

**ARTICLE 19. ACADEMIC FREEDOM; FACULTY RIGHTS, DUTIES, AND RESPONSIBILITIES; DISCIPLINE; APPOINTMENTS AND TENURE**

**19.A.1 Academic Freedom**

The common good of society depends upon the search for truth and its free exposition. Academic freedom in the University in teaching, research and the dissemination of knowledge is essential to these purposes. The university faculty member is, therefore, entitled to freedom in carrying out research and in publishing the results thereof, freedom in carrying out teaching and in discussing his/her subject, and freedom from institutional censorship. Academic freedom carries with it the responsibility to use that freedom in a manner consistent with the scholarly obligation to base research, teaching and the dissemination of knowledge in a search for truth.

19.A.1.1 This Article applies to professors, associate professors, assistant professors and lecturers in the bargaining unit (hereinafter referred to as "faculty members"). It does not apply to heads of departments or their associates or assistants in their administrative capacities, though it does apply to the appointments of these persons as faculty members. Where any matter hereinafter referred to is the subject of a specific Article in this Agreement, the specific Article shall prevail.

**19.A.2 Faculty Rights, Duties and Responsibilities**

19.A.2.1 Faculty members shall have the right to express opinions and to participate by means of their representatives in procedures as provided for in the appropriate Article concerning such matters as: the appointment and promotion of faculty members; the granting of tenure to faculty members; the selection and review of heads of departments and academic administrators (but not their deputies or associate officers); and the granting of merit awards.

19.A.2.2 In addition to their civil rights, faculty members have certain rights, duties and responsibilities that derive from their positions as teachers and scholars working within the University community. Faculty members shall act reasonably, fairly and in good faith in dealing with others and the University shall have the same obligation in dealing with faculty members.

19.A.2.3 The duties assigned to a faculty member shall include an appropriate combination of:

19.A.2.3.1 undergraduate and/or graduate teaching;

19.A.2.3.2 research, scholarly work and other creative activities;

19.A.2.3.3 service.

19.A.2.4 The assignment of these duties may vary from individual to individual and from faculty/school to faculty/school as determined by the dean/director in consultation with the faculty member. In carrying out these duties, faculty members shall comply with the University of Manitoba Policy on the Responsibilities of Academic Staff with Regard to Students as of the effective date of this Agreement. In particular, these duties carry with them specific rights and responsibilities as follows:

**19.A.2.4.1 Teaching**

19.A.2.4.1.1 Faculty members have the right and obligation to develop and maintain their scholarly competence and effectiveness as teachers within their area of expertise; conscientiously to

prepare and organize their subject matter; and to revise the subject matter on a regular basis as is appropriate for the courses that they teach.

19.A.2.4.1.2 Notwithstanding s. 19.A.2.4, Members must consent to the technology used in teaching courses dependent on information technologies. This consent shall not be unreasonably withheld.

19.A.2.4.1.2.2 Members teaching courses dependent on information technologies which involve the broadcast, transmission, retransmissions, publication, recording, or storage of the contents of the course shall exercise copyright and intellectual property rights regardless of the medium used to broadcast, transmit, retransmit, publish, record or store the course under the provisions of Article 14 of the Collective Agreement.

19.A.2.4.1.3 In the case of graduate teaching, supervision of student research and thesis preparation and participation in the evaluation of theses are integral parts of the teaching responsibilities of faculty members.

19.A.2.4.1.4 Faculty members have the right and responsibility, not inconsistent with Senate policy, to:

19.A.2.4.1.4.1 insist upon order and safety in the classroom, laboratory or similar learning situation;

19.A.2.4.1.4.2 evict those who disrupt order in the classroom, laboratory or similar learning situation;

19.A.2.4.1.4.3 control access of persons not registered in the course or involved in research situations except for those who require access in carrying out their University duties;

19.A.2.4.1.4.4 rule on the use by students of all electronic or mechanical devices in the classroom, laboratory, examination or similar learning situation.

19.A.2.4.1.5 Exclusive of those on research/study leave, a Member who is unable to meet his/her class(es) due to travel or attendance at a meeting or conference shall arrange for coverage of his/her class(es) by a qualified substitute, or reschedule such class(es) at a time convenient to his/her students, and at no expense to the University.

#### **19.A.2.4.1.6 Importing Courses via Information Technologies**

A course developed by anyone or any organization may only be developed and/or offered at the University of Manitoba through information technologies if it does not have the consequence of eliminating or reducing a Member's and/or Members' position(s).

