

**AGENDA FOR
UNIVERSITY SENATE MEETING**

(Meeting #3, 2011-12)

**September 29, 2011
4:00 p.m.
TC 101**

Approval of senate minutes of September 1, 2011

I. Announcements

A. Next Scheduled Meetings

Senate Agenda Committee – Monday, October 10, 2011, 8:00 a.m., LB 104
University Senate – Thursday, October 27, 2011, TC (Teachers College), Rm. 101

B. Program Information – Academic Posting 2011-12, Volume XLIII-1

Revised Programs

Miller College of Business

Department of Finance and Insurance

Major in Risk Management and Insurance

College of Fine Arts

Department of Art

Major in Art, BA

College of Sciences and Humanities

Department of Anthropology

Master of Arts in Anthropology

Department of Mathematical Sciences

Teaching Major in Mathematics

C. Notice of Change in Office/Department Name

1. Current Name: Innovation in Teaching, Assessment, and Scholarship

Proposed Name: Office of Educational Excellence

D. Board of Trustees Action

Approved by President: does not require Board approval:

1. Student Preferred Name

II. Committee Reports

A. Governance and Elections Committee – Richard Bellaver, Chairperson

B. Faculty Council – John Ledbetter, Chairperson

C. University Council – Barbara Wills, Chairperson

D. Campus Council – Kevin Thurman, Chairperson

University Senate Agenda

September 29, 2011

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- III. Report by Chairperson of Senate – Eric Kelly (Enclosure #1 - Issues in the Senate System)
- IV. Questions Directed to the President
- V. Question and Answer Period
- VI. Unfinished Business
 - A. Proposed amendments to the Constitution – Second Reading (Enclosure #2)
 - B. Clarification of Reconsideration/Appeal pertaining to deliberations of Promotion and/or Tenure (Enclosure #3)
- VII. New Business
- VIII. Other Items
- IX. Adjournment

X.

/mt

MINUTES OF THE SECOND MEETING OF THE 2011-12 UNIVERSITY SENATE

Thursday, September 1, 2011

Members Present: 58

Members Absent: 6

1. The meeting was called to order by the Chairperson of the University Senate, Eric Kelly, at 4:00 p.m.

Roll Call was taken by initialing the roster located at the entrance to TC 101.

Members Present: E. Agnew, R. Bellaver, O. Benkato, E. Bowers, R. Bremigan, B. Brey, S. Byrum, J. Cassady, B. Canada, J. Chapman, C. Corbin, G. Crawley, J. Ellery, J. Forbey, A. Gary, M. Gerhard, J. Gora, J. Green, C. Griewank, D. Grosnick, M. Guntsche, M. Hanley, T. Hendricks, M. Holtzman, J. Jemiolo, E. Kelly, J. Kim, T. King, J. Kluth, K. Kreamelmeyer, D. LeBlanc, A. Leahy, J. Ledbetter, P. Magro, T. Mahfouz, M. McGrew, D. Middleton, S. Parkinson, S. Pattison, D. Pearson, L. Pellerin, J. Popovicova, W. Sharp, D. Shawger, K. Stanton, G. Stamp, M. Steib, K. Thurman, B. Wagner, A. Wieseke, L. Wiley, J. Zhao, S. Zhuk

Substitutes: Azar Hadadian for M. Harvey, Mark Neely for J. Huff, Brian Meekin for C. Munchel, Elena Polush for T. Richardson, Katie Slabaugh for B. Wills

Members Absent: K. Hall, M. Hamil, B. Hannon, T. Hardin, M. Maggiotto, S. Rice-Snow

2. A motion was made and seconded (Crawley, Steib) to approve the minutes of April 21, 2011.

The motion carried.

3. The chairperson requested taking the announcements out of order and introduced Mr. Pete Lembo, Ball State's new head football coach. Coach Lembo discussed his style of coaching and training as well as his efforts to make the players into responsible young men. The academic portion of their career at Ball State takes place early, during the summer between their senior year of high school and freshman year of college. His thought is that starting the incoming freshman early will give them an edge on keeping focused on academics when the school year begins. He asked the membership of the senate and their constituents to contact him personally if they have any problem whatsoever with a member of the football team. He thanked the senate for the opportunity to speak briefly.

4. Reaffirmation of Standing Rules (University Senate Agenda, 9/1/11, Enclosure #1)

A motion was made and seconded (Pearson/Crawley) to adopt the standing rules.

