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2 **East Carolina University Faculty Manual**
3 PART XII. FACULTY GRIEVANCE POLICIES AND PROCEDURES

4 SECTION I.
5 Appeal of Serious Sanctions or Discharge, and Review of Terminations Based on
6 Non-Reappointment, Non-Conferral of Tenure, or Institutional Considerations

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PART XII – FACULTY GRIEVANCE POLICIES AND PROCEDURES

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42 I. Constituting an Appeal Panel

43 A. The Faculty Appointments Appellate Committee, established through the Bylaws (Faculty Manual,
44 Part II, Section II) of the ECU Faculty Senate, shall serve as a pool for populating appeals panels for
45 the four appellate processes covered by provisions of Part XII of this Faculty Manual. These are:

46 — A. General Provisions

47 — B. Fixed-Term Appointments

48 — C. Probationary Appointments

49 D. Initial Appointment with Permanent Tenure

50 D. Joint Appointments

51 1) Hearing Panel (Section I.II),

52 2) Due Process Panel (Section I.III),

53 3) Reconsideration Panel (Section I.IV)

54 4) Grievance Panel (Section II.I)

55 Because hearings in matters of non-reappointment or conferral of permanent tenure can present
56 complex and difficult questions of fact, policy, and law, and because of the central role of the panel in
57 gathering and preserving the evidence upon which most subsequent decisions related to the matter
58 will be based, it is important for the chancellor to ensure that Faculty Appellate Committee members,
59 as well as relevant administrators and aggrieved faculty members, are appropriately trained in
60 accordance with guidelines and procedures jointly established by the faculty officers and chancellor.

61
62 B. At its initial organizational meeting each year, the Faculty Appellate Committee will elect a
63 steering committee of four individuals, each responsible for taking the lead in processing requests for
64 hearings before one of the four respective types of appellate panels. These individuals will be
65 designated as the “appellate chair” for grievances in their respective areas. Once constituted, the
66 steering committee will elect a Chair and Secretary.

67
68 C. To determine panelists for appellate hearings, at the beginning of each academic year, the
69 steering committee will develop a rank order for all members of the Faculty Appellate Committee by
70 random lottery. Individuals will be asked to serve on panels in order of lottery rank, except when
71 disqualified because of a conflict of interest. Conflicts of interest include, but are not limited to, those
72 cases in which Appellate Committee members are from either the grievant’s or respondent’s relevant
73 department, unit, college, or school, or with whom either the grievant or respondent has had an
74 amorous relationship, or is related by blood, law, or marriage (as defined in UNC Policy Manual 300.4.2
75 and 300.4.2.1[G]). Individuals will not be asked to serve on a second panel until all eligible Appellate
76 Committee members have already served, unless otherwise ruled out by conflicts of interest, at which
77 time the steering committee will return to the top of the ranked list and proceed through the Appellate
78 Committee membership again in the same order.

79
80 D. A request for an appeal panel is directed to the chair of the Appellate Steering Committee. The
81 steering committee will determine the appropriate appellate process to be followed and the steering
82 committee member responsible for that process (appellate chair for that area) will take the lead in
83 further actions on that appeal request. The specified appellate chair will assemble a panel of five
84 regular members and one alternate based on the rank order of Appellate Committee members.
85 Once established, the panel will elect a chair and secretary, and follow the appropriate provisions,
86 detailed below, for the specific type of appeal filed.

87
88 E. Notwithstanding anything in this document, the chancellor may extend any deadline for a
89 reasonable amount of time in the best interests of the university. The chancellor will promptly inform
90 grievants, respondent(s), the panel, the Chair of the Faculty and the vice chancellor with supervisory
91 authority of the timing and basis of a deadline extension.

92 II. Descriptions of Grievants and Respondent(s)

93
94
95 A. A grievant is any faculty member or members who seek(s) the remedies afforded by the provisions
96 of Part XII of the *Faculty Manual*. Grievants must be current faculty members of East Carolina

97 University. If a faculty member's employment ends voluntarily during the grievance process, prior to
98 the end of employment the grievant may request the chancellor to allow the grievance to continue.
99 Copies of such a request must be provided to the appellate chair. The chancellor should respond to
100 such a request, with a copy to the appellate chair, within 30 calendar days.

101
102 B. A respondent is the person or persons identified by a grievant as the individual(s) whose action is
103 the object of the grievance and may include the person(s) who requested the action that is the object
104 of the grievance. "Respondent" may be used in the singular form, even where it stands for more than
105 one person. Named respondents must be current employees of East Carolina University. If a named
106 respondent is a former administrator and, therefore no longer in a position to provide a remedy
107 regarding grieved issues, the person who presently occupies the administrative position will be
108 considered as a substitute respondent for that purpose. If still an ECU employee, the former
109 administrator may remain as a respondent or be called as a witness as determined by the Panel. An
110 individual or a departmental/unit committee and/or its chairperson may be named as a respondent.

111 III. Annual Reports

112 Annually, the Appellate Committee will write a report specifying the number of each type of appeal,
113 the outcomes, and the duration of the process, as well as any other concerns that occur to the
114 committee. The report will be submitted to the Faculty Governance Committee for review.
115
116

117 PART XII – FACULTY GRIEVANCE POLICIES AND PROCEDURES

118
119 ~~SECTION I. II. III.~~ Promotion

120 ~~IV.~~ Procedures for Initiation, Review, and Approval of Appointments, Reappointments,
121 Promotions, and the Conferral of Permanent Tenure (A description of "voting faculty" may
122 be found here.)

123 ~~A.~~ Unit Committees

124 ~~B.~~ Role of Unit Administrator

125 ~~C.~~ External Peer Review for Promotion and the Conferral of
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127 ~~D.~~ Documentation for Personnel Actions

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130 ~~G.~~ Procedure for Concurring Recommendations

131 ~~H.~~ Procedure for Non-Concurring Recommendations

132 ~~V.~~ Procedure for Review of Any Notice of Non-Reappointment or Notice of Non-
133 Conferral of Permanent of Tenure at the Completion of ~~thea~~ Probationary Term.

134 ~~A.~~

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159 Permanent Tenure at the Completion of the Probationary Term.

160

161 A. Deadlines for Review

162 Failure to submit the review documents specified in this section within the time periods
163 allotted constitutes a waiver of the right to have the decision reviewed. However by ECU
164 faculty committees, institutional authorities, or the UNC Board of Governors; however,
165 before the expiration of the deadline the faculty member may request an extension,
166 provided that the request is made in writing and presented to the Hearing appellate chair for

167 grievances covered by Part XII, Section I.II. The Appellate Steering Committee. Within
168 shall decide on an extension within 10 calendar days of receiving a request ~~for extension,~~
169 ~~decisions on requests for extension of time shall be made by the Hearing Committee. The~~
170 ~~Committee. The committee~~ will endeavor to complete the review within the time limits
171 specified except under unusual circumstances such as when the time period includes
172 official university breaks and holidays and when, despite reasonable efforts, the
173 ~~Committee steering committee~~ cannot be assembled.

174 **BII.** Request for a Hearing with the Hearing Committee Panel

175 Within 25 calendar days of receiving written notice from the vice chancellor of non-
176 reappointment or non-conferral of permanent tenure, a faculty member
177 (~~hereinafter hereafter~~, the complainant) may request a hearing review of the decision before
178 ~~the~~ Hearing Committee Panel.

179 1. The Hearing Committee Panel

180 The Hearing Committee Panel (hereafter, "the panel") shall be composed of five
181 members and ~~five alternates~~ one alternate each of whom is a full-time, permanently
182 tenured voting faculty member without administrative appointment (as per Part IX,
183 Section IV). The alternate shall attend all sessions of the hearing and replace a regular
184 member should that member be unable to attend the entire hearing. Members shall be
185 ~~elected~~ chosen in accordance with the procedures for election of ~~appellate~~
186 ~~committees~~ the Appellate Committee specified in the Bylaws of the East Carolina
187 University Faculty Senate. ~~Members and alternates shall be elected to three-year~~
188 ~~terms, and provisions for appointment of appellate panels specified in Part XII, Section~~
189 ~~I.I. Upon organization, the members of the Hearing Panel shall elect a chair and~~
190 ~~secretary. Should either officer be absent at the beginning of a hearing, the panel~~
191 ~~members shall elect an alternate for the purposes of the hearing. A quorum for the~~
192 ~~committee panel~~ shall be the five members or ~~their alternates~~ four members and the
193 alternate.

