

PART XII

FACULTY GRIEVANCE POLICIES AND PROCEDURES

SECTION II

Faculty Grievance Policies and Procedures of East Carolina University

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C. Effective Date

~~(Text moved from former Appendix Y, former Appendix V, former Appendix U, and former Appendix X)~~

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51 PART XII – FACULTY GRIEVANCE POLICIES AND PROCEDURES
52

53 SECTION II.I
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55 Faculty Grievance, Policies and Procedures for General Faculty Grievances and for Appeals of
56 East Carolina University Non-conferral of Early Tenure
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79 Part XII- Section II.I ~~is established to provide a~~ provides for peer review of general faculty
80 grievances, and ~~structures and procedures for addressing faculty grievances~~ appeals of non-
81 conferral of early tenure through a formal procedure that, depending on the grievance
82 classification, includes access to mediation or direct review, and the potential for a committee an
83 appellate panel hearing of the grievance ~~or a required committee hearing. The following grievance,~~
84 Grievance procedures in Part XII, Section II.I are confined to the faculty and administrative
85 structure of East Carolina University. There are no appeals through Part XII-Section II.I beyond the
86 Board of Trustees.
87

88 I. Faculty Grievances

89 There are two classifications of grievances ~~that may be brought to the attention of the Faculty~~
90 Grievance Committee covered by this section. The first is referred to as a “General Grievance” and
91 the second is a “Grievance Resulting From The Non-conferral of Early Permanent Tenure When
92 The Non-conferral Decision Is Not Concurrent With A Reappointment Decision” (hereafter, non-
93 conferral of early tenure).
94

95 ~~A general grievance is guided by the procedures noted in Section III of this document. A grievance~~
96 ~~of the non-conferral of early permanent tenure is guided by the procedures found in Section IV of~~
97 ~~this document.~~

98
99 The two grievance classifications and differences in the grievance procedures reflect the Board of
100 Governors requirement that an internal grievance process be provided for non-conferral of early
101 permanent tenure that is not concurrent with a reappointment decision. This requirement and the
102 authority to establish different grievance procedures are set forth in Section 607 of The Code of
103 The University of North Carolina and further elaborated in The UNC Policy Manual 101.3.2. The
104 establishment of ~~different~~separate grievance procedures provides two assurances. First, it
105 ensures there is a review process for the faculty member ~~whether~~when the non-conferral of
106 permanent tenure was based on an early request ~~or at the normal contract period requiring~~
107 ~~reappointment with conferral of permanent tenure decision because, for which~~ appeals to the
108 Board of Governors are not allowed. Appeals of non-conferral of tenure at end of the established
109 probationary period are governed by the proceduresprovisions in Part XII, Section I. ~~In addition~~II.
110 Second, the bases for the grievance provided in Part XII, Section subsection II.I-IV for a
111 grievance of non-conferral of early tenure do not apply to General Grievances covered in this
112 section.

113
114 No grievance that involves matters related to a formal proceeding for the ~~suspension~~, imposition of
115 serious sanction, discharge, or termination of a faculty member's employment, or that is within the
116 jurisdiction of another ~~standing faculty committee falls within the charge of the Faculty Grievance~~
117 ~~Committee-appellate panel, falls within the charge of these general Faculty Grievance provisions~~
118 (See Part XII, Sections I.II covering review of non-reappointment or non-conferral of tenure at the
119 completion of a probationary term; I.III covering due process before discharge or the imposition of
120 serious sanctions; and I.IV covering appeals of termination of faculty employment based upon
121 institutional considerations).

122
123 ~~A grievant¹ is any faculty member who seeks the remedies afforded by the provisions of Part XII,~~
124 ~~Section 1, of the Faculty Manual. A respondent² is the person identified by a grievant as the person~~
125 ~~whose action is the object of the grievance and may include the person(s) who requested the~~
126 ~~action that is the object of the grievance.~~

127 128 II. ~~Faculty Grievance Committee~~Panel

129 The ~~Faculty Grievance Committee~~Panel (“~~or “the committee~~panel”) shall be composed of five
130 regular members and ~~five alternates~~one alternate, each of whom is a full-time voting faculty
131 member ~~without administrative appointment~~. All committee members must have tenure or a
132 probationary appointment. Each professorial rank, except instructor, shall be represented
133 ~~en~~chosen from the committee. The Chair of the Faculty (“~~faculty chair~~”) or, the faculty chair’s
134 delegates (the vice-chair of the faculty or the chair of the Faculty Governance Committee) shall
135 ~~serve as an ex-officio member of the committee~~. Other committee members will be elected to
136 ~~three-year terms~~Appellate Committee in accordance with the procedures for election of committees
137 specified in the Bylaws of the East Carolina University Faculty Senate. A quorum for the committee
138 shall be five regular members or alternates.Part XII, Section I.I.

139
140 Upon receipt of the grievant’s Petition for Redress (Step Two), the ~~Faculty appellate chair~~
141 ~~responsible for Grievance Committee Chair~~ (“~~the committee chair~~”) ~~Panel hearings (Part XII,~~
142 Section I.I) will inquire of panel members about the existence of potential conflicts of interest (which

143 include, but are not limited to, any grounds for recusal listed in this paragraph) and will
144 automatically recuse afrom participation in the appeal any member from the grievant's or
145 respondent's relevant department, unit, college, or school. ~~Prior to the committee's determination~~
146 ~~whether the grievance is within the charge of Part XII, Section 1, or any member with whom either~~
147 ~~the grievant or respondent(s) has had an amorous relationship, or is related by blood, law, or~~
148 ~~marriage (as defined in UNC Policy Manual 300.4.2 and 300.4.2.1[G]).~~ Committee members shall
149 recuse themselves from ~~further~~ participating in a grievance if they have a reason to believe that
150 such participation represents or will create a conflict of interest.

151
152
153 The appellate chair's responsibility is to provide the grievant and respondent(s) a process for a
154 possible resolution of the grievance. The appellate chair will provide only procedural information to
155 the parties of the grievance, and shall not function as an advocate for either party. Procedural
156 information includes the membership of the Appellate Committee, its charge, the options open to
157 the parties to the grievance, and similar information.

158
159 Upon receipt of a request for a hearing (Step Four), the ~~committee~~appellate chair shall determine
160 the availability of the regularAppellate Committee members and alternates in rank order to form a
161 hearing panelGrievance Panel consisting of five members plus one alternate who will replace any
162 member ~~that is~~ unable to attend the entire hearing. ~~The ranking of the available alternates for the~~
163 ~~hearing panel selection shall be determined by their years of service to the University.~~ Any party to
164 a grievance may request that any member of the ~~committee~~panel be recused from the hearing for
165 conflict of interest. Such a request shall be in writing, stating the reason(s) for the request and be
166 provided to the ~~committee~~appellate chair not later than 5 calendar days after notification in Step
167 Four of ~~thea~~ hearing date. If the panel member declines, recusal, the established panel, including
168 the committeealternate, shall determine obligatory recusal by a majority vote (the member in
169 question not participating). The recused panel member will be replaced by the current alternate
170 member, and the appellate chair will appoint a new alternate following the same procedure as
171 above.

172 173 III. General Grievances

174 General grievances shall be limited to matters directly related to a faculty member's employment
175 status and institutional relationships within East Carolina University. Grievances shall be limited to
176 remediable injuries attributable to the violation of a right or privilege based on federal or state law,
177 university policies or regulations, or commonly shared understandings within the academic
178 community about the rights, privileges, and responsibilities of university employment or conduct
179 that deprived the faculty member of an advantage that he or she otherwise would have received.

180
181 ~~The~~To promote and allow for adequate efforts at informal conflict resolution, the deadline for
182 initiating a grievance is the end of the following Spring semester for an incident alleged to have
183 occurred during the Fall semester (August 16th to December 31st) and the end of the Fall semester
184 for an incident alleged to have occurred during the Spring semester or during the summer months
185 between the Spring and the Fall semesters (January 1st to August 15th). This deadline may be
186 extended by a majority vote of the ~~committee~~.³Appellate Steering Committee if, in the committee's
187 opinion, there are extenuating circumstances despite due diligence.

188
189 ~~The committee holds~~The Appellate Steering Committee and Grievance Panel shall hold the
190 grievant responsible for progressing through the grievance steps in a timely manner. If time delays

191 are encountered because of the respondent,^(s) the grievant shall bring this to the attention of the
192 ~~committee appellate or panel~~ chair. ~~The deadline for submission of Petition for Redress as~~
193 ~~appropriate to the Faculty Senate Office must be no later than stage of the last day of grievance at~~
194 ~~the first month of the semester that follows the semester in which the grievant has met with the~~
195 ~~respondent. This deadline may be extended by a majority vote of the committee time.~~

196
197 The grievant may terminate the grievance at any time during the process by notifying the
198 ~~committee appellate~~ chair in writing. The ~~committee appellate~~ chair will issue a written memorandum
199 to all parties regarding the termination of the grievance. Any such notice of termination is final and
200 the grievance is closed.

201
202 A. Step One ~~(Meet with Respondent):~~ Conflict Resolution.

203 ~~“Respondent” is used in the singular form, even where it may stand for more than one person.~~
204 ~~Prior to bringing initiating a grievance to the attention of with the Appellate Committee, a faculty~~
205 ~~member shall make a concerted effort to resolve the issue through informal conflict resolution.~~
206 ~~Faculty are encouraged to take advantage of University resources for conflict resolution and~~
207 ~~informal mediation (<http://www.ecu.edu/cs-acad/conflictresolution/>) in trying to settle complaints~~
208 ~~without entering into formal grievance procedures. This can provide a less antagonistic venue, in~~
209 ~~the committee chair, presence of a neutral third party trained to facilitate discussions, which can~~
210 ~~reduce tensions and lead to an equitable agreement.~~

211
212 Before filing a complaint with the grievant Appellate Committee, at a minimum the complaining
213 faculty member shall meet with the potential respondent(s) and shall attempt to resolve the
214 proposed grievance.⁴ Only the grievant and the respondent shall attend the meeting. It is
215 required that as part of At or before this meeting the grievant shall provide the potential
216 respondent(s) with a written statement setting forth the identity of the respondent, the nature of
217 the grievance, and the redress sought. Individual/Multiple individual claims must be numbered,
218 developed and presented separately. This statement shall list all information necessary to
219 support each of the grievant’s claims at this meeting with, giving the respondent. Note that both
220 the opportunity to identify, understand, and address each concern. Both parties will have an
221 opportunity to submit information and documents in support of their claims and responses before
222 the hearing as specified in, should a grievance proceed to Step Four, below.

223
224 The grievant and respondent ~~must should~~ meet ~~to have a in~~ face-to-face discussion(s) about the
225 substance of the grievance; ~~in, and are encouraged to use University resources for informal~~
226 ~~conflict resolution to aid in resolving differences. In~~ cases where the respondent refuses to meet
227 with the grievant, the grievant shall, by a memorandum with a copy to the respondent, inform the
228 ~~committee appellate~~ chair and the next ~~highest-higher-~~level administrator in the grievant’s
229 ~~unit program.~~ Before proceeding to Step Two, the grievant shall provide the respondent with the
230 Petition for Redress that the grievant intends to submit in Step Two.

231
232 ~~Step One allows~~ During attempts to resolve conflicts, each party ~~to may~~ select ~~their own a~~ counselor
233 who ~~will may also~~ serve as an advisor throughout ~~the a~~ grievance process,⁵ ~~and but~~ who shall not
234 participate in the hearing nor be called as a witness (Step Five).

235
236 ~~Documentation necessary~~ A list of potential counselors is maintained by the Faculty Senate
237 Office; however, the parties to put forth the grievance may choose any eligible ECU current or
238 defend a grievance requires retired faculty members as counselors, or may choose to have no

239 counselor. It is recommended that each party to counselors be tenured professors with
240 extensive experience in faculty governance, as evidenced by service on university
241 governance/appellate committees, and not be associated with the grievance have available in
242 any way. Association with the grievance includes individuals who may reasonably be called as a
243 witness by either party in the grievance process.

244
245 For impartial adjudication of a grievance, either party to them the grievance may require
246 availability of information that may be is controlled or in the possession of another party to the
247 grievance or the administration. Upon specific request by a party to the grievance, the other
248 party to the grievance or the administration shall provide the requesting party with information
249 bearing on the grievance that is not otherwise privileged.⁶ The requested information shall be
250 distributed to the committee chair and confidential as a matter of law (“privileged”). In the case of
251 a request for information argued to be privileged by the other party, either party to the grievance
252 may request that the Appellate Steering Committee or Grievance Panel (once a grievance has
253 proceeded to Step Four) evaluate the basis for such a claim of privilege, and the potential value
254 of the information to resolving the grievance. If the privileged information is deemed to bear
255 substantively on the grievance, the steering committee/panel is required to seek resolution of the
256 issue of privilege through the relevant vice chancellor, or through the chancellor if the vice
257 chancellor is party to the grievance. If the information bears on the grievance but cannot be
258 obtained for legal reasons, the steering committee/panel shall decide whether continuing the
259 grievance would be unfair to the grievant and/or respondent. If deemed unfair to continue, the
260 reason(s) shall be stated clearly and the grievance process terminated, thus ending the
261 administrative appeal process at East Carolina University. All requested information that is
262 received shall be distributed to the appellate chair/panel chair and to all parties to the grievance.

263
264 The committee chair will provide only procedural information to the parties of the grievance,⁷ and
265 shall not function as an advocate for either party to the grievance. The committee's responsibility
266 is to provide the grievant and respondent a process for a possible resolution of the grievance, and
267 shall not function as an advocate for either party.

268 269 B. Step Two (Petition for Redress)

270
271 A Petition for Redress by the grievant should be addressed to the committee Appellate
272 Committee chair, and have appended a copy of the grievant's written statement from the a Step
273 One meeting with the respondent. It shall be submitted with a statement that the grievant
274 informed the respondent completed Step One above, and that with this petition the grievant
275 intends to pursue the a formal grievance through as specified in Part XII, Section I.

276
277 Ten copies of the Petition for Redress, which should not exceed 20 pages, must be delivered to
278 the Faculty Senate Office. The committee appropriate appellate chair will ascertain if the
279 grievant has completed Step One. If the grievant has not followed Step One, the committee chair
280 will inform the grievant that Step One is not completed and must be completed prior to any
281 further action being taken by the committee Appellate Committee.