The motion carried.

5. The subject of conserving paper was reviewed as well as polling the membership regarding their request to receive hard copies of the agenda materials. Agenda materials will be produced only once.
6. Amy Leahy reviewed the flow chart and committees under each council's purview. Eric Kelly reminded the membership that we are a policy-making group and advisory to the President.
7. The next scheduled meeting of the senate, the schedule of meetings for the university governance system (Senate Agenda, 9/1/11, Enclosure #2), Program Information (Academic Posting 2010-11, Volume XLII-8), Change of Office/Department Name, and action taken by the President and the Board of Trustees was reviewed.
8. There was a moment of silence to recognize the deaths of Joseph (JB) Black, Jr., Adaline J. Eastman, Helen Kirby, John Lewellen, Hubert J. Ludwig, Donavon Dale Lumpkin, James McElhinney, Melkote K. Shvaswamy, and Beth Vail.

9. Committee Reports

A. Governance and Elections Committee – Richard Bellaver, Chairperson

Richard reported that the committee met today and discussed the membership of the Undergraduate Education Committee (UEC). It will be discussed at the next UEC meeting and brought back to the committee for further discussion before sending forward to the Faculty Council.

B. Faculty Council – John Ledbetter, Chairperson

John reported the council will meet on September 8.

C. University Council – Katie Slabaugh, substitute for Barb Wills, chairperson

Katie reported the council will meet on September 15.

D. Campus Council – Kevin Thurman, Chairperson

Kevin reported the council meets on September 22. The issues of meal card compensation as well as a full report on Cardinal Cash will be on the agenda for discussion.

E. NCAA/MAC Annual Report (University Senate Agenda, 9/1/11, Enclosure #3)

The chairperson of the senate reported that Jim Ruebel was unable to attend today's meeting, but reported there may be some additional information coming forward this fall. He plans to attend the meeting at that time.

10. Report by Chairperson of Senate – Eric Kelly (University Senate Agenda 9/1/11, Enclosure #4)

The chairperson reviewed what had been accomplished last year. With regard to the GANTT chart, he added the following items for review and discussion by committee:

- Merit pay policy (Salary and Benefits Committee)
 - Titles for research faculty (Faculty Council Agenda Committee)
 - Titles for contract faculty (Faculty Council Agenda Committee)
 - Grade Inflation (Faculty Council Agenda Committee, Campus Council)
- OTHER category on chart:
- Accountability measures
 - Faculty role in (and credit for) hybrid learning

11. Questions Directed to the President

The President reported the following:

- She will be testifying on September 8 before the State Budget Committee regarding tuition and fees. This is a continuing dialogue with the legislative body about budgets.
- There is a big emphasis on accountability. The book, *Academically Adrift*, documents the significant amount of time students spend on social activities not engaged in academic pursuits.

The President answered the following questions from the members of the senate:

- *Could you expand on community outreach?*

The President responded that the legislature expects us to be involved in communities with economic development activities. This is what is on everyone's mind. Immersive learning is part of the answer. Faculty

engagement in projects (with or without students) working for for-profits and non-profits is another part of the answer. All of these contribute to economic development.

- ***There was a large article on grade inflation. Academic standards and grades should mean something. What would happen if half of the elementary education majors flunked?***
- The President responded that what matters is the competency of our students who graduate with any major. Incompetency damages us in a way that's almost impossible to overcome. It is all about academic standards – are we providing a quality education? Are students measuring up to appropriate academic standards?
- ***A member heard there is a cap on professor salaries this fall in that professors cannot make no more than 12% of their base pay.***

Provost King responded there is a federal law that mandates this. This turns out to be a very generous policy. There are some restrictions that apply, but it is still very generous.

- ***Regarding the accountability issue – one is the grade inflation issue, and does the other one revolve around whether faculty are working hard enough?***

President Gora responded that legislators care more about your economic development outreach than how many university committees you're working on.

- ***There is concern by some faculty that faculty evaluation response rate is not high enough. They have an important impact on promotion, tenure, merit. Is it possible to make them mandatory?***

The President responded that she is very interested in the same issue. It was even considered to withhold grades until they turned in their evaluations. Both positive and negative incentives are being discussed

At this time, Provost King discussed and answered questions concerning the following:

- The Board of Trustees has asked us to do update our salary documents this semester. The policy hasn't been changed in almost three decades. The handbook states that at least 15% of all raises have to go to merit. The salary documents must 1) define minimal acceptable levels of performance in the areas of assignment for the individuals, 2) at least 70% to merit, unless the Board of Trustees say otherwise, and 3) must define true merit.
- ***How do you measure service (how many hours do we spend advising students, doing the work associated with service)? How do we quantify merit? Is this the standard 40-hour work week or something else?***

Service turns out to be the hardest part of the equation, except in areas where it's very specific. Departments should have a way of looking at this.

