BOYCE THOMPSON INSTITUTE

POLICY: APPEALING A NEGATIVE TENURE DECISION

REQUEST TO APPEAL

When a candidate for promotion and tenure receives notification from the president that tenure was not awarded, the candidate may appeal the decision by requesting that the president submit the matter to an appeals committee for consideration. The request must be made in writing within 30 days of notification of the negative decision. The president will decide whether the appeal states a permissible ground for appeal, as defined in this policy, and notify the candidate accordingly within 15 days of receipt of the request. The president may consult with the chair of the research oversight committee (ROC) and legal counsel in determining whether to permit an appeal.

If the request to appeal is granted, the candidate must submit all papers in support of the appeal to the president no later than 30 days after receipt of the president’s decision to permit the appeal, unless extended by the president because of circumstances reasonably beyond the control of the candidate. The president will forward the appeal letter and supporting papers to the appeal committee.

In writing the appeal letter, the candidate should be aware that this letter will serve as the basis for determining whether there are grounds for an appeal and that, should the president grant the request, the letter will be forwarded to the appeals committee. The appeal letter and all papers submitted in support of the appeal may, in the discretion of the appeals committee, be shared with parties against whom any allegations are made and with any other persons deemed necessary by the committee in order to discharge its responsibilities under this policy.

If the appeal will not be completed before the expiration of the terminal date of employment established by the president upon the unfavorable tenure decision, the candidate may request that the president extend the appointment for a period of up to one year. Any such extension will be discretionary with the president, and will not imply any rights to tenure or continued employment beyond the period of the extension.

GROUNDS FOR APPEAL

Appeal of a negative decision on promotion and tenure will be limited to one or more of the following grounds: (1) violation of BTI’s policies and procedures governing promotion, (2) unlawful discrimination, (3) substantial erroneous information or significant misinterpretation of information, or (4) violation of academic freedom of expression in research or publication. In all cases, the candidate must demonstrate that the decision on promotion and tenure was substantially and negatively influenced due to one of these grounds for appeal.

A decision may not be appealed on the ground that a different review committee or president, exercising sound academic judgment, might or would have come to a different conclusion. The appeals committee will not substitute its academic judgment for the judgment of those in the review process. Procedural violations prior to the review process are not a basis for an appeal.
STANDARD OF PROOF

An appeal will not be sustained unless the alleged grounds for appeal are demonstrated by a preponderance of the evidence.

APPEALS COMMITTEE

The president will appoint an appeals committee within 30 days of the decision to permit an appeal. The appeals committee will consist of three members. The chair will be appointed from the membership of the ROC. Two additional members will be appointed from the ROC or from senior members of the Cornell faculty. A representative of the BTI Human Resources Office will serve as an ex officio member. No one who has directly participated in the initial tenure review decision or has taken a position on the review may serve on the appeals committee.

APPEAL PROCESS

The request for appeal, supporting appeal materials, and all materials reviewed by the promotion committee will be provided to the appeals committee for examination. Additionally, the appeals committee may request access to such other Institute materials as it deems relevant to the case, which request will be granted by the president absent confidentiality concerns or other compelling considerations.

The appeals committee will have investigative powers and may interview persons in the review process who it believes may have information potentially relevant to the appeal. The appeals committee will interview the candidate to discuss and clarify the issues raised in the appeal. Whenever the committee believes that a meeting with other individuals could lead to a better understanding of the issues in the appeal, it will meet with the appropriate party.

APPEAL RECOMMENDATION AND DECISION

The appeals committee will prepare a written report for the president within 60 days of receiving supporting materials from the candidate. The report will include findings of fact and conclusions with respect to the grounds alleged on appeal and, where appropriate, will make recommendations for corrective action. The appeals committee may not decide on the merits of the case for promotion, but rather will limit its findings to consideration of whether grounds for appeal have been established by a preponderance of the evidence. The recommendations may include the return of the matter back to the stage in the review process at which the error was made with action taken, to eliminate any harmful effects it may have had on the full and fair consideration of the case. However, no recommended remedy may abrogate the principle of peer review.

The president’s decision as to whether to sustain the appeal and any corrective action to be taken will be final. The president may not grant promotion or tenure as an outcome of the appeal process. If the appeal is sustained, the case will be remanded to where the error occurred, for further review under the established tenure review process. The president’s decision and rationale will be transmitted in writing to the candidate, the appeals committee, the
members of the promotion committee, and the chair of the ROC within 15 days of receiving the appeals committee's findings and recommendations.

The decision on the award of tenure will be based on an assessment of the candidate’s credentials at the time of the original review.

**DOCUMENTATION**

Upon conclusion of the appeal process, complete documentation including the committee's recommendations will be maintained in a separate file in the Human Resources Office. Appeal process materials are not maintained in the individual's personnel file.

**TIME LIMITATIONS**

The time limitations set forth in this policy are to be strictly followed, but may be extended for good cause in the discretion of the president.