

**Excerpt from BUFA Collective Agreement 2008-2011  
Articles 21 and 21A in effect for July 1, 2011 – June 30, 2012**

**ARTICLE 21 – PROMOTION AND TENURE – PROVISIONS FOR FULL-TIME  
FACULTY**

21.01 There shall be a University Committee on Promotion and Tenure, herein also referred to as "the Committee".

**21.02 The Committee**

- a. The Committee shall consist of:
  - i. The Provost and Vice-President, Academic, who shall act as the chair of the Committee. The Provost and Vice-President, Academic shall be a non-voting member of the Committee.
  - ii. Six (6) faculty members, one (1) from each Faculty. Each faculty member on the Committee must be tenured and hold the rank of Professor or Associate Professor. These faculty members shall be represented by gender and selected jointly by the President of the University and the President of the Union for three (3) year overlapping terms. Faculty members who are expected to apply for promotion within three years of their appointment to the Committee may not serve on the Committee.
  - iii. The Dean of each Faculty. When the Committee is reaching a decision on the recommendation of any candidate for promotion and/or tenure, the Dean of the candidate's Faculty shall participate in all discussions pertaining to any candidate from his/her Faculty and participate as a seventh (7th) voting member of the Committee.
- b. The Committee shall meet to set deadlines for submissions. The Committee shall advise the Deans of the schedule for its work, and shall direct the Deans to convey this information to all members of faculty.
- c. All Committee deliberations shall be *in camera*. When the Committee has discharged its duties, all minutes, letters of reference, reports of internal and external referees, and other pertinent records shall be kept secured by the Secretary to the University. If an appeal or grievance is lodged within the time permitted, all the above materials shall be retained for possible use until the matter is settled. After settlement of all appeals and/or grievances, or when no such appeals or grievances are lodged, all confidential materials shall be destroyed. Records submitted by the candidate shall be returned to that person by the Dean.
- d. The Provost and Vice-President, Academic shall provide the secretary for the Committee.

- e. Prior to the consideration of dossiers, the Committee shall meet to review the provisions of this Article. This review shall include discussion of the criteria and evidence upon which tenure and promotion decisions are made and the diverse forms of scholarship that exist across the University (see Article 21.11 (a), (b), and (c)).

### 21.03 **The Meaning of Tenure**

Tenure refers to appointment without term. Such an appointment may be terminated only through resignation or retirement, dismissal for cause (Article 23 - Dismissal) or under the financial exigency procedures (Article 29 – Financial Exigency). Tenure is the basic mechanism for the protection of academic freedom. Tenure is a privilege and carries a significant measure of responsibility, but it is a privilege to which all probationary faculty may aspire.

### 21.04 **Criteria for Tenure**

- a. Tenure shall be granted on the basis of clear promise of continuing intellectual and professional development as demonstrated by:
  - i. sustained satisfactory and effective teaching during the probationary appointment or previous relevant teaching experience; and
  - ii. clear evidence of ongoing high quality scholarly or creative work.
- b. Evidence of service to the University community and the Union may be used to strengthen a faculty member's application for tenure.
- c. Awarding of tenure must always be based on the criteria noted in 21.04 (a) and (b), evidence of teaching, scholarly activity and service noted in Article 21.11 (a), (b), and (c). In no case shall the tenure decision depend upon years of service alone.
- d. Personal or social incompatibility shall not be a reason for denying tenure.
- e. Failure to discharge professional obligations and responsibilities as defined in this Collective Agreement may be grounds for denial of tenure.

21.05 The traditional right and responsibility of a faculty member, tenured or not to academic freedom (Article 11 – Academic Freedom) is recognized by the Parties.

### 21.06 **Eligibility for Tenure**

- a. An untenured, probationary faculty member will normally be considered for tenure in:

- i. the fifth (5<sup>th</sup>) consecutive year of full-time employment as a probationary Lecturer, or as a probationary Lecturer and Assistant Professor and no later than the sixth year;
- ii. the fifth (5<sup>th</sup>) consecutive year of full-time employment as a probationary Assistant Professor and no later than the fifth year;
- iii. accordance with Article 19.08 (e) (Appointment of Faculty Members) in the case of a limited term appointee being converted to a probationary appointment;
- iv. the third (3<sup>rd</sup>) consecutive year of full-time employment as an Associate Professor and no later than the third year;
- v. the second (2<sup>nd</sup>) year of full-time employment as a Professor.