282
283 Based on information contained in the grievant's Petition for Redress, the committee Appellate
284 Steering Committee shall determine whether the grievance is within the charge of Part XII,
285 Section II.I. The committee may decide that none, some, or all of the issues in the Petition for
286 Redress are within the charge of Part XII, Section I. appropriate for a general grievance. Issues

287 not within the charge of Part XII, Section II. I will receive no further attention. ~~The and the~~
288 committee's decision concerning grievance issues ~~within the charge of Part XII, Section I~~ shall
289 be communicated by memorandum to the grievant and respondent. The ECU administrative
290 appeal process is ended for those issues rejected by the committee, ~~unless they fall within the~~
291 scope of a different appellate process. Except after mediation, the Petition for Redress shall not
292 be modified.

293
294 All material collected as part of the grievance shall be put in the grievance file maintained in the
295 Faculty Senate Office under the grievant's name. This grievance file becomes a part of the
296 grievant's Personnel File and, where appropriate, the respondent's Personnel File. ~~The A note~~
297 will be placed in the grievant's and, where appropriate, respondent's Personnel File ~~Checklist(s)~~
298 will) to indicate that the location of the additional ~~Personnel File~~ records ~~are located in the~~
299 Faculty Senate Office.

300 301 C. Step Three (Mediation and/or Chancellor Review)

302 After the committee has determined which, if any, issues raised in the grievant's Petition for
303 Redress are within the charge of Part XII, Section II, the grievant may request:

- 304 1) Mediation (see C.1) followed by the Chancellor Review (see C.2) or a hearing
305 (see Step 4) on any unresolved issues.
- 306 2) The Chancellor Review without mediation (see C.2).
- 307 3) A hearing without mediation (see Step 4).
- 308 4) Termination of the grievance (see Step 4).

309 310 1.— Mediation

311 The ~~committee~~appellate chair shall offer the parties to the grievance the opportunity to seek a
312 resolution through mediation (The UNC Policy Manual 101.3.2.III). Mediation is limited solely to
313 the grievant and the respondent. Each party will be asked to respond within 15 calendar days
314 after the date of notification by the ~~committee chair as to their acceptance of mediation.~~⁸ ~~The~~
315 rejectionappellate chair as to their acceptance of mediation. Once all parties to the grievance
316 have accepted mediation, the grievant shall not pursue the grievances at administrative levels
317 higher than that of the respondent. To do so is inconsistent with the mediation process and will
318 result in the termination of the grievance procedures, ending administrative review of the
319 grievance. Rejection of mediation shall have no bearing on decisions or recommendations
320 related to the grievance. ~~Unless the grievant pursues the~~ Chancellor Review, if any party to
321 the grievance rejects mediation and the grievant requests a hearing, the ~~committee~~appellate
322 chair will notify the parties that ~~the committee~~ Grievance Panel will ~~meet to be formed and will~~
323 set a grievance hearing date (Step Four).

324
325 If the grievant and the respondent accept mediation, the Faculty Senate Office administrator and
326 chair of the faculty will ~~secure~~be responsible for securing a mediator.^{9,10} ~~To avoid real or~~
327 apparent conflicts of interest, all mediation will be performed a third party mediator with no
328 formal association with East Carolina University nor prior association with either party to the
329 grievance, and who is certified by the North Carolina Administrative Office of the Courts.

330
331 The parties to the grievance will inform the ~~committee~~appellate chair within 5 calendar days of
332 receiving the name as to whether the mediator is acceptable or unacceptable. An alternate
333 mediator will be located if necessary. After the second attempt, unless the grievant pursues
334 ~~the~~ Chancellor Review, if no acceptable mediator can be located, the ~~committee~~appellate chair

335 will so notify the parties to the grievance and inform them that, should the grievant request a
336 hearing, ~~the committee~~ a panel will ~~meet to set a~~ be formed and grievance hearing date set (Step
337 Four).

338
339 If an acceptable mediator is identified, the parties to the grievance ~~and the mediation provider~~
340 will be informed of the selection. The Petition for Redress and the committee's memorandum
341 will be provided to the mediator by the ~~committee~~ appellate chair. The mediator will
342 communicate to the ~~committee~~ appellate chair the beginning date of the process. The mediator
343 ~~shall~~ will inform the ~~committee~~ appellate chair on a monthly basis that mediation is continuing with
344 measurable progress. The mediation process shall not exceed 45/42 calendar days without
345 formal approval of the ~~committee~~ appellate chair or 60 days without the formal approval of the
346 ~~committee. Mediation will involve only parties to the grievance. full Appellate Steering~~
347 Committee.

348
349 Mediation will continue until such time that:

- 350 a. An agreement among the parties is reached (subject to time limits).
351 b. A party or the mediator writes to the committee chair that further mediation is unlikely to be
352 —successful.
353 c. A party to the grievance writes to the committee chair ~~that the grievant or respondent has~~
354 ~~—experienced a~~ desire to terminate mediation because of resistance to or delaying
355 tactics undue delays in scheduling mediation meetings, or ~~that because~~ the mediator is
356 —no longer deemed acceptable.

357
358 Events b. through c., above, will cause the ~~committee~~ appellate chair to notify the parties to
359 the grievance that the mediation process is being terminated and, unless the grievant
360 ~~requested the~~ requests Chancellor Review, inform the grievant to move to Step Four if
361 desired. Decisions by the grievant, respondent, or mediator to terminate mediation shall
362 have no bearing on decisions or recommendations related to the grievance. ~~Information from~~
363 ~~the mediation process is confidential.~~ All information from the mediation process is
364 confidential and inadmissible in the grievance hearing.

365
366 If an agreement is reached, the grievance will be considered closed and a copy of the
367 agreement, signed by all parties to the grievance, will be placed in the grievance file
368 maintained in the Faculty Senate Office. It is expected that most agreements will require
369 only the authority of the respondent for a unit commitment but some may require the
370 authority of the ~~Chancellor~~ chancellor. If the ~~Chancellor~~ chancellor rejects the agreement, the
371 parties may continue mediation or the grievant may request either ~~the~~ a Chancellor Review or
372 a hearing.

373
374 If the mediation process produces a partial settlement, those issues shall be removed from
375 the committee's memorandum to the grievant and respondent as determined in Step Two. A
376 signed copy of the partial agreement shall be placed in the grievance file. The grievant may
377 request ~~the~~ a Chancellor Review or a hearing for remaining issues (Step Four).
378

379 2. Chancellor Review

380 Within 20 calendar days from the request for ~~the~~ a Chancellor Review, the grievant shall provide
381 to the ~~Chancellor~~ chancellor, the respondent, and the ~~committee~~ appellate chair copies of the
382 Petition for Redress along with the committee's memorandum and any information that supports

383 the grievant's contentions. Within 10 calendar days, with copies to the grievant and
384 ~~committee appellate~~ chair, the respondent may submit to the ~~Chancellor, chancellor~~ a written
385 response to the Petition for Redress and any other documents provided by the grievant. The
386 ~~Chancellor, chancellor~~ shall provide a response to the grievant, with copies to the
387 ~~committee appellate~~ chair and the respondent, within 20 calendar days of the
388 ~~Chancellor's chancellor's~~ receipt of all materials. The chancellor may extend any of these
389 deadlines if he or she deems it to be in the best interest of the university.

390
391 The ~~Chancellor, chancellor's~~ decision is final and may not be appealed. A copy of all information
392 submitted to the ~~Chancellor, chancellor~~ and the ~~Chancellor's chancellor's~~ decision shall be placed
393 in the grievance file and the grievance closed.

394 D. Step Four (Request for a Hearing)

395 If the grievance is not resolved, by memorandum to the committee chair with a copy to the
396 respondent, the grievant shall request a hearing, or state that the grievance will not be pursued.
397 ~~Only if~~ mediation has occurred, the ~~committee~~ Appellate Steering Committee will again review
398 the grievant's Petition for Redress, ~~the committee's memorandum to the grievant and~~
399 ~~respondent, and in light of~~ any changes ~~to this memorandum~~ that may have resulted from
400 mediation. The ~~steering committee may accept~~ will establish a Grievance Panel if it determines
401 that all, or some, or none of the issues unresolved issues for a hearing. If the committee
402 decides not to hear certain issues or decides that a hearing will not be granted because the
403 grievant fails to by mediation allege an injury that would entitle the faculty member to relief under
404 ~~subsection I. of Part XII, Section I or because the grievance (or a portion thereof) is not~~ I.I. In
405 this case, the steering committee shall provide an updated memorandum to the grievant and
406 respondent(s) explaining remaining issue(s) to address in a hearing. Should the steering
407 committee determine that remaining issues are no longer within the purview of ~~the~~ Faculty
408 Grievance ~~Committee~~ Panel, this decision will exhaust the administrative appeals process, and
409 shall be communicated by a method that produces adequate evidence of delivery to all parties to
410 the grievance.
411

412
413 ~~Otherwise, Once a hearing will be granted. The committee~~ Grievance Panel is established, the
414 elected panel chair ~~shall so will~~ notify the grievant and respondent, setting a time, date, and place
415 for a hearing on the Petition for Redress.⁴⁴ The date of the hearing shall be within 4542
416 calendar days of this notification, except when the request for a hearing is received during
417 summer months, official university breaks and holidays, and when, despite reasonable efforts,
418 the ~~hearing committee~~ Grievance Panel cannot be assembled (The UNC Policy Manual
419 101.3.3).⁴² Scheduling an appeal panel during the summer months is complicated by the
420 absence of many faculty and different schedules of those available. If the panel cannot
421 schedule a hearing during the summer, a fall hearing date will be scheduled as soon as possible
422 after the fall organizational meeting of the Appellate Committee.

423
424 If either the grievant or the respondent petitions the panel in writing for a postponement of the
425 hearing for health reasons, or due to a serious personal emergency, the panel chair shall
426 postpone the meeting for a period of time appropriate to the circumstances. If either the grievant
427 or respondent petitions the panel for a postponement of the hearing for reasons other than
428 health or serious personal emergency, the panel chair shall determine whether it is the general
429 agreement of the committee to postpone the hearing for good cause until the next possible
430 scheduled date.

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The notice of hearing will request that both parties submit to the ~~committee panel~~ the names of their counselors, and all information and documents they intend to introduce at the hearing to support or defend their respective positions.⁴³ Such information and documents may include written materials, sound or video recordings, photographs, or other forms of information or documentation approved by the panel. The grievant's submission shall include a list of witnesses with a brief statement ~~with regard to~~ the relevance of each witness, and all information to be used in support of the grievant's ~~charges-claim(s)~~. The respondent's submission shall include a list of witnesses, with a brief statement ~~with regard to~~ the relevance of each witness, and all information to be used to defend against the grievant's ~~charges-claim(s)~~. The ~~committee panel~~ may also ~~request the inclusion of call other~~ witnesses ~~from either party that it deems relevant~~ to the grievance. A mediator shall not be called as a witness in the hearing of a grievance and no part of the mediation effort (e.g., conversations, offers, proposals, etc.) shall be introduced as evidence ~~to support or defend against the grievant's charges.~~

Ten ~~copies~~¹⁴copies of all information and documents shall be submitted to the Faculty Senate Office no less than 14 calendar days prior to the hearing date. The department or unit of each party to a grievance is responsible for providing reasonable access to photocopy services for hearing documents during the grievance process. These services shall be at no cost to the grievant or respondent; provided, however, a party to the grievance or a unit bearing such costs may petition the panel to limit incurrence of copying costs by a grievant and/or respondent at the point those expenses appear to be extraordinary and grossly excessive, in which case the panel may direct alternative or adjusted means of making the information to be copied available for use in the hearing process. The submitted information and documents shall have a table of contents with numbers (Arabic) assigned to all pages that exhibit information. If the back of a page contains information, it also must be numbered. ~~This number~~Numbers shall be preceded by a "G" for the grievant's submission ~~and/or~~ an "R" for the respondent's submission. If more than one grievant or more than one respondent is involved, their designation will be communicated by the ~~committee panel~~ chair.

Once the copies as described above are received from both parties, the Grievance Panel chair will provide one copy ~~from of~~ the grievant's submission ~~will be provided~~ to the respondent, and one copy ~~from of~~ the respondent's submission ~~will be provided~~ to the grievant. The ~~hearing panel~~ chair will create an agenda prior to the meeting to ensure that the hearing will be completed within one business day. The agenda will state limits on the amount of time that each party will be allocated for presentation of their cases. This agenda, with names of the ~~hearing panel~~ members and procedures for submission of new documents and handling of the witnesses, will be distributed to the ~~hearing panel~~Grievance Panel, the grievant and the respondent no less than 5 calendar days prior to the hearing date.

E. Step Five (The Hearing)

The ~~hearing panel~~Grievance Panel shall limit its investigations to the issues presented in the Petition for Redress and confirmed by the ~~committee's~~Appellate Steering Committee's memorandum to the grievant. During the hearing, the ~~hearing panel~~ may explore issues raised by any party to the grievance that are concretely based on issues raised in the Petition for Redress. The ~~committee's panel's~~ responsibility is limited to issuing recommendations based on the information presented as part of Step Four and at the hearing. Except as noted in Part XII,

478 Section ~~II.I.(III.D).~~ the ~~power~~authority of the ~~hearing panel~~Grievance Panel shall be solely to
479 hear the testimony of the grievant, the respondent, and witnesses.

480
481 The ~~hearing~~ panel chair shall preside and be responsible for maintaining order and prompt
482 progression of the ~~grievance~~hearing process, ~~including but not limited.~~ Except as provided for
483 herein, the hearing shall be conducted according to the ~~hearing-latest edition of Robert's Rules~~
484 of Order, Newly Revised. When ~~circumstances,~~ despite due diligence, ~~circumstances~~ make it
485 necessary to resolve an issue not addressed in ~~this regulation~~these provisions, the ~~hearing~~
486 panel chair shall have the authority to make a reasonable adjustment or exception that maintains
487 the integrity of the process to the extent possible and consistent with applicable law and policy.

488
489 The ~~hearing panel~~Grievance Panel chair shall begin the hearing by briefly reviewing the
490 ~~committee's~~panel's authorization and powers. ~~The chair then shall state the conditions necessary~~
491 ~~for a hearing, the committee's belief that the issues about to be heard satisfy these conditions,~~ and
492 the procedures to be followed during the hearing.

