

EAST CAROLINA UNIVERSITY
2019-2020 Faculty Governance Committee

MINUTES OF MEETING DATE: September 11, 2019.

PRESIDING: Jeff Popke (vice-chair)

REGULAR MEMBERS (X IN ATTENDANCE):

Tracy Carpenter-Aeby ____, Richard Baltaro X, Jonathan Morris ____, Michael Duffy X, Brad Lockerbie X, Jay Newhard X, Jeff Popke X, Marianna Walker X, David Wilson-Okamura X

EX-OFFICIO MEMBERS (X IN ATTENDANCE):

Crystal Chambers, Rep of Faculty Senate X, Don Chaney, Rep of the Chair of the Faculty X, Jay Golden, VCREDE ____, Ron Mitchelson, Provost / VCAA ____, Mark Stacy, VCHS ____

OTHERS IN ATTENDANCE: Lori Lee; Linda Ingalls for Office of the Provost; Rachel Baker, University Program Specialist; Mary Farwell for VCREDE Jay Golden.

I. Call to Order, 3:00 pm, Rawl 142

II. Minutes

The committee voted to revise the minutes of Aug. 28, 2019 to reflect its recollection and understanding of editorial changes to *Faculty Manual*, Part IV, Section II, relating to amendment of unit codes:

“The Code Unit shall consider advice received and may amend its proposed code if ~~this is the will of a majority of the Code Unit’s voting Faculty~~ approved by the applicable code unit voting faculty members as defined herein (Subsection III).”

“After revision, the code shall be approved by ~~a majority of the “Code Unit Voting Faculty Members” of the unit~~ the applicable code unit voting faculty members as defined herein (Subsection III).”

III. Continuing Business

A. The committee resumed discussion of unit code voting.

1. The committee reviewed the *Faculty Manual* text for other passages that required editorial reconciliation with last year’s senate vote.

a. By email, prior to the meeting, Ingalls pointed out an additional section of Part IV, Section I, Subsection I that needed to be reconciled.

1. Wilson-Okamura moved the following revision, consistent with the terminology agreed on earlier: “The unit code document is created by a group of faculty members and approved by the ~~appropriate tenured faculty~~ the applicable code unit voting faculty members as defined below (Part IV, Section ii, Subsection III), the Unit Code Screening Committee, the Faculty Senate, and the Chancellor.”

2. Motion carried.

b. Popke moved the following revision: “Within 10 working days after this meeting, ~~the permanently tenured faculty members of each affected unit,~~ the applicable code unit voting faculty members as defined below (Part IV,

Section II, Subsection III), including the unit administrator(s), will meet and vote their approval or disapproval of the proposal in its original form or as amended by their action.”

1. Ingalls pointed out that this language refers to creating or changing code units, not just revising unit codes.
 2. Wilson-Okamura argued that the resulting change would be substantive, not editorial.
 3. Motion withdrawn.
 - c. Chambers drew the committee’s attention to similar phrasing in the section on revising codes for schools and colleges. Wilson-Okamura suggested that this would be a substantive, not editorial, change that we could take to the senate separately.
2. Newhard and Chambers asked the committee to reexamine its reasoning for last year’s recommendation, adopted by the senate, to raise the minimum threshold for amending codes from a simple majority to two thirds.
- a. Newhard argued that there was no meaningful connection between the recommendation’s main purpose, to allow voting on unit codes by fixed-term faculty members with tenure-like years of service, and the higher threshold.
 - b. Wilson-Okamura and Lockerbie suggested that the higher threshold makes for long-term stability.
 - c. Ingalls noted that Robert’s Rules of Order require a two-thirds vote for changes to bylaws.
 - d. Ingalls pointed out that in some units (e.g., Brody School of Medicine) tenure-track faculty members are vastly outnumbered by non-academic members. We will probably see some test cases this spring, and these would allow us to see how last year’s recommendation is working.
 - e. Wilson-Okamura asked: are fixed-term faculty members less independent, because their continued employment is contingent?
 1. Chambers and Baltaro: it really depends on the unit.
 2. Popke: but the perception is widespread and persistent.
 3. Chambers: a recent study of ECU faculty found no difference in how fixed-term faculty members feel about their work, values.
 4. Ingalls: fixed-term faculty members do not have the right to appeal a non-appointment.
 - f. Newhard moved to revise the approval threshold down, from two-thirds, to at least a majority.
 - g. Motion not adopted.
- B.** Popke summarized last year’s revisions to the appellate process described in *Faculty Manual* and moved, on behalf of John Stiller (who led the revision process), editorial changes to make the process consistent with new UNC rules. The committee voted to approve all of the proposed changes as follows. (Insertions are underlined, deletions struck out.)

