

## ARTICLE XII – APPEALS

A faculty member may appeal to the faculty grievance and appeal committee within fifteen (15) working days of receipt of a written notice of an adverse decision from the school/college promotion and tenure committee or the appropriate dean only regarding the following: (i) salary, (ii) promotion, (iii) renewal of employment, (iv) renewal of appointment, (v) tenure or (vi) post-tenure review. Appeals for revocation are addressed in Article XIII, Faculty Misconduct. The faculty member may appeal only if he/she alleges that the adverse decision was based on an impermissible reason. Such impermissible reasons include that the adverse decision(s) were: (i) based on actions protected by these Faculty Bylaws, including academic freedom or (ii) unlawful under the Constitution of Texas or the U.S. Constitution, including the First Amendment, the Fifth and Fourteenth Amendment (violation of due process or equal protection); or (iii) unlawful under state or federal law (“Impermissible Reason”).

The faculty member shall prepare a detailed written statement of particulars explaining the reasons he/she believes the adverse action was for an impermissible reason and present the same to the chair of the committee within fifteen (15) working days after filing a written notice of an adverse decision with the committee. A subcommittee of three (3) members of the Faculty Grievance and Appeal Committee and chaired by the chair of the committee will determine whether the alleged facts, if proven by credible evidence, support a conclusion that the decision was made for one of the impermissible reasons. The decision of the chair and the subcommittee shall be provided by the chair to the committee and to the faculty member making the appeal within five (5) working days of the decision. The members of the subcommittee shall be recused from this particular hearing.

1. Time and Place for the Hearing - At least twenty-one (21) calendar days prior to the hearing the faculty member and appropriate chair and dean shall be informed in writing of the time and place for the hearing. The hearing may be open if desired by both parties. Otherwise, the hearing shall be restricted to the principals, the advisors, and the witnesses called by the committee. By mutual consent of the parties, no public statements may be made concerning the case. However, in any event, public statements shall be avoided, as far as possible, until the proceedings have been concluded.
2. Challenges to Serve as Committee Members – Each party to the appeal, either the faculty member or UNTHSC, may challenge in writing to the chair of the committee regarding the ability of a member(s) (including the chair) to serve fairly or objectively no later than ten (10) working days before the date of the hearing. The member of the committee will determine whether or not he or she can serve with fairness and objectivity. Neither the faculty member nor UNTHSC shall have the right to disqualify a member from service who is in good standing as a faculty member. If the member voluntarily disqualifies himself or herself, then the elected alternate will serve for that matter.
3. Advisors
  - a. The faculty member may be represented by an institutional advisor. If the faculty member desires to bring an advisor, then the faculty member must notify the chair of the committee no later than ten (10) working days before the date of the hearing.

- b. The appropriate dean shall appoint a faculty member from any UNTHSC department or an UNTHSC administrative official to represent and produce evidence for the UNTHSC.
4. Evidence - Formal rules of evidence shall not apply in these proceedings. The decision as to the admissibility of evidence shall be determined by the chair of the committee, whose decision shall be final. Only relevant evidence of whether the appropriate dean primarily based his/her decision on an impermissible reason shall be heard as determined by the chair of the committee. During the hearing, each of the parties shall have the right to confront, cross-examine and rebut all witnesses. Each party may submit oral and written testimony, briefs, qualified expert opinions, and other evidence as long as such evidence is relevant. The faculty member shall have the right to testify and may be required to do so by the committee chair. The committee may call additional witnesses and examine the evidence as to the reasons for the adverse decision.
5. Burden of Proof - The burden of proof is upon the faculty member to establish by the greater weight of the credible evidence that the adverse decision was made for an impermissible reason. UNTHSC need not state the reasons for the adverse decision, or offer evidence in support thereof, unless the faculty member presents credible evidence that, if unchallenged, proves the adverse decision was made for an impermissible reason.
6. Findings and Recommendation - After the evidence is presented at the hearing, the sole responsibility of the committee is to determine if the appropriate dean primarily based his/her decision on an impermissible reason. If the committee concludes, upon examining the evidence, that the appropriate dean reached the adverse decision based primarily on an impermissible reason, then the committee shall recommend to the provost to reverse or modify the decision. If the committee believes the appropriate dean had sufficient reason to reach the adverse decision, then it shall recommend to the provost to affirm the decision. The committee by a vote of the majority will make written findings and recommendations based on evidence presented at the hearing. The chair will vote only to break a tie. The committee will forward to the President through the provost the findings and recommendations, transcripts and exhibits.
7. The provost shall then review the committee's determination and/or the faculty member's grievance, and recommend to the President either approve, reject, modify, or recommend any other action he/she deems necessary for further review of the case. After such review, the recommendation of the provost is forwarded to the President, whose decision shall be final.