#### **19.A.2.4.2 Research, Scholarly Work and Other Creative Activities**

19.A.2.4.2.1 Faculty members shall be responsible for and have the right and opportunity to carry out a reasonable amount of meaningful research, scholarly work and other creative activities. Faculty members shall endeavour to publish the results of their scholarship. Research, scholarly work and other creative activities conducted by faculty members in the course of their duties shall have as their primary objective the expansion of knowledge and understanding, as well as the improvement of the faculty member's scholarly competence.

19.A.2.4.2.2 Faculty members shall indicate their reliance on the work and assistance of others, if any, and their affiliation with the University in their published work(s).

19.A.2.4.2.3 In the context of this Article, research, scholarly work and other creative activities does not include activities necessary for the immediate and normal preparation for scheduled teaching, except when such activities are judged by peer review to represent an academic advance or a development of clinical or instructional materials or methods of such an innovative type that they have a wider application beyond the faculty member's own scheduled teaching duties.

### **19.A.2.4.3 Service**

19.A.2.4.3.1 Service includes those internal and external activities which arise from the research and teaching functions of the University. Consistent with their primary responsibilities in teaching and research, faculty members shall:

19.A.2.4.3.1.1 be responsible for advising students on academic matters, supervision of examinations and assistance at registration and other administrative duties and committee work related to their teaching and research responsibilities. While exercising their administrative responsibilities, faculty members shall deal ethically with other employees, students, and the general public with regard to fairness, non-discrimination, objective assessment of performance, and the principle and procedures of confidentiality.

19.A.2.4.3.1.2 participate in the governance of the University through active membership on department and faculty councils and, when called upon, participate to a reasonable extent in other University bodies.

19.A.2.4.3.1.3 have the right and responsibility to engage in community service when related to and appropriate to their discipline and field of expertise. Community service is that work within the community at large that enhances the reputation of the University because the individual faculty member makes an essentially non-remunerative contribution by virtue of special academic competence. When addressing themselves to the community at large, faculty members retain the responsibility for seeking and stating the truth. Faculty members must make it clear that their positions and opinions are personal except when specifically authorized to speak on behalf of the University.

19.A.2.4.3.2 Where, in order to fulfill gender-balance requirements on committees, some faculty members are required to assume increased service duties, the University shall implement a reasonable workload adjustment so that the Member's responsibilities under this Article may be fulfilled.

19.A.2.5 Faculty members shall discharge their duties responsibly. In order that they may carry out these duties, faculty members shall be provided with reasonable access to facilities and services and with reasonable opportunity to use such facilities and services.

## **19.B Discipline**

### **19.B.1 Reprimand, Suspension and Dismissal**

19.B.1.1 A faculty member may be reprimanded or suspended without loss of pay for inability or refusal to carry out, or misconduct in carrying out his/her University duties and responsibilities.

19.B.1.2 A faculty member may be suspended with loss of pay or dismissed for just and reasonable cause, for example, but without limiting the generality of the foregoing, for persistent neglect of duty, incompetence or gross misconduct.

- 19.B.1.3 When the President has recommended to the Board of Governors that a faculty member be dismissed or suspended with loss of pay, the President may suspend that faculty member from duties without loss of pay pending the decision of the Board.
- 19.B.1.4 Medical disability shall not be cause for reprimand, suspension or dismissal, since this is covered by sick leave and medical disability insurance, unless the faculty member has unreasonably refused medical attention. When a faculty member's performance is judged to be inadequate and where it is believed that this inadequacy may be the result of illness, the University may require that he/she produce a medical certificate. If there is then evidence that the inadequate performance is the result of illness the faculty member shall be placed on sick leave.
- 19.B.1.5 Whenever a faculty member is reprimanded, suspended or dismissed, he/she shall be given written notification thereof together with a written statement of the reasons for taking this action.
- 19.B.1.6 The Association shall be notified of the names of faculty members who have been reprimanded, suspended or dismissed.
- 19.B.1.7 Where the University has imposed discipline on a faculty member and demanded any remedial or other action be undertaken by the faculty member as part of the disciplinary measure, the University may not subsequently impose further discipline on the faculty member for failure to comply with the remedial or other action, provided the faculty member files a grievance/unjust treatment within the time limits set out in this Agreement.
- 19.B.1.8 Where a meeting is scheduled by the University for the purpose of imposing discipline or conducting an investigation into inappropriate behaviour, the Member shall be provided reasonable notice of the meeting; advised of the nature of the meeting; and advised of the right to request that a representative of the Association attend the scheduled meeting. Where a Member intends to have an Association representative present, the Member shall so advise the person arranging the meeting.

## **19.C Appointments**

### **19.C.1 Ambit**

- 19.C.1.1 Appointments as faculty members shall be of the following types: appointments with tenure; probationary appointments; term appointments; contingent appointments.

