CHAPTER FIVE
Faculty Rights of Appeal

5.1 INTRODUCTION
Faculty are 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.

The rights of appeal described in this chapter apply to all tenured, tenure-track, and non-tenure-track faculty. Faculty have the right, individually or collectively, to submit an appeal. 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.

The appeals procedures outlined here are a formal but not legal process that aims to resolve problems and address systemic issues. Faculty have a right to consult an attorney, but legal advisors are not to be present when following these university appeals channels. For conflicts arising between faculty and students, Hilltopics should be consulted [link]. In addition to these rights of appeal, all faculty may also appeal as Tennessee state employees through the Tennessee Uniform Administrative Procedures Act [link]. [A diagram showing avenues of appeal will be inserted here.]

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. Services provided by the Faculty Ombudsperson apply to all tenured, tenure-track, and non-tenure-track faculty. Ombudsperson services 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. However, no written communication with the Ombudsperson has any guarantee of confidentiality due to Tennessee open records laws.

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, 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 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.

The scope of the Faculty Senate Appeals Committee includes, but is not limited to, complaints regarding violations of due process and fairness in tenure or promotion decisions, annual performance reviews, workload, work conditions, and violations of shared governance. The Faculty Senate Appeals Committee consists of tenured faculty appointed by the senate.

The Appeals Committee is comprised of 18 tenured faculty members appointed to staggered six-year terms by the Faculty Senate Committee on Nominations and Appointments with the advice and consent of the Faculty Senate. An effort is made to have proportional representation of the entire faculty reflected in the committee. At least one member of the committee must have legal
experience. The complete procedures for appeals through the Faculty Senate Appeals Committee are posted on the Faculty Senate web site [link].

Faculty making an appeal need to consult the Faculty Ombudsperson before bringing an appeal to the Appeals Committee. While the Faculty Ombudsperson cannot prevent a faculty member from bring a complaint to the Appeals Committee, a prior meeting with the Ombudsperson will ensure that reasonable steps have been taken to resolve the complaint. After receiving a request for an appeal review, the Appeals Committee will take one of 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 administrative decision, the faculty member or members must initiate an 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 they have determined that a grievance both 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 objections to the membership of the review panel or the review procedures shall be made in writing to the chair of the Faculty Senate Appeals Committee, whose written decision to sustain or overrule the decision shall be final. If the objection is sustained, the chair will facilitate a resolution so that the review may proceed.
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 recommendations of the Appeals Committee are approved by the Chief Academic Officer, a written copy of the findings and recommendations will be provided to the faculty member(s) making the appeal. Faculty members bringing appeals may request reconsideration based on an error in the findings or new evidence. If principles of due process, shared governance, and/or academic freedom are being violated, the Appeals Committee is encouraged to request that the Faculty Affairs Committee bring the matter 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.