



Office of the Provost

Department of Health Sciences
Evaluation and Appeal Processes
Policy

Approved: 2021

Office of the Provost
James Madison University

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11.0 Evaluation and Appeal Processes Policy

Approved by faculty vote of 11 yes, 1 no, 0 abstain on 5-6-19; submitted to Dean and Provost for approval.

Minor revisions for consistency with JMU Handbook made 2-12-21; flowcharts removed. Approved by Dr. Sharon Lovell, CHBS Dean, 3-11-21. Approved by the Provost on April 14, 2021.

Refer to the Department of Health Sciences Policies and Procedures manual for criteria for the initial evaluation, annual evaluation, tenure decision, and promotion decision.

The AUPAC is the body designated by the department to consider any appeal of the annual evaluation. The Faculty Appeals Committee is the body designated to consider appeals of nonrenewal (including as a result of the initial evaluation), tenure, and promotion.

In the event of a discrepancy between the appeal processes described below and the JMU faculty handbook, the JMU faculty handbook supersedes this policy.

11.1 Initial Evaluation & Appeal Process

11.1.1 Initial Evaluation Process

During the first week of second semester of employment, the faculty member submits materials to the AUH based upon the departmental First Year Faculty Initial Evaluation policy. The AUH shall schedule an evaluation conference with the faculty member. The conference provides an opportunity to discuss the faculty member's first semester performance and professional needs as perceived by both the faculty member and AUH. The AUH may request that the faculty member supply additional information for review and evaluation purposes.

The AUH shall provide to the faculty member a written initial evaluation by the end of the third week of the semester (and within 14 days of the evaluation conference). The evaluation shall state whether the faculty member's overall performance has been acceptable or unacceptable.

A copy of the evaluation, signed by the faculty member and the AUH, shall be sent to the dean by the AUH. If the faculty member refuses to sign the evaluation, this refusal shall be noted on the evaluation when the AUH sends it forward to the dean.

Unacceptable performance as determined in the initial evaluation will normally result in nonrenewal of an appointment of an untenured first-year faculty member. If the AUH finds that the faculty member's performance is unacceptable, AUPAC review of the faculty member's performance is required as specified in the JMU Faculty Handbook. The AUPAC review must be completed and sent to the dean within seven days of receiving a recommendation for nonrenewal of a first-year faculty member from the AUH.

The dean shall make a written recommendation concerning nonrenewal of a faculty member after reviewing the recommendations of the AUH and the AUPAC. The recommendations of the AUH, AUPAC and dean shall be submitted to the provost within five days of the dean's receipt of the AUH and AUPAC recommendations.

The recommendations regarding nonrenewal from the AUH, AUPAC and dean shall be reviewed by the provost, who shall decide if nonrenewal of the appointment of the faculty member is warranted. The written decision of the provost shall include a justification of his or her conclusions. Notice of nonrenewal shall be sent to the faculty member, and a copy shall be sent to the dean, AUH and AUPAC within five days of the provost's receipt of the AUH, AUPAC and dean recommendations. In the absence of a timely written appeal, the decision of the provost becomes final and the nonrenewal is effective at the end of the appointment period.

11.1.2 Initial Evaluation – Nonrenewal Appeal Process

All appeals must be in writing. A tenure-track or RTA faculty member has 30 days from the receipt of a written notice of nonrenewal from the provost to submit a written appeal to the Faculty Appeals Committee. The written appeal shall set forth the grounds for the appeal and a summary of the arguments and documentation the faculty member intends to present at a hearing. Upon receipt of an appeal, the chair of the Faculty Appeals Committee shall promptly send an acknowledgement of the receipt of the appeal to the faculty member and shall notify the president, the provost, dean, and AUH. If an appeal is filed, the provost shall appoint the AUH or an administrative designee to serve as the respondent, representing the administration in the appeal process.

The Faculty Appeals Committee shall determine if a hearing is warranted. **For a tenure-track faculty member, grounds for appealing a nonrenewal are limited to failure of the university to follow its procedures or unreasonable or improper bases for nonrenewal, including academic freedom violations. For an RTA faculty member, grounds for appealing a nonrenewal are limited to academic freedom violations.**

If the Faculty Appeals Committee determines that a hearing should be granted, the procedures in Faculty Handbook shall apply to both tenure-track and RTA faculty members. In the hearing, the faculty member shall have the responsibility to establish that the procedures were not followed or that the university used unreasonable or improper bases for the nonrenewal. If the Faculty Appeals Committee determines that a hearing shall not be granted, the faculty member, respondent, speaker, provost, and president shall be notified that the appeal has been denied. If the appeal is denied by the Faculty Appeals Committee, the decision of the provost becomes final. The Faculty Appeals Committee shall determine if a hearing is warranted and follows the procedure outlined in the faculty handbook.

