieved by the action of the Department Committee
- 35.4.2.2.8. Minutes of all committee actions must be maintained by the dean's office in a secure and confidential manner.

35.4.2.3. No one may serve to hear an appeal who has a demonstrated conflict of interest such as previous involvement with the case, assignment to the same academic department or administrative area as any of the principals in the case, business involvement, or relationship to any of the principals. Decisions regarding such conflicts shall be made by the committee chairperson.

#### 35.4.3. UNIVERSITY PROMOTION AND TENURE COMMITTEE

##### 35.4.3.1. Membership

35.4.3.1.1. The University Promotion and Tenure Committee shall consist of the following:

35.4.3.1.1.1. Seven tenured faculty, one representing each college, elected by the tenured and tenure-track faculty, for staggered three-year terms.

35.4.3.1.1.2. Should a college representative be unable to complete the term of election, the college will vote to elect a new representative, or the college alternate to the committee will serve the remainder of the term.

35.4.3.1.1.3. The Provost and Executive Vice President for Academic Affairs, ex officio, or a designee.

#### 35.4.3.2. Responsibilities

35.4.3.2.1. The University Promotion and Tenure Committee is responsible for carrying out on a continuing basis the following initiatives and activities:

35.4.3.2.1.1. To review existing University promotion and tenure policies and procedures and to recommend appropriate changes to the University Council;

35.4.3.2.1.2. To review and approve departmental and, collegiate, promotion and tenure policies to ensure both adherence to University policies and efficient and equitable operation;

35.4.3.2.1.3. To review compliance with promotion and tenure policy implementation and make appropriate recommendations and/or judgments in the case of infraction;

35.4.3.2.1.4. To hear appeals and make recommendations and/or decisions that are consistent with University policies describing the right of a faculty member or a department to appeal an adverse promotion or tenure recommendation;

35.4.3.2.1.5. Minutes of all committee actions must be maintained by the Provost's designee in a secure and confidential manner; regular reports will be provided to Faculty Council.

35.4.3.2.2. The elected members of the committee or their substitute shall serve as ex officio non-voting members of the promotion and tenure committees of their respective colleges.

35.4.3.3. No one may serve to hear an appeal who has a demonstrated conflict of interest such as previous involvement with the case, assignment to the same academic department as any of the

principals in the case, business involvement, or relationship to any of the principals. Decisions regarding such conflicts shall be made by the committee chairperson.

### **35.5. POLICY STATEMENTS FOR PROMOTION AND TENURE**

- 35.5.1. Any department faculty member has the right to present themselves to the Department Promotion and Tenure Committee for consideration for promotion to Associate Professor after the fourth tenure credible year. A request for consideration for promotion to Professor can be made any time after achieving the rank of Associate Professor.
- 35.5.2. Promotion to Associate Professor and the tenure decision will be aligned and occur in year seven.
  - 35.5.2.1. A candidate may apply early for tenure and promotion to Associate Professor once in either year five or six.
  - 35.5.2.2. Each college and department shall have policies and criteria for early tenure and promotion.
- 35.5.3. If a faculty member is hired at the rank of Associate Professor but without tenure, the tenure process is followed. Promotion to Professor is not tied to the tenure process.
- 35.5.4. Recommendations for promotion and tenure shall be initiated at the level where the candidate's qualifications can be best identified and evaluated. In most instances this would be the department.
  - 35.5.4.1. Any academic unit, Department, and/or College, which initiates a joint appointment shall include in their Promotion and Tenure documents, clear and equitable policies and procedures, which identify the review and evaluation processes associated with that joint appointment. (*See Faculty and Professional Personnel Handbook, Other Ranks section for more information.*)
- 35.5.5. Work accomplished before hiring at Ball State, as well as work accomplished while a faculty member at Ball State, will be considered in promotion and tenure deliberations. It is understood that greater attention and significance will be given to the work accomplished during the appointment at Ball State. The evidence must demonstrate a record of continuous activity.
- 35.5.6. Materials Presented for Promotion and Tenure
  - 35.5.6.1. Recommendations shall be supported by ample documentary evidence demonstrating that the candidate for promotion and tenure satisfies established criteria. Documentation shall include:
    - 35.5.6.1.1. Evaluation forms approved by the administrative unit concerned.

35.5.6.1.2. Each department shall have a specific evaluation form for rating a faculty member in relation to promotion and tenure. This form shall be used when a faculty member is being considered for promotion and tenure. This rating form must be kept on file with the chairperson of the department and must be approved by the College Promotion and Tenure Committee and the University Promotion and Tenure Committee.

35.5.6.1.3. In the case of a candidate seeking promotion to Professor, a minimum of two letters from reviewers external to the University shall be included.

35.3.6.2. Promotion and Tenure Materials Presented by Faculty Members. Faculty members shall present promotion and tenure materials in a format specified by college and departmental policies for tenure or promotion deliberations. Those materials shall contain a curriculum vitae and supporting documentation in accordance with guidelines established by departments and colleges for those materials.

35.5.6.3. Internal Records and Materials: A portion of the personnel file shall be designated the Promotion and Tenure file, shall be separately maintained, and shall be kept in the department chairperson's office for every individual faculty member who is eligible to be considered for promotion and/or tenure. As is the case with the entire personnel file, this Promotion and Tenure file shall be open to the faculty member concerned. Materials shall be placed in the file in a timely manner by the department chairperson.