These timelines may be adjusted in accordance with Article 34.08 (f) (Leaves).

- b. Notwithstanding the normal timeframes identified in Article 21.06 (a), an untenured, probationary faculty member may apply for tenure at any time. If a faculty member chooses to apply for tenure earlier than the normal timeframes identified in Article 21.06 (a), the member shall be subject to the same procedures, criteria, and expectations for evidence as an application made at the normal time.
- c. For purposes of assessing eligibility for tenure, sabbatical leaves shall be counted as a regular period of employment.

21.07 A member applying for tenure shall also apply for promotion to Associate Professor at the same time.

**21.08 Eligibility for Promotion to Assistant Professor**

- a. A full-time faculty member who has served as a Lecturer in the University for six (6) years shall either be promoted to Assistant Professor or shall not have the appointment renewed. This decision shall be made prior to the end of the fifth (5<sup>th</sup>) year of service.
- b. Promotion to the rank of Assistant Professor shall normally depend upon the attainment of a doctoral degree or its equivalent (Article 19.03 (c) – Appointment of Faculty Members).
- c. A Lecturer shall advance to the rank of Assistant Professor under the conditions described in Article 19.03 (b).

**21.09 Eligibility for Promotion to Associate Professor**

- a. Promotion from Assistant Professor to Associate Professor shall be based upon the criteria noted in 21.04 (a) and (b) and evidence referred to in 21.04 (c).

#### **21.10 Eligibility for Promotion to Professor**

- a. A faculty member shall be eligible for promotion to Professor because of:
  - i. Sustained scholarly excellence plus sustained high quality teaching and a consistent and demonstrated record of service; or
  - ii. Sustained excellence in teaching plus a sustained high quality record of scholarly, creative or professional work and a consistent and demonstrated record of service.
- b. Candidates for promotion to the rank of Professor shall normally have completed at least six (6) years of service at the rank of Associate Professor, including two (2) full years of service at the rank of Associate Professor at Brock University. Promotion after these minimum years of service will follow only upon demonstrated excellence and superiority in performance.
- c. A faculty member who has clearly established an international reputation as a scholar in his/her field, for example, by major publication or by awards indicative of the highest level of scholarly recognition, is eligible to apply for promotion at any time.
- d. A candidate without tenure who has served as Associate Professor in the University and is promoted to the rank of Professor shall be granted tenure.
- e. Promotion to Professor must always be based upon the criteria noted in 21.10 (a), as supported by evidence of teaching, scholarly activity and service noted in Article 21.11 (a), (b), and (c), as well as the confidential reports obtained from external referees (Article 21.13 (f)). In no case shall promotion to Professor depend upon years of service alone.

#### **21.11 Evidence of Teaching, Scholarly Activity and Service**

In a University, the varied nature of teaching, scholarly or creative work, and service oriented to academic disciplines, fields of professional activity, and the community requires flexibility in the character, assessment and weighting of evidence for tenure and promotion.

- a. Evidence used to demonstrate the quality and effectiveness of teaching in support of an application for tenure or promotion may include, with relative weighting as appropriate:

- i. course work and all related activities;
- ii. supervision of the work of graduate and undergraduate students at Brock and other universities;
- iii. contributions to seminars and colloquia relevant to teaching and learning;
- iv. innovative methods in teaching and other contributions to the teaching activities of the University;
- v. written comments of colleagues who have observed the candidate's teaching first-hand and at the invitation of the candidate;
- vi. written comments provided by colleagues regarding the candidate's reputation in the area of teaching and learning among peers and the basis for that reputation;
- vii. written comments of students about the candidate's teaching;
- viii. additional material relevant to teaching and learning collected by the candidate on his/her own initiative (e.g. a teaching portfolio).
- ix. supervision of student practica and/or internships where specific professional credentials are required of the supervisor to allow students to obtain certification or licensure.

Student course evaluations for all courses with five (5) or more students taught by the candidate since the date of last promotion or appointment must be included.