194
195 ~~Upon organization, the members of the Hearing Committee shall elect a chair and a~~
196 ~~secretary. Because hearings in matters of non-reappointment or conferral of permanent~~
197 ~~tenure can present complex and difficult questions of fact, policy and law, and because~~
198 ~~of the central role of the committee in gathering and preserving the evidence upon~~
199 ~~which most subsequent decisions related to the matter will be based, it is important for~~
200 ~~the chancellor to ensure that faculty committee members, as well as relevant~~
201 ~~administrators and aggrieved faculty members, are appropriately trained in accordance~~
202 ~~with guidelines and procedures jointly established by the faculty officers and chancellor.~~
203 ~~Should any committee officer be absent at the beginning of a hearing, the committee~~
204 ~~shall elect an alternate officer for the purposes of the hearing. (Faculty Senate~~
205 ~~Resolution #03-49)~~

206
207 When the committee panel is convened to consider any matter associated with a
208 complainant's request for a hearing, those ~~committee~~ Appellate Committee members
209 who (i) hold an appointment in the complainant's academic unit, ~~those who~~ (ii) might
210 reasonably expect to be called as witnesses, ~~those who~~ (iii) might reasonably expect to
211 be asked to serve as ~~advisors~~ an advisor (see subsection ~~V.D.III.2, Conduct of the~~
212 Hearing) to any party of the hearing, or ~~those who~~ (iv) may have any other conflict of
213 interest should ~~disqualify themselves~~ be disqualified from participation ~~in the activities of~~
214 ~~the committee on a panel~~ related to ~~this~~ the specific request for a hearing.- The

215 complainant and those individuals or groups who are alleged to be responsible for the
216 action or actions described by the complainant in the request for the hearing
217 (~~hereinafter~~hereafter, the ~~respondents~~respondent(s)) are permitted to challenge
218 ~~committee~~panel members for just cause. The other members of the ~~committee~~panel, in
219 consultation with the Appellate Steering Committee, will decide on any potential
220 disqualifications if a ~~committee~~panel member is ~~so~~ challenged but wishes to remain.

221
222 When membership of the ~~committee~~panel falls below the specified five members and
223 ~~five alternates~~one alternate, the ~~Faculty Senate~~appellate chair will ~~elect~~select additional
224 ~~faculty members to the committee~~. ~~Vacancies on the committee will be filled first by~~
225 ~~moving alternates to regular member status and by electing new alternates and/or~~
226 ~~members as needed to fill the committee roster.~~ of the Appellate Committee to the panel
227 as specified in Part XII, Section I.I of the Faculty Manual.

228
229 ~~Upon receipt of a request for a hearing, the chair of the committee shall determine the~~
230 ~~availability of the regular members and alternates, and shall select from those available~~
231 ~~one or more alternates, as necessary.~~

232 ~~The ranking of the available alternates for selection shall be determined by their years~~
233 ~~of service to the University. That available alternate who is most highly ranked shall~~
234 ~~attend all sessions of the hearing and shall replace a regular member should that~~
235 ~~member be unable to attend the entire hearing.~~

236
237 ~~The committee~~panel may at any time consult with an attorney in the office of the
238 University Attorney. ~~who is~~ The consulting attorney should not ~~presently nor previously~~
239 ~~substantively involved~~have present or prior substantive involvement in the matter
240 ~~giving that gave~~ rise to the hearing, nor ~~will~~ advise the University administrator(s)
241 ~~substantively~~ regarding the ~~committee action~~panel's recommendation(s) during the
242 review process.

243 244 2. Initiation of the Hearing Process

245 The basis for a request for a hearing must be found in one or more of the following
246 reasons: (a) the decision was based on any ground stated to be impermissible in
247 ~~Section 604B of The Code of The University of North Carolina;~~Chapter 101.1, Section
248 ~~604B of The Code of The University of North Carolina;~~ (b) the decision was attended by
249 a material procedural irregularity. such that doubt is cast on the integrity of the decision
250 not to reappoint. In addition, the University Equal Employment Opportunity policy
251 prohibits employment discrimination based on sexual orientation.

252
253 Chapter 101.1, Section 604B of The Code of The University of North Carolina states: "In
254 no event shall a decision not to reappoint a faculty member be based upon (a) the
255 exercise by the faculty member of rights guaranteed by the First Amendment to the
256 United States Constitution, ~~or by Article I of the North Carolina Constitution, or (b) any~~
257 of the faculty member's race, color, sex, religion, creed, national origin, age, disability,
258 veteran's status~~protected statuses included in Section 103 of The Code, or other forms~~
259 of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c)
260 personal malice. The term 'personal malice'. For purposes of this section, the term
261 "personal malice" means dislike, ~~animosity,~~ ill-will, ~~or hatred based on personal~~
262 characteristics, ~~traits, or circumstances of an individual that are not relevant to valid~~

263 [University decision making. For example, personnel. See Policy 101.3.1 II.B. for](#)
264 [details.”](#)

265 [Personnel](#) decisions based on negative reactions to an employee’s anatomical features,
266 marital status or social acquaintances are intrinsically suspect. If reappointment is
267 withheld because of personal characteristics that cannot be shown to impinge on job
268 performance, a wrong likely has been committed. On the other hand, if personal
269 characteristics can be shown to impede a faculty member’s capacity to relate
270 constructively to his or her peers, in a necessarily collegial environment, withholding
271 advancement may be warranted. For example, the undisputed record [of](#) evidence
272 might establish that the responsible department chair declined to recommend a
273 probationary faculty member for reappointment with tenure because of the faculty
274 member’s ‘unpleasant personality and negative attitude’. Disposition of such a case
275 requires a determination of whether the personality and attitude impeded the faculty
276 member’s job performance. While the terms ‘ill-will’, ‘dislike’, ‘hatred’ and ‘malevolence’
277 may connote different degrees of antipathy, such distinctions make no difference in
278 applying the fundamental rationale of the prohibition. Any significant degree of negative
279 feeling toward a candidate based on irrelevant personal factors, regardless of the
280 intensity of that feeling, is an improper basis for making decisions.” ~~(UNC Policy Manual~~
281 [101.3.1.II.B\)](#)~~(UNC Policy Manual Policy 101.3.1 II.B)~~

282 "Material procedural irregularity" means a departure from prescribed procedures
283 governing reappointment and conferral of permanent tenure that is of such significance
284 as to cast reasonable doubt upon the integrity of the original decision not to reappoint
285 or not to confer permanent tenure. Whether a procedural irregularity occurred, and
286 whether it is material, shall be determined by reference to those procedures ~~which~~[that](#)
287 were in effect when the initial decision not to reappoint or not to confer permanent
288 tenure was made and communicated. The Hearing ~~Committee~~[Panel](#) shall ask the
289 chancellor to certify what procedures were then in effect if that question is a matter of
290 dispute. (Faculty Senate Resolution #03-49)

291
292 The complainant's request for a hearing must specifically identify and enumerate all
293 reasons for the request. The request must include ~~(the following:~~ a) a description that
294 is as complete as possible of the actions or the failures to act ~~which~~[that](#) support each
295 specified contention; ~~(b) the~~ identification of the ~~respondents;~~ ~~(respondent(s);~~ c) an
296 enumeration and description of the information or documents ~~which~~[that](#) are to be used
297 to support the contention (copies of the described documents are to be made a part of
298 the request for a hearing); ~~(d) the~~ identification of persons who may be willing to provide
299 information in support of the contention; and ~~(e)~~ a brief description of the information
300 those persons identified in (d) may provide, and ~~(f)~~ a copy of the vice chancellor’s
301 notice of non-reappointment or non-conferral of permanent tenure. The complainant's
302 request for a hearing shall be made to the [appropriate appellate](#) ~~chair of the Hearing~~
303 [Committee](#) and delivered to the Faculty Senate office by a method that provides
304 delivery verification [and is consistent with UNC Policy 101.3.3. The Faculty Senate](#)
305 [Office will promptly notify the appropriate vice chancellor.](#)