A candidate's Promotion and Tenure file shall contain all materials and only those materials relevant to promotion and/or tenure. Such materials include, but are not limited to, vita; forms concerning changes in appointment; formal evaluations by supervisors; teaching evaluations; information concerning scholarly productivity or creative endeavors; information concerning service in a professional capacity; information concerning any disciplinary actions taken; information concerning the status of any formal charges against an employee; or signed letters from students, alumni, peers, supervisors, etc., concerning teaching, scholarly productivity or creative endeavors, or service in a professional capacity. Information about the individual's gender, race, disability, national origin, religion, age, veteran status, citizenship, sexual orientation, or marital status may not be included

As with all contents of the personnel file, when detrimental information is placed in the candidate's Promotion and Tenure file, it shall be brought to their attention in writing at once by their

administrative head. The faculty member shall have the opportunity to place in the file materials which might rebut or explain the detrimental information. Detrimental material that has not been brought to the attention of the faculty member cannot be used in subsequent promotion and tenure deliberations. Anonymous letters shall not be made a part of this file.

**35.5.6.4. Supplemental External Review Letters for Promotion to Professor.**

Candidates who intend to seek promotion to Professor shall declare their intentions no later than April 30th of the spring semester prior to promotion review in the fall. This deadline is set to ensure adequate time for the process of seeking and receiving letters. The external review process will be conducted according to department and college policies and will commence by May of the spring semester in order to guarantee timely receipt of the external reviewers' letters for fall review.

In the case of a candidate seeking promotion to Professor, a minimum of two letters from reviewers external to the University shall be included. Such letters shall provide a supplementary evaluative review of the candidate's scholarship, creative endeavors, and other scholarly productivity. These letters shall be acquired and presented in accordance with departmental and college policies and procedures. The candidate shall be fully involved in the selection of reviewers, with one-half of the contacted reviewers being from the candidate's list. Challenges to the list of reviewers will be handled according to department and college policies. All letters received from external reviewers will be available to evaluators in the promotion review process.

External review letters shall be inserted and retained in the candidate's Promotion and Tenure file for use by the departmental, collegiate, and in the case of an appeal, University Promotion and Tenure committees, and by the Provost in promotion deliberations for the current year. The candidate has the right to examine all external review letters received. For the examination of the letters by the candidate, anonymity of the external evaluators must be protected in accordance with procedures established by departments and colleges. The candidate has the right to respond to information contained in the letters. At the conclusion of these deliberations, the letters shall be retained in a secure and confidential manner by the Office of the Dean of the College. Once letters are placed in this confidential manner, they cannot be reopened for purposes of subsequent promotion deliberations at any level of consideration unless requested by the candidate.

**35.6 PROCEDURES FOR PROMOTION AND TENURE**

- 35.6.1. Recommendations for promotion and tenure shall be initiated at the departmental level. After evaluating the candidate's qualifications, including the factors outlined in 35.1, the Department Promotion and Tenure Committee must indicate whether or not the candidate is to be

recommended for promotion and tenure. All candidates for promotion and/or tenure will be informed of the department committee's recommendation in a letter written by the committee chair that will include an evaluation of their strengths and weaknesses in the areas of teaching, scholarship, and service.

35.6.2. Tenure and promotion to Associate Professor will be aligned.

35.6.2.1. The tenure and promotion to Associate Professor decision will be made in the seventh year.

35.6.2.2. The recommendation will be to grant tenure and promotion to Associate Professor at the end of the year or to recommend termination of the faculty member at the end of the following academic year.

35.6.2.3. A faculty member may request consideration for early tenure and promotion to Associate Professor one time, either in year five or six, without penalty of dismissal if not granted. A department should recommend early promotion and tenure only for a candidate who is outstanding or extraordinary in all areas. If approved, tenure and promotion to Associate Professor will be granted at the end of the year. If not approved, the faculty member will continue in the tenure and promotion process.

35.6.3. Materials presented for promotion and tenure of those candidates to be recommended favorably for promotion and tenure by the Departmental Committee shall be forwarded to the academic dean in an order to be specified by the faculty of each college. Included with the materials presented for promotion and tenure will be the Department Promotion and Tenure Committee's evaluations and recommendations. Materials presented for promotion that are not favorably recommended by the Departmental Committee shall not be forwarded to the academic dean and shall stop at the departmental level.

35.6.4. The recommendations of the Department Promotion and Tenure Committee shall be forwarded to the academic dean. If the department chairperson has a dissenting opinion concerning a faculty member's qualifications, the department chairperson shall inform the Department Committee of the bases of this opinion at the conclusion of the deliberations in the meeting. If the differences between the chairperson and the Department Committee are not resolved, the department chairperson may forward to the academic dean their dissenting opinion and recommendations concerning the faculty member's qualifications. The decision of the department committee will, however, stand.

35.6.4.1. The credentials of any candidate who is requesting reconsideration and/or appealing an adverse decision from a departmental committee shall not be forwarded to the college committee until

the reconsideration and/or appeal process has been completed. After an adverse promotion decision, if a candidate decides not to appeal the decision, the materials are not forwarded to the college committee.

35.6.5. The Dean shall forward credentials to the College Promotion and Tenure Committee and charge it with the responsibility for evaluating each candidate's credentials and determining whether or not candidates are to be recommended for promotion and/or tenure, including the factors outlined in 35.1.

35.6.5.1. If the Dean has a dissenting opinion from the opinion of the College Promotion and Tenure Committee, the Dean shall inform the College Promotion and Tenure Committee of the bases of this opinion immediately. If the differences between the Dean and the College committee are not resolved, the decision shall be returned to the College Promotion and Tenure Committee for another vote. A two-thirds vote of the committee shall be required to override the recommendation, after which the Dean must forward the College committee's final recommendation to the Provost. If a two-thirds vote is not achieved, the College committee's vote is overturned, and the committee's final recommendation is aligned with the Dean's recommendation.

35.6.6. The College Committee shall review and evaluate the credentials of all collegiate tenure-track candidates in the fourth year and forward those credentials, with recommendations, to the Dean. The credentials of any candidate who is appealing an adverse decision from a departmental committee shall not be forwarded to the college committee until the appeal process has been completed.