- b. Evidence used to demonstrate the quality of scholarly activity or creative work in support of an application for tenure or promotion may include the following items, with relative weighting as appropriate:
  - i. the publication of books, case studies, monographs, and contributions to edited books;
  - ii. papers in peer refereed journals;
  - iii. the judgments of scholars through letters of reference, particularly of senior scholars in the same and cognate disciplines;
  - iv. papers delivered at professional meetings;
  - v. contributions to panels, workshops, and clinics;
  - vi. consulting with government, related professionals, and agencies, or preparation of instructional, clinical, curriculum or policy materials for such agencies;
  - vii. editorial and refereeing duties;
  - viii. the creation, performance, direction, programming, design, and staging of creative works for the public, or curation of exhibitions, particularly when recognized by competent external peers;
  - ix. adjudicating festivals and competitions, master classes, consulting on curricula, workshops at the post-secondary level or with professional orchestras, choirs, theatres, galleries, or professional residencies;
  - x. the development of software, hardware or equipment;
  - xi. scholarly contributions to pedagogy;

- xii. scholarly contributions to agencies, communities, governments, or organizations and the extent to which the faculty member's professional services are in demand by such organizations outside the University;
- xiii. scholarship as evidenced by the candidate's depth and breadth of knowledge and general contributions to the research life of the University;
- xiv. attempting to secure funding for research scholarship and creative activities as appropriate for a discipline or field;
- xv. other publications demonstrating a high quality of scholarship with significant public impact; and
- xvi. other evidence appropriate to the discipline.

The quality and originality of all scholarly and creative work shall be evaluated.

- c. Although teaching and scholarly activities are the primary criteria for promotion and tenure decisions, evidence of other activities appropriate to the discipline or field and service to the University and the Union may be used to strengthen a candidate's case. Such evidence may include, with relative weighting as appropriate:
  - i. participation in University, Faculty, Departmental and Union committees;
  - ii. counselling students;
  - iii. service in and recognition by regional, national and international committees and other organizations, including professional organizations;
  - iv. general administrative duties and administrative duties unique to a candidate's Faculty;
  - v. community service where the individual has made an essentially non-remunerative contribution by virtue of special academic competence;
  - vi. administrative and non-teaching/research responsibilities within the University and the Union.

#### **21.12 Decanal Procedures for Promotion**

- a. Deans shall be responsible for informing faculty of the following:
  - i. The required date for submissions of applications for tenure or promotion as determined by the Committee; and
  - ii. the format and required content of applications in (i) above as determined by the Committee.
- b. Deans shall attempt to ensure that, before being forwarded to the Committee on Promotion and Tenure, all dossiers received adhere to the Committee's guidelines. Applications which require clarification or are incomplete will be

returned to the applicant or Department as appropriate. In particular, Deans shall attempt to ensure that each dossier includes:

- i. the completed application form and required accompanying material;
  - ii. a copy of the appropriate departmental rules and an assurance from the Chair or his/her designate that departmental rules have been followed; and
  - iii. the departmental recommendation, minority reports (if any) and recorded vote.
- c. Deans shall forward complete dossiers to the Committee.
  - d. Deans shall solicit, receive and forward any internal or external letters of evaluation noted on an application. When soliciting letters from referees, Deans shall provide each prospective referee with, at a minimum, the requirements and criteria for promotion as they are described in Article 21.04 (a) and (b) or 21.10 (a), as appropriate, and shall ask for the referee's judgment on whether the candidate has met those criteria. The letter from the Dean soliciting reports will become a part of the candidate's dossier.

#### **21.13 Departmental Procedures for Promotion**

- a. Each Departmental Committee shall develop its own procedures for promotions within the following guidelines and shall publish such procedures (see Article 16.03 (a) – Departmental and Centre Committees).
- b. A candidate may be nominated by any colleague within the Department or may apply directly for promotion.
- c. A faculty member may refuse nomination for promotion, or may withdraw his/her name from consideration at any time in the process.
- d. The candidate shall be excused from the consultation at every stage, unless called upon to provide information or clarification of information.
- e. The candidate shall assemble a dossier of appropriate information, as noted in 21.04 (a) and (b) or 21.10 (a), as appropriate; and evidence of teaching, scholarly activity and service as noted in 21.11 (a), (b), and (c). The dossier shall be checked for accuracy and completeness by both the candidate and the Chair or his/her designate, and made available to the Department.
- f. Confidential letters of evaluation from at least three (3) approved external referees are required when promotion to Professor is under consideration. In identifying referees, members shall avoid conflicts of interest as defined in Article 18 (Conflict of Interest). If the candidate and the Department can agree on a list of appropriate external referees, the Dean shall choose three (3) from

that list and the entire list shall be made available to the Committee. If the Department and the candidate cannot agree, both shall submit lists from which the Dean shall select four (4), two (2) from the candidate's list and two (2) from that of the Department. The Dean shall solicit letters from the chosen referees and submit such letters directly to the University Committee on Promotion and Tenure. The Promotion and Tenure Committee may seek information from additional external referees chosen from the lists submitted above.