- 306
307 [CIII.](#) Procedures for the Hearing.
308 1. Time and Date of Hearing

309 After ~~receiving the request for membership of a hearing,~~ Hearing Panel is determined by
310 ~~the committee~~ Appellate Steering Committee, the panel chair shall provide a complete
311 copy of the request for a hearing to the individuals named in the request for a hearing.
312 The ~~committee~~ panel shall set the time, date, and place for the hearing. The date for
313 the hearing must be within 42 calendar days after receiving the request, except under
314 unusual circumstances such as when a hearing request is received during official
315 university breaks and holidays and despite reasonable efforts ~~the hearing committee~~
316 panel cannot be assembled. ~~The committee~~ Once determined, the panel chair shall
317 ~~then~~ notify the complainant, the ~~respondents,~~ respondent(s), the chair of the faculty, and
318 the chancellor, of the time, date, and place of the hearing. At least 21 calendar days
319 before the hearing, the complainant shall notify the ~~committee~~ panel, the
320 ~~respondents,~~ respondent(s), the chair of the faculty, and the chancellor of the identity of
321 the complainant's advisor, if any, and whether or not the advisor is an attorney:
322 (~~Attorney~~ "attorney" is defined as anyone with a Juris Doctor, or other recognized law
323 degree, regardless of whether or not that person is licensed to practice law in the State
324 of North Carolina and/or whether or not that person is "representing" the employee).
325 Within 14 calendar days before the hearing, the complainant and respondent(s) will
326 submit documents and a list of witnesses to be used in the hearing.

327 2. Conduct of the Hearing

328 The ~~chair of the Hearing Committee or regular member of the committee if the panel~~
329 chair is ~~unavailable, is~~ responsible for conducting the hearing and ~~for~~ maintaining order
330 during the hearing. Except as provided for herein, the hearing shall be conducted
331 according to the latest edition of *Robert's Rules of Order, Newly Revised*. Attendance
332 at the hearing is limited to the ~~committee's~~ panel members and ~~alternates~~ alternate, the
333 complainant, one person who may advise the complainant, the respondent(s), and one
334 person who may advise the respondent(s). If there is more than one respondent, the
335 respondents will designate a spokesperson for the hearing. ~~There will be an equal~~
336 ~~number of~~ The persons advising the complainant and respondent(s). ~~The person~~
337 ~~advising the complainant~~ may not take an active part in the proceedings. The person
338 advising the respondent(s) at the hearing may be either an East Carolina University
339 faculty member (with or without administrative appointment) ~~selected~~ approved by the
340 ~~Chancellor~~ chancellor, or an East Carolina University attorney, ~~if under the condition that~~
341 the complainant is accompanied by an attorney. ~~The person advising the~~
342 ~~respondent(s) may not take an active part in the proceedings.~~ Other persons
343 (witnesses) providing information to the ~~committee~~ panel shall not be present throughout
344 the hearing, but shall be available at a convenient location to appear before the
345 ~~committee~~ panel as appropriate. ~~For any hearing from which an appeal may be taken, a~~

347 A professional court reporter must be used to record and transcribe the hearing.
348 (~~Faculty Senate Resolution #03-37~~)

349
350). Any such record is a part of the personnel inquiry and must be treated with
351 appropriate confidentiality. Only the immediate parties to the controversy, the
352 responsible administrators and attorneys, and the members of the University governing
353 boards and their respective committees and staff are permitted access to such
354 materials.

355 (~~Faculty Senate Resolution #03-49~~)
356

357 The hearing shall begin with an opening statement by the committee member chairing
358 the hearing panel chair. This statement shall be limited to explaining the purpose of the
359 hearing and the procedures to be followed ~~during the hearing.~~ The hearing chair
360 explicitly will note that the committee panel shall consider only information bearing on
361 the allegations presented in the complainant's request for the hearing.
362

363 Following the opening remarks by the hearing panel chair, the complainant shall present
364 his or her contentions and any supporting witnesses and documentary evidence. The
365 respondent(s), through their spokesperson, may then reply to these contentions and
366 present any supporting witnesses and evidence. During these presentations, the
367 complainant, and the respondent(s), through their spokesperson, may cross-examine
368 ~~opposing witnesses.~~ Committee For purposes of clarification, panel members may
369 question witnesses ~~for purposes of clarification, including the complainant and any~~
370 respondent or spokesperson. At the conclusion of the hearing, the complainant may
371 make a summary statement of up to ten minutes in duration. If the complainant elects
372 to do so, then the respondent(s), through their spokesperson, will be given the same
373 opportunity.
374

375 DIV. Procedures After the Hearing

376 After the hearing, the committee panel shall meet in executive session within 3 calendar
377 days and begin its deliberations ~~or shall adjourn for no more than two calendar days, at~~
378 ~~which time it shall reconvene in executive session to determine on~~ whether ~~it sustains to~~
379 sustain or ~~does~~ not sustain the allegations stated in the request for the hearing. In reaching
380 ~~its decisions on which the committee panel's written recommendations to the chancellor~~
381 shall be based, the panel shall consider only the ~~testimony and other materials entered or~~
382 evidence presented ~~as evidence during the at the hearing, and such written or oral~~
383 arguments as the committee, in its discretion, may allow. The Complainant complainant
384 shall have the burden of proof. The standard applied by the committee panel shall be that
385 the preponderance of the evidence establishes that a basis for ~~his or her the complainant's~~
386 contentions is found in one of the reasons listed in subsection ~~V.BII.2-~~, "Initiation of
387 Hearing." Preponderance is defined as the greater weight of evidence and its probable truth
388 or accuracy, and not the amount of evidence presented.
389

390 Within 14 calendar days of finishing its deliberations the committee panel shall provide the
391 complainant, ~~respondents, respondent(s),~~ and the chancellor with a copy of the
392 committee's panel's report and, a copy of the court reporter's transcript of the hearing.
393 (Faculty Senate Resolution #03-37)).
394

395 If the Hearing Committee Panel determines that the complainant's contention has not been
396 established, it shall, by simple, unelaborated statement, so notify the complainant, the
397 ~~respondents, respondent(s),~~ the chair of the faculty, and the chancellor. Such a
398 determination confirms the decision not to reappoint or not to confer permanent tenure.
399

400 If the Hearing Committee Panel determines that the complainant's contention has been
401 satisfactorily established, it shall notify the complainant, the ~~respondents, respondent(s),~~ the
402 chair of the faculty, and the chancellor by written notice and shall recommend further
403 substantive review.
404

405 Within 42 calendar days after receiving the recommendation of the Hearing
406 CommitteePanel and the transcript, the chancellor shall notify the complainant, the
407 ~~respondents, respondent(s)~~, the chair of the
408 faculty, and ~~the chair of the~~ Hearing CommitteePanel chair what further substantive review,
409 if any, will be made of the original decision not to reappoint or not to confer permanent
410 tenure. If the chancellor is considering taking action inconsistent with the
411 ~~committee's panel's~~ recommendations, the chancellor shall request within 14 calendar days
412 that a joint meeting with the committeepanel occur. At the joint meeting, the chancellor will
413 communicate his or her concerns and the committeepanel will have an opportunity to
414 respond. The joint meeting must occur within the 42 calendar-day period. No meeting is
415 required if the chancellor decides to concur with the panel's recommendations

416
417 The chancellor must base his or her decision on a thorough review of (1) the record
418 evidence from the hearing and (2) the report of the committee-panel. While the chancellor
419 should give deference to the advice of the faculty committeepanel, the final campus-based
420 decision ~~is~~ lies with the chancellor's chancellor.

421
422 The chancellor will inform the complainant of ~~his or her a~~ decision in writing by a method
423 that produces adequate evidence of delivery. In the event of an adverse decision, the
424 chancellor's notice must inform the complainant: ~~(1) that;~~ (1) within 14 calendar days of the
425 complainant's receipt of the decision, the complainant may file a notice of appeal with the
426 presidentUNC President requesting review by the Board of Governors in accordance with
427 the Board of Governors Policy 101.3.1, ~~(2) that~~ a simple written notice of appeal with a
428 brief statement of its basis is all that is required within this fourteen day period, and ~~(3) that~~,
429 thereafter, a detailed schedule for the submission of relevant documents will be established
430 if such notice of appeal is received in a timely manner. (Faculty Senate Resolution #03-
431 49).

