

HLCFPA proposed Bylaws amendments

Fall 2015

The full bylaws of the Hixson-Lied College of Fine and Performing Arts can be downloaded at:
<http://arts.unl.edu/hlfpa/faculty-resources-and-bylaws>

The UNL *Guidelines for the Evaluation of Faculty: Annual Evaluations, Promotion, and Tenure* can be downloaded at:
http://www.unl.edu/svcaa/documents/tenure_guide.pdf

Amendment 1: Minor fixes and clarifications

1. Replace "School of Music" with "Glenn Korff School of Music" in all instances (2.0, 6.6.1.5, 9.1.1.4, 9.3.1.3, 9.4.1.3, 9.5.1.3, 9.6.1.4, 9.7.1.1.3, 9.8.1.4, 9.9.1.2, 9.10.1.2)
 2. 16.4.3.2.1: Replace "his" with "This" at opening of sentence.
 3. 16.6.2: Replace reference to section "2.5.8" of UNL Bylaws with correct section "2.9.8".
 4. 16.6.16: Replace reference to section "2.5.4" of UNL Bylaws with correct section "2.9.4".
 5. 22.4: change internal reference to "20.5" with correct reference "22.5".
-

Amendment 2: Addition of material to promotion and tenure files

Current language:

16.6 Rights of Access To Materials Used In Personnel Evaluations

16.6.1 Access to promotion and/or tenure files

Other faculty members in the candidate's department may contribute comments and other material to the candidate's file and material may be solicited from a variety of sources. For that reason, the Bylaws of the Board of Regents guarantee the individual being considered for tenure "access to all material submitted for his or her evaluation and the opportunity to respond in writing." The exception is material from external peer reviewers for which the faculty member has waived review rights.

- 16.6.2 The rights of access and written response is guaranteed by Sections 2.9.8 of the UNL Bylaws and 4.6 of the Bylaws of the University of Nebraska Board of Regents.

Proposed language:

16.6 Rights of Access **and Contribution** To Materials Used In Personnel Evaluations

16.6.1 ~~Access to promotion and/or tenure files~~

~~Other faculty members in the candidate's department may contribute comments and other material to the candidate's file and material may be solicited from a variety of sources. For that reason, the Bylaws of the Board of Regents guarantee the individual being~~

~~considered for tenure "access to all material submitted for his or her evaluation and the opportunity to respond in writing." The exception is material from external peer reviewers for which the faculty member has waived review rights.~~

Anyone (including the candidate) with relevant information for inclusion into the file may proffer that information at any level of consideration to the person responsible for conducting the review. That person shall determine, after consultation with the candidate, whether to include the material.

- 16.6.2 The rights of access and written response ~~is~~ **are** guaranteed by Sections 2.9.8 of the UNL Bylaws and 4.6 of the Bylaws of the University of Nebraska Board of Regents, **which states that "faculty members shall have access to all material submitted for their evaluation and the opportunity to respond in writing." The exception is material from external peer reviewers for which the faculty member has waived review rights.**

Rationale:

The governing document for the faculty evaluation process is the UNL *Guidelines for the Evaluation of Faculty: Annual Evaluations, Promotion, and Tenure*. The HLCFPA bylaws are not currently in alignment with the UNL *Guidelines*. Regarding the procedures for promotion in rank, the *Guidelines* state:

Anyone with relevant information for inclusion into the file may proffer that information at any level of consideration to the person responsible for conducting the review. That person shall determine, after consultation with the candidate, whether to include the material. (V.D.3, p. 13)

The language regarding the procedure for granting continuous appointment (tenure) is identical (*Guidelines* VI.D.4, p. 20). The *Guidelines* language has been interpreted to mean that anyone, including the candidate, can submit relevant information to the file at any point in the process. The current HLCFPA bylaws language is more restrictive than this, thus removing a right of the candidate that is guaranteed in the UNL *Guidelines*. The proposed language puts the College bylaws in compliance with the *Guidelines*.

Amendment 3: Introduction of new material at review meetings

Current language:

16.6.8 These rules are not intended to limit oral discussion in a meeting of a group charged to conduct a review and produce a recommendation, provided that:

16.6.8.1 the discussion is based preponderantly upon materials already accumulated in the file.

16.6.8.2 no derogatory material sufficiently substantive to affect the decision is introduced for the first time at the meeting.

16.6.9 It is the responsibility of the individual conducting the meeting to:

16.6.9.1 make necessary judgments concerning the substantives of new material.

16.6.9.2 divulge to the person being evaluated any new material offered to the evaluating group.

16.6.9.3 make sure that the person under scrutiny has opportunity to respond to new material, if

necessary, by delaying the vote or decision.