35.6.6.1. If the Dean has a dissenting opinion from the opinion of the College Promotion and Tenure committee concerning the review of candidates in their fourth year, the Dean shall inform the committee of the bases of this opinion immediately. If the differences between the Dean and the committee are not resolved, the decision shall be returned to the College Promotion and Tenure Committee for another vote. A two-thirds vote of the committee shall be required to override the recommendation after which the Dean must forward the College committee's final recommendation to the Provost. If a two-thirds vote is not achieved, the College committee's vote is overturned, and the committee's final recommendation is aligned with the Dean's recommendation.

35.6.7. Vote counts shall accompany any final committee recommendations.

- 35.6.8. The Dean shall forward the recommendations, including all evaluations, to the Provost and Executive Vice President for Academic Affairs. If the recommendations are not acceptable, the Provost and Executive Vice President for Academic Affairs shall consult with the academic dean about the differences.
- 35.6.9. The Provost and Executive Vice President for Academic Affairs, upon reviewing and being satisfied with the recommendations from the academic deans, including the factors outlined in 35.1, shall forward these recommendations to the President.
- 35.6.10. At any step in the promotion and tenure process, the first committee or individual not recommending a faculty member favorably for promotion and/or tenure shall provide that faculty member with a written statement delineating their strengths and weaknesses in each of the areas of teaching, scholarship, and service in a professional capacity. The committee or individual may also suggest areas for improvement.

In the case of a department chair being the first negative recommendation, the department chair may send forward a dissenting opinion, but the candidate may not appeal the letter because the decision of the department committee stands. The candidate must see the letter and may include a written response to the letter in the materials to be sent forward.

In the case of a dean being the first negative recommendation, the Dean may send forward a dissenting opinion if the College Promotion and Tenure Committee returns a two-third vote and overturns this recommendation, but the candidate may not appeal the letter because the decision of the committee stands. The candidate must see the letter and may include a written response to the letter in the materials to be sent forward. If the College Promotion and Tenure Committee does not return a two-thirds vote, the recommendation of the Dean stands. In this case, the faculty member may appeal because the recommendation of the College committee and the Dean going forward will be negative.

- 35.6.11. Final recommendations in all matters pertaining to promotion and tenure reside with the President, who forwards these recommendations to the Board of Trustees.
- 35.6.12. All promotions to Associate Professor and Professor will be granted on the basis of the spring recommendations.

### **35.7. TENURE – TRACK FACULTY**

- 35.7.1. When a candidate is hired, academic rank and any years granted toward tenure at the time of hiring must be recommended by an academic department chairperson in conjunction with the Department Promotion and Tenure Committee (or, if it is unavailable, by another faculty committee approved by the academic dean), and subsequently approved by the appropriate schools, colleges, administrators, and the Board of Trustees.



- 35.7.2. When a faculty member is employed in a tenure-track position, a probationary period of seven years is ordinarily required before tenure is granted by the Board of Trustees. Generally, the probationary period will not exceed seven full-time years of tenure-creditable service as a faculty member at Ball State University. The exceptions are noted below.
- 35.7.2.1. When transferred from one academic area to another, a tenure-track candidate, in addition to the normal probationary period, may request or may be required to complete an additional probationary period not to exceed two years. The length of the extension of time must be established and stated in writing at the time of the new appointment.
- 35.7.2.2. Ball State University is committed to providing a work environment that enables faculty to be successful. The university also recognizes that faculty may encounter life circumstances which can impair or prevent progress toward professional and scholarly achievement. This is true for faculty working toward tenure within a limited and specific timeframe.
- 35.7.2.2.1 A faculty member may request that certain years (normally not to exceed two years total) not be counted as tenure-creditable years, and that the tenure clock be stopped for the requested year(s), if any of the following pertain:
- 35.7.2.2.1.1. Birth or adoption of a child
  - 35.7.2.2.1.2. The faculty member is seriously ill;
  - 35.7.2.2.1.3. The faculty member is the principal care-giver for a dependent who is seriously ill or incapacitated;
  - 35.7.2.2.1.4. The faculty member is the principal care-giver for a family member who is seriously ill;
  - 35.7.2.2.1.5. The faculty member will be on leave for at least one semester of the academic year.
  - 35.7.2.2.1.6. Widespread health crisis or natural disaster that affects a faculty member's progress towards tenure.
- 35.7.2.2.2. A request that a year not be counted as a tenure-creditable year (stopped clock) shall be made to the department chair within one year of the occurrence of the qualifying event and no later than August 31, but before the affected annual Promotion and Tenure

review. The request shall include documentation of the circumstances involved. The request requires approval of the department chairperson, the appropriate dean, and the Provost and Executive Vice President for Academic Affairs.

35.7.2.2.3. Faculty members who receive approval are not required to submit Promotion and Tenure materials during the period approved by the Provost and Executive Vice President for Academic Affairs. The faculty member is also not expected to submit an extra year's worth of research when tenure review resumes.

35.7.2.3. In cases where the exceptional achievements of a candidate in teaching, research, publication, creative endeavors, scholarly productivity, and other meritorious activities resulted in appointment at the associate or professor ranks, tenure may be recommended to the trustees as early as the completion of the third year, following a recommendation from the Department Promotion and Tenure Committee, and approval from the department chairperson, academic dean, Provost and Executive Vice President for Academic Affairs, and the President. The Board of Trustees may grant tenure in special cases to an individual who holds or will hold academic rank without any probationary period, or with a probationary period of fewer than three years, if all of the following conditions are fulfilled:

35.7.2.3.1. The Board obtains the prior positive recommendations of the Promotion and Tenure Committee of the academic department in which the candidate holds (or will hold) academic rank, the department chairperson, the academic dean, the Provost and Executive Vice President for Academic Affairs, and the President.

35.7.2.3.2. The Board concurs with the recommendation that the individual possesses superior academic and/or creative qualifications;

35.7.2.3.3. The Board concurs with the recommendation that waiver of the normal probationary period is necessary to induce the individual to accept an offer of employment or to continue their employment with the University.