- ***What if a faculty member is superb in teaching, learning, but not in service? Are they passed over for a raise?***

Provost King responded that there should be a minimal level of all three. We can't expect everyone to have a specific assignment all through their career. This is something the unit needs to review.

- *Some faculty do not have time allotted for research. Does that mean they're out of the equation and don't get a raise?*

Provost King responded that for this particular person, their responsibilities do not include research.

- *Point of clarification: Each department is entitled to work out its own plan? Are there standards of which departments should follow?*

The Provost responded that every year, the Salary and Benefits Committee and I will review salary documents.

- Lastly, the Provost commented he is impressed with Coach Lembo and his dedication to educational accountability with their athletes.

8. Question and Answer Period

There were no questions.

9. Unfinished Business

There was no unfinished business.

10. New Business

- A. Membership of Councils/Committees in University Governance system
(University Senate Agenda, 9/1/11, Enclosure #5)

A motion was made and seconded (Pearson/Thurman) to approve the membership.

The motion carried.

- B. Proposed amendments to the Constitution – First Reading (University Senate Agenda, 9/1/11, Enclosure #6)

No discussion takes place at this meeting concerning the amendments. The second reading will take place at the September 29 meeting of the senate, when discussion and vote will take place.

11. Other Items

There were no other items.

The meeting adjourned at 5:00 p.m.

September 28, 2011

Eric Kelly, Chairperson

Amy Leahy, Secretary

Proposed amendments to the Constitution – Second Reading

1. Representation of contract faculty on University Senate

Current:

A total of two contract faculty elected for staggered two-year terms by and from the full-time contract faculty with a minimum of three years of full-time, continual service to the university

Proposed:

A total of two contract faculty elected for staggered two-year terms by and from the full-time contract faculty.

Page 6, Faculty and Professional Personnel Handbook

2. Representation of professional personnel on Salary and Benefits Committee

9. Salary and Benefits Committee ²⁹

9.1 Membership – The membership of the Salary and Benefits Committee shall consist of the following:

9.11 Voting

9.111 Seven members selected by and from the membership of the Faculty Council, one representing each college, for staggered two year terms;

9.112 ~~One~~ **Six** professional personnel (one representative from each of the six vice-presidential areas: Academic Affairs; Student Affairs; Enrollment, Marketing, and Communications; University Advancement; Information Technology; and Business Affairs), appointed by the University Council, **one of whom must be a member of University Council**, for staggered two year terms.

~~9.113 — One member appointed by and from the University Council's Financial and Budgetary Affairs Committee, for a one year term.~~

9.12 Non-Voting

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

9.122 The Vice President for Business Affairs, ex officio, or a designee.

9.123 One member appointed by and from the University Council's Financial and Budgetary Affairs Committee, for a one year term.

9.2 Responsibilities – The Salary and Benefits Committee is responsible for the following initiatives and activities:

9.21 To elect a Chairperson and a Secretary from its appointed **faculty voting** membership by majority vote of the committee, for one year terms;

9.22 To forward minutes of each committee meeting to the Chairperson of the Faculty Council within a timely manner;

9.23 To monitor and evaluate **faculty and professional personnel** salary and benefit programs, including those concerning emeriti, and recommend appropriate changes and improvements.

9.24 To initiate reviews and assessments of market conditions periodically and make appropriate recommendations for adjustments regarding incremental money distributed for market purposes;

- 9.25 To review the administration of faculty **and professional personnel** salary programs annually, working with the President or the Provost and Vice President for Academic Affairs, to assure compliance with established policies;
- 9.26 To review for approval all criteria and processes regarding faculty **and professional personnel** salaries for all units.
- 9.27 To act in an advisory capacity to those who administer faculty **and professional personnel** salary and benefit programs for the University and to represent the interests of the faculty **and professional personnel** in discussions with such persons.

9.3 There shall be two standing subcommittees of the Salary and Benefits Committee: The Faculty Subcommittee and the Professional Personnel Subcommittee. The Salary and Benefits Committee, comprising both subcommittees, will address issues which affect both faculty and professional personnel.