### **19.C.2 Termination of Appointment by the Faculty Member**

- 19.C.2.1 An academic appointment, other than a term appointment, can be terminated by the faculty member only if he/she gives the University written notice at least six (6) months prior to the end of an academic year, or such shorter notice as the President agrees to accept. Unless the President agrees to accept an alternative date proposed by the faculty member, the date on which the faculty member's duties and salary come to an end shall be the final day of the academic year with reference to which the notice was given. The one exception to this is that the faculty member shall have the right to terminate following six (6) months' notice ending on the final day of his/her individual appointment year, provided that day falls within the period extending from the first day of July to the first day of September, inclusive, subsequent to that academic year.

### **19.C.3 Appointments with Tenure**

- 19.C.3.1 A faculty member of the rank of assistant professor, associate professor or professor may be granted tenure by the Board of Governors after consideration of the recommendation from the President either at the time of initial appointment or pursuant to the procedures set forth in this Article.
- 19.C.3.2 A faculty member of the rank of assistant professor, associate professor or professor whose appointment with tenure was terminated due to a reduction in staff under the provisions of Article 28 shall be granted tenure automatically by the Board of Governors if he/she is given a subsequent full-time academic appointment.
- 19.C.3.3 A faculty member of the rank of assistant professor, associate professor or professor shall be granted tenure if:
- 19.C.3.3.1 it is discovered, and brought to the attention of the dean/director, that a faculty member has received a probationary appointment, for a period in total longer than his/her maximum untenured period; and
- 19.C.3.3.2 he/she is not considered for an appointment with tenure during that or the next academic year according to the regular procedures of his/her faculty/school.
- 19.C.3.4 Lecturers shall not be eligible to be granted tenure.
- 19.C.3.5 Nothing in this Article shall prevent the Board of Governors from giving an appointment with tenure to a faculty member of the rank of assistant professor, associate professor or professor who has a contingent appointment or in cases where special circumstances seem to them to justify it.
- 19.C.3.6 If a faculty member with tenure is granted research/study leave or other leave of absence for any period, he/she shall retain tenure during that period.
- 19.C.3.7 If a faculty member, having voluntarily terminated his/her appointment with tenure (no matter whether the termination took the form of a complete break in service with the University, or was simply the consequence of going on an untenured part-time appointment where he/she was informed in advance that tenure could not be retained), subsequently receives a full-time academic appointment with the University, he/she shall not have tenure again until it is received in one of the ways mentioned in sections 19.C.3.1, 19.C.3.2 or 19.C.3.3 above.
- 19.C.3.8 All faculty members who have tenure prior to the commencement of this Agreement or receive tenure during the life of this Agreement shall have and hold tenure independently of the existence of this Agreement.
- 19.C.3.9 Each faculty member whose appointment is to be terminated under the provisions of Article 28 shall be given such written notice as is prescribed in Article 28, except that, if the faculty member and the President agree, the faculty member may elect to terminate his/her University duties at any time before the end of the notice period.

## **19.C.4 Probationary Appointments**

19.C.4.1 A faculty member of the rank of assistant professor, associate professor or professor shall receive a probationary appointment if the Board of Governors, after considering a recommendation from the President, makes such an appointment.

19.C.4.2 Only full-time faculty members of the rank of assistant professor, associate professor, or professor can receive and hold a probationary appointment.

19.C.4.3 Except as provided for in s. 19.C.3.3 and s. 19.C.5.7.2, no faculty member shall hold a probationary appointment for a period in total longer than his/her maximum untenured period. The maximum untenured period for full-time faculty members at the rank of assistant professor, associate professor or professor shall be six (6) years of full-time service, except for any reduction in accordance with ~~s. 19.C.4.6~~ s. 19.C.4.3.1.2 or any extension in accordance with s. 19.C.4.3.1 and/or s. 19.C.4.3.2. A faculty member shall be considered for tenure during the last academic year of his/her maximum untenured period if he/she has not been considered for tenure pursuant to s. 19.C.4.4.1 and, by September 21, has not been granted any leave to take effect after September 21 in that year.

19.C.4.3.1 A faculty member's maximum untenured period as computed but for this section shall be extended by one (1) year for each maternity leave or parental leave, if any, taken during such period.