432
433 The purpose of the appeal to the Board of Governors is to assure ~~(1)~~ that the campus-
434 based process for reviewing the decision was not materially flawed, so as to raise
435 questions about whether the faculty member's contentions were fairly and reliably
436 considered, ~~(2)~~ that the resultdecision reached by the chancellor was not clearly erroneous,
437 and ~~(3)~~ that the decision was not contrary to controlling law or policy. No appeals for denial
438 of early tenure will be heard by the Board of Governors.

439
440 ~~VI. Due Process Before Discharge or the Imposition of Serious Sanctions~~

441 PART XII – FACULTY GRIEVANCE POLICIES AND PROCEDURES

442
443 SECTION I.III, Due Process Before Discharge or Imposition of Serious Sanctions

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451 VI. Procedures After a Hearing

452 VII. Appeal of Chancellor's Decision

453 VIII. Suspension During a Period of Intent to Discharge

454 A. _____

455 I. Bases for Serious Disciplinary Sanctions or Discharge

456 A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy
457 protection against unjust and arbitrary application of disciplinary sanctions. For purposes of
458 the *Faculty Manual*, a faculty member serving in a fixed-term or probationary appointment
459 shall be regarded as having tenure until the end of the term. During the period of such
460 guarantees, the faculty member may be discharged from employment, suspended, or
461 demoted in rank or serious sanctions may be imposed only for reasons of:

- 462 1. incompetenceA. Incompetence, including significant, sustained unsatisfactory
463 performance after the faculty member has been given the opportunity to remedy such
464 performance and fails to do so within a reasonable time;
- 465 2B. neglect of duty, including sustained failure to meet assigned classes or to perform
466 other significant faculty professional obligations; -or
- 467 3C. misconduct of such a nature as to indicate that the individual is unfit to continue as a
468 member of the faculty, including violations of professional ethics, mistreatment of
469 students or other employees, research misconduct, financial fraud, criminal or other
470 illegal, or inappropriate or unethical conduct. To justify serious disciplinary actions,
471 such misconduct should be either: (i) sufficiently related to a faculty member's
472 academic responsibilities as to disqualify the individual from effective performance of
473 university duties, or (ii) sufficiently serious to adversely reflect on the individual's
474 honesty, trustworthiness, or fitness to be a faculty member.

475
476 These Classification of alleged conduct as one categorical basis for imposition of sanctions
477 may be imposed only in accordance with- or discharge, when the procedures prescribed in
478 this section. For purposes of conduct more appropriately meets the *Faculty Manual*, a
479 faculty member serving a stated term shall be regarded as having tenure until the end of
480 the term. These procedures definition of another (e.g., willful, intentional neglect of duty
481 might be considered misconduct), shall not be considered a deficiency in the charge if the
482 conduct at issue is clearly referenced in the notice of intent to discharge and evidence of
483 the nature and/or duration of the alleged conduct supports the severity of the sanction or
484 discharge proposed.

486 These provisions do not apply to non-reappointment (subsection V) or non-conferral of
487 permanent tenure at the end of the probationary period (governed by provisions in Part XII,
488 Section I.II), or termination of employment (subsection VII)-
489 based on institutional considerations (governed by provisions in Part XII, Section I.IV).
490

491 BII. Notice to Faculty of Imposition of Sanctions or Discharge

492 WrittenThe vice chancellor with supervisory authority shall provide written notice to the
493 faculty member of intent to discharge ~~the faculty~~ from employment or to impose serious
494 sanction, ~~together with~~including a written specification of the reasons ~~(these sanctions~~
495 ~~hereinafter in Section VI are referred to as “for the sanction”).~~ The notification shall be sent
496 by ~~the vice chancellor with supervisory to the faculty member by~~ a method that provides
497 delivery verification and is consistent with UNC Policy 101.3.3. ~~The statement~~UNC Policy
498 101.3.3. The notice shall include notice a statement of the faculty member's right, upon
499 request, to a hearing by ~~the~~a Due Process ~~Committee (subsection VI.E).~~ Panel (Faculty
500 Senate Resolution #99-10)
501

502 C. Penalty Without Recourse

503). ~~If, no written request for a hearing (see III. below) is received~~ within 14 calendar ~~th~~th days
504 after ~~the faculty member receives the notice and written specification~~receipt of ~~the reasons~~
505 ~~referred to in subsection VI.B. above, the faculty member makes no written request for a~~
506 ~~hearing~~this notification, the faculty member may be discharged or ~~serious~~
507 ~~sanctions~~sanctions may be imposed without recourse to any institutional grievance or
508 appellate procedure.
509

510 D. III. Request for a Hearing Request

511 A faculty member ~~shall timely submit a~~has 14 calendar days to request ~~for a hearing~~ after
512 receipt of written notification of the reasons for the sanction. A request for a hearing is
513 made to the vice chancellor with supervisory authority, in writing by a method that provides
514 delivery verification and is consistent with UNC Policy 101.3.3. ~~Upon receipt of such a~~
515 ~~request~~the UNC Policy 101.3.3. The vice chancellor ~~with supervisory authority shall, within~~
516 10 calendar days, notify the appropriate appellate chair of the ~~Due Process Committee of~~
517 ~~the need to convene a hearing in accordance with subsection VI.F.1~~Due Process Panel
518 within 10 calendar days of receiving this request.
519

520 ~~If the faculty member shall submit a timely request for a hearing, the Chancellor shall~~
521 ~~ensure a process is in place so that the hearing is timely accorded before the~~IV. Due
522 Process Committee.
523

524 E. Due Process Committee Panel

525 The Due Process ~~Committee (hereinafter “Committee~~Panel (hereafter, “the panel”) shall be
526 composed of five regular members and ~~five alternates~~ each of whom is a full-time,
527 permanently tenured voting faculty member Part IX, Section I (IV). one alternate who shall
528 attend all sessions of the hearing and replace, for the remainder of the process, a regular
529 member who is unable to attend the entire hearing. Members shall be ~~elected~~chosen in
530 accordance with the procedures for election of ~~appellate committees~~the Appellate
531 Committee specified in the Bylaws of the East Carolina University Faculty Senate.
532 ~~Members and alternates shall be elected to three-year terms, and appointment of appeals~~

533 panels described in Part XII, Section I.I of this *Faculty Manual*. Upon organization, the
534 members of the panel shall elect a chair and secretary. Should either officer be absent at
535 the beginning of a hearing, the panel members shall elect an alternate for the purposes of
536 the hearing. A quorum for the ~~committeepanel~~ shall be the five members or their
537 alternates. Upon organization, the members of the Committee shall elect a chair and a
538 secretary. Should any Committee officer be absent at the beginning of a hearing, the
539 Committee shall elect an alternate officer for the purposes of the hearing. ~~four members and~~
540 the alternate.

541
542 When the Committeepanel is convened to consider any matter associated with a faculty
543 member's request for a hearing, those Appellate Committee members who (i) hold an
544 appointment in the faculty member's complainant's academic unit, those who (ii) might
545 reasonably expect to be called as witnesses, or those who (iii) might reasonably expect to
546 be asked to serve as an advisor (see subsection V.B, Procedures for the Hearing) to any
547 party of the hearing, or (iv) may have any other conflict of interest, should disqualify
548 themselves be disqualified from participation in the activities of the Committee on a panel
549 related to this the specific request for a hearing. The faculty member and the vice
550 chancellor with supervisory authority are permitted to challenge Committeepanel members
551 for just cause. The other members of the Committeepanel will decide by majority vote on
552 any potential disqualifications if a Committeepanel member is so challenged but wishes to
553 remain. (Faculty Senate Resolution #99-10).

554
555 When membership of the Committeepanel falls below the specified five members and five
556 alternates one alternate, the Faculty Senate appellate chair will elect select additional faculty
557 members to the committee. Vacancies on the committee will be filled first by moving
558 alternates to member status and by electing new alternates and/or members as needed to
559 fill the committee roster.

560
561 Upon notification by the vice chancellor with supervisory authority that a faculty member
562 has requested a hearing, the chair of the Committee shall determine the availability of the
563 elected members and alternates, and shall select from those available one or more
564 alternates, members of the Appellate Committee to serve on the panel as necessary (see
565 specified in Part ~~III~~XII, Section I.I of the ECU Faculty Manual, UNC Code, Section 603).