9.31 Faculty Subcommittee Membership – the membership of the Faculty Subcommittee shall consist of the following:

9.311 Voting

9.3111 The members of the Salary and Benefits Committee selected by the Faculty Council;

9.312 Non-voting

9.3121 One professional personnel, appointed by the membership of the Professional Personnel Subcommittee;

9.3122 All non-voting members of the Salary and Benefits Committee identified in section 9.12.

9.32 Faculty Subcommittee Responsibilities

9.321 To elect a Chairperson and a Secretary from its voting membership by majority vote of the Subcommittee, for one year terms.

9.322 To forward minutes of each Subcommittee meeting to the Chairpersons of the Salary and Benefits Committee and Faculty Council within a timely manner.

9.323 To address issues which affect only faculty. Issues which affect only faculty shall be the exclusive purview of the Faculty Subcommittee.

9.33 Professional Personnel Subcommittee Membership – the membership of the Professional Personnel Subcommittee shall consist of the following:

9.331 Voting

9.3311 The members of the Salary and Benefits Committee appointed by the University Council;

9.332 Non-voting

9.3321 One faculty, appointed by the membership of the Faculty Subcommittee;

9.3322 All non-voting members of the Salary and Benefits Committee identified in section 9.12.

9.34 Professional Personnel Subcommittee Responsibilities

9.341 To elect a Chairperson and a Secretary from its voting membership by majority vote of the Subcommittee, for one year terms.

9.342 To forward minutes of each Subcommittee meeting to the Chairpersons of the Salary and Benefits Committee and University Council, within a timely manner.

9.343 To address issues which affect only professional personnel. Issues which affect only professional personnel shall be the

exclusive purview of the Professional Personnel Subcommittee.

Clean Copy for review:

9. Salary and Benefits Committee²⁹
 - 9.1 Membership – The membership of the Salary and Benefits Committee shall consist of the following:
 - 9.11 Voting
 - 9.111 Seven members selected by and from the membership of the Faculty Council, one representing each college, for staggered two year terms;
 - 9.114 Six professional personnel (one representative from each of the six vice-presidential areas: Academic Affairs; Student Affairs; Enrollment, Marketing, and Communications; University Advancement; Information Technology; and Business Affairs), appointed by the University Council, one of whom must be a member of University Council, for staggered two year terms.
 - 9.12 Non-Voting
 - 9.121 The Provost and Vice President for Academic Affairs, ex officio, or a designee.
 - 9.122 The Vice President for Business Affairs, ex officio, or a designee.
 - 9.123 One member appointed by and from the University Council's Financial and Budgetary Affairs Committee, for a one year term.
 - 9.2 Responsibilities – The Salary and Benefits Committee is responsible for the following initiatives and activities:
 - 9.21 To elect a Chairperson and a Secretary from its appointed voting membership by majority vote of the committee, for one year terms;
 - 9.22 To forward minutes of each committee meeting to the Chairperson of the Faculty Council within a timely manner;
 - 9.23 To monitor and evaluate faculty and professional personnel salary and benefit programs, including those concerning emeriti, and recommend appropriate changes and improvements.
 - 9.24 To initiate reviews and assessments of market conditions periodically and make appropriate recommendations for adjustments regarding incremental money distributed for market purposes;
 - 9.25 To review the administration of faculty and professional personnel salary programs annually, working with the President or the Provost and Vice President for Academic Affairs, to assure compliance with established policies;
 - 9.26 To review for approval all criteria and processes regarding faculty and professional personnel salaries for all units.
 - 9.27 To act in an advisory capacity to those who administer faculty and professional personnel salary and benefit programs for the University and to represent the interests of the faculty and professional personnel in discussions with such persons.
 - 9.3 There shall be two standing subcommittees of the Salary and Benefits Committee: The Faculty Subcommittee and the Professional Personnel Subcommittee. The Salary and Benefits Committee, comprising both subcommittees, will address issues which affect both faculty and professional personnel.
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 - 9.311 Voting
 - 9.3111 The members of the Salary and Benefits Committee selected by the Faculty Council;
 - 9.312 Non-voting
 - 9.3121 One professional personnel, appointed by the membership of

the Professional Personnel Subcommittee;
9.3122 All non-voting members of the Salary and Benefits
Committee identified in section 9.12.