493
494 The chair shall then enter into the hearing record correspondence generated prior to the hearing
495 as the ~~committee's~~Appellate Committee's Exhibit C, and information submitted in Step Four by
496 the grievant and the respondent as Exhibits G and R.

497
498 The submitted information shall include all information necessary to support or defend the
499 grievance. ~~However; however,~~ with approval of the ~~hearing panel~~Grievance Panel, the grievant,
500 respondent, or a witness may submit additional information during the hearing. All such
501 information must be numbered, with copies to be presented to the opposing party and members
502 of the ~~hearing~~ panel, and ~~it becomes a~~shall become part of the formal record of the hearing.

503
504 Only the grievant, the respondent, members of the ~~hearing panel~~Grievance Panel, and the court
505 reporter shall be present for the duration of the hearing. Witnesses, as noted below, will be
506 present only when giving testimony. It shall be the responsibility of the parties to present their
507 respective cases. The burden is on the grievant to establish, by a preponderance of the
508 evidence, that the grievant's claims and requested redress are consistent with Faculty Manual
509 Part XII, Section ~~I(I).II.I.~~ Preponderance is defined as the greater weight of evidence and its
510 probable truth or accuracy, and not the amount of evidence presented.

511
512 The grievant is responsible for presentation of the grievant's case, including the testimony of
513 witnesses. ~~Hearing panel~~Panel members may question the grievant, the respondent or
514 witness(es) at any time during the hearing. After each of the grievant's witnesses has completed
515 their testimony, and has responded to questions from the respondent and to the grievant's
516 further questions (limited to the subject of the respondent's questions), the witness will be
517 excused from the hearing unless recalled by the ~~hearing panel~~Grievance Panel. At the end of
518 the grievant's presentation, the respondent may question the grievant.

519
520 The respondent's presentation will follow the procedures noted above for presentation of the
521 grievant's case. ~~Hearing~~When the panel ~~members may question the~~and grievant, ~~the~~
522 ~~respondent, or witnesses during the hearing.~~ When the hearing panel has have no further
523 questions, the grievant is given the opportunity to make a 10-minute final statement, and then a
524 total of 10 minutes is available ~~for the respondent's or respondents'~~to the respondent(s) for a
525 final statement.

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F. Step Six (Hearing Grievance Panel Report)

The ~~hearing panel's~~Grievance Panel's report shall be based only on facts, documentation, arguments presented at the hearing, and applicable law and University policies. Hearing panel's Panel recommendations are to be based on, but are not limited to, the grievant's requested redress.

Copies of the ~~hearing~~ panel's report will be available to the grievant and respondent for their retrieval from the Faculty Senate Office. A copy of the ~~hearing~~ panel's report, a copy of the written record of the hearing proceedings, and a copy of all evidence submitted will be placed in the grievance file. ~~This file, and~~ will be open to the ~~hearing panel~~Grievance Panel and all parties to the grievance until the grievance is closed.

If the ~~hearing~~ panel finds that the grievant's contentions are not supported or makes no recommendations in favor of the grievant, the ~~hearing~~ panel shall submit its report to the grievant, respondent, ~~chair of the faculty chair~~, and ~~Chancellor~~chancellor. ~~Within 20 calendar days~~In addition, the Chancellor shall receive a transcript of the hearing proceedings and the evidence in the grievance file. The chancellor shall provide a decision in writing ~~inform~~to the grievant, respondent, ~~chair of the faculty chair~~, and the ~~hearing~~Grievance Panel within 20 calendar days of receipt of materials from the panel of the Chancellor's decision. The decision of the ~~Chancellor~~chancellor is final.

If the ~~hearing~~ panel finds that the grievant's contentions are supported and makes recommendations in favor of the grievant, but, in the opinion of the ~~hearing~~ panel, these recommendations are not within the authority of the respondent to implement, the ~~hearing~~ panel shall submit its report to the grievant, respondent, and ~~chair of the faculty chair~~. By memorandum, the ~~hearing~~ panel chair shall inform the ~~Chancellor~~chancellor that, in the opinion of the ~~hearing~~ panel, its recommendations are not within the respondent's authority to implement and request the ~~Chancellor~~chancellor make the appropriate adjustments.

If the ~~hearing panel~~Grievance Panel finds that some or all the grievant's contentions are supported and within the authority of the respondent, and the panel makes one ~~recommendation~~ or more recommendations in favor of the grievant, the ~~hearing~~ panel shall submit its report to the grievant, respondent, and ~~chair of the faculty chair~~. The respondent's shall be provided the panel's report and recommendations along with a copy of the transcript of the hearing proceedings, the evidence in the grievance file, and documents and communications filed by the parties and decision-makers in the proceeding (collectively, the "Record of the Grievance," which may grow as additional petitions, memoranda and material procedural communications are filed by the parties and decision-makers in the process). Within 20 calendar days of ~~the recommendations~~receipt of these materials, the respondent shall, ~~with copies~~ communicate, in writing, a response to the panel's recommendations to the panel chair, grievant and the chair of the faculty chair, ~~communicate in writing to the committee chair the respondent's response to the hearing panel recommendations.~~ Within 15 calendar days of receipt of the respondent's response, the grievant will inform the ~~hearing~~ panel chair if the adjustments are satisfactory or not satisfactory. If the adjustments are satisfactory or if the grievant fails to provide timely notice to the panel that the adjustments are not satisfactory, the grievance will be closed.

573 If the respondent's adjustments are not satisfactory to the grievant, the grievant may appeal to
574 the ~~Chancellor~~chancellor. ~~By~~The grievant shall deliver to the Grievance Panel chair a
575 ~~memorandum, the grievant shall inform the Chancellor of the grievant's appeal and include a~~
576 ~~detailed explanation of the~~ addressed to the chancellor explaining in detail the reasons for the
577 appeal. ~~A copy of the appeal memorandum shall be sent to the respondent, hearing panel chair,~~
578 ~~and faculty chair.~~ The hearingThe panel chair shall forward a copy of this memorandum to the
579 respondent and chair of the faculty, and shall forward the grievant's appeal memorandum ~~and~~
580 ~~the hearing panel report along with all supporting documentation to the Chancellor~~to the
581 chancellor along with the Grievance Panel report and the full Record of the Grievance described
582 above.

583
584 If the grievant appeals ~~or the hearing panel~~ to the chancellor, or if the Grievance Panel requests
585 the ~~Chancellor~~chancellor to make ~~the~~a recommended adjustment, the ~~Chancellor's~~chancellor's
586 decision shall be based on the recommendations of the hearing panel and the ~~record~~Record of
587 the Appeal from the faculty ~~grievance committee~~Grievance Panel hearing. The ~~Chancellor may,~~
588 ~~in~~chancellor has the ~~Chancellor's~~ discretion, to consult with the ~~faculty grievance~~
589 ~~committee~~panel and/or Appellate Steering Committee before making a decision. ~~(The UNC~~
590 ~~Policy Manual 101.3.2.IV.g).~~ The Chancellor'schancellor will communicate a written decision
591 ~~shall be communicated in writing~~ within 20 calendar days of receipt of appeal materials, with
592 copies to the grievant, respondent, chair of the faculty ~~chair~~, and the ~~Faculty Grievance~~
593 ~~Committee's hearing panel members~~Panel chair. The ~~Chancellor's~~chancellor's decision shall
594 contain a notice of further appeal rights, if any, and, if the decision is appealable, it shall contain
595 the information in ~~Section~~subsection III.G., Step Seven (Appeal to the Board of Trustees),
596 below, and shall be signed, ~~in descending order,~~ by all individuals who contributed to the report.

597
598 If the ~~Chancellor~~chancellor's decision does not support the recommendations of the ~~hearing~~
599 ~~panel~~Grievance Panel, the grievant may appeal to the Board of Trustees of ECU in accordance
600 with the procedures in Section III.G. Step Seven (Appeal to the Board of Trustees). The
601 decision of the Board of Trustees is final and may not be appealed to the Board of Governors.

602 Dissenting Chancellor's Report

603 Should the ~~Chancellor~~chancellor disagree with the ~~hearing panel's report on its~~Grievance
604 Panel's interpretation that the grievance is within the scope of redress covered by provisions of
605 Part XII, Section ~~II.I.(4.)~~ of the *Faculty Manual*, the ~~Chancellor~~chancellor shall withhold the
606 ~~Chancellor's~~ decision, and inform the ~~hearing~~ panel, all parties to the grievance, and the ~~faculty~~
607 chair of the faculty of those areas of disagreement within the required 20 calendar days. The
608 ~~hearing~~ panel chair will then request that the chair of the faculty ~~chair to~~ begin the normal
609 interpretation process as set forth in the *Faculty Manual*. It is expected that the chair of the
610 faculty ~~chair~~ will expedite this request. Upon completion of the interpretation process, the
611 ~~Faculty Grievance Committee's hearing~~ panel will make any necessary recommendations. The
612 report will be distributed in accordance with Part XII, Section ~~II.I.(III.F.)~~, with the grievant's
613 rights to appeal intact.

614 G. Step Seven (Appeal to Board of Trustees)

- 615
616 1. ~~Decisions which~~ Explanation of decisions that may be appealed.
 - 617 a. If the ~~hearing panel~~ Grievance Panel did not advise ~~that~~ an adjustment in favor of the
618 grievant ~~was appropriate,~~
619 ~~—,~~ then the decision of the ~~Chancellor~~chancellor is final and may not be appealed.
620

- 621 b. If ~~the panel found in favor of the grievant, and~~ neither the relevant administrative official
622 nor the ~~Chancellor~~ chancellor ~~makes~~ made an adjustment ~~that is~~
623 ~~—advised by the hearing panel in favor of the grievant,—~~ then the grievant may appeal to
624 the Board
625 ~~—of Trustees.—~~ The decision of the Board of Trustees is final.

626
627 2. The Board of Trustees may delegate to a designated committee the authority to make
628 procedural decisions and to make final decisions on behalf of the Board concerning appeals of
629 faculty grievances submitted pursuant to Section 607 of The Code of The University of North
630 Carolina.

631 3. Timeline for Appeals

- 632 a. A grievant who seeks to appeal the ~~Chancellor~~ chancellor's disposition of the grievant's
633 grievance must file
634 ~~—written notice of appeal with the Board of Trustees, by submitting such notice to the~~
635 Chancellor,
636 ~~—chancellor,~~ with adequate evidence of delivery (The UNC Policy 101.3.3), within 10
637 calendar days after ~~the~~
638 ~~—grievant's—~~ receipt of the ~~Chancellor's~~ chancellor's decision. The notice shall contain a
639 brief statement of the
640 ~~—basis for the appeal. #Unless the Board agrees~~ determines an appeal is not within its
641 jurisdiction or fails to meet the procedural requirements for consideration by the Board,
642 the Board will consider the appeal, ~~it will do so~~ on a schedule
643 ~~—established by the Chancellor~~ chancellor, subject to any instructions received from the
644 Board Chair chair or from a
645 ~~—committee of the Board that has jurisdiction of the subject matter of the grievance.~~
646 The Board will
647 ~~—issue its decision as expeditiously as is practical. If the grievant fails to comply with~~
648 ~~the schedule~~
649 ~~—established for perfecting and processing the appeal, the Board~~ in at its discretion may
650 extend the
651 ~~—time for compliance or it may dismiss the appeal.~~
652 b. If the ~~Chancellor~~ chancellor's decision is appealable eligible for appeal, the
653 ~~Chancellor's~~ chancellor's notice of the disposition of a grievant's
654 ~~—case must inform the grievant: (1) of the time limit within which the grievant may file a~~
655 petition for
656 ~~—review by the Board of Trustees, (2) that~~ that a written notice of appeal to the Board of
657 Trustees containing a brief statement of
658 ~~—the basis for appeal is required within the 10 calendar day period and, (3) that, after~~
659 notice of
660 ~~—appeal is received in a timely manner, a detailed schedule for the submission of~~
661 relevant
662 ~~—documents will be established. All such notices of decision are to be conveyed to the~~
663 grievant by
664 ~~—a method that produces adequate evidence of delivery (The UNC Policy 101.3.3).~~

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666
667 4. Standard of Review: In order to prevail before the Board of Trustees, the faculty member
668 must demonstrate that the ~~Chancellor~~ chancellor's decision was clearly erroneous based on a

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[preponderance of the evidence](#), that it violated applicable federal or state law or university policies or regulations, or that the process used in deciding the grievance was materially flawed.

DRAFT

673 IV. Grievance Resulting From ~~The~~ Non-conferral Of Early Permanent Tenure When The
674 — Non-conferral Decision Is Not Concurrent With A Reappointment Decision.
675

676 A. Initiation of Hearing Process

677 No later than 25 calendar days of receiving written notice from the vice chancellor of non-
678 conferral of early tenure, a faculty member (hereinafter, the grievant) may initiate the process
679 leading to a hearing before ~~the~~ Faculty Grievance ~~Committee~~~~Panel~~ (hereinafter, the
680 ~~committee~~~~panel~~) by submitting a Petition for Redress to the ~~committee~~~~appellate chair~~.

681
682 Failure to meet the time periods allotted to the grievant constitutes a waiver of the right to a
683 hearing and no further administrative appeals of the ~~grievance non-conferral decision~~ are
684 allowed. ~~However, before~~Before the expiration of a deadline, ~~however~~, the faculty member may
685 request an extension, provided ~~that~~the request is made in writing and presented to the
686 ~~committee~~. ~~Within appellate chair. The Appellate Steering Committee will make its decision and~~
687 ~~communicate it to the grievant within~~ 10 calendar days of receiving a request for an extension,
688 ~~the committee will make its decision and communicate~~¹⁵ ~~the decision to the grievant. The~~
689 ~~committee will endeavor to complete the review within the time limits specified~~ except under
690 unusual circumstances such as ~~when the time period includes~~during summer months, official
691 university breaks and holidays and when, despite reasonable efforts, the ~~steering~~ committee
692 cannot be assembled ~~in a timely manner~~.