566
567 The ranking of the available alternates for selection shall be determined by their years of
568 service to the University. That available alternate who is most highly ranked shall attend all
569 sessions of the hearing and shall replace a regular member should that member be unable
570 to attend the entire hearing. (Faculty Senate Resolution #99-10)

571
572 The Committeepanel may at any time consult with an attorney in the office of the University
573 Attorney who is Counsel. The consulting attorney should not presently nor previously
574 substantively involved have present or prior substantive involvement in the matter giving that
575 gave rise to the hearing, nor will advise the University administrator(s) following the
576 Committee action substantively regarding the panel's recommendation(s). during the
577 review process.

578
579 FV. Procedures for the Hearing

580 4A. Time and Date of Hearing

581 The ~~Committee~~Due Process Panel shall set the time, date, and place for the hearing. The
582 ~~Committee~~panel shall accord the faculty member 30 calendar days to prepare a defense
583 from the time it receives the faculty member's written request for a hearing ~~to prepare a~~
584 ~~defense.~~ The ~~Committee~~panel may, upon the faculty member's written request and for
585 good cause, postpone the date of the hearing by written notice to the faculty member ~~and~~
586 ~~vice chancellor~~. The ~~Committee~~panel shall promptly notify the affected faculty member, the
587 vice chancellor with supervisory authority, and the chair of the faculty of the time, date, and
588 place of the hearing. The ~~Committee~~will panel ordinarily will endeavor to complete the
589 hearing within 90 calendar days except under unusual circumstances such as when a
590 hearing request is received during official university breaks and holidays and despite
591 reasonable efforts, the ~~Committee~~panel cannot be assembled.¹⁴

592 2

593 B. Conduct of Hearing

594 The hearing shall be concerned with the written specification of reasons for the intended
595 discharge or imposition of a serious sanction. The ~~chair of the Committee, or an elected~~
596 ~~member of the Committee if the panel~~ chair is unavailable, is responsible for conducting the
597 hearing and for maintaining order ~~during the hearing~~. Except as provided for herein, the
598 hearing shall be conducted according to the latest edition of *Robert's Rules of Order, Newly*
599 *Revised*. Attendance at the hearing is limited to ~~the Committee's panel~~ members and
600 ~~alternates~~ the alternate, the faculty member requesting the hearing, counsel ~~advisor/attorney~~
601 for the faculty member, the vice chancellor with supervisory authority, or his/her designee,
602 and ~~or counsel~~ an advisor/attorney for the vice chancellor. The person advising the
603 respondent(s) at the hearing may be either an East Carolina University faculty member
604 (with or without administrative appointment) approved by the chancellor, or an East
605 Carolina University attorney. Other persons (witnesses) providing information to the
606 ~~Committee~~panel shall not be present throughout the hearing, but shall be available at a
607 convenient location to appear before the ~~Committee~~panel as appropriate. For any hearing
608 from which an appeal may be taken, a A professional court reporter must be used to record
609 and transcribe the hearing. (Faculty Senate Resolution #03-37). The hearing shall be
610 closed to the public unless both the faculty member and the ~~Committee~~panel agree that it
611 may be open.

612
613 The hearing shall begin with an opening statement by the hearing panel chair limited to
614 explaining the purpose of the hearing and the procedures to be followed ~~during the~~
615 hearing. Following the opening remarks by the hearing panel chair, the vice chancellor with
616 supervisory authority, ~~his/her designee,~~ (or his/her counsel ~~designee~~) or advisor/attorney,
617 shall present the university's contentions and any supporting witnesses and documentary
618 evidence. The faculty member or ~~the faculty member's counsel~~ his/her advisor/attorney
619 may then reply and present any supporting witnesses and documentary evidence. During
620 these presentations, the vice chancellor ~~with supervisory authority, his/her,~~ or designee, ~~or~~
621 ~~his/her counsel, and~~ the faculty member ~~or his/her counsel, and their respective~~
622 advisors/attorneys shall have the right to confront ~~question~~ and cross-examine adverse
623 witnesses, and to make argument. ~~Committee~~ arguments. Panel members may question
624 witnesses for purposes of clarification. At the conclusion of the hearing, the faculty
625 member and then the vice chancellor with supervisory authority, or his/her designee, or

626 [their respective advisors/attorneys](#) will be given the opportunity to provide summary
627 statements. (Faculty Senate Resolution #99-10).

628
629 GVI. Procedures After the Hearing

630 After the hearing, the [Committeepanel](#) shall meet in executive session and begin its
631 deliberations ~~or shall adjourn for no more than two~~[within three](#) calendar days, ~~at which time~~
632 ~~it shall reconvene in executive session.~~ In reaching its decisions the [Committeepanel](#) shall
633 consider only the testimony and other materials entered or presented as evidence during
634 the hearing and such written or oral arguments as the ~~committee, in panel, at~~ its discretion,
635 may allow. The University has the burden of proof. In evaluating evidence, the
636 [Committeepanel](#) shall use the standard of “clear and convincing” evidence in determining
637 whether the institution has met its burden of showing that permissible grounds for [the](#)
638 [discharge or](#) serious sanction exist and are the basis for the recommended action. [“Clear](#)
639 [and convincing” is a higher standard than “preponderance” of evidence and must indicate](#)
640 [that the University’s case is substantially more likely to be true than not true.](#)

641
642 Within 14 calendar days of finishing its deliberations or after the full transcript is received,
643 whichever is later, the [Committeepanel](#) shall provide the faculty member^(f) and the
644 chancellor with a copy of its report, including materials entered as evidence, and a copy of
645 the court reporter's transcript of the hearing. In its report, the [Committeepanel](#) shall state
646 whether ~~or not~~ it recommends that the intended sanction be imposed (Faculty Senate
647 Resolution #03-37).-

648
649 In reaching a decision, the chancellor shall consider only the written transcript of the
650 hearing, [including materials offered in evidence in the panel’s hearing and the documents](#)
651 [that constitute the record of the appeal, including but not limited to the notice of intent to](#)
652 [discharge or impose sanctions, the faculty member’s request for a hearing,](#) and the report
653 of the [Committeepanel](#). Within 30 calendar days of receiving the report [and the court](#)
654 [reporter’s written transcript of the hearing along with the materials offered in evidence at](#)
655 [the hearing,](#) the chancellor's decision shall be conveyed in writing to the [Committeepanel](#)
656 and the affected faculty member by a method that provides delivery verification and is
657 consistent with UNC Policy 101.3.3.

658
659
660 VII.H. Appeal of Chancellor’s Decision

661 If the chancellor concurs in a recommendation of the [Committeepanel](#) that is favorable to
662 the faculty member, the decision shall be final. ~~If the chancellor rejects a finding,~~
663 ~~conclusion, or~~ recommendation of the [Committeepanel](#), the chancellor shall state the
664 reasons for doing so in a written decision. If the chancellor either declines to accept a
665 [Committeepanel](#) recommendation that is favorable to the faculty member or concurs in ~~the~~
666 ~~the~~ [Committeea panel](#) recommendation that is unfavorable to the faculty member, the faculty
667 member may appeal the chancellor's decision to the Board of Trustees.

668
669 This appeal shall be transmitted through the chancellor and ~~shall~~ be addressed to the chair
670 of the Board. ~~Notice~~[The faculty member must file a notice](#) of appeal ~~shall be filed~~ within 14
671 calendar days after the faculty member receives the chancellor's decision. The appeal to
672 the Board of Trustees shall be decided by the full Board of Trustees; however, the Board

673 may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least
674 three members.

675
676 The Board of Trustees, or its committee shall consider the appeal based on the written
677 transcript of the hearing held by the Due Process ~~Committee, but it may, in its~~
678 discretion, Panel, including materials offered in evidence and the documents that constitute
679 the record of the appeal, including but not limited to the notice of intent to discharge or
680 impose sanctions, the faculty member's request for a hearing, and the report of the panel;
681 however, at its discretion, the Board may hear such other evidence as it deems necessary,
682 with the opportunity for rebuttal. The Board of Trustees' decision shall be made as soon as
683 reasonably possible after the chancellor has received the faculty member's request for an
684 appeal to the Trustees.

685
686 This decision shall be final except that the faculty member may, within 14 calendar days
687 after receiving the ~~trustees'~~Trustees' decision, file a written notice of appeal, by certified
688 mail, return receipt requested, or by another means a method that provides proof of
689 delivery, verification and is consistent with UNC Policy 101.3.3 to the Board of Governors
690 by alleging that one or more specified provisions of the *Code of The University of North*
691 *Carolina* have been violated. Any such appeal to the Board of Governors shall be
692 transmitted through the President of the University of North Carolina.

