

Rebuttal and Appeal of Negative Recommendations for Retention, Promotion and Tenure on Main and Branch Campuses

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This summarizes faculty and administrator rights and responsibilities when negative recommendations occur.

Recommendations vs. Decisions

As described in the Faculty Handbook, three individuals have the responsibility of making a recommendation – the Chair, Dean and Associate Provost [now Senior Vice Provost]. FHB B4.3.1, 4.3.2., and 4.3.3. One individual – the Provost – has the responsibility for making the decision. FHB B4.3.4. At each stage, recommenders are strongly encouraged to seek input and advice of relevant faculty members which typically occurs through use of committees. FHB B4.4.5. N.B.: Branch campus Executive Directors also make recommendations. FHB F90.

Notice

Negative recommendations by the Chair are to be discussed with and provided to the candidate. All supporting materials, if also requested by a candidate, must be redacted. **Redaction must be sufficient to protect the confidentiality of all reviewers.**

Rebuttal

Negative recommendations are rebuttable. Any new materials or written statements added by the candidate become available to the reviewer at the next level who considers them when making his or her recommendation. **Prior recommenders do not revisit the matter.** N.B. The FHB does not explicitly state that rebuttals are available at every level of review, but it is inferred from B4.3.6 given that candidates are able “to present his/her views to the next level of review before the next recommendation.”

Reconsideration

A candidate may request reconsideration by the Provost of a negative final decision. FHB B4.3.6

Appeals

Because a dean is normally expected to follow a chair’s recommendation, a chair may appeal a dean’s recommendation that is contrary to a chair’s. The appeal is made to the Senior Vice Provost. FHB B4.3.2. A candidate may appeal a Provost’s negative final decision to the Academic Freedom and Tenure Committee at the conclusion of the process. FHB B4.3.7. N.B. FHB F90 currently states that Branch faculty have an ‘appeal’ available at each level of review. This is inconsistent with FHB B4 and is inconsistent with the definition of an appeal—there must be a final decision to appeal—and Branch level reviewers issue recommendations not decisions. Thus this language should be read as accomplishing the same outcome as FHB B4.3.6.

Relevant FHB Sections

4.3.1 Departmental Review and Recommendations

(a) The department chair, in consultation with at least the tenured members of the department, conducts a formal review of the faculty member's achievements in teaching, scholarly work, service, and personal characteristics. The criteria are presented in this Policy and in any supplemental policies within academic units. This review shall take account of the annual reviews of the faculty member. Tenured members of the department are expected to submit written evaluations of the candidate and indicate either a positive or negative mid-probationary, tenure, and/or promotion recommendation.

(b) The chair shall prepare a report that is included in the member's dossier. The report shall summarize the faculty evaluations of the candidate, external letters as required, teaching evaluations and other documented evidence. Information acquired from interviews shall be summarized in writing and verified by the interviewee prior to inclusion in the dossier. The chair includes his or her personal observations and evaluation and, based upon documented information, the chair makes a positive or negative recommendation.

(c) The chair shall discuss the review and recommendation with the faculty member. Thereafter, the department chair shall forward the candidate's dossier, written documentation of the department's review, including copies of all evaluations received from faculty members, any external evaluations, and the chair's report and recommendation to the dean of the college/school. At the same time, the faculty member shall be advised in writing whether the recommendation is positive or negative. If the recommendation is negative, a copy of the chair's report, the internal peer reviews and external letters (all redacted as necessary to preserve confidentiality), if requested by the candidate, shall be furnished to the candidate.

4.3.2 Review by the Dean

The college dean is to review the candidate's dossier and the chair's recommendation and shall provide a written assessment and recommendation for promotion, continuation (mid-probationary review), or tenure and promotion. The dean shall normally abide by the chair's recommendation. The dean shall forward the assessment and recommendation together with the entire dossier to the office of the Provost/VPHS. If the dean's recommendation is negative, or conflicts with the chair's recommendation, a copy of the dean's letter (redacted as necessary to preserve confidentiality) shall be provided to the candidate and the department chair. In a case where the dean decides not to follow the chair's recommendation, the chair shall have 10 working days to present an appeal to the Associate Provost.

4.3.3 Review by the Associate Provost

The associate provost for academic affairs reviews the candidate's dossier and the recommendations of the chair and the dean. The associate provost shall provide a written recommendation to the Provost. If the associate provost's recommendation is negative, a copy of the recommendation (redacted as necessary to preserve confidentiality) shall be concurrently provided to the faculty member, the dean, and the chair. . . .

4.3.4 Review and Decision by the Provost

(a) The Provost reviews the faculty member's dossier and the recommendations of the chair, dean, and associate provost. The final decision shall be made by the Provost. If the Provost considers not following a recommendation in which the associate provost, the dean and the chair have concurred (or if there is a conflict in the recommendations made by these officers), the Provost shall immediately, and in writing, inform the faculty member and the officers involved in the decision and include a written statement of reasons. The faculty member and the officers involved have 10 working days to present their views to the Provost before the Provost makes a final decision.

4.3.6 Negative Recommendations

If at any level of review, the recommendation is negative, the faculty member shall be given a copy of the negative recommendation and may request a copy of all other reports, recommendations and internal peer reviews and external letters (all redacted as necessary to preserve confidentiality). The faculty member shall have 10 working days after receipt of such materials, if requested, to present his/her views to the next level of review before the next recommendation, or the final decision, is made. In addition, if the Provost/VPHS makes a negative decision, the faculty member may request reconsideration by the Provost/VPHS. Such request shall be made in writing by July 15. The Provost/VPHS shall respond within 10 working days of receiving the request.