1. Insertion to Part II, Section II approved with amendment from Wilson-Okamura and Popke: “All faculty ranks must be represented, with no fewer than 10 members ~~from each respective tenured rank (Professor, Associate Professor),~~ from the rank of Professor, no fewer than 10 members from the rank of Associate Professor, and no more than ~~five at 5~~ from the rank of Assistant Professor.”
 - a. Chambers asked: do enough Professors volunteer to implement this rule?
 - b. Popke: they have in the past.
2. Changes and insertions to Part II, Section II approved without amendment:
 - a. “Appellate Committee members must be permanently tenured or probationary tenure-track”
 - b. ~~“A Committee member who becomes a grievant or respondent while serving will be replaced by the usual procedure for vacancies between annual elections.”~~
 - c. “An Appellate Committee member who becomes a grievant or respondent while serving will be replaced by the usual procedure for vacancies between annual elections. ~~An Appellate Committee member who becomes a Grievant or Respondent while serving will be replaced following the usual procedure.”~~
3. Changes and insertions to Part XII, Section I approved without amendment:
 - a. Addition to CONTENTS for Section I.I, General Provisions on Faculty Appeals: “IV. Jurisdiction of the Board of Governors”
 - b. “Individuals will be asked to serve on panels in order of lottery rank, except when disqualified because of a conflict of interest, or skipped over based on inappropriate rank for the process in question.”
 - c. “IV Jurisdiction of the Board of Governors.
” It is the Board of Governors expectation that campus matters will be addressed appropriately at the constituent institution. Therefore, the board will not hear appeals of decisions that have been addressed through the appellate provisions of the ECU Faculty Manual. Under extraordinary circumstances, as solely determined by the Board of Governors, the Board may exercise its discretion to review any matter that has not first been brought to the attention of the designated institutional administrator, chancellor, or president for appropriate review and handling. The Board of Governors may in its sole discretion conduct hearings, whether before the full board or a designated standing or special committee of the board. Such hearings shall be limited to matters as the Board of Governors deems appropriate. All appeals addressed to or requests for hearings by the Board of Governors, from whatever source, shall be transmitted through the president.”
 - d. “The chancellor will inform the complainant of a decision in writing by a method that produces adequate evidence of delivery. If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor’s decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to

the faculty member, or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision by filing a written notice of appeal with the Board of Trustees. This appeal shall be transmitted through the chancellor and be addressed to the chair of the Board of Trustees, by submitting such notice by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member's receipt of the chancellor's decision. The notice must contain a brief statement that alleges one or more of the following as the basis for the appeal: (a) that the campus-based process for reviewing the decision was materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered; (b) that the result reached by the chancellor was clearly erroneous; or (c) that the decision was contrary to controlling law or policy. The Board of Trustees' decision shall be made as soon as reasonably possible after receiving the faculty member's request for an appeal. This decision is final and shall end the University's appeals process.

~~"In the event of an adverse decision, the chancellor's notice must inform the complainant that: 1) within 14 calendar days of the complainant's receipt of the decision, the complainant may file a notice of appeal with the UNC President requesting review by the Board of Governors in accordance with the Board of Governors Policy 101.3.1; 2) a simple written notice of appeal with a brief statement of its basis is all that is required within this fourteen day period, and 3) that, thereafter, a detailed schedule for the submission of relevant documents will be established if such notice of appeal is received in a timely manner (Faculty Senate Resolution #03-49).~~

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

- e. "Panel members shall be full time, permanently tenured voting faculty (as per Part IX, Section IV) without administrative appointment and be chosen in accordance with the procedures for election of the Appellate Committee specified in the Bylaws of the East Carolina University Faculty Senate..."
- f. "If the chancellor either declines to accept a panel recommendation that is favorable to the faculty member or concurs in a panel recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision to the Board of Trustees.

"An appeal must contain a brief statement that alleges one or more of the following as the basis for the appeal: (1) that the process for making the

decision was materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered; (2) that the result reached by the chancellor was clearly erroneous; or (3) that the decision was contrary to controlling law or policy."

- g. "This appeal shall be transmitted through the chancellor and be addressed to the chair of the Board. The faculty member must file the a notice of appeal by certified mail, return receipt requested, or by another means that provides proof of delivery, appeal within 14 calendar days after the faculty member receives the chancellor's decision. The notice of appeal shall be filed with the Board of Trustees, within 14 calendar days after the faculty member receives the chancellor's decision. The appeal to the Board of Trustees shall be decided by the full Board of Trustees..."
 - h. "The Board of Trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the Trustees. This decision is final and shall be the end of the University's appeal process. ~~This decision shall be final except that the faculty member may, within 14 calendar days after receiving the Trustees' decision, file a written notice of appeal by a method that provides delivery verification and is consistent with UNC Policy 101.3.3 to the Board of Governors by alleging that one or more specified provisions of the Code of The University of North Carolina have been violated. Any such appeal to the Board of Governors shall be transmitted through the President of the University of North Carolina."~~
4. Changes and insertions to Part XII, Section II approved without amendment:
- a. "Upon receipt of a request for a hearing (Step Four), the appellate chair shall determine the availability of the Appellate Committee members in lottery rank order to form a Grievance Panel consisting of five members plus one alternate who will replace any member unable to attend the entire hearing. When choosing panelists in rank order, the appellate chair will ensure that representatives from the respective ranks of both the grievant and respondent are included on the panel."
 - b. "The decision of the Board of Trustees is final and ~~may not be appealed to the Board of Governors,~~shall end the University's appeal process."
- C. Popke suggested that the committee resume, at its next meeting, last year's discussion of OED's inquiry procedures; Wilson-Okamura will circulate the minutes from that meeting.

IV. Adjourned at 4:55.

Respectfully submitted, David Wilson-Okamura.

The next meeting of the 2018-2019 Faculty Governance Committee will be held on **Wednesday, September 25, 2019** at 3:00pm in Rawl Annex 142.