### **19.C.4.3.1.1 Maximum Untenured Period**

The maximum untenured period shall begin with the effective date of the first probationary appointment, provided that the effective date is the first day of July. In any case where the probationary appointment begins between July second and September first inclusive, the maximum untenured period shall be deemed to have begun on the July first previous. In any case where the probationary appointment shall begin between September second and June thirtieth, inclusive, the maximum untenured period shall be deemed to begin on the following July first. (moved from s. 19.C.4.5)

19.C.4.3.1.2 Where the faculty member has served with the University on full-time term and/or contingent appointments as a lecturer, assistant professor, associate professor or professor, before the effective date of the first probationary appointment, his/her maximum untenured period may, at the discretion of the Member, be reduced by one (1) or more years, provided that no such reduction shall be greater than the actual period of prior service. Any reductions in the maximum untenured period shall be stipulated in the letter of offer. (moved from s. 19.C.4.6)

19.C.4.3.2 A faculty member's maximum untenured period as computed but for this section shall be extended by such fractional part of a year as may be necessary in order that such period end on the 30th of June.

19.C.4.3.3 Time spent on research/study leave, other leaves at less than full pay (other than maternity leaves or parental leaves and leaves granted pursuant to sections 22.1.1.12, 22.2.1.11, and 22.2.3, which leaves are addressed in s. 19.C.4.3.1), appointments outside the bargaining unit and other lapses in service shall not be counted as part of the maximum untenured period. The period counted as part of the maximum untenured period shall include that before and after any other leave of absence without pay. In the event that a faculty member is absent on sick leave for a continuous period exceeding three (3) months, the faculty member's maximum untenured

period as defined in s. 19.C.4.3 shall be extended by one (1) year. However this extension may only occur once.

#### **19.C.4.4 Application for Tenure**

##### **19.C.4.4.1 Early Tenure Applications**

19.C.4.4.1.1 A faculty member who holds a probationary appointment and who has completed the equivalent of at least three (3) years of full-time employment in a faculty capacity at this or another university or in a research appointment at a recognized research establishment other than a university shall have the right to apply for tenure consideration prior to the completion of his/her maximum untenured period.

19.C.4.4.1.2 An early tenure application shall be made in writing to the faculty member's dean/director no later than July fifteenth of any given academic year. Before making this application the faculty member shall first consult with his/her dean/director and department head. When a faculty member applies for early tenure consideration, the applicant shall be expected to meet the same criteria and have achieved the same level of competence as a Member who has completed his/her maximum untenured period regardless of the number of years of probation served.

19.C.4.4.1.3 The faculty member may withdraw his/her early tenure application by notifying his/her dean/director in writing, at any time up to and including September twenty-first of the academic year in which the application is made. A faculty member who receives tenure consideration pursuant to s. 19.C.4.4.1 shall not have any further right to be considered for tenure with respect to that appointment.

##### **19.C.4.4.2 Tenure Applications**

19.C.4.4.2.1 Except as provided in 19.C.4.4.1 above, an application for tenure shall be made in writing to the faculty member's dean/director no later than July fifteenth of the last academic year of the faculty member's maximum untenured period.

19.C.4.4.2.2 The faculty member shall supply the appropriate tenure committee with whatever material and information he/she or the committee deems necessary to justify his/her being granted tenure.

19.C.4.4.2.3 Notwithstanding any other provision of this Agreement, a faculty member's probationary appointment shall end on the 30th of June next following his/her receiving tenure consideration.

#### **19.C.4.5 Maximum Untenured Period**

~~The maximum untenured period shall begin with the effective date of the first probationary appointment, provided that the effective date is the first day of July. In any case where the probationary appointment begins between July second and September first inclusive, the maximum untenured period shall be deemed to have begun on the July first previous. In any case where the probationary appointment shall begin between September second and June thirtieth, inclusive, the maximum untenured period shall be deemed to begin on the following July first. (moved to s. 19.C.4.3.1.1)~~

19.C.4.6 ~~Where the faculty member has served with the University on full time term and/or contingent appointments as a lecturer, assistant professor, associate professor or professor, before the effective date of the first probationary appointment, his/her maximum untenured period may, at the discretion of the Member, be reduced by one (1) or more years, provided that no such~~

~~reduction shall be greater than the actual period of prior service. Any reductions in the maximum untenured period shall be stipulated in the letter of offer. (moved to s. 19.C.4.3.1.2)~~