Proposed language:

16.6.8.2 ~~no derogatory material sufficiently substantive to affect the decision is introduced for the first time at the meeting.~~ **New material of such a substantive nature as to adversely affect the decision shall not be introduced at any meeting unless the candidate is to be given an opportunity to respond.**

Rationale:

The current language implies that new material cannot be introduced at review meetings, whereas the UNL *Guidelines* does allow for introduction of adverse new material as long as the candidate is given an opportunity to respond to it before a vote takes place:

The discussion at all meetings should be free and candid, and shall be based on material in the file. New material of such a substantive nature as to adversely affect the decision shall not be introduced at any meeting unless the candidate is to be given an opportunity to respond. It is the responsibility of the individual conducting the meeting to make the necessary judgments concerning the substantive nature of any new material, to convey new information to the person being evaluated and, if necessary, to delay the vote or decision until the person has had the opportunity to respond. (V.D.6, p. 14; VI.D.7, p. 21)

The proposed language mirrors the *Guidelines* and makes clearer the circumstances under which new materials may be introduced.

**Amendment 4:
Rights of promotion/tenure candidate to request reconsideration of negative recommendation**

Current language:

16.1.5 At every step in the process, the faculty member must be given copies of all recommendations and has the right to read and respond to any recommendation forwarded to the next level.

Proposed language:

16.1.5 At every step in the process, the faculty member must be given copies of all recommendations ~~and has the right to read and respond to any recommendation forwarded to the next level.~~ **The candidate may request reasons for adverse recommendations or request reconsideration of the decision by the group or individual not recommending promotion or tenure. Results of such requests should be provided to the candidate in writing. No negative recommendation shall be forwarded until the reconsideration is complete. The department or college shall establish time lines for the candidate to request either a statement of reasons or reconsideration of a decision. If the candidate requests a statement of reasons or requests reconsideration of a decision within these time lines, such request shall be granted as expeditiously as possible. Departments and colleges must schedule the review process so that any reconsideration shall be completed in time to meet established submission deadlines to the next level of consideration. The purpose of the statement of reasons is to give an unsuccessful candidate an opportunity to prepare a rebuttal argument.**

Rationale:

The current College bylaws language is in direct contradiction to the UNL *Guidelines*. While College bylaws section 16.1.5 encompasses all types of faculty evaluation, the *Guidelines* discuss promotion in rank and granting of tenure separately. In regard to promotion, the *Guidelines* state:

If at any point in the process, the candidate is not recommended for promotion by either the appropriate faculty committee or the responsible administrator, the candidate may request reasons for the adverse recommendation, in writing if desired. A candidate also may request reconsideration of the decision by the group or individual not recommending promotion. If the candidate requests a statement of reasons or requests reconsideration of the decision, such request shall be granted as expeditiously as possible. The reconsideration process must be completed so as to comply with submission deadlines to the next level of consideration. The purpose of a statement of reasons is to give an unsuccessful candidate an opportunity to prepare a rebuttal argument. No negative recommendation shall be forwarded until the-reconsideration is complete. (V.D.7, p. 15)

Regarding tenure:

If at any point in the process, the candidate is not recommended for tenure by either the appropriate faculty committee or responsible administrator, the candidate may request reasons for the adverse recommendation, in writing if desired. The candidate also must be informed of the right to request reconsideration of the decision as provided in Regents Bylaws, 4.8(a). No negative recommendation shall be forwarded until the reconsideration is complete. The department or college shall establish time lines for the candidate to request either a statement of reasons or reconsideration of a decision. If the candidate requests a statement of reasons or requests reconsideration of a decision within these time lines, such request shall be granted as expeditiously as possible. Departments and colleges must schedule the review process so that any reconsideration shall be completed in time to meet established submission deadlines to the next level of consideration. The purpose of the statement of reasons is to give an unsuccessful candidate an opportunity to prepare a rebuttal argument. In order to allow the opportunity to respond, the candidate must be given the opportunity to review the file. (VI.D.8, pp. 20-21)

In both cases, it is clear that the candidate is to be given an opportunity to request reconsideration of a negative decision and receive a response before the decision is forwarded to the next level, as long as this happens expeditiously. The proposed amendment aligns College procedures with the UNL *Guidelines*.

It should also be noted that both the College bylaws (16.1.4) and the UNL *Guidelines* describe four distinct steps in the process at the department/college levels: 1) recommendation of eligible voting department faculty; 2) recommendation of department chair/director; 3) recommendation of College Executive Committee; and 4) recommendation of Dean. Therefore, the candidate should have the opportunity to request reconsideration after each of those steps before the process continues with the next step.