35.7.3. Specific conditions of employment that must be fulfilled by a tenure-track faculty member (in addition to the general standards of performance) shall be stated in writing to the individual by the University administration (the department, the school director or chairperson, the appropriate academic dean, the appropriate Vice President, and the President) at the time of

employment. In order to be eligible for a favorable tenure recommendation, the faculty member must meet these employment conditions unless they are released therefrom, in whole or in part, by means of a written departmental recommendation that is approved by the academic dean, the Provost and Executive Vice President for Academic Affairs, and the President.

- 35.7.4. A faculty member must complete at least one semester of full-time service during any academic year in order to receive a full year's credit for purposes of tenure consideration.
- 35.7.5. Contract full-time appointment service may be considered as part of the probationary period for those who are later placed on tenure-track faculty status.
- 35.7.6. Prior service at Ball State University may be counted toward tenure after the candidate has completed a one-year probationary period following the return.
- 35.7.7. Years of service remain with the individual when tenure-track faculty transfer from one academic area to another.
- 35.7.8. The following are necessary prerequisites in order to be eligible for promotion and tenure:
  - 35.7.8.1. The faculty member must have satisfied any specific conditions of employment set forth in their letter of appointment;
  - 35.7.8.2. The faculty member must have received a positive tenure recommendation, including the factors outlined in 35.1;
  - 35.7.8.3. The faculty member must make available significant evidence of excellent performance and there must be the expectation for a continuation of such in the future.
  - 35.7.8.4. The faculty member meets qualifications to be promoted to Associate Professor.
- 35.7.9. The Department Promotion and Tenure Committee will make an annual recommendation to the dean of the college on progress toward tenure for tenure-track faculty members, pending any reconsideration or appeal. After the department promotion and tenure committee's determination, the following will happen:
  - 35.7.9.1. The credentials of any candidate who is requesting reconsideration and/or appealing an adverse decision from a departmental committee shall not be forwarded to the dean or college committee until the reconsideration and/or appeal process has been completed. This would include candidates for fourth year review, candidates going up for early promotion, anyone being recommended for termination, and anyone who receives unsatisfactory progress towards tenure.

- 35.7.9.2. The Department Promotion and Tenure Chair will write a recommendation letter that reviews the candidate's strengths and weaknesses and areas for improvement.
- 35.7.9.3. The letter will be forwarded to the dean of the college after all departmental deliberations are complete.
- 35.7.9.4. The department chair may agree or disagree with the Department Promotion and Tenure Committee's recommendation. In the case of agreement, the department chair may choose to write a letter of concurrence but is not required to do so. In the case of disagreement with the Committee's recommendation, the department chair shall write a letter stating their recommendation regarding the candidate in question.
- 35.7.9.5. Upon request from the faculty member, the department promotion and tenure chair will meet with the faculty member to discuss and clarify the content of the letter.
- 35.7.9.6. In years one through six, the recommendation includes: satisfactory progress, unsatisfactory progress, or termination.
- 35.7.10. The College Committee shall review and evaluate the credentials of all collegiate tenure-track candidates in the fourth year and forward those credentials, with recommendations, to the dean; the credentials of any candidate who is appealing an adverse decision from a departmental committee shall not be forwarded to the dean or college committee until the appeal process has been completed.
  - 35.7.10.1. Any recommendation from the College Committee not receiving approval by the dean shall be returned to the committee with reasons for the disapproval. A two-thirds anonymous vote of the committee shall be required to override the disapproval, after which the dean must forward the recommendation.
- 35.7.11. Tenure may be attained only through official action by the Board of Trustees of the University. The Board will make its decision after receiving and reviewing the recommendations of the department, academic dean, Provost and Executive Vice President for Academic Affairs, and the President, including the factors outlined in 35.1, but the Board will not be bound to follow any of said recommendations.
- 35.7.12. No later than February 15 of each academic year, each department Promotion and Tenure chairperson will send a letter to the Provost and Executive Vice President for Academic Affairs, via the academic dean, and to the faculty member, setting forth the status of each tenure-track faculty member with respect to their fulfillment of the conditions of appointment and any matters pertaining to the quality of their performance. The materials sent forward will contain the recommendations of the department chairperson and the academic dean.

35.7.12.1. Before the end of each academic year prior to year seven, the Provost and Executive Vice President for Academic Affairs will notify each tenure-track faculty member in writing as to the University's official assessment of their status with regard to progress toward tenure. The contents of the letter will reflect:

35.7.12.1.1. The University's official record of the individual's status with respect to fulfillment of specific conditions of employment which were stated in the letter of appointment; and

35.7.12.1.2. The University's assessment of the individual's performance and progress toward tenure, including the factors outlined in 35.1.

35.7.12.1.3. In years one through six, three decisions are possible: satisfactory progress, unsatisfactory progress, or termination.

If the members of a departmental promotion and tenure committee recommend termination of the appointment of a tenure-track faculty member at the end of any academic year during the probationary period, a letter to that effect shall be filed in the Office of the Provost and Executive Vice President for Academic Affairs at least two weeks in advance of the final date set forth in 35.7.13 below for giving written notice of non-reappointment or of intention not to recommend reappointment to the Board of Trustees. The letter must contain the recommendations of the academic dean.

35.7.13. Notice of non-reappointment, or of intention not to recommend reappointment to the Board of Trustees, shall be given to the faculty member in writing in accordance with the following standards:

35.7.13.1. Not later than March 1 of the first academic year of service, if the appointment is to expire on the day the spring semester closes; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination;

35.7.13.2. Not later than December 15 of the second academic year of service, if the appointment is to expire on the day the spring semester closes; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination;

35.7.13.3. At least twelve months before the expiration of an appointment after two or more years at Ball State University.