- g. The Department, meeting *in camera* without the candidate, shall consider the application. When the Departmental Committee requires further information or is considering a negative decision, the candidate shall be informed in writing of the specific questions or concerns raised and shall be afforded the opportunity to provide additional information in writing and/or in person at a Department meeting. The candidate may be accompanied by a Union representative when appearing at such a meeting.
- h. The Department shall subsequently meet, *in camera* without the candidate, to further discuss the application, and to vote by secret ballot (see Article 16.03 (c) – Departmental and Centre Committees) on the promotion. Only full-time tenured and probationary faculty members may vote (see Article 16.03 (c) – Departmental and Centre Committees). A member who is unable to attend the meeting at which the vote on promotion will take place may submit a sealed ballot to the Chair who shall include the ballot in the counting process at the meeting. When more than one candidate is to be considered, a separate, sealed ballot must be submitted for each case. The decision and vote shall be recorded. The Chair shall inform the candidate in a timely manner in writing of the reasons for the recommendation, and of any specific concerns expressed by one (1) or more members of the Department during the meeting.
- i. Following the meeting at which the vote on promotion has taken place, a voting member may submit to the Dean, in confidence, written comments about a candidate's application. Such written submissions must be signed to ensure that the comments have come from an appropriate source. The Dean shall include such written submissions, with the name and signature of the individuals who submitted them removed so as to make the source of the submissions anonymous, in the candidate's dossier that is forwarded to the University Committee.
- j. The Chair of the Department shall forward the recommendation of the Department, the recorded vote and the minority view, if any, to the candidate and the appropriate Dean. If the Dean has a question about a particular recommendation, he/she shall discuss the matter with the candidate and the Chair.

- k. If the decision is against recommending promotion, the candidate may withdraw his/her name from further consideration or may choose to go forward to the University Committee on Promotion and Tenure.

**21.14 University Committee on Promotion and Tenure: Procedures for Promotion**

- a. The Deans shall solicit submissions from departments encouraging a thorough and orderly assembling of individual dossiers which shall facilitate evaluation of candidates.
- b. The Committee shall consider all submissions forwarded through the Deans, including cases for which the Department has not recommended promotion, unless candidates have withdrawn their applications.
- c. Where the Committee requires further information or is considering a negative decision, the candidate and the Chair of the Department shall be informed by the appropriate Dean in writing of the specific concerns to be addressed. The candidate and the Chair of the Department shall be invited to appear before the Committee either separately or together, as they desire. The candidate shall have the right to submit further information, in writing and/or in person, and shall have the right to be accompanied and/or represented by the Union and shall have the right to add additional documentation to the dossier up to the time of the meeting with the Committee. The candidate must be made aware in advance and in writing of all factors that have drawn the application into question, and must have an opportunity to address those issues. The Committee will hold a recorded vote of all members of the Committee following this information hearing.
- d. The Committee's recommendation, along with reasons for such a recommendation, shall be forwarded to the President.

**21.15 Decision of the President: Procedures for Promotion**

- a. Upon receipt of a recommendation from the Committee, the President shall notify the candidate, the Department Chair and the Dean of his/her decision in writing, within six (6) weeks.
- b. If the decision is negative, the President shall specify in writing to the candidate the reasons, based on the recommendation of the University Committee on Promotion and Tenure.
- c. The candidate may appeal the decision of the President to the Appeals Committee as established in Article 21A.01 (Promotion and Tenure Appeals).

**21.16 Decanal Procedures for Tenure**

The Decanal Procedures for tenure shall be as set out in Article 21.12.

### 21.17 Departmental Procedures for Tenure

- a. Each Departmental Committee shall develop its own procedures for tenure within the following guidelines and shall publish such procedures (see Article 16.03 (a) – Departmental and Centre Committees).
- b. The candidate for tenure shall be excused from the consultation at every stage, except for purposes of supplying or clarifying information.
- c. The candidate shall assemble a dossier of appropriate information as noted in 21.04 (a) and (b), and evidence of teaching, scholarly activity and service as noted in 21.11 (a), (b), and (c). The dossier shall be checked for accuracy and completeness by both the candidate and the Chair or his/her designate, and made available to the Department.
- d. To provide the Committee additional perspectives, frameworks, or context with which to interpret accurately and appropriately the discipline-specific evidence presented by the candidate under Article 21.11, a confidential letter of evaluation from an approved external referee is required when tenure is under consideration for faculty members appointed on or after July 1, 2008. In identifying this referee, members shall avoid conflicts of interest as defined in Article 18 (Conflict of Interest).