693
694 VIII.!— Suspension During a Period of Intent to Discharge

695 When a faculty member has been notified of the institution's intention to discharge the
696 faculty member, the chancellor may reassign the individual to other duties or suspend the
697 faculty member at any time until a final decision concerning discharge or imposition of
698 serious sanctions has been reached by the procedures prescribed herein. Suspension shall
699 be exceptional and shall be with full pay and benefits.

702 PART XII – FACULTY GRIEVANCE POLICIES AND PROCEDURES

703
704 SECTION I.IV, Appeals of ~~VII~~ Termination of Faculty Employment Based Upon Institutional
705 Considerations

706 A. —

707 CONTENTS

708 I. Reasons Justifying Termination and Consultation Required

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710 III. Request for a Reconsideration Hearing

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712 V. Procedures for a Hearing

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714 VII. Appeal to the Board of Trustees

715
716 I. Reasons Justifying Termination and Consultation Required

717 1.A. Reasons for Terminating Employment

718 The employment of a faculty member with permanent tenure or ~~of~~ a faculty member
719 holding a fixed-term or probationary appointment may be terminated by East Carolina
720 University because of ~~(1)~~ demonstrable, *bona fide* institutional financial exigency, or ~~(2)~~
721 major curtailment or elimination of a teaching, research or public service program.

722
723 Financial exigency is defined as a significant decline in the financial resources of the
724 institution that is brought about by a decline in institutional enrollment or by other action or
725 events that compel a reduction in the institution's current operations budget. ~~The~~
726 ~~determination of whether a condition of the institution faces~~ financial exigency ~~exists~~ or
727 ~~whether there shall be~~ needs to consider a major curtailment or elimination of a teaching,
728 research, or public-service program ~~shall be made by~~, the chancellor, ~~after consulting with~~
729 ~~or chancellor's designee shall first seek the advice and recommendations of~~ the academic
730 administrative officers and faculties ~~as required by~~ following the process defined in
731 subsection ~~VII.A.2.1.B~~ below.

732
733 This determination is subject to concurrence by the UNC President and then approval of
734 the UNC Board of Governors. If the financial exigency or curtailment or elimination of a
735 program is such that the institution's contractual obligation to a faculty member cannot be
736 met, the employment of the faculty member may be terminated in accordance with Section
737 605 B of *The Code of The University of North Carolina* and the institutional procedures set
738 out ~~in subsection B~~ below.

739 -
740 2

741 B. Consultation with Faculty and Administrative Officers

742 When ~~if~~ it appears that the institution will experience ~~an institutional~~ financial exigency or
743 ~~when it is considering~~ needs to consider a major curtailment ~~in~~ or elimination of a teaching,
744 research, or public-service program, the chancellor or ~~chancellor's delegate shall seek the~~
745 ~~advice and recommendations of the academic administrative officers and faculties of the~~
746 ~~department(s) in question, from units representing complementary disciplines, and from~~
747 ~~other units that might be affected.~~

748 The chancellor or the chancellor's delegated designee shall ~~forthwith~~ prepare a report
749 ~~which that~~ identifies specifically the state of financial exigency or the program change. The
750 report ~~must should~~ outline the options readily apparent to the chancellor at the time,
751 ~~including and must describe clearly~~ any options ~~which that~~ would or might involve
752 terminations of faculty employment.

753
754 The chancellor's report shall be directed to the Educational Policies and Planning
755 Committee (EPPC) for their written advice and recommendations. In considering this
756 report the ~~Educational Policies and Planning Committee~~ EPPC shall have access to
757 information ~~on which that formed the basis for~~ the chancellor's report ~~was based. The~~
758 ~~Committee and~~ may interview appropriate persons. ~~The Educational Policies and Planning~~
759 ~~Committee~~ The EPPC shall be provided a reasonable timeframe to prepare a report in
760 response to the ~~chancellor~~ chancellor's report, to be submitted ~~at no later than~~ a time date
761 determined by the chancellor.

762
763 ~~Should the chancellor decide, following~~ Following receipt of the Educational Policies and
764 Planning Committee ~~EPPC's~~ report, ~~or expiration of the time allowed for submission of the~~
765 ~~report, should the chancellor decide~~ to consider reducing a unit's faculty for reasons of
766 financial exigency or major curtailment or elimination of a program, the chancellor shall
767 promptly ~~establish and convene an ad hoc Faculty Advisory Committee to advise the~~
768 ~~chancellor regarding the contemplated reduction~~ notify, in writing, any faculty member to be
769 terminated following procedures outlined in section II below.

770
771 ~~Whenever such a Committee is created, it shall consist of two members and two~~
772 ~~alternates elected by the unit; the unit's administrator as an ex officio member; and four~~
773 ~~members and four alternates from disciplines complementary to the unit, nominated by~~
774 ~~the University Committee on Committees and elected by the Faculty Senate. Except for~~
775 ~~the ex officio member, membership on an ad hoc committee shall be limited to full-time~~
776 ~~permanently tenured faculty without administrative appointment. Upon organization, the~~
777 ~~committee shall elect a chair and a secretary. The ad hoc Faculty Advisory Committee,~~
778 ~~following procedures according to the most recent edition of *Robert's Rules of Order,*~~
779 ~~*Newly Revised,* shall submit a report of its advice and recommendations, at a time~~
780 ~~determined by the chancellor. In preparing this report, the committee shall have access~~
781 ~~to information considered in any prior reports, and the committee may interview~~
782 ~~appropriate persons.~~

783 784 ~~B.~~ II. Termination Procedures

785 ~~4A.~~ Consideration in Determining Whose Employment is to be Terminated

786 In determining which faculty member's employment is to be terminated, for reasons set
787 forth in Section 605 A of the UNC Policy Manual, the chancellor shall give consideration
788 to tenure status, to years of service to the institution, and to other factors deemed
789 relevant, but the primary consideration ~~of the chancellor and the ad hoc advisory~~
790 ~~committee~~ shall be the maintenance of a sound and balanced educational program that
791 is consistent with the functions and responsibilities of the institution. ~~Where no conflict~~
792 ~~with this primary consideration exists, priority for retention shall be given the~~
793 ~~permanently tenured faculty who are senior in years of service to the University.~~

794 — 2.B. Timely Notice of Termination

- 795 a1. When a faculty member's employment is to be terminated because of major
796 curtailment or elimination of a teaching, research, or public-service program, and
797 such curtailment or elimination of program is not founded upon financial exigency,
798 ~~the a permanently tenured~~ faculty member shall be given ~~timely notice as follows:~~
799 ~~One who has permanent tenure shall be given not less than at least~~ twelve months ~~of~~
800 ~~notice; and one who does not have.~~ A faculty member without permanent tenure
801 shall be given notice in accordance with the requirements specified in
802 ~~Section subsection~~ II.C ~~below~~.
- 803 b2. When a faculty member's employment is to be terminated because of financial
804 exigency, the institution will make every reasonable effort, consistent with the need
805 to maintain sound educational programs and within the limits of available resources,
806 to give the same notice as set forth in the preceding paragraph.