## **35.8. RIGHT OF RECONSIDERATION RE: PROMOTION AND TENURE**

### **35.8.1. Reconsideration**

35.8.1.1. Reconsideration is the act whereby a candidate may request that an initial adverse decision by a departmental or collegiate committee be reexamined. Reconsideration can take place before an appeal.

Reconsideration provides an opportunity for a candidate to clarify content of material.

35.8.1.2. An adverse recommendation can be made at any of several levels: the department Promotion and Tenure Committee, the College Committee, the dean, or the Provost; nevertheless, the procedures for requesting a reconsideration are essentially the same no matter where an adverse recommendation is made. The candidate may ask for a reconsideration only at the level at which the initial adverse recommendation was made.

35.8.1.2.1. The candidate must ask, in writing, for the reconsideration within ten (10) calendar days following the date of the faculty member's receipt of the written recommendation adversely affecting them. For example, if a Department Promotion and Tenure Committee (or the College Committee or dean, or the Provost) advises a faculty member in writing that it is recommending against awarding tenure, the period to request reconsideration would run from the date of receipt of that communication, rather than from the date on which the Board of Trustees subsequently announces the names of faculty members who have been awarded tenure. Any request for reconsideration not filed within this time limit will be denied automatically, unless the academic dean, or Provost, dependent on the level of request, determines that good cause has existed for the delay.

35.8.1.2.2. There are two permissible reasons to request reconsideration: 1) an incomplete review of the candidate's file on the part of the department Promotion and Tenure Committee (or the College Committee or dean, or the Provost); or 2) a misinterpretation of the promotion and tenure file. The candidate's written request must address the specific examples of the submitted materials potentially not reviewed or misinterpreted. The written request for reconsideration shall be recorded

in the files of the department chairperson (or the College dean, or the Provost, depending on the level of the reconsideration request) and forwarded to the appropriate Promotion and Tenure Committee.

- 35.8.1.2.3. After receiving a request for reconsideration, the Department Promotion and Tenure Committee (or the College Committee, College dean, or the Provost) must meet to reconsider their initial adverse recommendation. The Department Promotion and Tenure Committee (or the College Committee, the College dean, or the Provost) must meet with the candidate if they so request. The candidate may provide an oral presentation of the request for promotion or tenure. No additional materials may be introduced or added to the documents or the process.
- 35.8.1.2.4. After meeting to reconsider the candidate's materials, the committee shall vote to overturn or affirm the previous decision. This vote supersedes the previous vote. If the decision is to affirm the initial adverse recommendation, the committee shall address, in writing, either in a detailed summary or by specific points, the reasons to affirm the initial adverse recommendation. The letter will be a part of promotion and tenure file.
- 35.8.1.2.5. If the first adverse decision is at the level of the dean, the dean will inform the candidate of their decision following reconsideration. If the decision is to affirm the initial adverse recommendation, the dean shall address, in writing, either in a detailed summary or by specific points, the reasons to affirm the initial adverse recommendation regarding the candidate's written request. The letter will be a part of promotion and tenure file.
- 35.8.1.2.6. In cases where the dean makes the initial adverse decision, the candidate's materials for promotion and/or tenure shall be held in the files of the dean where the initial adverse recommendation was made and shall not be forwarded to the Provost until the requests for reconsideration have been completed.
- 35.8.1.2.7. After reconsidering the candidate's materials, if the first adverse decision is at the level of the Provost, the candidate may request consideration directly from the Provost. The Provost shall overturn or affirm the

previous decision. This decision supersedes the previous decision. The Provost will inform the candidate in writing of their decision following reconsideration.

### **35.9. RIGHT OF APPEAL RE: PROMOTION AND TENURE**

#### **35.9.1. Appeals from Adverse Decisions**

35.9.1.1. Tenured or tenure-track faculty may appeal promotion and tenure decisions that adversely affect such individuals in accordance with provisions set forth in this section (35.9). An appeal is the act whereby a candidate alleges that a violation of existing policy and/or procedure or unfair treatment, or discriminatory treatment by the department, college, or Provost, has resulted in an adverse decision. An appeal may be filed without following the reconsideration process. Appeals examine the process followed and not the content of materials. A decision in favor of the appellant does not guarantee tenure and/or promotion.

#### **35.9.2. Bases for Request for Appeal**

35.9.2.1. If the appellant is not satisfied with the decision of the Department Committee, then they may appeal to the College Promotion and Tenure Committee. The request must be made within ten (10) calendar days following the appellant's receipt of the Department Committee's decision and must be recorded in the files of the academic dean. Any request that is not filed within this time limit will be denied automatically unless the Provost and Vice President for Academic Affairs determines that good cause has existed for the delay.

35.9.2.2. There are three permissible reasons to request appeal:

35.9.2.2.1. Allegation of violation of approved departmental, collegiate, and/or University promotion and tenure policies and/or procedure, including those set forth in the Faculty and Professional Personnel Handbook;

35.9.2.2.2. Allegation of unfair treatment on the part of the decision makers;

35.9.2.2.3. Allegation of discriminatory treatment on the part of the decision makers.

35.9.2.3. When an appellant alleges violation of approved departmental, collegiate, and/or University policies, including those set forth in the Faculty and Professional Personnel Handbook, then they must cite the specific policies which a committee or administrator failed to follow. When filing a request for appeal, the appellant must also provide a summary of the way(s) in which the policies were



violated and how such violation(s) adversely affected the appellant.

35.9.2.4. When an appellant alleges unfair treatment on the part of the decision makers, then they must cite the specific treatment engaged in by a committee or administrator. When filing a request for appeal, the appellant must also provide a summary of the reasons why the decision in question was clearly not merited by the evidence available to the decision makers and must also attach to the summary specific and detailed evidence in support of the reasons listed in the summary. Unfair treatment is defined as a Promotion or Tenure decision that is arbitrary or capricious or is not supported by the evidence.

