CHAPTER FIVE
Faculty Rights of Appeal

5.1 INTRODUCTION
A faculty member is entitled to fair, impartial, honest resolution of problems that may arise in relation to employment. Accordingly, the University ensures that resolutions to problems occur judiciously through due process and within a reasonable time period.

Faculty should bring complaints or grievances to the administrator closest to the situation at the earliest possible time. Every effort should be made to expeditiously resolve such matters informally, through conversation with the department head, director, or dean, before submitting a written grievance or complaint. At any point in the appeals process, the Faculty Ombudsperson may be consulted.

5.2 FACULTY OMBUDSPERSON
The Faculty Ombudsperson is a neutral agent in faculty disputes who is neither an advocate for the faculty nor an agent for the university. The Faculty Ombudsperson is an advocate for fair practices, fostering probity and timeliness in the administration of campus policies and practices. The services provided by the Faculty Ombudsperson do not supersede nor replace other university grievance or appeals procedures but may supplement or enhance them. The Faculty Ombudsperson aims to help faculty solve problems early and at the lowest levels, first through administrative channels to obviate the need to pursue other appeals procedures. She/he is charged to act as a confidential and informal resource for information on rights of appeal by serving as a mutual communication channel, a complaint receiver, and dispute resolution facilitator. She/he strives to promote the values of fairness, equity, justice, equality of opportunity and mutual respect. If unsuccessful, the Faculty Ombudsperson will assist faculty with information and counseling on formal grievance appeals processes. All inquiries to the Faculty Ombudsperson are confidential unless the faculty member gives him/her permission to go to a third person.

The Faculty Ombudsperson is a distinguished member of the faculty selected in consultation between the Chief Academic Officer and the Executive Committee of the Faculty Senate. She/he is appointed to a renewable three-year term and receives a monetary stipend as a form of compensation.

5.3 APPEALS THROUGH THE ADMINISTRATIVE CHANNEL
Any faculty member may initiate a written appeal with his/her administrative leader. If resolution of the problem is not achieved, the faculty member has the right to request review at successively
higher administrative levels through the Dean, to the Chief Academic Officer. The University bylaws (Article V, Section 7) provide that any faculty member of the University may appeal through the Chief Academic Officer to the President. Her/his administrative officer shall inform the faculty member of current appeal procedures to facilitate its submission. If administrative channels are exhausted, the faculty may consider one of two formal appeals options stipulated below.

5.4 GENERAL APPEALS PROCESS

Scope and Jurisdiction of the Faculty Senate Appeals Committee. The scope of the Faculty Senate Appeals Committee includes, but is not limited to, complaints regarding tenure or promotion decisions, annual performance reviews, workload, work conditions, and violations of shared governance. The Faculty Senate Appeals Committee is a committee of faculty members that hears complaints by faculty members claiming violations of due process and fairness in employment status not covered under the Special Appeals procedures outlined later in this chapter. The Faculty Senate Appeals Committee consists of tenured faculty appointed by the senate. The committee has the authority to seek legal advice. The complete procedures for appeals through the Faculty Senate Appeals Committee are posted on the Faculty Senate web site (web.utk.edu/~senate).

The function of the Faculty Senate Appeals Committee is to gather evidence and make recommendations to the Chief Academic Officer of the University for the disposition of cases within its jurisdiction. The Faculty Senate Appeals Committee does not replace the role of faculty and administrators in making employment related decisions. Instead, it is guided by the aim of maximizing the protection of the principles of academic freedom and due process. In all cases, faculty members are entitled to notice regarding grounds on which administrative action has been taken. All matters before the Faculty Senate Appeals Committee are kept in strict confidence.

While faculty members may bring these cases directly to the Faculty Senate Appeals Committee without first going through other grievance procedures, they are encouraged to resolve complaints first through contacting the Faculty Ombudsperson before administrative channels. The Faculty Senate Appeals Committee takes one of the three actions:

(a) mediate an amicable resolution of the grievance in conjunction with the Faculty Ombudsperson;
(b) initiate a Committee review; or
(c) take no action on the grounds that the appeal lacks merit for consideration.

If the Faculty Senate Appeals Committee chooses not to consider the appeal, the chairperson shall give written notice of that decision with explanation to the faculty member, the administrator(s) whose decision is being contested, and Chief Academic Officer.
**Process for Appeals Submission.** Within one year of the initial administrative decision, the faculty member may appeal to the Faculty Senate Appeals Committee, after good faith efforts to resolve the grievance, to the satisfaction of a faculty member, through administrative channels and/or in consultation with the faculty Ombudsperson are exhausted.

The appeal must be submitted in writing and include a comprehensive statement of the grievance. Copies of the request must be provided to each administrator whose decision is being contested and to the Office of the Chief Academic Officer. After the chair of the Faculty Senate Appeals Committee has consulted with the Committee and the Office of the Chief Academic Officer and they have determined that a grievance lies within the jurisdiction of the Committee, and merits consideration, the Committee Chair will establish arrangements necessary to ensure a complete review of the grievance by a Review Panel.