If the candidate and the Department can agree on a list of appropriate external referees, they shall provide that list to the Dean who shall select a referee. If the Department and the candidate cannot agree, both shall submit lists from which the Dean shall select two (2) referees, one (1) from the candidate's list and one (1) from that of the Department. The Dean shall solicit a letter(s) from the chosen referees and submit the letter(s) directly to the University Committee on Promotion and Tenure.

- e. The Department meeting, *in camera* without the candidate, shall consider the application. When the Departmental Committee requires further information or is considering a negative decision, the candidate shall be informed in writing of the specific questions or concerns raised by members of the Department, and shall be afforded the opportunity to provide additional information in writing and/or in person at a department meeting. The candidate may be accompanied by a Union representative when appearing at such a meeting.
- f. The Department shall subsequently meet, *in camera* without the candidate, to further discuss the application, and to vote by secret ballot (Article 16.03 (c) –

Departmental and Centre Committees) on the tenure question. Only full-time tenured or probationary faculty members may vote (Article 16.03 (c) – Departmental and Centre Committees). The procedure for voting on the tenure question shall be as follows: First, the Department shall vote on a separate ballot on the question of whether or not the faculty member should be granted tenure, effective July 1 following the date of his/her application. A member who is unable to attend the meeting at which the vote on tenure will take place may submit a sealed ballot to the Chair who shall include the ballot in the counting process for this first vote at the meeting. When more than one candidate is to be considered, a separate, sealed ballot must be submitted for each case. If the first vote is positive, then the voting on tenure is deemed to be complete at this point. However, if the first vote is negative and the faculty member is eligible for "deferral of tenure" as defined in Article 21.20, the Department shall vote by a separate ballot on the question of whether or not the faculty member is to undergo a further probationary period, not to exceed two (2) years. A member who is unable to attend the meeting at which the vote on tenure will take place may submit a sealed ballot for this second possible vote to the Chair who shall include the ballot in the counting process for this second vote at the meeting. When more than one candidate is to be considered, a separate, sealed ballot must be submitted for each case.

- g. The final decision of the Departmental Committee and the results of each separate vote shall be recorded. The Chair shall inform the candidate in a timely manner in writing of the reasons for the decision and of any specific concerns expressed by one (1) or more members during the meeting.
- h. Following the meeting at which the vote on tenure has taken place, a voting member may submit to the Dean, in confidence, written comments about a candidate's application. Such written submissions must be signed to ensure that the comments have come from an appropriate source. The Dean shall include such written submissions, with the name and signature of the individuals who submitted them removed so as to make the source of the submissions anonymous, in the candidate's dossier that is forwarded to the University Committee.
- i. The Chair of the Department shall forward the majority opinion of the Department, the minority opinion, if any, and the recorded final votes, to the Dean, who, in turn, shall forward this material to the University Committee on Promotion and Tenure. If the Dean has a question about a particular recommendation, he/she shall discuss the matter with the candidate and the Chair.

## 21.18 **University Committee on Promotion and Tenure: Procedures for Tenure**

- a. The Deans shall solicit submissions from departments encouraging a consistent and orderly assembling of thorough individual dossiers which will facilitate discussion of candidates' applications.
- b. The Committee shall consider all submissions forwarded through the Deans, including cases in which the Department has not recommended tenure, unless the candidates have withdrawn their applications.
- c. The Committee shall then consult the appropriate Dean on each candidate's application.
- d. Where the Committee requires further information or is considering a negative decision, the candidate and the Chair of the Department shall be informed in writing by the appropriate Dean of the specific questions or concerns to be addressed. The candidate and the Chair of the Department shall be invited to appear before the Committee, either separately or together, as they desire. The candidate shall have the right to submit further information, in writing and/or in person, to be accompanied and/or represented by the Union, and to add additional documentation to his/her dossier up to the time of the further information hearing with the Committee. The candidate must be made aware in advance and in writing of all factors that have drawn the application into question and must have an opportunity to address those issues. The Committee will hold a recorded vote of all members of the Committee following this information hearing.
- e. The Committee's recommendation, along with the reasons for such a recommendation, shall be forwarded to the President.