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- 9.321 To elect a Chairperson and a Secretary from its voting membership by majority vote of the Subcommittee, for one year terms.
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- 9.341 To elect a Chairperson and a Secretary from its voting membership by majority vote of the Subcommittee, for one year terms.
- 9.342 To forward minutes of each Subcommittee meeting to the Chairpersons of the Salary and Benefits Committee and University Council, within a timely manner.
- 9.343 To address issues which affect only professional personnel issues which affect only professional personnel shall be the exclusive purview of the Professional Personnel Subcommittee.

Revision of Definitions concerning Reconsideration/Appeals

Definitions

1. Department and departmental refer to schools, academic departments located within the seven colleges and those comparable units which have faculty and/or eligible professional personnel but are not located within colleges.
2. College and collegiate refer to the seven academic colleges and also to the Academic Affairs promotion and tenure unit.
- ~~3. Reconsideration refers to the initial action required when there is an adverse recommendation concerning promotion or tenure at the departmental level. Request for reconsideration by the department is the first step to be taken by the appellant.~~
3. Reconsideration is the act whereby a candidate may request that an initial adverse decision by the departmental or collegiate committee be reexamined. Reconsideration provides an opportunity for the candidate to clarify content of materials.
4. Appeal refers to the action taken by the appellant when the outcome of the departmental reconsideration is the same as the original recommendation or when an adverse recommendation is made at the collegiate or Provost and Vice President for Academic Affairs level. Appeals examine the process followed and not the content of materials.
5. Working days are those days when Ball State University administrative offices are open.
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.
7. Eligible professional personnel are those individuals who hold academic rank and/or tenure or who are eligible for tenure.
8. 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 men and women of ability. (Faculty Handbook, Appointment, Academic Freedom, and Tenure 2.3). Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.
9. Tenure-track faculty are those who are currently in the seven-year probationary tenure period.
10. Tenured faculty are those faculty who have been granted tenure.
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.
 - 11.1 The scholarship of discovery is traditional research and creative endeavors that pursue and contribute to new knowledge for its own sake.
 - 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.
 - 11.3 The scholarship of application applies knowledge to address significant societal issues.
 - 11.4 The scholarship of teaching studies the development of knowledge, skill, mind, character, and/or ability of others.

NEW SECTION

**VII Right of
Reconsideration**

1. Reconsideration
 - 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.
 - 1.2 If the initial adverse recommendation has been made by the Department Promotion and Tenure Committee, then the candidate must ask for a reconsideration of that recommendation by the Department Committee before he or she may proceed further.
 - 1.21 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 him or her. For example, if a Department Promotion and Tenure Committee advises a faculty member in writing that it is recommending against awarding tenure to such member, 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 determines that good cause has existed for the delay.
 - 1.22 The written request for reconsideration shall be filed in the office of the department chairperson.
 - 1.23 After receiving a request for reconsideration, the Department Committee must meet to reconsider its initial adverse recommendation. The Department Committee must meet with the candidate if he or she so requests. 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.
 - 1.24 After meeting to reconsider the candidate's materials, the committee shall vote to overturn or affirm the previous decision. This vote supercedes the previous vote.
 - 1.25 The candidate's materials for promotion and/or tenure shall be held in the departmental office
 - 1.3 If the initial adverse recommendation has been made by the College Committee or Dean, then he or she may ask for reconsideration at the collegiate level.
 - 1.3.1 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 him or her. For example, if a College Dean or College Promotion and Tenure Committee advises a faculty member in writing that it is recommending against awarding tenure to such member, 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 determines that good cause has existed for the delay.
 - 1.3.2 The written request for reconsideration shall be filed in the office of the college dean.
 - 1.3.3 After receiving a request for reconsideration, the Collegiate Committee must meet to reconsider its initial adverse recommendation or in cases when only the college dean reviews the candidate, the Dean must reconsider the initial adverse recommendation. The Collegiate Committee or Dean must meet with the candidate if he or she so requests. 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.
 - 1.3.4 After meeting to reconsider the candidate's materials, in cases where the committee made the initial adverse decision, the committee shall vote to overturn or affirm the previous decision. This vote supercedes the previous vote.
 - 1.3.5 In colleges where the Dean makes the decision, the Dean will inform the candidate of his or her decision following reconsideration.

- 1.3.56 The candidate's materials for promotion and/or tenure shall be held in the collegiate office and shall not be forwarded to the University Promotion and Tenure Committee until all requests for reconsideration have been exhausted.