807 -
808 3. — C. Type of Notice to be Given

- 809 a. ~~Should the chancellor decide to terminate employment following receipt of the report~~
810 ~~of the Ad hoc Faculty Advisory Committee, the chancellor or the chancellor's~~
811 ~~delegate shall send the~~ 1. An individual faculty member whose employment is to be
812 terminated ~~a written statements shall be notified~~ of this fact in writing by a method that
813 provides delivery verification and is consistent with UNC Policy 101.3.3. UNC Policy
814 101.3.3. This notice shall include: (i) a statement of the conditions requiring
815 termination of the faculty member's employment; (ii) a general description of the
816 procedures followed in making the decision; (iii) a disclosure of pertinent financial or
817 other data upon which the decision was based; (iv) a statement of the faculty
818 member's right, ~~upon request,~~ to a reconsideration of the decision by a faculty
819 ~~committee appellate panel~~ if the faculty member alleges that the decision to
820 terminate employment was arbitrary or capricious; and (v) a copy of this procedure
821 on termination of employment.
- 822 b2. For a period of two years after the effective date of termination of a faculty member's
823 contract for ~~any of the only~~ reasons specified in subsection ~~VIII.A.4., above,~~ the
824 institution shall not replace the faculty member in a comparably defined position
825 without first offering the position to the person whose employment was terminated.
826 The offer shall be sent by a method that provides delivery verification and is
827 consistent with UNC Policy 101.3.3 to the address last furnished to the chancellor's
828 office, and the faculty member will be given ~~thirty~~30 calendar days after attempted
829 delivery of the notice ~~in which~~ to accept or reject the offer. The offer to resume a
830 terminated position shall provide for tenure status, rank, and salary at least equal to
831 those held by the faculty member at the time of termination.
- 832 c. ~~The institution, when~~ 3. When requested in writing by a faculty member whose
833 employment has been terminated, the institution shall give reasonable assistance in
834 finding other employment. Such assistance ~~shall should~~ include ~~secretarial, for~~
835 example, administrative assistance, access to the telephone (including long
836 distance), University/unit ~~stationary~~stationery and postage, travel funds to
837 professional meetings, and other assistance as deemed reasonable and appropriate
838 in the profession.

839
840 4.D. Termination if Reconsideration is Not Requested

If, within ~~10 working~~14 calendar days after receipt of ~~notice~~ required ~~by subsection VII.B.3 above~~notice, the faculty member makes no written request for a reconsideration hearing, employment will be terminated at the date specified in the notice ~~given pursuant to subsection VII.B.3~~, and without recourse to any institutional grievance or appellate procedure.

5

III. Request for Reconsideration Hearing

Within ~~10 working~~14 calendar days after receiving the ~~notice~~ required ~~by subsection VII.B.3~~notice, the faculty member may request a reconsideration of the decision to terminate employment by a method that provides delivery verification and is consistent with UNC Policy 101.3.3 ~~a reconsideration of the decision to terminate employment, if the faculty member alleges that the decision was arbitrary or capricious.~~ The request shall be submitted to the chancellor and shall specify the ~~grounds upon which it is contended~~contention that the decision to terminate employment was arbitrary or capricious, and shall include a short, plain statement of facts that the faculty member believes support ~~the contention.~~ ~~Submission of such a request constitutes on the part of the faculty member:~~ (1) a claim that ~~the that~~ contention ~~can be supported by representation of factual evidence,~~ and (2) an agreement that ~~the institution may offer in rebuttal of the faculty member's contention any relevant data within its possession.~~ Upon receipt of such a request the chancellor shall, within 10 ~~working~~calendar days, notify the appropriate appellate chair of the ~~Reconsideration Committee~~ of the need to convene a hearing in accordance with subsection VII.B.7Reconsideration Hearing Panel.

6.

IV. The Reconsideration CommitteePanel

The Reconsideration CommitteePanel (hereafter, "the panel") shall be composed of five members and ~~five alternates~~one alternate, each of whom is a full time permanently tenured voting faculty member without administrative appointment. The alternate shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing. Members shall be ~~elected~~chosen in accordance with the procedures for election of ~~appellate committees~~the Appellate Committee specified in the Bylaws of the East Carolina University Faculty Senate. ~~Members and alternates shall be elected to three-year terms, and appointment of appeals panels described in Part XII, Section I.I of this Faculty Manual.~~ A quorum for the committeepanel shall be ~~the five members or their alternates.~~ four members and the alternate. If membership of the panel falls below the specified five members and one alternate, the appellate chair will appoint additional members of the Appellate Committee as described in Part XII, Section I of the Faculty Manual.

Upon organization, the members of the Reconsideration CommitteePanel shall elect a chair and ~~a~~ secretary. Should ~~any committee~~either officer be absent at the beginning of a hearing, the committeepanel members shall elect an alternate officer for the purposes of the hearing.

When the committeepanel is convened to consider any matter associated with a faculty member's request for a hearing, those ~~committee~~Appellate Committee members who hold an appointment in the faculty member's academic unit, those who might reasonably expect to be called as witnesses, those who participated directly in the decision to terminate the faculty member's employment, or those who may have any other conflict of interest should disqualify themselvesbe disqualified from participation in the activities of ~~the committee~~a panel related to this specific request for a hearing. The faculty member and the chancellor, or the chancellor's

888 representative designee, are permitted to challenge committee panel members for just cause.
889 The other members of the committee panel, including the alternate, will decide by majority vote
890 (excluding the panel member challenged) on any potential disqualifications if a committee panel
891 member is ~~so~~ challenged but wishes to remain.

892 _____
893 ~~When, between elections, membership of the committee falls below the specified~~
894 ~~five members and five alternates, the chair of the faculty, in consultation with the~~
895 ~~Committee on Committees, shall appoint members to the committee. Vacancies on~~
896 ~~the committee will be filled by first moving alternates to members and by making~~
897 ~~appointments as alternates.~~
898 _____

899 Upon receipt of a request for a hearing, the chair of the committee shall determine the
900 availability of the elected members and alternates, and shall select from those available one or
901 more alternates, as necessary.

902 The ranking of the available alternates for selection shall be determined by their years of
903 service to the University. That available alternate who is most highly ranked shall attend all
904 sessions of the hearing and shall replace a regular member should that member be unable to
905 attend the entire hearing. The committee panel may at any time consult with an attorney in the
906 office of the University Attorney, ~~who is~~ The consulting attorney should not presently nor
907 previously substantively involved have present or prior substantive involvement in the matter
908 giving that gave rise to the hearing, nor ~~will~~ advise the University administrator(s) ~~following the~~
909 ~~committee actions substantively regarding the panel's recommendation(s).~~ during the review,
910 although individual attorneys may play the same role at different points in the process.

911 7. ~~V.~~ V. Procedures for the Hearing

912 ~~a.~~ A. Time and Date of Hearing

913 The Reconsideration Committee Panel shall set the time, date, and place for the hearing.
914 The date for the hearing ~~must~~ should be within ~~30 working~~ 42 calendar days of the time the
915 committee appellate chair receives the chancellor's notification of the faculty member's
916 written request for a hearing. The committee panel chair shall notify the affected faculty
917 member, the chancellor, and the chair of the faculty of the time, date, and place of the
918 hearing. The committee panel may, upon the faculty member's written request and for good
919 cause, postpone the date of the hearing by written notice to the faculty member, chancellor,
920 appellate chair, and chair of the faculty.

921 ~~b.~~ B. Conduct of Hearing

922 The Reconsideration Committee's Panel's review of the faculty member's appeal shall be
923 limited solely to determining whether the decision to terminate employment was arbitrary or
924 capricious. The panel chair of the Reconsideration Committee is responsible for
925 conducting the hearing and for maintaining order during the hearing. Except as provided for
926 herein, the hearing shall be conducted according to the latest edition of *Robert's Rules of*
927 *Order, Newly Revised*. Attendance at the hearing is limited to the committee's panel
928 members and alternates alternate, the faculty member requesting the hearing, advisor or
929 counsel for the faculty member, the chancellor or the chancellor's delegates designee
930 (hereinafter, the chancellor), and counsel for the chancellor. Other persons (witnesses)
931 providing information to the committee panel shall not be present throughout the hearing,
932 but shall be available at a convenient location to appear before the committee panel as
933 appropriate. ~~The~~ Upon request, the faculty member and the committee panel shall be given
934

935 access, ~~upon request,~~ to documents that were used in making the decision to terminate
936 the faculty member's employment ~~after the decision was made that the position must be~~
937 ~~terminated. For any hearing from which an appeal may be taken, a.~~ A professional court
938 reporter must be used to record and transcribe the hearing. ~~(Faculty Senate Resolution~~
939 ~~#03-37)).~~

940
941 The hearing shall begin with an opening statement by the panel chair ~~of the committee~~
942 limited to explaining the purpose of the hearing and the procedures to be followed ~~during~~
943 ~~the hearing.~~ Following the opening remarks by the committee panel chair, the faculty
944 member or the faculty member's counsel shall present his or her contentions and any
945 supporting witnesses and documentary evidence. The chancellor or the chancellor's
946 counsel may then reply and present any supporting witnesses and evidence in rebuttal of
947 the faculty members contentions or in general support of the decision to terminate the
948 faculty member's employment. During these presentations, the faculty member or his or
949 her counsel, and the chancellor, chancellor's designee, or his or her counsel, may ~~cross-~~
950 ~~examine opposing question any of the~~ witnesses. Committee Panel members may question
951 witnesses for purposes of clarification. At the conclusion of the hearing, the faculty
952 member or his/her advisor or legal counsel, and then the chancellor, designee, or ~~the~~
953 ~~chancellor's~~ counsel will be given the opportunity to provide summary statements.
954