**21.19 Decision of the President: Procedures for Tenure**

- a. Upon receipt of a recommendation from the Committee, the President shall notify the candidate, the Department Chair and the Dean of his/her decision in writing within six (6) weeks. This decision must be one of the following:
  - i. The faculty member is to be granted tenure, effective July 1 following the date of the application;
  - ii. the faculty member is to undergo a further probationary period, not to exceed two (2) years (see Article 21.20); or
  - iii. the faculty member shall not be reappointed following the expiration of the present appointment, subject to the provisions of Article 19.09 (b)(v) and 19.09 (b)(vi) – Appointment of Faculty Members.
- b. If the decision is to defer or to deny tenure, the President shall specify in writing to the candidate the reasons, based on the recommendation of the University Committee on Promotion and Tenure.

- c. The candidate may appeal the decision of the President to the Appeals Committee as established in Article 21A.01 (Promotion and Tenure Appeals).

#### 21.20 **Deferral of Tenure**

- a. The decision that the faculty member is to undergo a further probationary period, commonly known as “deferral of tenure,” shall be understood as action to encourage the candidate's further progress toward tenure and not as a first step toward denial.
- b. Deferral of tenure automatically means renewal for the member involved.
- c. The maximum number of deferrals of tenure which shall be allowed any faculty member is two (2). However, it should not be construed that two (2) deferrals are the norm. The period of deferral in the first case shall not exceed two (2) years. The period of deferral in the second case shall not exceed one (1) year. In the event of a denial of tenure following two (2) previous deferrals, the faculty member concerned shall be subject to termination of employment upon the greater of one (1) year's notice or notice that termination of employment shall occur on June 30 of the following calendar year.
- d. A faculty member who has been granted deferral of tenure under Article 21.20 will normally be reconsidered for tenure, or possible further deferral if appropriate under Article 21.20 (c), by the University Committee on Promotion and Tenure in the final year of a two (2) year deferral or in the year of deferral in the case of a one (1) year deferral. A faculty member who does not wish to apply for tenure or further possible deferral at the specified time would not be required to apply to be reconsidered by the University Committee on Promotion and Tenure. Under such circumstances, the faculty member's employment will be terminated effective the end of the current contract.

**Excerpt from BUFA Collective Agreement 2008-2011  
Articles 21 and 21A in effect for July 1, 2011 – June 30, 2012**

**ARTICLE 21A – PROMOTION AND TENURE APPEALS**

**21A.01 The Appeals Committee**

- a. The Appeals Committee shall consist of:
  - i. Six (6) faculty members, one (1) from each Faculty. Each faculty member on the Appeals Committee must be tenured and hold the rank of Associate Professor or Professor.
  - ii. Two (2) professional librarian members. Each professional librarian member on the Appeals Committee must have permanent status and hold the rank of Librarian III or IV.
- b. The Appeals Committee will be represented by gender and members will be appointed jointly by the President of the University and the President of the Union. The terms shall be for two (2) years, with three (3) of the faculty members and one (1) of the professional librarian members completing their terms each year. Vacancies on the Committee shall be filled by the President of the University and the President of the Union, jointly. The Appeals Committee shall elect a chair from among themselves.

**21A.02 Appeal Procedures**

- a. An appeal dealing with a deferral of tenure or a denial of promotion is a reconsideration of the recommendation of the University Committee on Promotion and Tenure. The appeal will be based on the information that was available to the Promotion and Tenure Committee at the time it made its final recommendation and the decision of the President. This is not a *de novo* review of the application for promotion based on a new dossier.
- b. In the case of an appeal dealing with denial of tenure, any new information shall be considered by the Appeals Committee. An appeal of denial of tenure is a *de novo* review of the application.
- c. Prior to the consideration of dossiers, the Appeals Committee shall meet to review the provisions of Articles 21 (Promotion And Tenure: Provisions For Full-Time Faculty) and 21A (Promotion And Tenure Appeals). This review shall include discussion of the criteria and evidence upon which tenure and promotion decisions are made and the diverse forms of scholarship that exist across the University.