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VIII Right of Appeal

1. Appeals from Adverse Decisions
 - 1.1 Regular full-time faculty and regular professional personnel may appeal promotion and/or tenure decisions which adversely affect such individuals in accordance with provisions set forth in this Part VIII. Appeals examine the process not the content.
2. Bases for Request for Appeal
 - 2.1 If the appellant is not satisfied with the decision of the Department Committee, then he or she 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 filed in the office 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.
 - 2.2 There are three permissible reasons to request appeal:
 - 2.21 Allegation of violation of approved departmental, collegiate, and/or University policies, including those set forth in the Faculty and Professional Personnel Handbook;
 - 2.22 Allegation of unfair treatment on the part of the decision makers;
 - 2.23 Allegation of discriminatory treatment on the part of the decision makers.
 - 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 he or she 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.
 - 2.4 When an appellant alleges unfair treatment on the part of the decision makers, then he or she 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 decisions which are arbitrary or capricious or which are clearly not supported by the evidence.
 - 2.5 When an appellant alleges discriminatory treatment on the part of the decision makers, then he or she 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 he or she believes 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.
 - 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 Equal Opportunity and Affirmative Action, or his or her 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."
 - 2.7 In all cases, the appellant has the burden of proving his or her allegations.
 - 2.8 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 when it reconsidered its initial adverse recommendation. 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.

- 2.81 The academic dean will assist the chairperson of the hearing panel in arranging the hearing at the collegiate level.
- 2.9 A formal hearing will take place.
 - 2.91 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.
 - 2.92 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 establishing the panel. The chairperson of the College Promotion and Tenure Committee, or his or her designee, will serve as chairperson of the hearing panel.
 - 2.921 If the appellant is a minority, at least one (1) member of the hearing panel shall be a minority. Also, at least one (1) member of the hearing panel shall be of the same gender as the appellant. If the College Promotion and Tenure Committee serves as the hearing panel, the Committee may (to meet the requirements of this paragraph) be required to add to the Committee faculty member(s) from within the college who shall participate fully in the appeal hearing. If the addition of faculty member(s) is required, the faculty member(s) selected must be approved by the dean. This paragraph shall not apply (a) if the college has no minority faculty members or faculty members of the required gender who are eligible to serve on the hearing panel, or (b) if all of the eligible minority faculty members or faculty members of the required gender either decline to serve or are disqualified from serving on the hearing panel due to their unavailability, conflict of interest, personal bias or other good and sufficient reason as determined by the College Promotion and Tenure Committee chairperson. For the purposes of this paragraph, "minority" refers to an individual who is a member of a minority classification recognized by the U.S. Equal Employment Opportunity Commission.
 - 2.922 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 and professional personnel 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 Equal Opportunity and Affirmative Action shall make that party's selection. The University's Director of Equal Opportunity and Affirmative Action, or his or her designee, shall serve in an advisory capacity to the hearing panel.
 - 2.923 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.
- 2.10 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).
- 2.11 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 he or she may deem appropriate, or upon the request of either party for good cause shown.

- 2.12 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:
- 2.121 Copies of all documents upon which they intend to rely but which are not already a part of the appeal file;
 - 2.122 A list of any witnesses whom they plan to call. Copies of 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.
- 2.13 Attendants at hearing. In addition to the hearing panel and the previously specified parties, the following persons may attend a hearing.
- 2.131 A full-time regular Ball State faculty or professional personnel member to serve as faculty colleague for the appellant.
 - 2.132 Representative of the academic dean's office.
 - 2.133 Other University-affiliated persons whose attendance is requested or approved by the chairperson of the hearing panel.
 - 2.134 Any person designated by the chairperson of the hearing panel to record and to prepare a summary of the evidence presented at the hearing.
 - 2.135 Witnesses called by either party. Such witnesses shall be present only while they are testifying.
 - 2.136 A recording secretary designated by the appellant, if he or she desires. This person must be a full-time Ball State faculty, professional personnel, or staff member.

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.

- 2.14 Quorum and challenges. A majority of the 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 written ballot. If this vote results in a tie, the decision shall be made by the chairperson of the hearing panel.
- 2.15 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 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.
- 2.16 Witnesses. Each party is responsible for ensuring the presence of his or her 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.
- 2.17 Hearing records. The hearing panel must arrange for minutes of the hearing to be taken. These minutes shall include a general summary of the major points made by the parties and participants at the hearing, 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. Recordings or tapes of a hearing shall not be permitted.
- 2.18 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. 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 brief

summary of the reasons for its decision. Copies of that decision are to be addressed to the academic dean and must be provided to all participants in the appeal within twenty (20) calendar days of the conclusion of the hearing.