11.2 Annual Evaluation Process and Appeal Process

11.2.1 Annual Evaluation Process:

The AUH reviews the summary of activities presented by the faculty member using the criteria established in the departmental policy and prepares a preliminary written evaluation. The preliminary evaluation shall be given to the faculty member at least one day prior to the scheduled conference. The evaluation conference must provide an opportunity to discuss the faculty member's performance, professional contributions and needs as perceived by both the faculty member and AUH. The conference may be cancelled by mutual agreement of the faculty member and the AUH, if both agree on the terms of the preliminary evaluation. The official written evaluation shall not be finalized until after the evaluation conference, unless the faculty member and AUH determine that no conference is required.

The AUH shall provide the official written evaluation to the faculty member by Oct. 1. The AUH will wait a minimum of seven days from the delivery (electronic or hard copy) of the official written evaluation before submitting it to the Dean (with or without the signature of the faculty member).

11.2.2 Annual Evaluation Appeal Process:

Any failure to meet the Oct. 1 deadline will extend the appeal process by the number of days the written evaluation is late. Before the AUH submits the official written evaluation to the dean, there must be an opportunity for the faculty member to review and appeal the evaluation to the body designated by the academic unit. The faculty member has a maximum of seven days following receipt of the official written evaluation to make the appeal in writing. Failure to file a timely written appeal will result in the evaluation being sent forward to the dean, and no further appeal rights are available.

The AUPAC is the body designated by the department to consider the appeal of the official written annual evaluation. **In considering an appeal, the crucial questions for the reviewing body are whether all relevant information was objectively reviewed by the AUH in accordance with evaluation criteria established by the academic unit and whether the AUH evaluated similar achievements among similarly situated academic unit members using the same standard of judgment.**

The written recommendations of the reviewing body (AUPAC) will be given to the AUH, with a copy to the faculty member and the dean. The reviewing body may recommend that the AUH's evaluation be upheld or modified. If the AUH agrees with the recommendations of the reviewing body, he or she will take the appropriate action to confirm or modify the original evaluation, and will notify the reviewing body, the faculty member and the dean of his or her decision. The appeal process in the academic unit must be completed by October 21. The evaluation process is not final until any appeal has been completed.

The faculty member and the AUH shall sign the final evaluation and the AUH will send a copy of it to the dean by Oct. 28. If the faculty member does not sign the final evaluation, the AUH will forward it to the dean with a notation that the faculty member declined or failed to sign. If the AUH's evaluation is not modified as recommended by the reviewing body, the dean will review the AUH's evaluation and the reviewing body's recommendations to determine whether the AUH's evaluation will be upheld or modified. The dean is not bound by the reviewing body's recommendations, and may take any action on the evaluation he or she deems appropriate. The decision of the dean on the evaluation is final, and is not subject to appeal.

11.3. Tenure Decision Process and Appeal Process

11.3.1 Tenure decision process

Although consultation among the AUPAC, AUH and dean is encouraged, the AUH and the AUPAC shall make independent evaluations of the facts and make independent recommendations, and should clearly indicate a positive or negative recommendation on tenure. The recommendations shall be submitted to the dean by Nov. 15. The dean may consult with his or her college personnel body and shall make a recommendation after reviewing the recommendations of the AUH and the AUPAC. The recommendations of the AUH, AUPAC and dean shall be submitted to the provost by Dec. 15. Recommendations on tenure from the AUH, AUPAC and dean shall be reviewed by the provost, who shall either deny tenure or make a recommendation to award tenure. A decision by the provost to deny tenure terminates the consideration process; denial does not require action by the president or the BOV.

In the absence of a timely written appeal, the decision by the provost to deny tenure becomes final and effective on the date of the notification. Official written notification of denial shall be sent to the faculty member by Feb. 1, with concurrent copies to the dean, AUH and AUPAC. If the provost recommends awarding tenure, the recommendation shall be sent to the president by Feb. 1, with concurrent copies to the dean, AUH, AUPAC and faculty member.

If the provost recommends awarding tenure, the president shall review the recommendation and either deny tenure or make a recommendation to award tenure. A decision by the president to deny tenure terminates the consideration process; denial does not require action by the BOV. The decision of the president or the BOV to deny tenure is not appealable. Official written notification of denial shall be sent by the president to the faculty member by Feb. 15.