#### **19.C.4.75 Termination Procedure**

A department head who, after reviewing a faculty member's performance of his/her duties as specified in this Article, determines that his/her performance is inadequate shall so inform the probationer in writing and shall seek the advice of appropriate members of the department with academic rank as to the validity of his/her concerns. If after receiving this advice, the department head ~~decides to recommend~~ believes that the appointment should be terminated because the Member's performance is inadequate, he/she shall ~~forward such recommendation in writing through~~ inform the dean/director. If the dean/director concurs with this advice, he/she shall so inform the Member and, if the latter requests written reasons, shall supply him/her with same in sufficient detail to permit him/her to respond. The dean/director may then forward a recommendation and the reasons to the Vice-President (Academic) and Provost along with a written report of the advice received together with a list of the names of those consulted. The Vice-President (Academic) and Provost may then forward a recommendation and the reasons to the President along with a written report of the advice received together with a list of the names of those consulted. If the President intends to recommend to the Board that the faculty member's probationary appointment be terminated, then the President shall give the faculty member notice of his/her intention to recommend to the Board that the faculty member's probationary appointment be terminated. A faculty member who receives this notice of intention from the President may request, within ten (10) working days of the receipt of the said notice of intention, and shall be granted an informal hearing with the President before the recommendation goes to the Board. After receiving the President's recommendation, the Board of Governors may terminate the probationary appointment upon giving six (6) months' written notice ending at the end of an academic year. The time elapsed between the date of the request for an informal hearing and the date of receipt by the Board of the President's recommendation shall count as part of the six (6) months' written notice.

19.C.4.86 Beginning at Stage 3 and in accordance with Article 32, a faculty member may grieve the termination of his/her probationary appointment only on the grounds that:

19.C.4.86.1 the action is arbitrary or capricious; or

19.C.4.86.2 there was an inadequate exercise of professional judgment in the particular circumstances of the University and the faculty or school concerned; or

19.C.4.86.3 he/she has reason to believe that the appointment is being terminated for exercising his/her academic freedom.

#### **19.C.5 Term Appointments**

19.C.5.1 A faculty member may receive a term appointment if the Board of Governors, after considering a recommendation from the President, makes such an appointment.

19.C.5.2 Except as provided in s. 19.C.5.3, no notice of intention not to grant another appointment is required to be given by the University and no notice of intention not to accept another appointment is required to be given by the faculty member.

19.C.5.3 A faculty member who has received continuous full-time term appointments for a period in total of more than three (3) years shall receive from his/her dean/director at least three (3)

months' notice, of intention not to grant another appointment or shall give his/her dean/director at least three (3) months' notice of intention not to accept another appointment.

19.C.5.4 Subject to the provisions of s. 19.C.5.6, where:

- a) a faculty member on a term appointment has held contiguous full-time term appointments for at least six (6) consecutive years; and
- b) the faculty member has performed satisfactorily; and
- c) a subsequent term appointment performing the same or substantially the same duties as set out in the letter of offer for the faculty member's most recent term appointment is to be made within four (4) months of the end of that appointment;
- d) then the faculty member shall be offered the subsequent term appointment.

19.C.5.5 A faculty member who has a full-time term appointment and has received a notice of intention not to grant another appointment and has reason to believe that he/she is not being reappointed for exercising his/her academic freedom or that s. 19.C.5.4 has not been complied with, may request a hearing with the President within ten (10) working days of receipt of such notice.

19.C.5.5.1 If the hearing does not resolve the matter satisfactorily, the faculty member may file a grievance beginning at Stage 3 and in accordance with Article 32.

19.C.5.6 No faculty member shall be given contiguous full-time term appointments at the rank of assistant professor, associate professor or professor which exceed four (4) years. Any further full-time term appointments of such a faculty member shall automatically become probationary appointments. A faculty member who has been previously employed by the University and who receives a full-time term appointment following a break in service of more than one (1) year shall be deemed to be on a first full-time term appointment in interpreting s. 19.C.5 of this Article. Time spent on leave at full pay to a maximum of one (1) year shall count towards the maximum period of four (4) years, except for sick leave for a continuous period exceeding three (3) months or a half research/study leave at full pay. In the event of these latter occurrences, the contiguous period of four (4) years as defined herein shall be extended by one (1) year; however, this extension may only occur once.

19.C.5.7 If a faculty member is given a probationary appointment, he/she may not subsequently be given a term appointment except:

19.C.5.7.1 where at least one (1) year has elapsed since completion of the faculty member's last appointment with the University;

19.C.5.7.2 where, following a negative tenure decision, a term appointment for one (1) year is recommended by a tenure committee and the President. A faculty member receiving such an appointment shall neither be considered for tenure nor given another appointment the following year.

## **19.C.6 Contingent Appointments**

19.C.6.1 A faculty member may receive a contingent appointment if the Board of Governors, after considering a recommendation from the President, makes such an appointment. The letter of offer for a contingent appointment shall specify the funds upon which the appointment is

contingent. The faculty member shall be advised of any change in the source of funds upon which the appointment is contingent.