693
694 A hearing will be granted if the Petition for Redress is timely (above), complete (1-~~7.4~~ below), and
695 claims an infringement of one or more of the ~~allowable~~ bases (2-~~7.4~~ below).
696

697 1. The Petition for Redress must include (i) a description that is as complete as possible of the
698 actions or the failures to act which support each specified contention; (ii) the identification of
699 the respondent(s); (iii) an enumeration and description of the information or documents ~~which~~
700 ~~are~~ to be used to support the contention (copies of the described documents are to be made a
701 part of the Request for Redress); (iv) the identification of persons who may be willing to
702 provide information in support of the contention; and (v) a brief description of the information
703 those persons identified in (iv) may provide; and (vi) a copy of the vice-~~chancellor's~~ notice of
704 non-conferral of early permanent tenure.
705

706 2. The ~~basis for a~~ request for a hearing must be ~~found in~~~~based on~~ one or more of the following
707 reasons:
708

709 (a) ~~the~~The decision was based on any ground stated to be impermissible in Section 604B of
710 The Code of The University of North Carolina¹⁶~~7.2~~. Specifically, in no event shall a non-conferral
711 decision be based upon (i) the exercise by the faculty member of rights guaranteed by the First
712 Amendment to the United States Constitution, or by Article I of the North Carolina Constitution,
713 or (ii) discrimination prohibited under policies adopted by the ECU Board of Trustees i.e.,
714 discrimination based on the faculty member's age, color, creed, disability, genetic information,
715 national origin, political affiliation, race/ethnicity, religion, sex/gender, sexual orientation, or
716 veteran's status, or (iii) personal malice. The UNC Policy Manual 101.3.1.II.B).

717 (b) ~~the~~The decision was attended by a "material procedural irregularity," meaning a departure
718 from prescribed procedures and established university policies that is of such significance as
719 to cast reasonable doubt upon the integrity of the original decision. Whether a procedural
720 irregularity occurred, and whether it is material, shall be determined by reference to those

721 procedures in effect when the initial decision was made and communicated. The Appellate
722 Steering Committee shall ask the chancellor to certify what procedures were then in effect if
723 that question is a matter of dispute. (Faculty Senate Resolution #03-49).

724
725 irregularity¹⁷.

726
727 Ten copies of Petition for Redress, ~~which should~~ not ~~exceed~~~~exceeding~~ 20 pages, shall be
728 addressed to the ~~committee~~~~appellate~~ chair and delivered to the Faculty Senate Office. Upon
729 receipt of the grievant's Petition for Redress the ~~committee~~~~appellate~~ chair shall notify each
730 named respondent that he/she has been named a respondent in a grievance based on the non-
731 conferral of early permanent tenure. Accompanying this letter will be a complete copy of the
732 grievant's Petition for Redress.

733
734 B. Procedures for the Hearing.

735 The ~~committee~~~~appellate~~ chair will ~~review the grievant's Petition for Redress to~~
736 ~~determine~~~~convene a Grievance Panel~~ if the Petition for Redress is timely, complete, and ~~is~~
737 based on one or more of the ~~bases~~~~criteria~~ noted above. If the Petition for Redress fails to meet
738 any one of these requirements, the ~~committee~~~~Appellate Steering Committee~~ shall not grant a
739 hearing, the grievance will be closed, and this decision will exhaust the administrative appeals
740 process for the grievance. This decision will be communicated to all parties of the dispute by a
741 method that produces adequate evidence of delivery (The UNC Policy 101.3.3). If the Petition
742 for Redress meets all of the above requirements, but ~~makes claims beyond these noted valid~~
743 ~~criteria (defined in IV.A.2.a and b-), above,~~ the ~~committee~~~~Appellate Steering Committee~~ shall
744 strike those issues from the Petition for Redress and these claims will receive no further
745 attention in the process.

746
747 ~~The committee~~Once established, the Grievance Panel shall set the time, date, and place for the
748 hearing. The date for the hearing ~~must~~~~shall~~ be within 42 calendar days after receipt of the
749 Petition for Redress by the Faculty Senate Office, except when a Petition for Redress is received
750 during summer months, official university breaks and holidays and despite reasonable efforts the
751 ~~hearing committee~~~~panel~~ cannot be assembled.

752
753 The ~~committee~~~~panel~~ chair shall notify the grievant, the respondents, the chair of the faculty
754 ~~chair~~, and the Chancellor~~chancellor~~, of the time, date, and place of the hearing. This notification
755 shall call attention to any claims made in the Petition for Redress that have been struck and will
756 not be addressed in the hearing. The notification will include the names of all ~~committee~~~~panel~~
757 members and alternates who may take part in the hearing.

758
759 The grievant and respondent are to submit ten copies of all information and documents to be
760 used in the presentation (by the grievant) or ~~to defend (respondent)~~in defense against the
761 grievance- (by the respondent). The grievant's and respondent's information must include: a-))
762 the identification of a witness(es) who may be willing to provide information relevant to ~~counter~~
763 ~~the content~~~~grievance~~; and b-)) a brief description of the information each witness may
764 provide. This information and ~~documents~~~~documentation~~ shall be submitted to the Faculty
765 Senate Office not later than 14 calendar days prior to the hearing date. One copy of the
766 grievant's information will be provided to each respondent and one copy of the respondent's
767 information will be provided to the grievant.

769 C. The Hearing

770 The ~~committee's hearing panel~~Grievance Panel shall limit its investigations to the issues
771 presented in the Petition for Redress, and include only those that were not struck in the
772 ~~committee's Appellate Steering Committee's~~ notification of the time, date, and place for the that a
773 hearing would be granted. The ~~hearing panel may explore issues raised by any party to the~~
774 ~~grievance that are concretely based on issues raised in the~~ Petition for Redress. ~~The hearing~~
775 panel's responsibility is limited to issuing recommendations based on the Petition for Redress,
776 information and ~~documentations~~documentation submitted prior to or accepted during the
777 hearing, and information developed during the hearing. ~~The power of the hearing panel shall be~~
778 ~~solely to hear~~ based on the testimony of the grievant, the respondent, and witnesses.

779
780 The ~~hearing~~ panel chair shall begin the hearing by briefly reviewing the ~~committee's~~panel's
781 authorization and powers. ~~The hearing panel chair then shall state,~~ the conditions necessary for
782 a hearing, the ~~hearing~~ panel's belief that the issues about to be heard satisfy these conditions,
783 and the procedures to be followed during the hearing. Except as provided for herein, the
784 hearing shall be conducted according to the latest edition of Robert's Rules of Order, Newly
785 Revised.

786
787 The ~~hearing panel~~Grievance Panel chair shall then enter into the hearing record correspondence
788 (particularly any relevant correspondence from the Appellate Committee and/or panel chair)
789 generated prior to the hearing as the ~~committee's~~ Exhibit C, and information submitted (above)
790 by the grievant and the respondent as Exhibits G and R. respectively (Exhibit letter designations
791 are prescribed only for labeling purposes). It is expected that the hearing will be limited to this
792 information. ~~However; however,~~ with approval of a majority of the ~~committee~~panel, the grievant,
793 respondent, or a witness may submit additional information during the hearing. All such
794 information must be numbered, with copies to be presented to the opposing party and members
795 of the ~~hearing~~ panel, and it becomes a part of the formal record of the hearing.

796
797 Only the grievant, the respondent, members of the ~~hearing panel~~Grievance Panel, and the court
798 reporter shall be present for the duration of the hearing. ~~Witnesses~~Others who are witnesses,
799 as noted below, will be present only when giving testimony. It shall be the responsibility of the
800 parties to present their respective cases. The grievant's case will be evaluated on the basis of
801 the preponderance of the evidence. This means the greater weight of evidence and its probable
802 truth or accuracy, and not the amount of evidence presented.

803
804 The grievant is responsible for presentation of the grievant's case, including the testimony of
805 witnesses. ~~Hearing panel~~Grievance Panel members may question the grievant, the respondent
806 or witness(es) at any time during the hearing. After each of the grievant's witnesses has
807 completed ~~their~~ testimony, and has responded to questions from the respondent, the panel, and
808 to the grievant's further questions (limited to the subject of the respondent's questions), the
809 witness will be excused from the hearing unless recalled by the ~~hearing~~ panel. At the end of the
810 grievant's presentation, the respondent may question the grievant.

811
812 The respondent's presentation will follow the procedures noted above for presentation of the
813 grievant's case. ~~Hearing panel~~Panel members may question the grievant, the respondent, or
814 witnesses during the hearing. When the ~~hearing~~ panel ~~has~~and grievant have no further
815 questions, the grievant is given the opportunity to make a 10-minute final statement, and then

816 ~~and then~~ a total of 10 minutes is available for the respondent's ~~or respondents'~~ final
817 statement~~(s)~~.

818

819 D. ~~Hearing~~Grievance Panel Report

820 The ~~hearing panel's~~Grievance Panel's report shall be based only on facts, documentation,
821 arguments presented at the hearing, and applicable law and University policies. ~~Hearing~~The
822 panel's recommendations are to be based ~~on~~upon, but are not limited to, the grievant's
823 requested redress.

824

825 Copies of the ~~hearing panel's~~Grievance Panel's report will be available to the grievant and
826 respondent for ~~their~~ retrieval from the Faculty Senate Office. A copy of the ~~hearing~~ panel's report,
827 a copy of the written record of the hearing proceedings, and a copy of all evidence submitted will
828 be placed in the grievance file. This file will be open to the ~~hearing panel~~Grievance Panel and all
829 parties to the grievance until the grievance is closed.

830 ~~The hearing~~ panel may make recommendations that: a.) do not support the grievant's
831 contentions; b.) support the grievant's contentions and are within the respondent's authority to
832 implement; or c.) support the grievant's contentions, but are not within the respondent's
833 authority to implement. The ~~hearing panel's~~Grievance Panel's actions for each of these findings
834 are noted below.

835

836 a. ~~Panel~~ Panel Recommendations Do Not Support the Grievant's Contentions.

837 If the ~~hearing panel~~Grievance Panel finds that the grievant's contentions are not supported or
838 makes no recommendations in favor of the grievant, the ~~hearing~~ panel shall submit its report
839 to the grievant, respondent, ~~chair of the faculty~~ chair, and ~~Chancellor~~chancellor. Within 20
840 calendar days the ~~Chancellor~~chancellor shall, in writing, inform the grievant, respondent, ~~chair~~
841 of the faculty chair, and ~~grievance committee's hearing panel of his/her the Chancellor's~~
842 Grievance Panel of a decision. The decision of the ~~Chancellor~~chancellor is final and may not
843 be appealed.

844

845 b. ~~Panel~~ Panel Recommendations Support the Grievant's Contentions and are Within the
846 Respondent's ~~Authority~~.

847 If the ~~hearing panel~~Grievance Panel finds that the grievant's contentions are supported and
848 makes recommendations in favor of the grievant, the ~~hearing~~ panel shall submit its report to
849 the grievant, respondent, and ~~chair of the faculty~~ chair. Within 20 calendar days of the
850 recommendations, the respondent shall, with copies to the grievant and the ~~chair of the~~
851 faculty chair, communicate a response to the panel's recommendation in writing to the
852 ~~committee hearing panel~~Grievance Panel ~~chair~~ the respondent's response to the hearing
853 panel recommendations. Within 15 calendar days of receipt of the respondent's response,
854 the grievant will inform the ~~hearing panel~~Grievance Panel chair if the adjustments are
855 satisfactory or not satisfactory. If the respondent's adjustments are not consistent with the
856 recommendations of the ~~hearing panel~~Grievance Panel but are satisfactory to the grievant,
857 the grievance will be closed. If the respondent's adjustments are not satisfactory to the
858 grievant, the grievant may appeal to the ~~Chancellor~~chancellor. The process for an appeal to
859 the ~~Chancellor~~chancellor is ~~noted~~ described below.

860

861 c. ~~Panel~~ Panel Recommendations Support the Grievant's Contentions, but are not Within the
862 Respondent's ~~Authority to Implement~~.

863

864 If the ~~hearing panel~~Grievance Panel finds that the grievant's contentions are supported and
865 makes recommendations in favor of the grievant, but, in the opinion of the ~~hearing~~ panel,
866 these recommendations are not within the authority of the respondent to implement, the
867 ~~hearing~~ panel shall submit its report to the grievant, respondent, and ~~chair of the~~ faculty ~~chair~~.
868 By memorandum, the ~~hearing panel~~Grievance Panel chair shall inform the
869 ~~Chancellor~~chancellor that, in the opinion of the ~~hearing~~ panel, its recommendations are not
870 within the respondent's authority to implement and request the ~~Chancellor~~chancellor to make
871 the appropriate adjustments.

872
873 The ~~hearing panel~~Grievance Panel chair shall forward to the ~~Chancellor~~chancellor a record of
874 the hearing and copies of all documents submitted during the grievance process.

875
876 The ~~Chancellor~~chancellor's decision is to be based solely on a thorough review of the information
877 provided by the ~~hearing panel~~Grievance Panel. The ~~Chancellor may, at~~ ~~chancellor has~~ the
878 ~~Chancellor's~~ discretion, ~~to~~ consult with the ~~hearing panel~~Grievance Panel (The UNC Policy
879 Manual 101.3.2.IV.g.) and individuals with the delegated authority to implement the panel's
880 recommendations. It is expected that the ~~Chancellor~~chancellor will give deference to the advice of
881 the faculty ~~hearing~~ panel, but the final campus-based decision ~~is~~ ~~lies with~~ the ~~Chancellor's~~
882 ~~chancellor~~. Within 30 calendar days of receipt of the ~~hearing~~ panel's request, the
883 ~~Chancellor~~chancellor will inform the grievant, respondent, ~~hearing panel~~Grievance Panel chair,
884 and ~~faculty~~ chair of the ~~Chancellor's~~faculty of a decision. If the ~~Chancellor~~chancellor does not
885 support the ~~hearing~~ panel's recommendation, the ~~Chancellor~~chancellor is to will inform the
886 grievant that the ~~grievant~~ decision may ~~appeal~~ be appealed to the Board of Trustees. This appeal
887 process is described in Section ~~III~~IV.G. The decision of the Board of Trustees is final and may
888 not be appealed to the Board of Governors.