When it has been determined by the Faculty Senate Appeals Committee that a Review Panel should be convened, the chairperson appoints a panel consisting of no fewer than three members of the Committee and designates one of the three as chair of the Panel. The chair of the Faculty Senate Appeals Committee provides written notification of the appointment of a Review Panel along with the names of the chair and the members to the faculty member, each administrator whose decision will be reviewed, and the Chief Academic Officer. The written notification also includes a description of review procedures.

Any individual making a presentation to the Committee or the Review Panel may obtain the assistance of an advisor or legal counsel of his/her choice. If legal counsel is desired by either the faculty member or the Faculty Senate Appeals Committee, the other party must be notified in writing at least ten days before a scheduled hearing. A description of procedural rules and membership for the Faculty Senate Appeals Committee is documented in the Faculty Senate Bylaws.

**Hearing Results and Recommendations.** The Faculty Senate Appeals Committee will use the hearing record to make findings and recommendations to the Chief Academic Officer of the University. The Chief Academic Officer must meet with the Faculty Senate Appeals Committee to exchange views and determine whether the case can be resolved in a mutually acceptable manner between the Chief Academic Officer and the Committee. Should the Chief Academic Officer not accept the recommendations of the Faculty Senate Appeals Committee, she/he must provide written justification in clear and unambiguous language to the committee and the complainant. If the Committee determines that basic principles of due process, shared governance and/or academic freedom are being violated, the Committee has the right to bring the issues to the Faculty Senate.

5.5 SPECIAL APPEALS PROCEDURES

Faculty members have right to due process for Special Appeals in the following four areas:
(a) allegations of discrimination due to race, sex, religion, national origin, age, handicap or
veteran status;
(b) termination or suspension of a non-tenured-faculty member for adequate cause prior to the
expiration of his/her term of appointment or without the minimum advance notice
specified for non-reappointment of probationary faculty (see Chapter 3);
(c) allegation that the non-renewal of appointment of a probationary faculty member (see
Chapter 3) constitutes a violation of academic freedom. (The procedure for termination of
tenured faculty appears in Chapter 3.); and
(d) special procedures governing disciplinary action. These Special Appeals are addressed by
governing bodies within the University as follows:

A. Allegations of discrimination on the basis of race, sex, national origin, religion, age,
handicap, or veteran status are brought and investigated in accord with procedures described
in the UTK Affirmative Action Plan. Copies of the Plan are available in the department or
college office, may be obtained from the Director of the Campus Office for Equity and
Diversity (OED). Personnel Policies regarding Equal Employment Opportunity and
Affirmative Action are posted through the UT Office of Human Relations at:
http://admin.tennessee.edu/hr/policies/220pol.html

B. If the Chief Academic Officer suspends or dismisses a probationary faculty member before
their stipulated term of appointment is completed or without the minimum advance notice
specified for termination of probationary faculty in Chapter 3, the faculty member may
appeal this decision through the Faculty Senate Appeals Committee or may elect to follow
the contested case procedures under the Tennessee Uniform Administrative Procedures Act.
Dismissal or suspension of this kind must be for “adequate cause” (see Chapter 3), and the
burden of proof is on the University. The faculty member must notify the Chief Academic
Officer of his/her desire to appeal within ten days after receipt of the University’s intention to
dismiss or suspend. Details of procedures under the Administrative Procedures Act are
available upon request from the Office of the General Counsel of the University.

C. Allegations that non-renewal of an appointment of a probationary faculty member constituted
a violation of academic freedom are handled by appeal through administrative channels, as
outlined above, except that the Chief Academic Officer is obliged to ask the Faculty Senate
Appeals Committee to review the matter solely to determine whether the notice of non-
renewal establishes a violation of academic freedom.

The burden of proof that non-renewal constitutes a violation of academic freedom is on the
faculty member. The Faculty Senate Appeals Committee will invite the faculty member to
appear and to present evidence and argument on his/her behalf. If legal counsel is desired, the
faculty member must notify the chair of the committee at least ten days before any hearing
that may be scheduled, so that the University may also schedule the presence of prepared
legal counsel. If this notification comes later than ten days before a hearing, postponements
may be granted so that those who desire counsel may have counsel present. The University will be obliged to notify the individual in the same way. The Committee should ask the Department Head, Dean, and any other appropriate parties to testify and present evidence and argument. After hearing and weighing the evidence presented, as well as any other evidence at its disposal, the Committee will submit a written recommendation to the Chief Academic Officer within 21 days after the conclusion of its deliberations. A copy of the recommendation will be given at the same time to the faculty member. The Chief Academic Officer will consider the Committee’s recommendation and inform the faculty member of his/her decision within 30 days. [The by-laws of the University provide that any individual may appeal to the President.]

D. Special Procedures Governing Disciplinary Action. Disciplinary action (other than termination for adequate cause) may be taken against a faculty member for misconduct (as defined in Chapter 3). Before such disciplinary action may be taken, the Department Head or Dean must notify the faculty member of his/her intent to take disciplinary action. This written notice shall include a detailed specification of the alleged misconduct and the nature of the proposed discipline. It shall also inform the faculty member of his/her right to appeal the proposed discipline through administrative channels as outlined above or to request a review by the Faculty Senate Appeals Committee in accordance with the provisions of this chapter.