19.C.6.2 Where appropriate, a contingent appointment shall be for a term equal to the term of available funds upon which the appointment is contingent.

19.C.6.3 Where:

- a) a faculty member on a contingent appointment has held contiguous full-time contingent appointment(s) for at least six (6) consecutive years; and
- b) the faculty member has performed satisfactorily; and
- c) funding upon which the most recent contingent appointment has been dependent is available within four (4) months of the end of that appointment; and
- d) a subsequent contingent appointment performing the same or substantially the same duties as set out in the letter of offer for the faculty member's most recent contingent appointment is to be made within four (4) months of the end of that appointment;
- e) then the faculty member shall be offered the subsequent contingent appointment.

19.C.6.4 A contingent appointment shall terminate automatically at the end of the term of the contingent appointment or may be terminated by the University by giving six (6) months' written notice ending at the end of an academic year.

19.C.6.5 A faculty member, who has a contingent appointment and has received a notice that his/her appointment is to be terminated and has reason to believe that his/her appointment is being terminated for exercising his/her academic freedom, or that s. 19.C.6.3 has not been complied with, may request a hearing with the President within ten (10) working days of receipt of such notice.

19.C.6.5.1 If the hearing does not resolve the matter satisfactorily, the faculty member may file a grievance beginning at Stage 3 and in accordance with Article 32.

## **19.D Tenure Recommendation Procedures**

### **19.D.1 General Provisions**

19.D.1.1 Each faculty council shall recommend to the dean/director one (1) of the following types of tenure committee structures:

a single faculty-based tenure committee for the whole or a part of the faculty; or

a faculty-based nucleus committee to which would be added department representatives for each department.

19.D.1.2 If the latter alternative is chosen, the majority of voting members of each tenure committee are to be from the faculty member's department, where possible to ensure that the majority of the committee has the special expertise of those within a discipline to judge competence in it.

19.D.1.3 There shall be at least one (1) person of each gender on each tenure committee.

- 19.D.1.4 The dean/director, after receiving the advice of his/her faculty council, shall be responsible for choosing the tenure committee structure, for establishing any criteria and the weightings of these criteria, for making the criteria and weightings known, and for establishing any procedures that he/she feels should be established at the faculty level for the making of a tenure recommendation, provided that no such criteria, weightings or procedures are inconsistent with anything in this Article. Criteria and weightings shall remain in effect from year to year, until changed by the dean/director after receiving the advice of his/her faculty/school council.
- 19.D.1.5 The dean/director shall communicate his/her decisions on the matters referred to in s. 19.D.1.4 above to all faculty members.
- 19.D.1.6 Upon a faculty member's receiving a probationary appointment, he/she shall be given the criteria and weightings referred to in s. 19.D.1.4. Those criteria and weightings shall be used for his/her tenure consideration unless he/she agrees in writing to use different criteria and weightings as changed in accordance with s. 19.D.1.4.
- 19.D.1.7 In all cases the procedures shall be implemented in such a way as to ensure that the recommendation arrived at is made in light of the following:
- 19.D.1.7.1 the academic needs of the University; and
- 19.D.1.7.2 the established criteria and weightings; and
- 19.D.1.7.3 the duties specifically assigned to the faculty member during the period under consideration. These specific duties must be taken into account in the application of the criteria and weightings; and
- 19.D.1.7.4 the assessment of the academic attributes and the performance of assigned duties of the faculty member by his/her peers. The academic attributes assessed may include, but are not limited to those listed in Article 20. Promotions, s. 20.A.1.2; and
- 19.D.1.7.5 the obligations referred to in s. 19.A.2.4 of this Article.
- 19.D.1.8 The dean/director or his/her designate shall be the chairperson of each tenure committee and shall serve in a non-voting capacity.

## **19.D.2 Notice of Tenure Hearings**

Deans/directors shall make known the names of those faculty members to be considered by a tenure committee and shall invite submissions to the tenure committees by both faculty members and students. Deans/directors shall also make known in writing to the faculty member the date of the start of his/her tenure hearings and this notice shall be given at least five (5) working days prior to the date of the start of the tenure hearings.

## **19.D.3 Procedures of Tenure Committees**

- 19.D.3.1 The faculty member being considered is to be assured of an opportunity to meet at least once with the tenure committee.
- 19.D.3.2 The faculty member shall supply the appropriate tenure committee with whatever material and information he/she or the committee deems necessary to justify his/her being granted tenure.

19.D.3.3 If the committee cannot make a positive recommendation as a result of its deliberations, the chairperson of the committee shall so inform the faculty member in writing, indicate the area(s) of concern that the committee will wish to discuss, and establish in consultation with the faculty member, the date for a subsequent meeting where the faculty member shall be given the opportunity to speak to these concerns. A reasonable time will be allowed the faculty member to seek advice, solicit opinion and provide further documentation in order to prepare for such a meeting.