889 E. Dissenting Chancellor's Report

890 Should the ~~Chancellor~~chancellor disagree with the ~~hearing panel's recommendations [from b.) or~~
891 ~~c.) above]~~ based on its ~~Grievance Panel's~~ interpretation that the grievance is within the scope of
892 redress covered by provisions of Part XII, Section II.1 of the *ECU Faculty Manual*, UNC Code or
893 Policies, the ~~Chancellor~~chancellor shall withhold ~~the Chancellor's~~ decision, and inform the
894 ~~hearing panel~~Grievance Panel, all parties to the grievance, and the ~~faculty~~ chair of the faculty of
895 those areas of disagreement within ~~the required~~ 30 calendar days. The ~~hearing panel~~Grievance
896 Panel chair will then request the ~~Faculty Governance Committee to~~ chair of the faculty begin the
897 normal interpretation process as set forth in the ~~procedures of the Faculty Governance~~
898 ~~Committee~~Faculty Manual. It is expected that the ~~Faculty Governance Committee~~ chair of the
899 faculty will expedite this request. Upon completion of the interpretation process, the ~~Faculty~~
900 ~~Grievance Committee~~Panel will make any necessary recommendations. The report will be
901 distributed in accordance with Part XII, Section II.1(~~III.F~~), with the grievant's rights to appeal
902 intact.
903

904 F. Appeals to the Chancellor

905 ~~And if the respondent's adjustments are deemed unsatisfactory by the grievant, an~~ appeal to the
906 ~~Chancellor~~chancellor is to be made within 20 calendar days of the receipt of the ~~respondent's~~
907 response. ~~By~~ The grievant shall deliver to the Grievance panel chair a memorandum, the
908 ~~grievant shall inform the Chancellor of the grievant's appeal and include a detailed explanation~~
909 ~~of the~~ to the chancellor explaining in detail the reasons for the appeal. ~~A copy of the appeal~~
910 ~~memorandum shall be sent to the hearing panel chair and faculty chair.~~ Upon receipt of the
911

912 ~~grievant's appeal, the hearing~~The panel chair shall forward a copy of this memorandum to the
913 respondent and chair of the faculty, and shall forward the grievant's appeal memorandum to the
914 hearing panel's report ~~chancellor~~ along with the Grievance Panel report and all supporting
915 documentation ~~to the Chancellor.~~

916
917 The ~~Chancellor's~~chancellor's decision is to be based solely on a thorough review of the
918 information provided by the ~~hearing panel~~Grievance Panel and may, at the
919 ~~Chancellor's~~chancellor's discretion ~~consult, include consultation~~ with the ~~committee (The UNC~~
920 ~~Policy Manual 101.3.2.IV.g.)~~panel (The UNC Policy Manual 101.3.2.IV.g.). It is expected that
921 the ~~Chancellor~~chancellor will give deference to the advice of the faculty ~~hearing~~ panel, but the
922 final campus-based decision is/ies with the ~~Chancellor's~~chancellor.

923
924 Within 30 calendar days of receipt of the ~~hearing panel's~~grievant's appeal and Grievance
925 Panel's recommendations, the ~~Chancellor~~chancellor will ~~inform~~provide a decision to the grievant,
926 respondent, ~~hearing~~ panel chair and ~~faculty~~ chair of the ~~Chancellor's decision~~faculty. If the
927 ~~Chancellor~~chancellor does not support the ~~hearing~~ panel's recommendation, the
928 ~~Chancellor~~chancellor ~~is to~~will inform the grievant ~~that of~~ the ~~grievant may~~provisions for appeal to
929 the Board of Trustees.

930 G. Appeal to the Board of Trustees

931 This appeal ~~process is described in subsection III.G.~~shall be transmitted through the chancellor
932 and shall be addressed to the chair of the Board. Notice of appeal shall be filed within 14
933 calendar days after the faculty member receives the chancellor's decision. The appeal to the
934 Board of Trustees shall be decided by the full Board of Trustees; however, the Board may
935 delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three
936 members.

937
938
939 The Board of Trustees, or its designated committee shall consider the appeal on the written
940 transcript of the hearing held by the Grievance Panel (including evidence admitted in connection
941 with the hearing), but it may, at its discretion, accept and consider such other evidence as it
942 deems necessary, with the opportunity for rebuttal. The Board of Trustees' decision shall be
943 made as soon as reasonably possible after the chancellor has received the faculty member's
944 request for an appeal to the Trustees. The decision of the Board of Trustees is final and may
945 not be appealed to the Board of Governors.

946 V. Annual Report

947 A preliminary report will be submitted to the Faculty Senate Office on May 31 of the current year.
948 At the second meeting of the Faculty Senate, the Grievance Committee chair shall report on
949 grievances from August 31 of the preceding year until September 1 of the current year. Such
950 reports shall protect the confidentiality of the grievance proceedings and parties. The following
951 form and information will be used (example from spring 2013).
952
953

Faculty	Tenured, Probationary, or Fixed Term Appointment	Tenured
Step 1	Meet with Respondent	YES
Step 2	Petition for Redress	YES
Step 3	(45 days) Mediation and/or (20 days) Chancellor Review	NO

Step 4	(45 days) Request for Hearing	35 days; YES
Step 5	The Hearing	YES
Hearing Panel Report	In favor of	Grievant
Terminated		NO
Appealed to Chancellor		YES
Chancellor's Decision	(20 days) in favor of	60 days; Respondent
Number of days	After Step 1 until the last completed event	160

954

955

VI.— Application

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~~ECU Faculty Manual Part XII, Section I supersedes other grievance provisions except those contained in *The Code* and other regulations of the University of North Carolina and in other provisions of the East Carolina University Faculty Manual for grievances filed on or after the date of approval of this *ECU Faculty Manual Part XII, Section I* by the East Carolina University Board of Trustees.~~

962

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965

VII.— Grievance Committee By-Laws and Procedures

~~The Faculty Grievance Committee may draft bylaws and detailed procedures that are consistent with the procedures stated above, subject to approval by the Faculty Senate and the Chancellor.~~

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FOOTNOTES.

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~~¹A grievant must be a current faculty member of East Carolina University. A grievance may be initiated by multiple grievants. If a faculty member's employment ends during the grievance process, the grievant may request the Chancellor to allow the grievance to continue. Such a request must be made prior to the end of employment. Copies of such a request must be provided to the grievance committee chair, and the Chancellor is to respond to such a request, with a copy to the committee chair, within 20 calendar days.~~

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~~²A named respondent must be a current employee of East Carolina University. If the named respondent is a former administrator, the person who presently occupies the administrative position will be named as the substitute respondent and the former administrator as the named respondent (if still an employee of ECU). A grievant may name multiple respondents. A faculty member or a departmental or unit committee and/or its chairperson may be named as a respondent. "The respondent" is used in the singular form, even where it may stand for more than one person.~~

983

984

985

~~³The committee may waive the time requirement if, in the committee's opinion, there are extenuating circumstances despite due diligence.~~

986

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989

~~⁴If a grievant does not complete Step One, any information collected by the committee chair will be destroyed. If the grievant completes Step One, all information collected by the committee chair in the administration of the grievance will, at the conclusion of the grievance, be placed in the grievance file.~~

990

991

992

~~⁵A list of potential counselors is maintained by the Faculty Senate Office. It is recommended that the counselor be a tenured professor, have extensive experience in faculty governance as~~

993 evidenced by service on university governance/apellate committees, and not be associated with
994 the grievance in any way. The parties to the grievance may choose eligible ECU current or retired
995 faculty members as their counselors or they may choose to serve as their own counselors.
996

997 ⁶The committee may be asked by either party to the grievance to evaluate the basis for such
998 privilege and to evaluate the value of such information to the grievance. If the privileged
999 information bears on the grievance, the committee is required to resolve the issue of privilege. If
1000 such information bears on the grievance but cannot be obtained, the committee shall decide
1001 whether continuing the grievance/granting a hearing would be unfair to the grievant/respondent. If
1002 such a decision is made, the committee shall state its reason(s) and terminate the grievance
1003 process; thus, ending the administrative hearing process at East Carolina University.
1004

1005 ⁷Procedural advice is limited to the nature of the committee, its charge, the options open to the
1006 party to the grievance, and the current membership of the committee. With copies to the opposing
1007 party, procedural questions may be emailed to the committee chair, whereas all non-procedural
1008 communications should be delivered in print to the Faculty Senate Office. The parties to the
1009 grievance may request that non-email communications from the committee chair be available for
1010 their retrieval from the Faculty Senate Office. Otherwise, the parties agree that all communications
1011 from the committee chair, including e-mail, will be sent to their university addresses.
1012

1013 ⁸Once all parties to the grievance have accepted mediation, the grievant shall not take the
1014 grievant's grievances to administrative levels higher than that of the respondent. To do so is
1015 inconsistent with the mediation process and will result in the termination of the grievance
1016 procedures under Part XII, Section I, ending administrative review of the grievance.
1017

1018 ⁹To avoid the appearance of a conflict-of-interest all mediation will be performed by third-party
1019 groups/organizations/individuals who have no ties to East Carolina University. A list of such
1020 providers will be developed and maintained by the faculty chair. The provider must provide
1021 evidence to the faculty chair that the provider's mediator(s) are certified by the North Carolina
1022 Administrative Office of the Courts.
1023

1024 ¹⁰Procedures for the origination of purchase orders and payment for services of the mediator will
1025 be developed and administered by the faculty chair.
1026

1027 ¹¹Scheduling a committee hearing during the summer months is complicated by the absence of
1028 some faculty and teaching schedules of remaining faculty. If the committee on its first effort cannot
1029 schedule a hearing during the summer, a fall hearing date will be scheduled during the committee's
1030 fall organizational meeting.
1031

1032 ¹²If either the grievant or the respondent petitions the committee in writing for a postponement of
1033 the hearing for health reasons or due to a personal emergency, the committee chair shall postpone
1034 the meeting for a period of time appropriate to the circumstances. If either the grievant or the
1035 respondent petitions the committee in writing for a postponement of the hearing for reasons other
1036 than health or personal emergency, the committee chair shall determine by telephone or e-mail
1037 whether it is the general agreement of the committee to postpone the hearing for one week from
1038 the scheduled date.
1039

1040 ~~¹³Such information and documents are not limited to written materials but may include sound~~
1041 ~~recordings, video recordings, photographs as well as other forms of information or documentation.~~

1043 ~~¹⁴The department or unit to which a party to a grievance is assigned is responsible for providing~~
1044 ~~access to copy services during the grievance process. These services shall be at no cost to the~~
1045 ~~grievant or respondent.~~

1047 ~~¹⁵The parties to the grievance may request that non-email communications from the committee~~
1048 ~~chair be available for their retrieval from the Faculty Senate Office. Otherwise, the parties agree~~
1049 ~~that all communications from the committee chair, including e-mail, will be sent to their university~~
1050 ~~addresses.~~

1052 ~~¹⁶In no event shall a non-conferal decision of early permanent tenure be based upon (a) the~~
1053 ~~exercise by the faculty member of rights guaranteed by the First Amendment to the United States~~
1054 ~~Constitution, or by Article I of the North Carolina Constitution, or (b) discrimination prohibited under~~
1055 ~~policies adopted by the ECU Board of Trustees i.e., discrimination based on the faculty member's~~
1056 ~~age, color, creed, disability, genetic information, national origin, political affiliation, race/ethnicity,~~
1057 ~~religion, sex/gender, sexual orientation, or veteran's status, or (c) personal malice (The UNC Policy~~
1058 ~~Manual 101.3.1.II.B).~~

1060 ~~¹⁷"Material procedural irregularity" means a departure from prescribed procedures and~~
1061 ~~established university policies that is of such significance as to cast reasonable doubt upon the~~
1062 ~~integrity of the original decision. Whether a procedural irregularity occurred, and whether it is~~
1063 ~~material, shall be determined by reference to those procedures, which were in effect when the~~
1064 ~~initial decision was made and communicated. The Grievance Committee shall ask the~~
1065 ~~Chancellor to certify what procedures were then in effect if that question is a matter of dispute.~~
1066 ~~(Faculty Senate Resolution #03-49).~~

1069 ~~Amended~~

1071 ~~— Faculty Senate Resolution #12-17, February 2012~~

1072 ~~— Faculty Senate Resolution #14-32, April 2014~~

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1098 PART XII -- FACULTY GRIEVANCE POLICIES AND PROCEDURES

1100 SECTION II

1102 .II, Grievance Procedures Related to Complaints of Unlawful or Prohibited Harassment and,
1103 Discrimination Policies and Procedures of East Carolina University
1104 *(Text moved from former Appendix V)*

1106 or Improper Relationships Brought

1107 CONTENTS

- 1109 I. Rationale
- 1110 II. Policy on Harassment and Discrimination
- 1111 III. Grievances Against East Carolina University Students
- 1112 IV. Grievances Against East Carolina University Staff
- 1113 V. Grievances Against East Carolina University Faculty Members or Administrators Holding
1114 Faculty Status

1116 CONTENTS

- 1118 I. Preamble
- 1119 II. Grievance Procedures

-
- 1122 I. Preamble
 - 1123 VI. Education of Students, Staff, and Faculty
 - 1124 VII. Disciplinary Action
-

1127 * East Carolina University's Office of Equity and Diversity policies on non-discrimination in
1128 recruitment and hiring are contained in Part XI, General Faculty Employment Guidelines and
1129 Benefits of the ECU Faculty Manual.

- 1133 I. Rationale
1134 Well publicized policies and procedures such as these will help to create an atmosphere
1135 in which
- 1136 A. Federal and state laws and/or university policies prohibits unlawful discrimination based on the
1137 following protected classes: race/ethnicity, color, genetic information, national origin, religion,
1138 sex (including pregnancy and pregnancy related conditions), sexual orientation, gender identity,
1139 age, disability, political affiliation, and veteran status. East Carolina University establishes
1140 formal procedures to assure individuals who believe that they are the victims of unlawful or
1141 prohibited harassment or, discrimination are assured, or improper relationships that their
1142 grievances will be dealt with fairly and effectively. It is more important still to create an
1143 atmosphere in which instances of

1145 The *East Carolina University Faculty Manual* (Part XII) is subject to university policies governing
1146 nondiscrimination, sexual and gender-based harassment or discrimination are discouraged.
1147 Toward this end, all members of the university community should understand that and other
1148 forms of interpersonal violence at East Carolina University, which are available through the
1149 University's Office for Equity and Diversity (OED) ([http://www.ecu.edu/cs-](http://www.ecu.edu/cs-acad/oed/policies.cfm)
1150 [acad/oed/policies.cfm](http://www.ecu.edu/cs-acad/oed/policies.cfm)).