35.9.2.5. When an appellant alleges discriminatory treatment on the part of the decision makers, then they must cite the specific treatment engaged in by a committee or administrator. When filing a request for appeal, the appellant must also provide a summary of the constitutionally or statutorily prohibited reasons upon which they believe the decision was based and a detailed summary of the evidence which supports the appellant's allegation. Discriminatory treatment is defined as decisions based upon constitutionally or statutorily prohibited reasons, including unlawful discrimination.

35.9.2.6. When a request for appeal is filed which alleges discriminatory treatment on the part of the decision makers, the University's Director of Employee Relations and Affirmative Action, or their designee, shall serve in an advisory capacity to the committee or hearing panel at each level of appeal. All appeals alleging discriminatory treatment in promotion and tenure decisions shall be pursued under the procedures set forth in this document rather than under the Ball State University "Equal Opportunity and Affirmative Action Complaint Investigation Procedure and Appeal Process."

35.9.2.7. In all cases, the appellant has the burden of proving their allegations.

### 35.9.3 Appeals at the Department Level

35.9.3.1. The academic dean is responsible for preparing an appeal file that will consist of (a) the formal request for hearing and any other materials submitted by the appellant; (b) the response and any other materials submitted by the Department Committee Chair. The appeal file will be forwarded to the chairperson of the hearing panel who will make certain that it is made available to all parties to the hearing.

35.9.3.1.1. The academic dean will assist the chairperson of the hearing panel in arranging the hearing at the collegiate level.

35.9.3.2. A formal hearing will take place.

35.9.3.2.1. Timing. The College Committee must hold the hearing within thirty (30) calendar days of its receipt of the request for hearing. Days outside the regular academic year will not be counted in the thirty-day computation. The chairperson of the College Committee may, with good cause, extend the thirty-day deadline.

35.9.3.2.2. Membership of the hearing panel. The College Promotion and Tenure Committee may serve as the hearing panel, or it may establish a separate hearing panel. The hearing panel shall consist of not fewer than five (5) faculty members, at least two (2) of whom must also be members of the Promotion and Tenure Committee. The chairperson of the College Promotion and Tenure Committee, or their designee, will serve as chairperson of the hearing panel.

35.9.3.2.2.1. When an appeal is filed which alleges that a decision was the result of illegal discrimination, two (2) of the members of the hearing panel shall be appointed from among the full-time faculty serving on the Complaint Appeals Board of the Ball State University "Equal Opportunity and Affirmative Action Appeal Procedures." The appellant shall choose one (1) of such panelists and the responding party shall choose the other such panelist. If either the appellant or the responding party fails to make a selection, the University's Director of Employee Relations and Affirmative Action shall make that party's selection. The University's Director of Employee Relations and Affirmative Action, or their designee, shall serve in an advisory capacity to the hearing panel.

35.9.3.2.2.2. No one may serve to hear an appeal who has a demonstrated conflict of interest such as previous involvement

with the case, assignment to the same academic department as any of the principals in the case, business involvement, or relationship to any of the principals. Decisions regarding such conflicts shall be made by the committee chairperson.

- 35.9.3.3. Parties. Parties participating in the hearing are (a) the appellant; and (b) the department chairperson and the Department Promotion and Tenure Committee chairperson, who together shall serve as the responding party (unless the chairperson of the College Promotion and Tenure Committee appoints a different individual or individuals to serve as the responding party).
- 35.9.3.4. Notice of hearing. The parties shall be given at least ten (10) days' notice of the date, time, and place of the hearing, unless they waive that notice in writing. The hearing may be postponed or continued by the chairperson of the hearing panel whenever they may deem appropriate, or upon the request of either party for good cause shown.
- 35.9.3.5. Materials used in hearing. The parties must furnish the chairperson of the hearing panel with the following materials at least five (5) working days prior to the date of the hearings:
  - 35.9.3.5.1. Copies of all documents upon which they intend to rely but which are not already a part of the appeal file;
  - 35.9.3.5.2. A list of any witnesses whom they plan to call. These materials must be made available to all participants by the chairperson of the hearing panel at least three (3) working days prior to the date of the hearing. Additional materials and/or witnesses may not be utilized by either party at a hearing without the consent of the hearing panel.
- 35.9.3.6. Attendants at hearing. In addition to the hearing panel and the previously specified parties, the following persons may attend a hearing. Failure, without good cause, of the appellant or the responding party to appear and proceed at the hearing may force the hearing panel to hear and respond to the appeal in the absence of the appellant or the responding party.
  - 35.9.3.6.1. A full-time tenured or tenure-track Ball State faculty member to serve as faculty colleague for the appellant.
  - 35.9.3.6.2. Representative of the academic dean's office.

- 35.9.3.6.3. Other University-affiliated persons whose attendance is requested or approved by the chairperson of the hearing panel.
- 35.9.3.6.4. Any person designated by the chairperson of the hearing panel to record and to prepare a summary of the evidence presented at the hearing.
- 35.9.3.6.5. Witnesses called by either party. Such witnesses shall be present only while they are testifying.
- 35.9.3.6.6. A recording secretary designated by the appellant, if they desire. This person must be a full-time Ball State faculty, professional personnel, or staff member.
- 35.9.3.7. Quorum and challenges. All members of a hearing panel shall constitute a quorum. Either party may challenge a panel member on the grounds of personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members, conducted by confidential ballot. If this vote results in a tie, the decision shall be made by the chairperson of the hearing panel.
- 35.9.3.8. Conduct of hearings. Hearings shall be conducted with a view toward providing the hearing panel with a complete understanding of the circumstances surrounding the decision that is being appealed. The chairperson of the hearing panel shall preside at the hearing and shall make all procedural rulings. These rulings may be reversed by a majority vote of the panel members present, including the chairperson.
- 35.9.3.9. Witnesses. Each party is responsible for ensuring the presence of their witnesses at a hearing. Written or virtual statements in lieu of the personal testimony of a witness shall not be permitted unless a majority of the panel members determines that a witness is unavailable to testify. All witnesses who testify may be questioned concerning any matter relevant to the hearing by any member of the hearing panel.
- 35.9.3.10. Hearing records. The hearing panel must arrange for minutes of the hearing to be taken. These minutes shall include a statement of who was present including witnesses, a general summary of the major points made by the parties and participants at the hearing, and any motions made or votes taken by the hearing panel. Approved minutes shall be made available upon request to the appellant and/or respondent within twenty (20) calendar days of the conclusion of the hearing. Further use of these minutes by either party is restricted to appeals at higher levels of the

procedures outlined here or in external legal proceedings. Any recordings of a hearing shall not be permitted.

