

# **EAST CAROLINA UNIVERSITY FACULTY MANUAL**

## **PART IX**

**Appointment, Tenure, Promotion, and Advancement  
Policies and Procedures and  
Performance Review of Tenured Faculty**

PART IX – APPOINTMENT, TENURE, PROMOTION, AND ADVANCEMENT POLICIES AND PROCEDURES AND PERFORMANCE REVIEW OF TENURED FACULTY

**EFFECTIVE JULY 1, 2017**

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Appointment, Tenure, Promotion, and Advancement  
Policies and Procedures

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SECTION I  
Appointment, Tenure, Promotion, and Advancement  
Policies and Procedures

Prologue

Academic freedom, the set of norms and values that protects a faculty member's freedom of intellectual expression and inquiry, is essential to the achievement of knowledge and understanding. East Carolina University supports academic freedom of inquiry, discourse, teaching, scholarship (research, creative activity/innovation, engagement, and/or outreach), and publication for all faculty members. See *Part V, Academic Freedom*, of the *East Carolina University Faculty Manual*. East Carolina University shall not penalize or discipline faculty members because of the exercise of academic freedom in the lawful pursuit of their respective areas of scholarly and professional interest and responsibility.

With respect to personnel matters relating to Part IX of the *East Carolina University Faculty Manual*, academic units are defined as departments described in the unit codes of professional colleges and schools, the departments in the Thomas Harriot College of Arts and Sciences, professional colleges and schools without departments, Academic Library Services, Health Sciences Library, and any other units in which faculty appointments are made. In the College of Arts and Sciences and in professional colleges and schools whose unit codes describe departmental structures, departmental chairs are the unit administrators. In schools that do not have departments described in their unit codes, the director of the school is the unit administrator.

Confidentiality must be maintained when conducting any substantive business pertaining to all personnel actions, including but not limited to, initiation, review, and approval of appointments, subsequent appointments, advancements in title, reappointments, conferrals of permanent tenure, and promotions in academic rank. Because it does not guarantee confidentiality and because it becomes part of the candidate's personnel file, email shall only be used for organizational arrangements. Formal correspondences relating to any substantive business pertaining to all personnel actions must be maintained in secure archival form and in accordance with the ECU Records Retention and Disposition Policy and relevant procedures.

I. Tenure

Academic tenure serves to insure academic freedom by guarding faculty members against negative consequences of expressing unpopular points of view. Academic tenure refers to the conditions and guarantees that apply to a faculty member's professional employment. Tenure resides in East Carolina University, not the individual academic units. Tenure protects a faculty member against involuntary suspension or discharge from employment or reduction in rank except upon specified grounds and in accordance with the procedures provided in Part IX, Section I (VI.) or against termination of employment except as provided for in Part IX, Section I (VII.). During the term of such guarantees, the faculty member may be discharged or suspended from employment or diminished in rank only for reasons of

incompetence, neglect of duty, misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty, or demonstrable, bona fide institutional financial exigency or major curtailment or elimination of a teaching, scholarship, or public service program as detailed in Part IX, Section I (VII.A.1.) and (VII.A.2.) (Faculty Senate Resolution #03-44).

#### A. Tenure While Under Contract to East Carolina University

A faculty member who does not have permanent tenure has the protection of tenure until the expiration of the faculty member's employment contract.

#### B. Permanent Tenure

1. Permanent tenure may be conferred only by action of the Board of Trustees of East Carolina University and is always held with reference to employment by East Carolina University rather than to employment by The University of North Carolina. The conferral of permanent tenure is allowed only as the result of the processes enunciated in this document.
2. Conferral of permanent tenure shall be based on the faculty member's demonstrated professional competence in teaching, scholarship, clinical practice (as appropriate), and service; performance of these responsibilities in accord with appropriate professional standards of ethical conduct (Part V, Section II); a potential for future contributions in a like manner; and the institution's needs and resources. While teaching is the first consideration, the faculty member must meet unit expectations in all other areas, as appropriate. No assistant professor will be awarded permanent tenure unless concurrently promoted to associate professor.