1151
1152 **B. Unlawful or prohibited** harassment, discrimination, ~~and improperly executed or exploited~~
1153 ~~supervisory, or improper~~ relationships violate ~~the university's policy~~ East Carolina University's
1154 policies and will not be tolerated. Members of the ~~university~~ University community are
1155 encouraged to express freely, responsibly, and in an orderly way their opinions and feelings
1156 about any problem or complaint of unlawful or prohibited harassment ~~or~~, discrimination or
1157 improper relationships prohibited under ~~these~~ the policies ~~of~~ of East Carolina University. The
1158 University will take every reasonable step to resolve grievances promptly and confidentially.

1159 **C.** Any act by a ~~university~~ University employee or student of ~~reprisal~~ retaliation, interference,
1160 restraint, penalty, discrimination, ~~coercion, retaliation, or harassment against an employee or a~~
1161 ~~student for using these policies responsibly interferes with free expression and openness and~~
1162 ~~violates this policy.~~ Accordingly, members of the university community are prohibited from acts of
1163 ~~reprisal and/or retaliation against those who file complaints, are involved as witnesses, or~~
1164 ~~otherwise try to use these policies responsibly.~~

1165 1166 **II. Policy on Harassment and Discrimination**

1167 ~~It is the responsibility of members of the university community to strive to create an environment~~
1168 ~~free of harassment and discrimination, and free of unprofessional bias in the supervision and~~
1169 ~~evaluation of students and employees. It is against the policies of East Carolina University for its~~
1170 ~~employees or students to create a hostile and/or discriminatory University or work-place~~
1171 ~~environment for an~~
1172 ~~individual or group because of the individual's age, color, creed, disability, gender, genetic~~
1173 ~~information, national origin, political affiliation, race/ethnicity, religion, sexual orientation, or~~
1174 ~~veteran's status. For a list of definitions of each protected class, see: [http://www.ecu.edu/cs-](http://www.ecu.edu/cs-acad/edc/ProtectedClassGrievances.cfm)~~
1175 ~~[acad/edc/ProtectedClassGrievances.cfm](http://www.ecu.edu/cs-acad/edc/ProtectedClassGrievances.cfm)~~

1176 1177 **III. Grievances Against East Carolina University Students**

1178 ~~Complaints brought against East Carolina University students by East Carolina University students,~~
1179 ~~faculty, staff, administrators, or visitors are governed by the grievance procedures presented in the~~
1180 ~~*Student Handbook*.~~

1181 1182 **IV. Grievances Against East Carolina University Staff**

1183 ~~Complaints brought against East Carolina University Staff by East Carolina University students,~~
1184 ~~faculty, staff, administrators, or visitors are governed by the grievance procedures stated in Policy~~
1185 ~~Statement 7: Employee Relations of the Human Resources section of the *ECU Business Manual*,~~
1186 ~~see http://www.ecu.edu/business_manual/Human_Resources_Policy7B.htm~~

1187 1188 **V. Grievances Against East Carolina University Faculty Members or Administrators Holding** 1189 **Faculty Status**

1190 ~~Complaints brought against East Carolina University faculty members or administrators holding~~
1191 ~~faculty status by East Carolina University students, faculty, staff, administrators or visitors ordinarily~~
1192 ~~are governed by the grievance procedures stated in *Grievance Procedures for Complaints of*~~

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~~Unlawful or Prohibited Harassment, Discrimination or Improper Relationships Brought Against East Carolina University Faculty Members or Administrators Holding Faculty Status in the ECU Faculty Manual.~~

~~VI. Education of Students, Staff, and Faculty~~

~~The East Carolina University Office of Equality and Diversity (“OED”) will develop educational materials to be distributed to students, staff, and faculty. These materials will publicize the policies and procedures and help create a proper academic atmosphere that is free of harassment and discrimination. Each year the OED office will review the effectiveness of the educational materials and procedures and make any necessary revisions. All materials will be reviewed by the University Attorney before they are distributed.~~

~~VII. Disciplinary Action~~

~~See Grievance Procedures for Complaints of Unlawful or Prohibited Harassment, Discrimination or Improper Relationships Brought Against East Carolina University Faculty Members or Administrators Holding Faculty Status in the ECU Faculty Manual for the policies and procedures governing disciplinary actions that may be taken against faculty members who violate these policies.~~

~~(FS Resolution #12-44, March 2012)~~

~~PART XII FACULTY GRIEVANCE POLICIES AND PROCEDURES~~

~~SECTION III~~

~~Policy on Improper Relationships Between Students and Faculty
(Text moved from former Appendix U)~~

~~CONTENTS~~

- ~~I. Prohibited Conduct~~
- ~~II. Definition of Terms~~
- ~~III. Corrective Action~~

~~East Carolina University does not condone amorous relationships between students and employees. Members of the University community should avoid such liaisons, which can harm affected students and damage the integrity of the academic enterprise. Further, sexual relationships between unmarried persons can result in criminal liability. In two types of situations, University prohibition and punishment of amorous relationships is deemed necessary: (1) When~~

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1243 the employee is responsible for evaluating or supervising the affected student. (2) When the
1244 student is a minor, as defined by North Carolina law. The following policies shall apply to all faculty
1245 and students of the University.

1246
1247 I. Prohibited Conduct

- 1248 A. It is misconduct, subject to disciplinary action, for a University employee, incident to any
1249 instructional, research, administrative or other University employment responsibility
1250 or authority, to evaluate or supervise any enrolled student of the institution with
1251 whom he or she has an amorous relationship or to whom he or she is related by
1252 blood, law or marriage.
1253 B. It is misconduct, subject to disciplinary action, for a University employee to engage in
1254 sexual activity with any enrolled student of the institution, other than his or her
1255 spouse, who is a minor below the age of 18 years.

1256
1257 II. Definition of Terms

1258 A. "Amorous relationship." An amorous relationship exists when, without the benefit of
1259 marriage, two persons as consenting partners (a) have a sexual union or (b) engage
1260 in a romantic partnering or courtship that may or may not have been
1261 consummated
1262 sexually.

1263 B. "Related by blood, law or marriage" means:

- 1264 1. Parent and child
1265 2. Brother and sister
1266 3. Grandparent and grandchild
1267 4. Aunt and/or uncle and niece and/or nephew
1268 5. First cousins
1269 6. Step-parent and step-child
1270 7. Husband and wife
1271 8. Parents-in-law and children-in-law
1272 9. Brothers-in-law and sisters-in-law
1273 10. Guardian and ward

1274
1275 C. "Evaluate or supervise" means

- 1276 1. To assess, determine or influence (1) one's academic performance, progress
1277 or
1278 potential or (2) one's entitlement to or eligibility for any institutionally conferred
1279 right, benefit or opportunity, or
1280 2. To oversee, manage or direct one's academic or other institutionally
1281 prescribed
1282 activities.

1283
1284 III. Corrective Action

1285 Violations of the provisions of Section A shall be addressed in accordance with remedial measures
1286 prescribed by the University; if disciplinary action is brought against an affected employee, it shall
1287 be conducted in accordance with existing institutional policies and procedures prescribed for
1288 prosecuting misconduct charges against members of the class of employment of which the
1289 affected employee is a member.

1291
1292 (~~Faculty Senate Resolution #11-91, November 1, 2011~~)
1293
1294
1295
1296
1297
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1299

1300 ~~, coercion, reprisal, intimidation, threats~~ **PART XII – FACULTY GRIEVANCE POLICIES AND**
1301 **PROCEDURES**

1302 **SECTION IV**

1303 ~~Grievance Procedures for Complaints of Unlawful or Prohibited Harassment, Discrimination or~~
1304 ~~Improper Relationships Brought Against East Carolina University Faculty Members or~~
1305 ~~Administrators Holding Faculty Status~~
1306 ~~(Text moved from former Appendix X)~~
1307
1308

1309 **CONTENTS**

- 1310
1311 ~~I. Preamble~~
1312 ~~II. Grievance Procedures~~
1313 ~~III. Post Level Two Grievance Procedures~~
1314 ~~IV. Grievance Board Procedural Flowchart~~
1315 ~~V. Annual Report~~
1316

1317
1318 ~~I. I. Preamble~~

1319 ~~A. Federal and state laws and/or university policies protect individuals from harassment or~~
1320 ~~discrimination based on age, color, creed, disability, genetic information, national origin, political~~
1321 ~~affiliation, race/ethnicity, religion, sex/gender, sexual orientation, or veteran’s status. For a list of~~
1322 ~~definitions of each protected class see [http://www.ecu.edu/cs-](http://www.ecu.edu/cs-acad/edc/ProtectedClassGrievances.cfm)~~
1323 ~~[acad/edc/ProtectedClassGrievances.cfm](http://www.ecu.edu/cs-acad/edc/ProtectedClassGrievances.cfm)~~
1324

1325 ~~—The formal procedures enumerated in this section assure individuals who believe that they are~~
1326 ~~the victims of unlawful or prohibited harassment, discrimination, or improper relationships that~~
1327 ~~their grievances will be dealt with fairly and effectively. “Improper relationships” in the context of~~
1328 ~~this Appendix refers to an improperly executed or exploited supervisory relationship by~~
1329 ~~engaging in a consensual amorous relationship with students or other University employees~~
1330 ~~whom the employee is or will be supervising or evaluating, or by engaging in any sexual activity~~
1331 ~~with any enrolled student of the institution, who is minor, other than his or her spouse as~~
1332 ~~prohibited by University policies. Unless a victim of illegal harassment or discrimination, a~~
1333 ~~person reporting an alleged amorous relationship who is not a party to this relationship lacks~~
1334 ~~standing to seek an appeal under these grievance procedures.~~
1335

1336 ~~—The *East Carolina University Faculty Manual* (Part XII, Section II) elaborates on policies related~~
1337 ~~to harassment and discrimination in the *Harassment and Discrimination Policies and*~~
1338 ~~*Procedures of East Carolina University*. The University Policy on Improper Relationships~~

1339 {00075251 }

1339 ~~Between Students and Faculty addresses policy 300.4.1 of the Board of Governors of the~~
1340 ~~University of North Carolina concerning improper relationships between students and~~
1341 ~~employees.~~

1342 ~~B. Unlawful or prohibited harassment, discrimination, or improper relationships violates East~~
1343 ~~Carolina University's policies and will not be tolerated. Members of the University community are~~
1344 ~~encouraged to express freely, responsibly, and in an orderly way their opinions and feelings about~~
1345 ~~any problem or complaint of unlawful or prohibited harassment, discrimination or improper~~
1346 ~~relationships prohibited under the policies stated in the *ECU Faculty Manual*. East Carolina~~
1347 ~~University will take every step to resolve grievances promptly and confidentially.~~

1348 ~~C. Any act by a University employee or student of reprisal, interference, restraint, penalty,~~
1349 ~~discrimination, coercion, retaliation, or harassment against an employee or student for using the~~
1350 ~~applicable policies responsibly interferes with free expression and openness and violates~~
1351 ~~University policy. Accordingly, members of the University community are prohibited from acts~~
1352 ~~of reprisal and/or retaliation against those who file complaints, are involved as witnesses, or~~
1353 ~~otherwise try to use University policies responsibly.~~

1354
1355 D. When complaints of harassment, discrimination, or improper relationships have been
1356 substantiated, the ~~Chancellor, appropriate vice chancellor~~ or the ~~Chancellor's~~
1357 ~~designee, chancellor~~ may take such disciplinary action as he or she deems appropriate,
1358 including discharge from employment, suspension, or reduction in rank in a manner that is
1359 consistent with the policies and procedures stated in the *ECU Faculty Manual*.

1360 ~~E. East Carolina University shall investigate anonymous unsigned complaints against faculty and~~
1361 ~~administrators holding faculty status to the extent justified by the content and context of the~~
1362 ~~complaint.~~

1364 II. Grievance Procedures

1365 A. Optional Initiation of Grievance Procedures

1366 — Complainant may skip these optional grievance procedures by going directly to II.B. Level One
1367 — Grievance Procedures. At any time during the optional grievance procedures the
1368 complainant or respondent may elect to take the matter to the East Carolina University Office
1369 of Equity and Diversity (OED).

1370 1. Discussion with the Department Chairperson

- 1371 a. The complainant should make an appointment with the Chairperson or, if the
1372 — Chairperson is alleged to have engaged in the misconduct, with the Dean. In such a
1373 — case, skip II.A.1 and go directly to II.A.2. The complainant may request that a
1374 conference with the Chairperson be held without the respondent (hereafter, “the
1375 respondent” is used in the singular form, even where it may stand for more than one
1376 person). At the time of making the appointment, the complainant should state expressly
1377 the need to discuss a complaint related to the respondent’s employment status. The
1378 Chairperson must consult the OED to determine if the complaint alleges conduct so
1379 severe as to require immediate reporting to other authorities.
- 1380 b. The initial complaint may be made to the Chairperson (or, as provided in II. A.1.a), to
1381 the Dean) in writing as a matter of record if the complainant so desires. However, this is
1382 not necessary to initiate a complaint by these optional grievance procedures.
- 1383 c. The Chairperson (or, as provided in II.A.1.a, the Dean) will set an appointment date with
1384 — the involved parties as soon as possible after receiving the request; but, in any event,
1385 within 7 calendar days after the request, the complaint will be discussed with the
1386 involved parties. Either party may request that the meeting with the Chairperson be held
1387 without the other party present. The Chairperson should freely discuss the nature of the
1388 complaint in a relaxed and informal manner, making every effort to take the corrective
1389 action necessary in resolving the grievance to the satisfaction of the involved parties. All
1390 parties will be appropriately advised in writing of the corrective action, if any, and the
1391 findings and the basis for the decision of the Chairperson within 7 calendar days
1392 subsequent to the conference.