#### **19.D.4 Other Recommendation Procedures**

19.D.4.1 The tenure committee shall evaluate any application and supporting evidence and shall make its recommendation to the dean/director. The chairperson shall report in writing all recommendations, together with the specific reasons therefore related to the criteria and weightings established pursuant to this Article, to the faculty member, the department head and the dean/director.

19.D.4.2 Following receipt of the tenure committee's report, the head of the candidate's department shall make a recommendation on tenure to the dean/director for each faculty member. The recommendation of the head shall be in writing and accompanied by the specific reasons therefor related to the criteria and weightings established pursuant to this Article. The head shall deliver a copy of his/her recommendation, together with the specific reasons therefor related to the criteria and weightings established pursuant to this Article, to the faculty member. The dean/director shall transmit the tenure committee's recommendation, his/her own and that of the department head to the Vice-President (Academic) and Provost. The recommendation of the dean/director shall be in writing and accompanied by the specific reasons therefor related to the criteria and weightings established pursuant to this Article. The dean/director shall deliver a copy of his/her recommendation, together with the specific reasons therefor related to the criteria and weightings established to this Article, to the faculty member.

19.D.4.3 The Vice-President (Academic) and Provost shall transmit his/her own written recommendation, together with the specific reasons therefor related to the criteria and weightings established pursuant to this Article, and those of the tenure committee, department head and dean/director to the President. The Vice-President (Academic) and Provost shall deliver a copy of his/her recommendation, together with the specific reasons therefor related to the criteria and weightings established pursuant to this Article, to the faculty member.

19.D.4.4 If the recommendation of the department head, dean/director, or Vice-President (Academic) and Provost is different from that of the tenure committee, then he/she shall so advise the tenure committee in writing.

19.D.4.5 The President shall deliver or send to the faculty member by registered mail a written notice of any negative recommendation which he/she intends to forward to the Board, along with the specific reasons related to the criteria and weightings established pursuant to this Article for the negative tenure recommendation and a reminder of the faculty member's right to an appeal as provided in s. 19.D.7. Only the faculty member being considered may appeal the recommendation as is provided in s. 19.D.7.

19.D.4.6 When it has considered the President's recommendation, the Board will communicate its decision to the faculty member in writing.

## **19.D.5 Confidentiality**

Except where tenure procedures in s. 19.D.3 and s. 19.D.4 of this Article require the reporting of a recommendation and the nature of any negative considerations to the parties properly concerned with an application, and except where, in the event of an appeal, an arbitration board may require access to confidential information and proceedings, tenure committee meetings shall be closed and deliberations shall be confidential and any submission or recommendation and the reasons for it shall be available only to those persons properly chosen or authorized to consider an application or recommendation for tenure. If a Member makes a public statement about the reasons for any recommendation in his/her case, the recommendation and reasons supplied may be treated by the University as being no longer confidential.

19.D.5.1 Notwithstanding the above, within ten (10) working days following receipt of a submission, the chair of the tenure committee shall forward to the candidate a copy of the submission with identifying marks removed.

## **19.D.6 Faculty Members in Special Circumstances**

In the case of a faculty member who does not belong to a faculty or school, the decision about procedures will be made in circumstances which approach as nearly as possible those outlined above with the President or his/her delegate acting instead of the dean/director.

## **19.D.7 Appeals of Negative Recommendations Regarding Tenure**

### **19.D.7.1 Eligibility**

Any faculty member who receives a notice of the President's intention to make a negative recommendation regarding tenure to the Board shall have the right to appeal that recommendation to an arbitration board in accordance with the provisions of this Article before it goes to the Board.

### **19.D.7.2 Appeal and Waiver of Deadline**

The faculty member may appeal the President's recommendation by sending a written notice of intention to appeal to the President, within ten (10) working days of mailing or delivery of the President's notice of that recommendation. The faculty member, by choosing to appeal, automatically waives any deadline for notice prescribed by this Article for such time as is required to complete the appeal procedure and any subsequent procedures directed by the arbitration board in his/her case. Within this ten (10) day period the faculty member may also ask the President or his/her designate to outline the reasons for this decision. The President or his/her designate shall meet with the faculty member and outline the reasons within ten (10) working days of the request.