**Amendment 5:
Introduction of new material at college level**

Current language:

- 22.6 The College Executive Committee expects to concur with the school and departmental recommendations unless there are strong reasons not to do so. If the Committee does have questions about a promotion and/or tenure recommendation from a department or

school or feels the evidence supporting such a recommendation is inadequate, the following steps are to be taken:

- 22.6.1 the chairperson or director is to be given an opportunity to present additional materials that might help clarify the position taken by his/her department or school, prior to the final vote of the College Executive Committee.

Proposed language:

- 22.6.1 the chairperson or director is to be given an opportunity to present additional materials that might help clarify the position taken by his/her department or school, prior to the final vote of the College Executive Committee. **New material of such a substantive nature as to adversely affect the decision shall not be introduced unless the candidate is to be given an opportunity to respond. It is the responsibility of the individual conducting the meeting to make the necessary judgments concerning the substantive nature of any new material, to convey new information to the person being evaluated and, if necessary, to delay the vote or decisions until the person has had the opportunity to respond.**

Rationale:

This clarifies the right of the candidate to respond to any information introduced to the file at any point in the process. The new language is taken from the *Guidelines* sections dealing with review by college faculty (V.D.9, p. 15; VI.D.10, p. 22).

Amendment 6: Candidate's right to request reconsideration of College Executive Committee's recommendation

Current language:

22.6.3 If the College Executive Committee disagreement with the department or school remains after any subsequent review or appeal, the reasons for disagreement must be provided in writing to the chairperson/director and to the individual concerned, and the negative recommendation with all supporting information is forwarded to the Dean for transmittal to the Senior Vice Chancellor for Academic Affairs.

Proposed language:

22.6.3 If the College Executive Committee disagreement with the department or school remains after any subsequent review or appeal, the reasons for disagreement must be provided in writing to the chairperson/director and to the individual concerned, ~~and the negative recommendation with all supporting information is forwarded to the Dean for transmittal to the Senior Vice Chancellor for Academic Affairs.~~

22.6.4 If the College Executive Committee recommends against promotion or tenure, the candidate must be informed of the ability to obtain reasons and request reconsideration as described in 16.1.5. No negative recommendation shall be forwarded until the reconsideration is complete.

Rationale:

See discussion under Amendment 4. The new language aligns with the UNL *Guidelines* (V.D.9, p. 15; VI.D.10, p. 22).

Amendment 7: Candidate's right to request reconsideration of Dean's recommendation

Current language:

22.6.4 After receiving the recommendations of the voting faculty, the chairperson/director, and the College Executive Committee, the Dean of the College will conduct an independent review of the file and any additional materials that might have been compiled in any review or appeal and will make an independent evaluation of the application. The Dean will forward his/her recommendation and all requested file materials to the Senior Vice Chancellor for Academic Affairs. The Dean also will send copies of his/her recommendation and that of the College Executive Committee to the faculty member, the College Executive Committee, and the chairperson/director.

Proposed language:

22.6.5 After receiving the recommendations of the voting faculty, the chairperson/director, and the College Executive Committee, the Dean of the College will conduct an independent review of the file and any additional materials that might have been compiled in any review or appeal and will make an independent evaluation of the application. The Dean will forward his/her recommendation and all requested file materials to the Senior Vice Chancellor for Academic Affairs. ~~The Dean also will send copies of his/her recommendation and that of the College Executive Committee to the faculty member, the~~ **candidate**, the College Executive Committee, and the chairperson/director. **If the Dean recommends against promotion or tenure, the candidate must be informed of the ability to obtain reasons and request reconsideration as described in 16.1.5.**

Rationale:

Renumbering is based on addition of paragraph in Amendment 7. Current 22.6.5 will also need to be renumbered as 22.6.6.

The proposed language clarifies the candidate's right to request reconsideration of the Dean's recommendation and aligns more closely to the UNL *Guidelines*:

Following the completion of deliberations by the college faculty committee, including any reconsideration of its initial decision, the dean reviews the entire record to ensure that proper standards are being applied by the college and that they have been appropriately applied to the candidate. Based on this review, the dean makes an independent recommendation that is transmitted in writing to the appropriate vice chancellor, to the candidate, and to the department chair/head or unit administrator. If the dean recommends against promotion, the candidate must be informed of the ability to obtain reasons and request reconsideration as described in Section V.D.(7). (V.D.10, p. 16)

Following the completion of deliberations by the college faculty committee, including any reconsideration of its initial decision, the dean reviews the entire record to ensure that proper standards are being applied by the college and that they have been appropriately applied to the candidate. Based on this review, the dean makes an independent recommendation that is transmitted in writing to the appropriate vice chancellor, to the candidate, and to the department chair/head or unit administrator. If the dean recommends against tenure, the candidate must be informed of a right to request reasons for the adverse recommendation and a right to request reconsideration of the decision as described in section VI.D.(8). (VI.D.11, pp. 22-23)