If the president recommends awarding tenure, the recommendation shall be sent to the BOV. The BOV shall act on the recommendation, and notification of its decision shall be sent to the faculty member within fifteen days after the BOV's meeting. Official notification awarding tenure may be conveyed to a faculty member only after the formal action of the BOV. The award of tenure becomes effective at the beginning of the following academic year.

11.3.2 Tenure decision appeal process

To appeal a tenure denial by the provost, the faculty member shall submit a written notice of appeal to the Faculty Appeals Committee within 30 days setting forth the grounds for the appeal and a summary of the arguments and documentation he or she intends to present at a hearing. Upon receipt of an appeal, the chair of the Faculty Appeals Committee shall promptly send an acknowledgement of the receipt of the appeal to the faculty member and shall notify the president, the provost, dean and AUH. If an appeal is filed, the provost shall appoint a person to serve as the respondent representing the administration in the appeal process. The Faculty Appeals Committee shall determine if a hearing is warranted and follows the procedure outlined in the faculty handbook. **Grounds for appealing a denial of tenure are limited to failure of the university to follow its procedures or unreasonable or improper bases for denial of tenure.**

11.4. Promotion Decision Process and Appeal Process

11.4.1 Promotion decision process

Written intent to apply or nomination, by AUPAC or AUH, must be made by Sept. 1 to the AUH. The faculty member who wishes to be considered for promotion shall submit a summary of activities and accomplishments in the areas of teaching, scholarly achievement and professional qualifications, and professional service as required by the departmental policy to the AUH and AUPAC by Oct. 1. Failure by the faculty member to submit a summary of activities and accomplishments by the Oct. 1 deadline shall constitute a refusal of a nomination or withdrawal of an application, and no consideration of promotion is required. Although consultation among the AUPAC, AUH and dean is encouraged, the AUH and the AUPAC shall make independent evaluations of the facts and make independent recommendations.

The recommendations shall be submitted to the dean by Nov. 15. The dean may consult with his or her college personnel body and shall make a recommendation after reviewing the recommendations of the AUH and the AUPAC. The recommendations of the AUH, AUPAC and dean shall be submitted to the provost by Dec. 15. The recommendations on promotion in academic rank from the AUH, AUPAC and dean shall be reviewed by the provost, who shall either deny the promotion or make a recommendation to grant the promotion. A decision by the provost to deny a promotion in academic rank terminates the consideration process; denial does not require action by the BOV.

In the absence of a timely written appeal, the decision by the provost to deny promotion becomes final and effective on the date of the notification. Official written notification shall be sent to the faculty member by Feb. 1, with copies to the dean, AUH and AUPAC concurrently. If the provost recommends granting promotion in academic rank, the recommendation shall be sent to the president by Feb. 1, with copies to the dean, AUH, AUPAC and faculty member concurrently. The notification of denial or recommendation to grant promotion in academic rank shall include a justification of the provost's decision.

If the provost recommends granting a promotion in academic rank, the president shall review the recommendation and either deny the promotion or make a recommendation to grant the promotion. A decision by the president to deny the promotion terminates the consideration process; denial does not require action by the BOV. Official written notification of denial shall be sent by the president to the faculty member by Feb. 15, with concurrent copies to the provost, dean, AUH and AUPAC. If the president recommends granting the promotion, the recommendation shall be sent to the BOV. The BOV shall act on the recommendation, and notification of its decision shall be sent to the faculty member by the provost within 15 days after the BOV's meeting.

Official notification granting promotion shall only be conveyed to a faculty member after the formal action of the BOV. Promotions become effective at the beginning of the following academic year.

11.4.2 Promotion decision appeal process

The provost' decision to deny a faculty member's promotion is appealable only upon the university's second denial of promotion in rank. Following a denied appeal, two subsequent denials of promotion in rank must occur before further right to appeal arises. The decision of the president or the BOV to deny promotion is not appealable.

To appeal a promotion denial by the provost, the faculty member shall submit a written notice of appeal to the Faculty Appeals Committee within 30 days setting forth the grounds for the appeal and a summary of the arguments and documentation he or she intends to present at a hearing. Upon receipt of an appeal, the chair of the Faculty Appeals Committee shall promptly send an acknowledgement of the receipt of the appeal to the faculty member and shall notify the president, the provost, dean and AUH. If an appeal is filed, the provost shall appoint a person to serve as the respondent representing the administration in the appeal process. The Faculty Appeals Committee shall determine if a hearing is warranted and follows the procedure outlined in the faculty handbook. **Grounds for appealing a denial of promotion are limited to failure of the university to follow its procedures or unreasonable or improper bases for denial of promotion.**