- 2.181 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.
- 2.1811 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 of an appellant). If the responding party does not agree with this recommendation, that party may appeal to the University Promotion and Tenure Committee.
- 2.1812 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.
- 2.19 If an appellant or respondent wishes 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 Vice President for Academic Affairs. See "Bases for Request for Appeal" VIII, 2., 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.
- 2.20 The Provost and 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 when it reconsidered its initial adverse recommendation; (c) the responses and any other materials submitted by the College Committee when it considered the appeal. 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.
- 2.201 The Provost and Vice President for Academic Affairs shall assist the chairperson of the hearing panel in arranging the hearing at the University level. A formal hearing will take place.
- 2.211 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.
- 2.212 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 Promotion and Tenure Committee establishing the panel. The chairperson of the University Promotion and Tenure Committee, or his or her designee, shall serve as chairperson of the hearing panel.
- 2.2121 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 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 Equal Opportunity and Affirmative Action, shall make that party's selection. The University's Director of Equal Opportunity and Affirmative Action, or his or her designee, shall serve in an advisory capacity to the hearing panel.

- 2.2122 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.
- 2.2123 If the appellant is a minority, at least one (1) member of the hearing panel shall be a minority. Also, at least one (1) member of the hearing panel shall be of the same gender as the appellant. If the University Promotion and Tenure Committee serves as the hearing panel, the Committee may (to meet the requirements of this paragraph) be required to add to the Committee faculty member(s) who shall participate fully in the appeal hearing. If the addition of faculty member(s) is required, the faculty member(s) selected must be approved by the University Promotion and Tenure Committee chairperson. For the purposes of this paragraph, "minority" refers to an individual who is a member of a minority classification recognized by the U.S. Equal Employment Opportunity Commission.
- 2.22 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) if applicable, the dean and the chairperson of the College Promotion and Tenure Committee.
- 2.23 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 he or she may deem appropriate, or upon the request of either party for good cause shown.
- 2.24 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:
- 2.241 Copies of 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;
- 2.242 A list of any witnesses whom they plan to call. Copies of 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.
- 2.25 Attendants at hearing. In addition to the hearing panel and the previously specified parties, the following persons may attend a hearing.
- 2.251 A full-time regular Ball State faculty or professional personnel member to serve as faculty colleague for the appellant.
- 2.252 Representative of the Provost and Vice President for Academic Affairs' Office.
- 2.253 Other University-affiliated persons whose attendance is requested or approved by the chairperson of the hearing panel.
- 2.254 Any person designated by the chairperson of the hearing panel to record and to prepare a summary of the evidence presented at the hearing.
- 2.255 Witnesses called by either party. Such witnesses shall be present only while they are testifying.
- 2.256 A recording secretary designated by the appellant, if he or she desires. This person must be a full-time Ball State faculty, professional personnel, or staff member.
- 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.
- 2.26 Quorum and challenges. A majority of the 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 written ballot. If this vote results in a tie, the decision shall be made by the chairperson of the hearing panel.

- 2.27 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.
- 2.28 Witnesses. Each party is responsible for ensuring the presence of his or her 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.
- 2.29 Hearing records. The hearing panel must arrange for minutes of the hearing to be taken. These minutes shall include a general summary of the major points made by the parties and participants at the hearing, 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. Recordings or tapes of a hearing shall not be permitted.
- 2.30 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 brief summary of the reasons for its decision. Copies of that decision are to be addressed to the Provost and 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.
- 2.301 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.
- 2.3011 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 for or against promotion or tenure of an appellant). If the responding party does not agree with this recommendation, that party may appeal to the Provost and Vice President for Academic Affairs.
- 2.3012 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.
- 2.31 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 Vice President for Academic Affairs may, with good cause, extend the thirty (30) day deadline.
- 2.32 The decision of the Provost and Vice President for Academic Affairs is final.

3. Appeals Which Begin at the College Level
 - 3.1 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.
 - 3.2 The procedures outlined above in 2.19-2.32 shall then be in effect.

4. Appeals Which Begin at the Provost and Vice President for Academic Affairs Level
 - 4.1 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.
 - 4.2 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 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.
 - 4.3 The decision of the President is final.