955 8.-VI. Procedures After the Hearing

956 ~~After the hearing, the committee~~ The panel shall meet in executive session and to begin its
957 deliberations ~~or shall adjourn for no more than two working days, at which time it shall~~
958 ~~reconvene in executive session. no more than three calendar days after the hearing.~~ In
959 reaching its decisions the committee panel shall consider only the testimony and other
960 materials entered or presented as evidence during the hearing.
961

962 Within ~~10 working~~ 14 calendar days of finishing its deliberations or receipt of the court
963 reporter's transcript, whichever is later, the committee panel shall provide the faculty member
964 and the chancellor with a copy of its report, including materials entered as evidence, and a
965 copy of the court reporter's transcript of the hearing. ~~(Faculty Senate Resolution #03-37)).~~
966

967 If the Reconsideration Committee Panel determines that the contention of the faculty member
968 has not been established, ~~it~~ the report shall, by a simple unelaborated statement, so notify the
969 faculty member, the chair of the faculty and the chancellor. ~~The faculty member may appeal~~
970 ~~the decision to terminate employment to the chancellor within 10 calendar days following~~
971 ~~receipt of the committee's decision. (Faculty Senate Resolution #99-4)~~
972

973 If the Reconsideration Committee panel determines that the faculty member's contention has
974 been satisfactorily established, ~~it~~ the report shall so notify the faculty member, the chair of the
975 faculty, and the chancellor ~~by a written notice that shall also include, and provide~~ a
976 recommendation for corrective action by the chancellor.
977

978 Within ~~30 working~~ 10 calendar days after receiving the recommendation, the chancellor shall
979 send written notice to the faculty member by a method that provides delivery verification and
980 is consistent with UNC Policy 101.3.3, with copies to the chair of the faculty, and the chair of
981 the Reconsideration Committee Panel, giving his decision and stating what modification, if

982 any, ~~the chancellor will make~~ be made with respect to the original decision to terminate the
983 faculty member's employment. ~~If the chancellor fails to reverse the original decision~~

984
985 If the chancellor concurs in the recommendation of the Reconsideration Panel and withdraws
986 the termination notice, the decision is final and written notification thereof shall be sent to the
987 faculty member, the chair of the faculty, and the chair of the Reconsideration Panel. If the
988 original termination decision is not reversed, the chancellor shall send written notice of such to
989 the faculty member by a method that provides delivery verification and is consistent with UNC
990 Policy 101.3.3, with copies to the chair of the faculty, and the chair of the Reconsideration
991 Committee Panel. The faculty member may appeal the termination to the Board of Trustees
992 within 10 calendar days following receipt of the chancellor's decision. (Faculty Senate
993 Resolution #99-4).

994 995 VII. The exercise of Appeal to the Board of Trustees

996 This appeal shall be transmitted through the chancellor and shall be addressed to the
997 chair of the Board. The faculty member must file a notice of appeal within 14 calendar
998 days after the faculty member receives the chancellor's decision. The appeal to the
999 Board of Trustees' jurisdiction is refined to ensure that primary emphasis remains
1000 properly focused on the campus grievance procedures. Requests for appellate review
1001 will be screened to determine whether the Board should consider the issues raised in a
1002 petitioner's request for review. The following basic standards will guide that screening
1003 process:

1004 a. The Board will grant requests to review contentions that the grievance procedures
1005 followed shall be decided by the campus in a particular case did not comport with
1006 University requirements that affect the credibility, reliability, and fairness of such
1007 inquiries, thereby arguably depriving the grievant of a valid opportunity to establish his
1008 or her contentions.

1009 b. The Board will grant requests to review University policy issues implicated by a
1010 particular grievance, when full Board; however, the question appears to require
1011 intervention by the governing board to clarify the definition, interpretation, or
1012 application of such policies.

1013 c. The Board will review questions about the sufficiency of the evidence to sustain the
1014 conclusion reached only if (a) the case involves a substantial interest of the grievant, and/or
1015 (b) the history of the case reveals disagreement, with respect to the sufficiency of the
1016 evidence to sustain the grievant's contentions, among the responsible decision makers,
1017 i.e., the reconsideration may delegate the duty of conducting a hearing to a standing or ad
1018 hoc committee, the chancellor, or the board of Trustees¹⁴¹; if the responsible decision
1019 makers are in accord, normally no such appeal will be entertained by the Board of
1020 Trustees. Under the foregoing prescriptions, it is necessary for prospective petitioners to
1021 evaluate their circumstances carefully, to understand the purposes of permissible appellate
1022 review, and to formulate clearly and concisely their statement of the one or more grounds
1023 on which they believe the Board should exercise its appellate jurisdiction. Thus, the first

¹⁴¹A faculty member receiving a notice of non-conferral of early permanent tenure may file a grievance in accordance with *ECU Faculty Manual Part XII, Section I*. The Board of Trustees will remain responsible for reviewing, on appeal, a grievant's contention that the chancellor's decision (or affirmance of a faculty committee decision) was clearly erroneous.

1024 ~~step in any appeal to the Board of Trustees will be an evaluation by the Board, through a~~
1025 ~~designated committee, with staff assistance, of the grievant's written statement of grounds~~
1026 ~~for appeal, to determine whether the issues sought to be raised warrant Board attention, as~~
1027 ~~judged by the three basic standards. of at least three members.~~

1028 -
1029 ~~If the chancellor concurs in the recommendation of the committee that is favorable to~~
1030 ~~the faculty member, the decision is final and written notification thereof shall be sent to~~
1031 ~~the faculty member, the chair of the faculty, and the chair of the Reconsideration~~
1032 ~~Committee.~~

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1036 **VIII. — Effective Date**

1037 ~~A. These policies and regulations supersede all other institutional documents governing the~~
1038 ~~matters covered herein.~~

1039 ~~B. Except as otherwise provided below, all provisions of these policies and regulations shall~~
1040 ~~become operative on the date they are approved by the President of the University of North~~
1041 ~~Carolina.~~

1042
1043 ~~These regulations as amended shall apply only to those appeals following non-~~
1044 ~~reappointments and non-conferrals of tenure in which the original decision not to reappoint~~
1045 ~~or not to confer permanent tenure was made after the effective date of these regulations.~~
1046 ~~Regulations applicable to appeals following non-reappointment or non-conferral of tenure in~~
1047 ~~which the original decision not to reappoint or not to grant permanent tenure was made~~
1048 ~~prior to the effective date of these regulations are those rules in effect at the time that the~~
1049 ~~original decision was made.~~

1050
1051 ~~The Board of Trustees or its designated committee shall consider the appeal based on the~~
1052 ~~written transcript of the hearing held by the Reconsideration Panel, including materials~~
1053 ~~offered in evidence and the documents that constitute the record of the appeal. These~~
1054 ~~include, but are not limited to, the statement of termination, the faculty member's request~~
1055 ~~for a hearing, and the report of the panel. At its discretion, the Board may hear such other~~
1056 ~~evidence as it deems necessary, with the opportunity for rebuttal. The Board of Trustees'~~
1057 ~~decision shall be made as soon as reasonably possible after the chancellor has received~~
1058 ~~the faculty member's request for an appeal to the Trustees. The decision of the Board of~~
1059 ~~Trustees shall be final.~~

1060 -
1061
1062 In compliance with UNC Code 602 (1) final approval of this ~~document~~Part XII, Section I involves
1063 the Faculty Senate, Chancellor, Senior Vice President for Academic Affairs/General Counsel,
1064 and President of UNC System.)

1065
1066
1067
1068 Approved (entire document)

1069 Faculty Senate Resolution #06-19 _____

1070 January 9, 2007

1071 Erskine Bowles,

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_____, President of UNC System

~~Faculty Senate Resolution #09-51
July 12, 2010
Erskine Bowles, President of UNC System
(with editorial revision to section V.B.2 as suggested)~~

DRAFT