1393 — 2. Discussion with the Dean

- 1394 — a. If the complaint is not resolved to the satisfaction of all parties in conference with the
1395 — Chairperson, the complaint should be taken to the appropriate Dean for further
1396 evaluation — and consideration. Within 7 calendar days after receipt of the
1397 decision of the Chairperson, — either party should forward that decision
1398 (and the initial complaint, if it was made in — writing) to the Dean.
1399 Either party may request that a conference with the Dean be held — without
1400 the other party present. The Dean will respond to the request for an appointment —
1401 — and discuss the complaint with both parties within 7 calendar days after receipt of such —
1402 — request.
- 1403 — b. The Dean's conference should be conducted in a relaxed and informal manner with the
1404 — involved parties. The Dean should invite the Chairperson to participate in this conference
1405 if doing so is deemed desirable or appropriate, or if the presence of the Chairperson is
1406 requested by either party. The Dean should make every effort to take the corrective
1407 action necessary in resolving the complaint to the satisfaction of the involved parties. All
1408 parties will be appropriately advised in writing of the corrective action, if any, and the
1409 findings and the basis for the decision of the Dean within 7 calendar days subsequent to
1410 the conference.
1411

~~3. Appeal to the East Carolina University Office of Equity and Diversity (“OED”).~~

~~If the complaint is not resolved to the satisfaction of either party, the dissatisfied party has the right to appeal the decision to the OED. The appeal should be made within 21 calendar days subsequent to the decision of the Dean and must follow the Level One Grievance Procedures specified below in II.B.~~

~~B. Level One Grievance Procedures~~

~~1. Reporting the Complaint to the East Carolina University Office of Equity and Diversity~~

- ~~a. To initiate the process, the complainant may contact the OED office or submit a grievance reporting form, available at <http://www.ecu.edu/cs-acad/edc/SubmitAGrievance.cfm>. If this is an appeal from the Dean’s decision as specified under II.A.3, the party making such an appeal is known as the complainant in this process.~~
- ~~b. Complaints concerning harassment, discrimination, or improper relationships submitted in writing to ECU’s EEO Officer, who is Vice Provost for Equity and Diversity, should contain at least the following: (a) the complainant’s description of the alleged event(s), including times, dates, places, and witnesses, if possible; (b) the complainant’s description of the effects, if any, of the alleged event(s); (c) the names of the individuals alleged to have subjected the complainant to harassment or discrimination, or alleged to be involved in a prohibited improper relationship; and (d) the identification and contact information for the complainant. The EEO Officer, or the Officer’s designee, is referenced hereafter, as “the Grievance Officer”.~~
- ~~c. The Grievance Officer shall immediately acknowledge receipt of the complaint and, within 14 calendar days from the submission of the complaint, shall schedule a meeting with the complainant to listen to and discuss the complaint. Any of the deadlines set at Level One Grievance, as enumerated in this II.B, may be extended by the Grievance Officer to accommodate delays not reasonably avoidable. Written notice of the new deadline and the reason for the extension shall be provided to the parties and to the Provost. Such extensions must be allowable under applicable law and shall not unduly delay the investigative process.~~
- ~~d. The Grievance Officer will be available to the complainant, the respondent (hereafter, “the respondent” is used in the singular form, even where it may stand for more than one person), and to possible witnesses to discuss their rights and procedural options, as well as the possible outcomes of these options.~~
- ~~e. The Grievance Officer shall determine whether evidence exists to sustain the complaint. In making this determination, the Grievance Officer may conduct an investigation. The confidentiality of both the complainant and the respondent will be preserved to the extent required by law.~~
- ~~f. If the complainant wishes to proceed or the Grievance Officer determines it necessary to proceed with an investigation, the Grievance Officer will provide a written description of the complaint, or a copy of the written complaint, to the respondent at the beginning of the investigation and not later than 14 calendar days following the complainant’s or Grievance Officer’s decision to proceed with an investigation.~~
- ~~g. The respondent shall have an opportunity to meet with the Grievance Officer and provide a response to the allegations, both verbally and in writing.~~

1457 h. During the investigation of a complaint the Chancellor or appropriate Vice Chancellor
1458 may take interim measures, up to and including suspension with pay, to prevent
1459 misconduct or retaliation.

1460 2. Record

1461 a. The Grievance Officer will keep a record of the initial and any subsequent discussions
1462 between the complainant and the Grievance Officer, and of discussions between the
1463 Grievance Officer and respondent. This investigation record will include:

- 1464 i) the documentation referenced in II.B.1.b;
- 1465 ii) the reply of the respondent, if any;
- 1466 iii) and any and all information collected in and relating to the investigation.

1467 To the extent allowed by applicable law, the portion of the investigation
1468 record referenced in II.B.2.a. (i) and (ii) shall be provided by the

1469
1470
1471 Grievance Officer to all parties with all due speed, preferably within 14
1472 calendar days of its compilation.

1473 b. Within 14 calendar days of receiving a copy of the portion of the investigation record
1474 referenced in II.B.2.a. (i) and (ii), the complainant and the respondent may append to
1475 this record a written response to each of the factual claims therein. In any case where a
1476 written response is appended to the record, this will be noted in the investigation record
1477 itself.

1478 3. Written Report and Conclusions

1479 Within 21 calendar days after the procedures listed under II.B.1. are met and the
1480 investigation record as specified under II.B.2. is completed, the Grievance Officer will
1481 submit this record and the Grievance Officer's report of findings and conclusions to the
1482 appropriate Vice Chancellor. All parties, including the complainant, respondent, and
1483 supervisors, are notified regarding the results of the investigation at the same time to
1484 include a report of the Grievance Officer's findings and conclusions, subject to any legally
1485 required redactions; however, if there are multiple respondents and/or multiple
1486 complainants, each party will receive only such information as is directly related to his or
1487 her case.

1488
1489
1490 4. The Vice Chancellor shall issue a letter to all parties that may or may not initiate the
1491 disciplinary process or take disciplinary action in accordance with University procedures.
1492 Each complainant and respondent may obtain by request to the Grievance Officer a copy
1493 of the investigation records, redacted to the extent required by law.

1494 5. Procedures To Be Followed Upon the Imposition of Sanctions

1495 a. The Chancellor or the Chancellor's designee may respond to substantiated
1496 claims by the imposition of serious sanctions (*The UNC Code, Section*
1497 *603*) lists serious sanctions as discharge from employment, suspension, or
1498 demotion in rank) or lesser sanctions, provided that the conditions specified
1499 below are met prior to the imposition of sanctions. However, failure of the
1500 respondent to cooperate with the investigation (failure to respond
1501 to the allegations, or to accept a copy of the report of the investigation,
1502 etc.) will not preclude the University from imposing appropriate
1503 sanctions if all of the following have occurred:

- i. The respondent was provided with a written statement or description of the complaint brought against the respondent, signed either by the complainant or the Grievance Officer;
- ii. The complaint was thoroughly investigated by the Grievance Officer;
- iii. The reply of the respondent to the complaint was solicited in person and in writing by the Grievance Officer during the investigation of the complaint by the Grievance Officer;
- iv. The reply of the respondent to the complaint obtained during the investigation of the complaint by the Grievance Officer is noted in the Grievance Officer's report of findings and conclusions; and
- v. The respondent was provided with the Grievance Officer's written report of the findings and conclusions.

b.

A. Faculty subject to administrative sanction(s) for violations of University policies on harassment, discrimination or improper relationships have the right to due process through appropriate appeals procedures, based on the type of sanction imposed. Faculty not subject to administrative sanction(s) based on an investigation, but who believe the process has contributed to a hostile work environment, or that they otherwise have been harmed by the investigation, have the right to redress of specific findings or actions as allowed under provisions for general grievances covered in Part XII, Section II.I of this *Faculty Manual (Policies and Procedures for General Faculty Grievances and for Appeals of Non-conferral of Early Tenure)*. These rights apply to both the faculty complainants and faculty respondents in the original complaint brought on harassment, discrimination or improper relationship.

B. When the disciplinary actions, if any, do not include a serious sanction, either party may, within 28 calendar days from the Vice Chancellor's issuance of a letter responding to the Grievance Officer's report, request an appeal to the Grievance Board in accordance with the Level Two Procedures as specified below in II.C.a a faculty member may appeal minor sanctions, reprimands, or seek other redress through provisions governing general grievances contained in Part XII, Section II.I (this section) of the *Faculty Manual*.

C. c. When the disciplinary actions that include a serious sanction they may -- pursuant to the ECU may be appealed following provisions in Part XII, Section I.III of this *Faculty Manual* -- be sequentially appealed to the (Due Process Committee and the East Carolina University Board of Trustees. *Before Discharge or the Imposition of Serious Sanctions*). Alleging that one or more specified provisions of *The UNC Code* have been violated, the Board of Trustees decision may be further appealed to the Board of Governors. *The UNC Code, Section 603(3)* warns that if, within 14 calendar days after receiving the notice of a serious sanction, the faculty member makes no written request for appeal, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.

6. Options beyond Level One Grievance

When Level One procedures are terminated without being resolved to the satisfaction of either party, both the complainant and respondent have the option of initiating a Level

Two Grievance (see II.C). However, if the disciplinary actions include a serious sanction and the respondent wishes to appeal it, such an appeal must be made to the Due Process Committee instead of the Grievance Board.

~~(FS Resolution #14-19, March 2014)~~

~~C. Level Two Grievance Procedures~~

- ~~1. If either party disagrees with the findings and conclusions in the report of the Grievance Officer, either party may, within 28 calendar days from the Vice Chancellor's issuance of a letter responding to the Grievance Officer's report, notify the Grievance Officer, in writing, to request a Grievance Board hearing.~~
- ~~2. The possible appeal routes depend on the disciplinary actions stated in the Vice Chancellor's letter to the Grievance Officer:
 - ~~a. If serious sanctions are imposed an appeal may be made by the original respondent within 14 calendar days, only to the Due Process Committee and not to the Grievance Board.~~
 - ~~b. If they do not include a serious sanction, within 28 calendar days of the disciplinary action taken, either party may notify the Grievance Officer, in writing, to request a Grievance Board hearing.~~~~
- ~~3. The person (complainant or original respondent) who initiates the Level Two hearing hereafter is known as the grievant and the other party is known as the respondent.~~
- ~~4. Within 7 calendar days after receiving such a request, the Grievance Officer will submit the request, the record, the Grievance Officer's report of findings and conclusions, and the original written complaint to the Chair of the Grievance Board (hereafter, "the Chair"). The Grievance Officer will simultaneously send a copy of these materials to the respondent. Some material may be redacted where required by law.~~
- ~~5. Communications pertaining to the grievance are maintained by the Chair. Such communications include, when appropriate, the following: copies of all written communications (including emails); the contents of any interaction or meetings held with regard to Level Two Grievance proceedings; a summary of the course of action; and the findings of the Grievance Board's hearing panel. The communications and records are confidential and cannot be released unless such release is compelled by law. After the report of the Grievance Board's hearing panel is submitted to the Chancellor, all these materials are transferred to the Office of Faculty Senate, where they shall remain as confidential and will not be released, unless permitted by law.~~
- ~~6. Composition of the Grievance Board~~
 - ~~The Grievance Board shall be composed of 5 regular members and 7 alternate members, each of whom is a permanently tenured voting faculty member holding no administrative title (the term "administrative title" refers to appointment as department chair in a professional school, unit administrator, dean, assistant or associate dean, vice chancellor, assistant or associate vice chancellor, chancellor, assistant or associate chancellor, assistant or associate provost). The University encourages diversity on the Grievance Board. Members shall be elected in accordance with the procedures for election of appellate committees specified in the Bylaws of the ECU Faculty Senate.~~

1601
1602 ~~— The members of the Grievance Board shall elect annually a chair, a vice chair, and a~~
1603 ~~secretary. The business of the Grievance Board shall be conducted according to the~~
1604 ~~most recent edition of *Robert's Rules of Order, Newly Revised*, except as described~~
1605 ~~below.~~

1606
1607
1608 ~~— Composition of the Grievance Board for a particular hearing panel (hereafter, “the~~
1609 ~~Panel”)~~

1610 ~~— After receiving the Grievance Officer’s notification about the Level Two grievance, within~~
1611 ~~7 calendar days, the Chair will determine the availability of the regular members and~~
1612 ~~alternates. If any of the Board’s 5 regular members are unavailable or need to recuse~~
1613 ~~themselves, an alternate will be selected to serve on the hearing Panel in their place.~~
1614 ~~An additional alternate will be chosen to attend all sessions of the hearing and to~~
1615 ~~replace a hearing Panel member, should that member be unable to attend the entire~~
1616 ~~hearing. The ranking of the available alternates for selection will be determined by their~~
1617 ~~years of service to the University. If there are fewer than 6 Grievance Board members~~
1618 ~~available to serve on the hearing Panel, then the Chair of the Faculty will select a~~
1619 ~~sufficient number of additional alternates to constitute a complete Panel of 6 members.~~

1620
1621 ~~— Those Grievance Board members who hold an appointment in the grievant’s or~~
1622 ~~respondent’s academic unit, those who reasonably expect to be called to provide~~
1623 ~~evidence during the hearing, and those who have conflicting interests shall recuse~~
1624 ~~themselves or be disqualified from participation in the hearing by a majority vote of the~~
1625 ~~remaining members.~~

1626
1627 ~~— Within 3 calendar days from the formation of the Panel, the Chair will send the grievant~~
1628 ~~and respondent a list of the 6 members of the Panel. From that list, both the grievant~~
1629 ~~and respondent may disqualify 1 member without cause from serving on their Panel.~~
1630 ~~The grievant or the respondent wishing to exercise this option must notify the Chair,~~
1631 ~~within 3 calendar days, of the name of the member to be disqualified. The Chair will~~
1632 ~~select additional Panel members to constitute a complete Panel of 6 members.~~

1633 1634 ~~7. Purposes of Hearing~~

1635 ~~— The purposes of a hearing are: (i) to render findings of facts and recommendations as to~~
1636 ~~whether evidence presented to the Panel during the hearing sustains by its~~
1637 ~~preponderance the allegations of harassment, discrimination or improper relationships;~~
1638 ~~(ii) to communicate in the Panel’s report to the Chancellor the Panel’s finding and the~~
1639 ~~reasons that support this finding, and the Panel’s recommendations regarding resolution~~
1640 ~~of the complaint. Avenues of appeal are provided to faculty members in the *ECU*~~
1641 ~~*Faculty Manual* and in *The UNC Code*. The findings of the Panel are final only when the~~
1642 ~~Chancellor renders her or his opinion, and the respondent fails to challenge either the~~
1643 ~~Panel’s findings or the Chancellor’s concurrence or actions based on Panel’s findings.~~

1644 1645 ~~8. Conduct of Hearing~~

- 1646 ~~— a. The hearing before the Panel shall be conducted in private.~~
1647 ~~— b. Attendance throughout the entire hearing is limited to members of the Panel, the~~
1648 ~~grievant, 1 person (who may advise the grievant), the respondent and 1~~

1649 person (who may advise the respondent). Neither of the advising
1650 persons shall have speaking privileges.