### II. Faculty Appointments

#### A. General Provisions

##### 1. Categories of Appointments

There are three kinds of faculty appointments:

- (a) Fixed-Term Appointments [cf. Special Faculty Appointments, the UNC Code, 610 and ECU *Faculty Manual*, Part VIII]. Fixed-term appointees do not hold professorial ranks and are appointed with titles as listed in Part VIII of the *Faculty Manual*. Fixed-term appointments are without permanent tenure and do not entitle the faculty member to consideration for reappointment or conferral of permanent tenure. The term of appointment of any paid special faculty member concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires. Except as specified in subsection II.B.1, no obligation exists on the part of East Carolina University to give any notice before a current fixed-term appointment expires as to whether a new appointment will be granted at the end of a specified fixed-term.
- (b) Probationary Appointments and Reappointments. Probationary appointments are made at the professorial ranks of assistant professor, associate professor, or professor. Probationary appointees are entitled to reappointment reviews and, if reappointed throughout the probationary period, are entitled to a tenure review. The timing of these reviews is explained below and in Part X of the *Faculty Manual*.
- (c) Appointments with Permanent Tenure. Appointments with permanent tenure are continuous until retirement, resignation, or removal according to the provisions of Part

IX, Section I (VI or VII) of this document. Appointments with permanent tenure may be made at the professorial ranks of associate professor or professor only.

(d) Unpaid adjunct and affiliate faculty members are volunteers, and they are not covered by provisions in Part IX.

## 2. Criteria for Initial Appointment and Reappointment

All appointments, including fixed-term appointments, and all reappointments of candidates to probationary-term positions shall be based on assessments of candidates' demonstrated professional competence (Part X, Section II), potential for future contributions, and the institution's needs and resources.

## 3. Terms and Conditions for Appointment and Reappointment

The Chancellor or the Chancellor's designee<sup>1</sup> shall set out in writing, with a copy to the faculty member, the terms and the conditions of each appointment, including fixed-term appointments, and each probationary faculty reappointment. The terms shall incorporate by reference appropriate sections of the *Faculty Manual* and shall state any conditions placed on the appointment or reappointment.<sup>2</sup> The responsibility for initiating the inclusion of special terms and conditions in documents of appointment is with the unit administrator. Prior to the initial appointment, the unit administrator shall provide a copy of the unit's criteria for evaluating faculty performance contained in the unit code [as specified in Part VIII, Section I.III] to persons offered a faculty appointment in the unit. No offer is binding and no appointment is effective until signed by the Chancellor or the Chancellor's designee.<sup>1</sup> Criteria for evaluating faculty performance contained in the unit code shall be discussed by the unit administrator in a Fall Criteria Review meeting with each probationary-term faculty member at the beginning of the first term of employment and at the beginning of each academic year thereafter. A summary of this discussion shall be placed in the faculty member's personnel file. The responsibility for calling this meeting is with the unit administrator.

Notice of reappointment or non-reappointment to probationary-term faculty members shall be written. The non-reappointment decision shall not be based upon: (1) the faculty member's exercise of rights guaranteed by either the First Amendment to the United States Constitution or Article I of the North Carolina Constitution; (2) discrimination based upon the faculty member's race, color, national origin, creed, religion, veteran's status, gender, age, sexual orientation, political affiliation, disability, or any other protected class as defined by established University policy; or (3) personal malice (Faculty Senate Resolution #03-37).

## 4. Continued Availability of Special Funding

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<sup>1</sup> The Chancellor's designee shall include and be limited to the Provost and Senior Vice Chancellor for Academic Affairs and the Vice Chancellor for Health Sciences.

<sup>2</sup> The chancellor, in consultation with the office of the Faculty Senate, is responsible for the publication of the Faculty Manual. The Senate office shall be responsible for the maintenance of the Faculty Manual. The Faculty Manual shall contain the tenure and personnel policies and regulations of East Carolina University, including the complete text of Chapter Six of The Code of The University of North Carolina. The Faculty Manual shall be provided to new faculty and changes as they occur shall be distributed to each faculty member.

The appointment or reappointment of a faculty member to a position funded in whole or in substantial part from sources other than continuing state budget funds or permanent trust funds shall specify in writing that continuance of the faculty member's services, whether for a specified term or for permanent tenure, shall be contingent upon continuing availability of such funds. Exceptions to the foregoing contingency requirement are:

(a) That such a contingency shall not be included in a promotion to a higher rank if, before the effective date of that promotion, the faculty member had permanent tenure and no such condition is attached to the tenure.