**21A.03 Appeal Procedures**

- a. A brief written Notice of Appeal must be submitted to the Secretary of the University within six (6) weeks of receiving the decision of the President regarding the member's application for promotion and/or tenure. The Notice of Appeal must include the grounds for such an appeal.
- b. The Secretary to the University will send to the appellant a written acknowledgement of receiving the Notice of Appeal, which will include reference to these procedures and notice that BUFA has been given a complete listing of the applications and final recommendations of the Promotion and Tenure Committee considered at the same time. Further, the listing given to BUFA will provide the final recommendation made by the University Committee on Promotion and Tenure on each application.
- c. The Secretary to the University will send to the President of the University and the Chair of the Promotion and Tenure Committee a copy of the Notice of Appeal.
- d. The Secretary to the University will convene a meeting of the Appeals Committee within one month of receiving the Notice of Appeal.
- e. The Appeals Committee will strike a Hearing Panel to hear the appeal as follows:
  - i. The Hearing Panel will be determined by the Appeals Committee that is in place on July 1 following the President's letter to the member.
  - ii. In the case of an appeal from a faculty member, the Hearing Panel shall be composed of at least five (5) faculty members of the Appeals Committee who shall elect a chair from among themselves.
  - iii. In the case of an appeal from a professional librarian member, the Hearing Panel shall be composed of two (2) professional librarian members and at least three (3) faculty members, all of whom are from the Appeals Committee, who shall elect a chair from among themselves.
  - iv. In the case of an appeal dealing with promotion to Librarian IV, a current Librarian IV should serve on the Hearing Panel (see Article 22.08 (c) (Permanency and Promotion for Professional Librarian Members). If there is no Librarian IV on the Appeals Committee, the President of the University and the President of the Union shall jointly appoint a Librarian IV to serve on the Hearing Panel.
  - v. The Hearing Panel must not include a member of the appellant's Department or for whom there exists a conflict of interest as defined in Article 18 (Conflict of Interest).
- f. The Provost and Vice-President, Academic will appoint a secretary to the Hearing Panel. Because the secretary to the Hearing Panel is an employee of

the University, and therefore an employee of one of the parties to the appeal, he/she must not provide the Hearing Panel any opinion about appeals procedure or the matter under appeal.

- g. If deemed necessary by the Hearing Panel, the University will provide counsel to assist in the consideration of the appeal. When such counsel meets with the Hearing Panel, both parties may have an observer in attendance.
- h. The appellant and President shall notify the Secretary to the University if they intend to be assisted and/or represented by an advisor and, if so, to identify the advisor.
- i. The Secretary to the University will make the following information available to the Hearing Panel, the appellant, and the appellant's advisor within two (2) weeks of the Notice of Appeal:
  - i. a copy of the final report of the Chair of the University Committee on Promotion and Tenure;
  - ii. copies of all portions of minutes pertaining to the case being appealed;
  - iii. the appellant's dossier as presented to the University Committee on Promotion and Tenure, including any information presented up to the time that the Committee made its final decision;
  - iv. a copy of the President's letter to the appellant (reasons for the final decision);
  - v. the dossiers of all of the candidates considered for promotion and tenure at the same time as the appellant; and
  - vi. all other relevant materials related to the case being appealed.
- j. Dossiers processed by the University Committee on Promotion and Tenure in the same year as the appellant's application for promotion or tenure will be made available to the appellant through the Secretary to the University. The appellant may review these dossiers in the Office of the Secretary to the University and may request copies of any of these dossiers, in whole or in part. The Secretary to the University shall provide such copies in a timely manner. In the case of confidential letters, identifying names will be deleted prior to copying. The appellant will treat the material and information from the dossiers, whether copied or not, as confidential, and may only discuss such information with their advisor and the Hearing Panel. At the end of the appeal, all materials obtained from the Secretary to the University will be returned to the Secretary for shredding. Both the appellant's advisor and President's advisor shall be granted access to the dossiers identified above.
- k. The parties acknowledge that access to dossiers of other candidates during an appeal is consistent with Article 36.06 (Access to Files) and that the Union will not file complaints or grievances under Article 10 (Complaints,

Grievances and Arbitration) concerning the use of dossiers, as described in this Article, from faculty whose dossiers are used as part of an appeal.

- l. Within two (2) weeks of being provided with all the materials described in 21A.03 (i), the appellant must submit a written Appeal document to the Chair of the Hearing Panel, detailing the grounds for his/her appeal.
- m. In cases where the President has reversed a positive recommendation of the University Committee on Promotion and Tenure, the President shall provide a full written statement of the grounds for his/her decision to the Hearing Panel, the appellant, and the appellant's advisor.
- n. Written notice of the Appeal Hearing, including a statement of the issues to be heard by the Hearing Panel, and who, if anyone, will be acting as advisors to the appellant and to the President, shall be sent to all parties at least ten (10) days prior to the Appeal Hearing(s).
- o. If there is a change in advisors, either within the ten (10) days leading up to the Appeal Hearing, or during the hearing process, the other party has the right to require a ten (10) day adjournment of proceeding.