1651 c. With the assistance of the University Attorney, the Panel may call witnesses.

1652 d. Witnesses will be available at a convenient location, and will be called to appear
1653 before the Panel at times specified by the Chair.

1654 e. In making its determination, the Panel shall consider only such evidence as is
1655 entered or presented during the hearing. The Panel may use its own judgment
1656 in deciding the admissibility and/or relevance of any testimony of any
1657 person before the Panel, and the admissibility and/or relevance of
1658 any evidence whatsoever.

1659 9. Hearing Procedure

1660 a. The Panel will initiate a hearing no later than 42 calendar days after the date that the
1661 respondent was notified that a hearing will occur.

1662 b. The Chair will notify all parties of the time, date, and place of the hearing at least 28
1663 calendar days prior to its start. Within 14 calendar days of this notification, either
1664 party

1665 may request, in writing, postponement of the hearing with up to a 35 calendar days
1666 extension. Such a request will be granted if a majority of the Panel agrees that
1667 exceptional circumstances justify postponement.

1668 c. Within 21 calendar days prior to the start of the hearing, the grievant and the
1669 respondent shall identify, in writing, to the Chair individuals who may provide
1670 evidence to the Panel and provide the Chair with any written or other
1671 material they wish to be entered as documentary evidence.

1672 i) Fourteen (14) calendar days prior to the hearing, the Chair will provide
1673 the respondent with a copy of the list of witnesses for the grievant, and with
1674 a copy of any depositions or other written material, and/or a
1675 description of any other evidence that grievant had submitted to
1676 the Panel.

1677 ii) Fourteen (14) calendar days prior to the hearing, the Chair will provide
1678 the grievant with a copy of the list of witnesses for the respondent, and with
1679 a

1680 copy of any depositions or other written material and/or a description of
1681 any other evidence that respondent had submitted to the Panel.

1682 iii) At any time prior to the grievant's closing statement, either party may
1683 request that the Panel allow new witnesses or new evidence to be
1684 presented. If they are deemed relevant, such requests will be granted
1685 by a majority of the Panel if the need for new witnesses was not
1686 reasonably foreseen or new evidence was previously unavailable.

1687 iv) When the Panel votes to accept new witnesses or evidence, the names
1688 of these witnesses and/or copies or descriptions of evidence will be
1689 supplied to the grievant or the respondent as soon as possible.

1690 d. The hearing will begin with an opening statement by the Chair, who shall state the
1691 purpose of the hearing, the contents of the complaint, and the identities of
1692 grievant, respondent, and witnesses to be called. The Chair will ask members to
1693 introduce themselves and state for the record that they do not hold an
1694 administrative title. The Chair will list the procedures to be followed during the
1695
1696

1697 hearing, and will specifically note that only testimony and other information
1698 bearing on the grievance at hand will be admissible as evidence. It will be the
1699 Chair's responsibility to reject immediately, stop the presentation or introduction
1700 —of, or question the relevance of information having no clear bearing on the
1701 grievance. However, at any time during a hearing the Panel may, by a majority
1702 vote, override the Chair's decision regarding admissibility and/or relevance of
1703 testimony, written evidence, or other material presented to the Panel. It will also
1704 be the Chair's responsibility to maintain control of the hearing so that an orderly
1705 exchange of information can be accomplished. The Chair has the authority to
1706 decide minor procedural questions not otherwise covered elsewhere. When
1707 deciding minor procedural questions, the Chair shall serve the interests of both
1708 parties equally. As for any hearing from which an appeal may be taken, a court
1709 reporter must be used to record and transcribe the hearing.

- 1710 e. Following the opening statement by the Chair, the grievant will present the
1711 complaint by submitting documentary evidence and questioning the grievant's
1712 witnesses. The grievant may be a witness. The respondent may cross-examine
1713 —grievant's witnesses, and the grievant may follow with further questions limited
1714 to the matter raised on the cross-examination. The Panel members may question
1715 the grievant's witnesses and, after their dismissal and the conclusion of the
1716 grievant's presentation, may question the grievant. Then the respondent may
1717 reply to the complaint by submitting documentary evidence and questioning the
1718 respondent's witnesses. The respondent may be a witness. The grievant may
1719 cross-examine respondent's witnesses and the respondent may follow with further
1720 questions limited to the matter raised on the cross-examination. The Panel
1721 members may question the respondent's witnesses and, after their dismissal and
1722 the conclusion of the respondent's presentation, may question the respondent.
- 1723 f. After these presentations by the grievant and the respondent, the parties may
1724 question each other, and may present rebuttal to any and all depositions, written
1725 documents, and other evidence submitted to the Panel. The Panel members
1726 —may question them further. If deemed appropriate by a majority of the Panel,
1727 dismissed witnesses may be recalled if available.
- 1728 g. When neither party has any further questions, or the Chair determines that the
1729 parties should discontinue questioning one another, and once the Panel has no
1730 further questions, each party has the option to make a closing summary
1731 statement. The grievant proceeds first and each statement shall not exceed 10
1732 minutes in duration.

1733 10. Post Hearing Procedure

- 1735 a. After the hearing, the Panel shall meet in executive session and begin its
1736 —deliberations, or adjourn for no more than 2 calendar days, at which time it shall
1737 —reconvene in executive session to determine whether it sustains or does not
1738 —sustain the grievance brought before it.
- 1739 —b. In reaching its decisions, the Panel shall consider only the testimony and other
1740 —materials entered or presented as evidence during the hearing. The burden
1741 is on —the grievant to establish his or her case by a preponderance of the
1742 evidence.

1743 ~~_____ c. Determination by the Panel that sustains the grievance requires a majority vote~~
1744 ~~_____ by members of the Panel. The decision will be reported to the Chancellor~~
1745 ~~and _____~~

1746 ~~_____ the parties.~~

1747 ~~_____ d. Within 21 calendar days of the Panel's reaching a determination to sustain or not~~
1748 ~~_____ to sustain the allegations of harassment, discrimination or improper~~
1749 ~~relationships, _____~~

1750 ~~_____ the Panel's determination and a summary of the basis for its decision will be _____~~

1751 ~~_____~~
1752 ~~_____ communicated in writing to the Chancellor, the grievant, the respondent, the _____~~
1753 ~~_____ Grievance Officer, the relevant unit administrator, and the University~~

1754 ~~Attorney. _____ The Faculty Senate Office will provide the Chancellor and the~~
1755 ~~parties with a copy _____ of the court reporter's transcript of the hearing as soon~~
1756 ~~as the transcript is _____ produced.~~

1757 III. ~~Post Level Two Grievance Procedures~~

1758
1759
1760 ~~A. _____ Within 42 calendar days of receiving the Panel's report and the court reporter's _____~~
1761 ~~_____ transcript, the Chancellor shall notify the grievant, respondent, Grievance Officer,~~
1762 ~~_____ relevant unit administrator, University Attorney, and the Panel of the~~
1763 ~~Chancellor's _____ concurrence or non-concurrence with the findings of the Panel,~~
1764 ~~and of the disciplinary _____ action, if any, against the original respondent.~~

1765
1766 ~~B. _____ The disciplinary actions by the Chancellor may or may not include discharge from _____~~
1767 ~~_____ employment, suspension, or demotion in rank.~~

1768 ~~1. When the disciplinary actions, if any, do not include a serious sanction, and if the~~
1769 ~~Chancellor either declines to accept a Grievance Board recommendation that is~~
1770 ~~favorable to the original respondent or concurs with the Board's recommendation that is~~
1771 ~~unfavorable to the original respondent, within 14 calendar days the original respondent~~
1772 ~~may appeal the Chancellor's decision to the East Carolina University Board of Trustees.~~
1773 ~~The decision of the Board of Trustees is final and may not be appealed to the Board of~~
1774 ~~Governors.~~

1775 ~~2. When the disciplinary actions include a serious sanction the original respondent, in accordance~~
1776 ~~with the procedures specified in the *ECU Faculty Manual*, has 14 calendar days to appeal to the~~
1777 ~~Due Process Committee. The Chancellor's decision following the findings of the Due Process~~
1778 ~~Committee may be appealed within 14 calendar days to the Board of Trustees. Alleging that~~
1779 ~~one or more specified provisions of *The UNC Code* have been violated, in the original~~
1780 ~~respondent imposition of a serious sanction, a faculty member may, within 14 calendar days,~~
1781 ~~further appeal the decision of the a Board of Trustees decision to the Board of Governors.~~
1782 ~~Note that *The UNC Code*, Section 603(3) warns that if, within 14 calendar days after receiving~~
1783 ~~the notice of a serious sanction, the faculty member makes no written request for appeal, the~~
1784 ~~faculty member may be discharged or serious sanction imposed without recourse to any~~
1785 ~~institutional grievance or appellate procedure.~~

1786
1787 ~~D. Appeals of specific findings, either positive or negative, of an investigation of complaints of~~
1788 ~~unlawful or prohibited discrimination, harassment or improper relationship may be available~~
1789 ~~under specific university policies. Current information on university policies governing these~~
1790 ~~areas is available at the Office for Equity and Diversity ([{00075251 }](http://www.ecu.edu/cs-</u></p></div><div data-bbox=)~~

1791 [acad/oed/policies.cfm](#)).

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1795 PART XII – FACULTY GRIEVANCE POLICIES AND PROCEDURES

1796 SECTION II.III, Effective Date

- 1797 I. Except as otherwise provided below, these provisions shall become operative immediately
1798 after they are approved by the President of the University of North Carolina, and are
1799 enabled by approved revisions of the Bylaws of the East Carolina University Faculty
1800 Senate.
- 1801 II. Provisions governing establishment of appellate hearing panels will become operative only
1802 after the establishment and initial fall organizational meeting of an Appellate Committee, as
1803 specified in the revised Bylaws of the East Carolina University Faculty Senate. The
1804 Appellate Committee shall be elected at the first April organizational meeting of the ECU
1805 Faculty Senate following the date of final approval of both the revised Part XII of the Faculty
1806 Manual, and the Bylaws of the Faculty Senate.
- 1807
- 1808 III. These provisions as amended shall apply to those appeals initiated after the effective dates
1809 indicated in parts A and B above. Appeals for which procedures for a hearing have been
1810 initiated before these provisions become operative will continue under the previous Faculty
1811 Manual provisions governing the type of appeal involved.
- 1812
- 1813 IV. If secure electronic platforms for handling grievances become available, requirements for
1814 delivery, distribution and resolution of grievance materials may be modified accordingly
1815 through recommendation by the Faculty Senate and approval by the chancellor.

1816

1817

1818

1819 Amended

1820 Faculty Senate Resolution #12-17, February 2012

1821 Faculty Senate Resolution #14-32, April 2014 ~~IV. — Grievance Board Procedural Flowchart (next~~
1822 ~~page)~~

1823

1824 V. Annual Report

1825 ~~Each May the Grievance Board shall submit to the Faculty Senate Office an annual report detailing~~
1826 ~~statistics about the complaints received and processed from May 1 — April 30 of previous year.~~

1827 ~~A. The outcome of the complaint(s) at Level One will list the protected class involved, whether or~~
1828 ~~not it was an allegation of improper relations and when (month/year) each complaint was~~
1829 ~~submitted to the OED and resolved.~~

1830 ~~B. The outcome of the complaint(s) at Level Two will list the protected class involved, whether or~~
1831 ~~not it was an allegation of improper relations and when (month/year) each complaint was~~
1832 ~~submitted to the Grievance Board and resolved.~~

1833 ~~C. The types of disciplinary actions (such as discharge from employment, suspension, or demotion~~
1834 ~~in rank, or lesser sanctions) if any, taken by the University and when (month/year) the~~
1835 ~~complaint was submitted and, if known, resolved.~~

1836

1837 ~~—The annual report will be available on request at the Faculty Senate Office. Personally~~
1838 ~~identifying~~

1839 ~~—information regarding the complainants and the respondents shall not be disclosed.~~

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1841 (~~FS Resolution #12-42, March 2012~~)
1842 (~~FS~~
1843 Faculty Senate Resolution #~~14-19, March 2014~~)
1844
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GRIEVANCE BOARD PROCEDURAL FLOW (March 2012)

Optional initiation of grievance by complainant

Complainant opts to skip 'optional' process

NOTE: either party may opt out at any time in the optional steps

Discussion with Department Chair

☹ Complainant or Respondent not happy ☹

7 days* ↓

Discussion with the Dean

☹ Complainant or Respondent not happy ☹

21 days ↓

(Level One) EDC Office

If either party disagrees with the findings and conclusions in the report of the EDC Grievance Officer:

If the Vice Chancellor has initiated the disciplinary process:

☹ Complainant or Respondent not happy ☹

28 days ↓

Disciplinary actions do NOT include serious sanctions

Disciplinary actions include serious sanctions

↓ (14 days**)

↓ (14 days**)

Due Process Committee

↓ (14 days**)

Board of Trustees

↓ (14 days**)

Board of Governors

(Level Two) Grievance Board

The person (complainant or respondent) who initiates the Level Two hearing is hereafter known as the **grievant** and the other party is the **respondent**. The Grievance Board renders findings of facts and recommendations as to whether evidence presented during the hearing sustains by its preponderance the grievant's allegations. GB sends its report and recommendations to the Chancellor.

GB agrees with EDC findings ↓

GB does NOT agree with EDC findings ↓

Chancellor

If original respondent is disciplined

Disciplinary actions do NOT include serious sanctions

↓ (14 days)

Board of Trustees (may not be further appealed to Board of Governors)

Disciplinary actions include serious sanctions

↓ (14 days**)

Due Process Committee

↓ (14 days**)

Board of Trustees

↓ (14 days**)

Board of Governors

*Note: Number of days reflects the number of calendar days within which appeals have to be made.

** Important Note: If, within 14 calendar days after receiving the notice of a serious sanction, the faculty member makes no written request for appeal, then the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.

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1856

[10/24/13](#)

[editorially revised Section II.C. Level Two Grievance Procedures, subsection 9.c.i to state "respondent" not "grievant" is provided with copy of list.](#)

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