### **19.D.7.3 Establishment of an Arbitration Board**

Within twenty (20) working days of the President's receipt of the notice of appeal, an arbitration board shall be established. The arbitration board shall consist of three (3) members, one (1) person chosen by the Association, one (1) person chosen by the University and a third person, a neutral chairperson. The chairperson shall be chosen from outside the University community by the mutual agreement of the two (2) members of the arbitration board, but failing such agreement within ten (10) working days, the chairperson shall be selected in accordance with

the procedures outlined in Article 32, Grievance Procedure and Arbitration, s. 32.4.2 insofar as they are appropriate.

#### **19.D.7.4 Statement of Appeal**

Within twenty (20) working days of sending the notice of intention or within twenty (20) working days of meeting with the President or his/her designate or immediately on selection of the chairperson of the Arbitration Board, whichever is later, the faculty member shall send to the arbitration board, through its chairperson, and simultaneously to the Staff Relations Officer, Human Resources, a written statement of appeal for rehearing which shall state both the particular ground for the appeal and the evidence supporting it.

#### **19.D.7.5 Grounds for an Appeal**

A faculty member who has received notice of the President's intention to make a negative recommendation regarding tenure may appeal that recommendation on the following grounds only:

**19.D.7.5.1** procedural defects which affected the intended recommendation to the Board of Governors. Procedural defects include but are not limited to bias or the denial of natural justice, or

**19.D.7.5.2** incorrect consideration of substantive material in the tenure recommendation process.

#### **19.D.7.6 Rights and Procedures of the Arbitration Board**

An arbitration board in the consideration of an appeal may establish its own rules of procedure and evidence, provided that such rules are not inconsistent with anything provided in this Article.

#### **19.D.7.7 Decisions of the Arbitration Board**

**19.D.7.7.1** The decision of the arbitration board shall be final and binding.

**19.D.7.7.2** The decision of the arbitration board, together with a written statement of its reasons including dissenting or minority opinions, shall be delivered by the chairperson to the faculty member and to the President within forty (40) working days of receiving the faculty member's statement of appeal. At the same time, the President shall also be given the written statement of appeal.

**19.D.7.7.3** The arbitration board may sustain an appeal only on the grounds of:

**19.D.7.7.3.1** procedural defects which affected the intended recommendation to the Board of Governors. Procedural defects include but are not limited to bias or the denial of natural justice; or

**19.D.7.7.3.2** incorrect consideration of substantive material in the tenure recommendation process.

**19.D.7.7.4** In the event the appeal is sustained, the President shall within twenty (20) working days of the date of receipt of the arbitration board's decision initiate repetition of the tenure recommendation process as set out in s. 19.D.1.3, s. 19.D.1.4, s. 19.D.1.6, s. 19.D.1.7, s. 19.D.1.8, s. 19.D.2, s. 19.D.3, s. 19.D.4, s. 19.D.5 and s. 19.D.6 above, but with only such changes in personnel and/or procedures as the arbitration board shall deem necessary to ensure a fair hearing. This process shall be completed within sixty (60) working days of the date of the

receipt of the decision of the arbitration board by the President or within such additional time as is agreed to by the University and the Association.

19.D.7.7.5 Notwithstanding the provisions of s. 19.D.7.7.4, in the event the appeal is sustained, the tenure committee shall normally have a different composition than the committee which previously considered the faculty member's application for tenure.

19.D.7.7.6 In the event the appeal is denied, the President shall forward his/her negative recommendation and the decision of the arbitration board to the Board of Governors at its next meeting.

### **19.D.7.8 Decisions Pursuant to the Repetition of the Tenure Recommendation Process**

The reporting procedures for the second tenure review process shall be those described in s. 19.D with the exception that there shall be no right to appeal the decision arrived at as the result of repetition of the tenure review process.

### **19.D.8 Grievance**

19.D.8.1 Except as provided in s. 19.C.4.86, s. 19.C.5.5.1, s. 19.C.6.5.1, a faculty member shall not grieve any substantive decision made pursuant to the provisions of this Article but shall have the right only to grieve defects in the procedures of the second tenure committee. Claims of procedural defects shall be limited to those which affected the intended recommendation to the Board of Governors.

19.D.8.2 In the event a faculty member believes he/she has a grievance as defined in s. 19.D.8.1 he/she shall present a duly completed grievance form to the President within twenty (20) working days of the event giving rise thereto or the date on which he/she first knew or reasonably should have known of such event if that date is later. Upon receipt of this grievance form, the procedures at Stage 3 of Article 32, Grievance Procedure and Arbitration, insofar as they are appropriate, shall apply.

19.D.8.3 If the decision arising out of s. 19.D.8 does not resolve the grievance, the matter may be submitted to arbitration in accordance with Stage 4 of Article 32, Grievance Procedure and Arbitration.