35.9.3.11. Decision by the hearing panel. After the conclusion of the hearing, the hearing panel shall meet to consider the evidence presented at the hearing and evidence already presented in the hearing file. At this time, the hearing panel may request an interview with the academic dean, or the academic dean may request an interview with the hearing panel. The hearing panel must determine whether the appeal should be upheld or denied, and it must set forth in writing a concise summary of the reasons for its decision. That decision is to be addressed to the academic dean and must be provided to all participants in the appeal and the appellant within twenty (20) calendar days of the conclusion of the hearing.

35.9.3.11.1. The decision of the hearing panel shall be deemed to be the decision of the College Promotion and Tenure Committee, without further action on the part of the committee.

35.9.3.11.1.1. When a hearing panel votes to uphold an appeal, then it must specify a remedy for the situation or specify a recommended course of action to the appropriate parties (for example, a rehearing of a case by a previous committee or administrator, or a recommendation that the College Promotion and Tenure Committee review the materials of the appellant in consideration of promotion and/or tenure). If the responding party does not agree with this recommendation, that party may appeal to the University Promotion and Tenure Committee.

35.9.3.11.1.2. When a hearing panel votes to deny an appeal, then the appellant has the right to appeal this decision to the University Promotion and Tenure Committee.

#### 35.9.4. Appeals at the College Level

35.9.4.1. If the initial adverse recommendation has been made by the College Promotion and Tenure Committee or academic dean, then the appellant may request a hearing before the University Promotion and Tenure Committee.

35.9.4.2. If an appellant or respondent decides to appeal the decision of a collegiate hearing panel, either may request a hearing before the University Promotion and Tenure Committee. The request must be made within ten (10) calendar days following receipt by the appealing party of the collegiate hearing panel's decision and must be filed in the Office of the Provost and Executive Vice President for Academic Affairs. See "Bases for Request for Appeal" section for information on the bases of appeal and what should be included in the request for a hearing. Any request not filed within this time limit shall be denied automatically unless the Provost and Vice President for Academic Affairs determines that good cause has existed for the delay.

35.9.4.3. The Provost and Executive Vice President for Academic Affairs is responsible for preparing an appeal file that shall consist of (a) the formal request for hearing and any other materials submitted by the appellant; (b) the responses and any other materials submitted by the Department Committee and/or Dean. The appeal file shall be forwarded to the chairperson of the hearing panel who shall make certain that it is made available to all parties to the hearing.

35.9.4.3.1. The Provost and Executive Vice President for Academic Affairs designee shall assist the chairperson of the hearing panel in arranging the hearing at the University level.

35.9.4.4. A formal hearing will take place.

35.9.4.4.1. Timing. The University Promotion and Tenure Committee must hold the hearing within thirty (30) calendar days of its receipt of the request for hearing. Days outside the regular academic year shall not be counted in the thirty-day computation. The chairperson of the University Committee may, with good cause, extend the thirty-day deadline.

35.9.4.4.2. Membership of the hearing panel. The University Promotion and Tenure Committee may serve as the hearing panel, or it may establish a separate hearing panel. The hearing panel shall consist of not fewer than five (5) faculty members, at least two (2) of whom must also be members of the University Promotion and Tenure Committee. The chairperson of the University Promotion and Tenure Committee, or their designee, shall serve as chairperson of the hearing panel.

35.9.4.4.2.1. When an appeal is filed that alleges a decision was the result of illegal

discrimination, two (2) of the members of the hearing panel shall be appointed from among the full-time faculty and professional personnel then serving on the Complaint Appeals Board of the Ball State University "Equal Opportunity and Affirmative Action Appeal Procedures." The appellant shall choose one (1) of such panelists and the responding party shall choose the other such panelist. If either the appellant or the responding party fails to make a selection, the University's Director of Employee Relations and Affirmative Action, shall make that party's selection. The University's Director of Employee Relations and Affirmative Action, or their designee, shall serve in an advisory capacity to the hearing panel.

35.9.4.4.2.2. No one may serve to hear an appeal who has a demonstrated conflict of interest such as previous involvement with the case, assignment to the same academic department or administrative area as any of the principals in the case, business involvement, or relationship to any of the principals. Decisions regarding such conflicts shall be made by the hearing committee chairperson.

35.9.4.5. Parties. The parties participating in the hearing are (a) the appellant; and (b) the administrator and the chairperson of the Promotion and Tenure Committee at the level of the initial adverse recommendation; and (c) the dean and the chairperson of the College Promotion and Tenure Committee.

35.9.4.6. Notice of hearing. The parties shall be given at least ten (10) calendar days' notice of the date, time, and place of the hearing, unless they waive that notice in writing.

The hearing may be postponed or continued by the chairperson of the hearing panel whenever they may deem appropriate, or upon the request of either party for good cause shown.