#### **21A.04 The Appeal Hearing**

- a. The Appeal Hearing will be a confidential hearing open only to those who are a party to the proceedings. Specifically, those who are party to the hearing are as follows:
  - i. the members of the Hearing Panel;
  - ii. the appellant;
  - iii. the appellant's advisor;
  - iv. the President (or his/her designate);
  - v. the President's advisor;
  - vi. the secretary to the Hearing Panel; and
  - vii. two (2) observers, one (1) appointed by the Union and one (1) appointed by the University.

Where a party chooses not to attend, the Hearing Panel will decide if it is appropriate to proceed in that party's absence. If the Hearing Panel proceeds, it will provide at least ten (10) days written notice of any further proceedings.

#### **21A.05 Preliminary Matters**

- a. The Chair will read the Notice of Hearing into the record.

- b. The Chair will ask for acknowledgement from the parties that each received the Notice of Hearing and that it properly set out the issue(s) to be heard by the Hearing Panel.
- c. If the receipt of Notice of Hearing is not acknowledged, the secretary to the Hearing Panel will be asked to give evidence regarding the mailing of the Notice.
- d. The Chair of the Hearing Panel will ask each party if it has any objections to the constitution of the Hearing Panel. Responses will be noted and recorded. If an objection is raised, the party raising the objection will be asked to immediately outline the objection. The Hearing Panel will then determine the merits of the objection.

#### **21A.06 Presentation of an Appeal**

- a. The appeal will be conducted by each party making its submissions.
- b. If the appeal follows the President's decision to reverse a positive recommendation of the Committee on Promotion and Tenure, the onus will be on the President to defend his/her decision. If the appeal follows a negative recommendation of the Committee on Promotion and Tenure, the onus will be on the appellant to demonstrate his/her appeal should be granted.
- c. The party bearing the onus shall proceed first in its argument, followed by the other party. The party bearing the onus shall then have the right to reply.
- d. Members of the Hearing Panel are free to ask questions of either party at any time during the hearing.
- e. If either party wishes to introduce evidence, as distinguished from making submissions to the Hearing Panel as to how the appeal should be determined, the party wishing to introduce evidence shall give the other party at least ten (10) days notice of such prior to the date of the appeal. The notice shall set out the material facts upon which it intends to rely.
- f. Circumstances may arise where relevant information to the appeal becomes available to one of the parties in the days preceding or during the Appeal Hearing. In such cases, the other party has the right to be informed in a timely manner of this new information and may request a further ten (10) days to respond. The party receiving notification of new information may waive or reduce the ten (10) day time limit.

#### **21A.07 Panel Deliberation and Notification**

- a. Upon conclusion of the Hearing, the Chair of the Hearing Panel will assure a prompt and careful consideration of the submissions made by both parties.
- b. The Hearing Panel may reconvene the Hearing (with all parties present) to request further information and clarification.
- c. The Hearing Panel will reach a decision within ten (10) days of the final Hearing date. Hearing Panel members who have been absent from the Appeal Hearing are not eligible to participate in the deliberation or the decision of the Hearing Panel.
- d. The Hearing Panel shall decide, by majority vote with all eligible members voting, that the decision of the President shall stand or that the decision of the President shall be reversed. There must be a minimum of five (5) Hearing Panel members voting on the appeal.
- e. The decision of the Hearing Panel shall be final and binding and can only be subject to grievance on the basis of one or more alleged violations of (1) procedures (Article 21 – Promotion and Tenure: Provisions for Full-Time Faculty; and Article 21A); (2) Article 11 (Academic Freedom); or (3) Article 7 (No Discrimination). If the decision of the Hearing Panel is to be grieved, notice of grievance must be filed within twenty (20) working days of the Hearing Panel’s communicating its decision to the appellant and the Union. Such grievance would commence at stage two of the grievance procedure.
- f. The Hearing Panel will normally advise the parties of its decision within seven (7) days of reaching the decision. The notification will be in writing and will contain the reasons for the decision.

#### **21A.08 Timing**

An appeal will normally be concluded by December 31 of the year in which the appeal was filed.

#### **21A.09 Exceptions to the Procedures**

In the interest of an expeditious process, parts of the appeals process can be waived with the agreement of both parties.