- 35.9.4.7. Materials used in hearing. The parties must furnish the chairperson of the hearing panel with the following materials at least five (5) working days prior to the date of the hearings:
  - 35.9.4.7.1. All documents, including records of the college hearing, upon which they intend to rely but which are not already a part of the appeal file;
  - 35.9.4.7.2. A list of any witnesses whom they plan to call. These materials must be distributed to all participants by the chairperson of the hearing panel at least three (3) working days prior to the date of the hearing. Additional materials and/or witnesses may not be utilized by either party at a hearing without the consent of the hearing panel.
- 35.9.4.8. Attendants at hearing. In addition to the hearing panel and the previously specified parties, the following persons may attend a hearing.
  - 35.9.4.8.1. A full-time tenured or tenure-track Ball State faculty or professional personnel member to serve as faculty colleague for the appellant.
  - 35.9.4.8.2. Representative of the Provost and Vice President for Academic Affairs' Office.
  - 35.9.4.8.3. Other University-affiliated persons whose attendance is requested or approved by the chairperson of the hearing panel.
  - 35.9.4.8.4. Any person designated by the chairperson of the hearing panel to record and to prepare a summary of the evidence presented at the hearing.
  - 35.9.4.8.5. Witnesses called by either party. Such witnesses shall be present only while they are testifying.
  - 35.9.4.8.6. A colleague designated by the appellant to take notes, if they desire. This person must be a full-time Ball State faculty, professional personnel, or staff member.
  - 35.9.4.8.7. Failure, without good cause, of the appellant or the responding party to appear and proceed at the hearing may force the hearing panel to hear and respond to the appeal in the absence of the appellant or the responding party.
- 35.9.4.9. Quorum and challenges. All members of a hearing panel shall constitute a quorum. Either party may challenge a panel member on the grounds of personal bias. The decision whether to



disqualify a challenged member shall be made by a majority vote of the remaining members, conducted by confidential ballot. If this vote results in a tie, the decision shall be made by the chairperson of the hearing panel.

- 35.9.4.10. Conduct of hearings. Hearings shall be conducted with a view towards providing the hearing panel with a complete understanding of the circumstances surrounding the decision which is being appealed. The chairperson of the hearing panel shall preside at the hearing and shall make all procedural rulings. These rulings may be reversed by a majority vote of the panel members present, including the chairperson.
- 35.9.4.11. Witnesses. Each party is responsible for ensuring the presence of their witnesses at a hearing. Written statements in lieu of the personal testimony of a witness shall not be permitted unless a majority of the panel members determines that a witness is unavailable to testify. All witnesses who testify may be questioned concerning any matter relevant to the hearing by any member of the hearing panel.
- 35.9.4.12. Hearing records. The hearing panel must arrange for minutes of the hearing to be taken. These minutes shall include record of who was present at the meeting including witnesses, a general summary of the major points made by the parties and participants at the hearing, and any motions made or votes taken by the hearing panel. Copies of approved minutes shall be made available upon request to the appellant and/or respondent within twenty (20) calendar days of the conclusion of the hearing. Further use of these minutes by either party is restricted to appeals at higher levels of the procedures outlined here or in external legal proceedings. No recordings of a hearing shall be permitted.
- 35.9.4.13. Decision by the hearing panel. After the conclusion of the hearing, the hearing panel shall meet to consider the evidence presented at the hearing, or evidence already presented in the hearing file. The hearing panel must determine whether the appeal should be upheld or denied, and it must set forth in writing a concise summary and clarification of the reasons for its decision. Copies of that decision are to be addressed to the Provost and Executive Vice President for Academic Affairs, and must be provided to all participants in the appeal within twenty (20) calendar days of the conclusion of the hearing.
  - 35.9.4.13.1. The decision of the hearing panel shall be deemed to be the decision of the University Promotion and

Tenure Committee, without further action on the part of the committee.

35.9.4.13.1.1. When a hearing panel votes to uphold an appeal, then it must specify a remedy for the situation or specify a recommended course of action to the appropriate parties (for example, a rehearing of a case by a previous committee or administrator or a recommendation that the Provost review the materials of the appellant in consideration of promotion and/or tenure). If the responding party does not agree with this recommendation, that party may appeal to the Provost and Vice President for Academic Affairs.

35.9.4.13.1.2. When a hearing panel votes to deny an appeal, then the appellant has the right to appeal this decision to the Provost and Vice President for Academic Affairs.

35.9.4.14. If either the appellant or the respondent is not satisfied with the response of the University hearing panel, then either may request a conference with the Provost and Vice President for Academic Affairs. This request must be made within ten (10) calendar days following the requesting party's receipt of the University hearing panel's decision. Any appeal not filed within this time limit will be denied automatically unless the Provost and Vice President for Academic Affairs determines that good cause has existed for the delay. The Provost and Vice President for Academic Affairs must confer with the parties and then reply in writing to any bases for appeal set forth by the party requesting the conference, and must furnish a copy of this statement to the appellant and the responding parties within thirty (30) calendar days of receipt of the request for the conference. The Provost and Executive Vice President for Academic Affairs may, with good cause, extend the thirty (30) day deadline.

35.9.4.15. The decision of the Provost and Executive Vice President for Academic Affairs is final.

35.9.5. Appeals Which Begin at the Provost and Executive Vice President for Academic Affairs Level

- 35.9.5.1. When the initial adverse recommendation has been made by the Provost and Vice President for Academic Affairs, then the appeal must be made to the President.
- 35.9.5.2. The request for appeal must be made in writing within ten (10) calendar days following the appellant's receipt of written notice of the adverse decision on the part of the Provost and Executive Vice President for Academic Affairs. Any appeal not filed within this limit will be denied automatically unless the President determines that good cause has existed for the delay. The President must confer with the parties and then reply in writing to any bases for appeal set forth by the appellant, and must furnish a copy of this statement to the appellant and the responding parties within thirty (30) calendar days of receipt of appeal. The President may, with good cause, extend the thirty (30) day deadline.
- 35.9.5.3. The decision of the President is final.