(b) That such a contingency shall not be attached to the faculty member's contract if the faculty member held permanent tenure in East Carolina University on July 1, 1975, and the contract was not contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

(c) That such a contingency may be waived for health affairs faculties because of the unusual dependence of programs in the health professions on income from sources such as clinical receipts.

#### 5. Special Employment Arrangements

The University may permit, at the discretion of the Provost and Senior Vice Chancellor for Academic Affairs or the Vice Chancellor for Health Sciences, special employment arrangements for probationary term or tenured faculty members. Such arrangements may result in modifications in benefits.

If a special employment arrangement involving funding sources other than the University is deemed by the Unit Administrator to be necessary and in the best interests of the Unit and the University, the request for the modified work schedule shall be made in writing to the Provost and Senior Vice Chancellor for Academic Affairs or the Vice Chancellor for Health Sciences. The memo making this request should include specific reasons for seeking the modified work schedule and adequate assurances by the Unit Administrator, and for probationary-term faculty members, the unit Tenure Committee, that this arrangement is compatible with the faculty member fully achieving all of the duties and responsibilities appropriate for someone of the proposed rank and status.

#### 6. Notice of Resignation

A fixed-term or probationary-term faculty member should provide the unit administrator with 90 days advance notice, in writing, of resignation from employment. A permanently tenured faculty member should provide the unit administrator with 120 days advance notice in writing of resignation from employment. In no case should a resignation occur in mid-semester.

B. Fixed-Term Appointments [cf. Special Faculty Appointments, The UNC Code, 610; for the purposes of this section, unless otherwise specified, the provisions apply to paid faculty members] (The roles of committees are defined in subsection IV.)

##### 1. Contract and Notice:

Fixed-term faculty members are appointed for a specified term of service, as set out in writing in the letter of appointment. The term of appointment concludes at the end of the specified period set forth in the letter of appointment, and the letter of appointment constitutes full and timely notice that a new term will not be granted when that term expires. A letter of appointment for a fixed-term faculty member sets forth in writing the beginning

and ending dates of the term, the type of appointment and the pay status (i.e., paid or unpaid). Whenever possible, multi-year contracts, of up to five years, will be offered to fixed-term faculty members who have demonstrated their effectiveness and contributions and/or who have outstanding credentials. At the end of the appointment term, a fixed-term faculty member may request consideration of a new appointment. A fixed-term faculty member desiring a new appointment shall, no later than 75 calendar days before the current term expires, provide the unit administrator with a written request for a new appointment, and the unit administrator shall so notify the chair of the unit Personnel Committee. No later than 45 calendar days before the end of the current term, the Personnel Committee and the unit administrator shall notify the faculty member in writing of their respective recommendations; any recommendation is subject to the availability of the position, funding, administrative approval, and continued effective performance. Fixed-term faculty members are not covered by Section 604 of *The Code of the Board of Governors of The University of North Carolina* (hereafter, referred to as the UNC Code), and that section does not accord them rights to additional review of a decision by a constituent institution not to grant a new appointment at the end of a specified fixed-term. During the term of their employment, fixed-term faculty members are entitled to seek recourse under Section 607 of the UNC Code (relating to faculty grievances).

A faculty member who does not have permanent tenure has the protection of tenure until the expiration of the faculty member's employment contract.

2. Fixed-Term Employment Evaluation Policy [cf. Special Faculty Appointments, The UNC Code, 610]:

Faculty members employed for a fixed-term shall be evaluated annually in accordance with the provisions of the letter of appointment. A fixed-term faculty member should submit a portfolio to the Personnel Committee and the unit administrator prior to the unit administrator and the Personnel Committee considering a new appointment. The portfolio should contain information that demonstrates the effectiveness of the fixed-term faculty member in fulfilling the responsibilities specified in the letter of appointment. The specific contents of the portfolio shall be determined by the unit code.

3. Advancement in Title:

Initial recommendations for advancement in title for faculty members holding fixed-term appointments are the responsibility of the Unit Personnel Committee (see subsection IV. B.1.c.viii).

4. Terms and Conditions for Appointment:

The Chancellor or the Chancellor's designee<sup>1</sup> shall set out in writing to the fixed-term faculty member the terms and the conditions of each appointment. The terms shall incorporate by reference appropriate sections of the *Faculty Manual* and shall state any conditions placed on the appointment. The responsibility for initiating the inclusion of special terms and conditions in documents of appointment is with the unit administrator. Prior to initial or subsequent appointment, the unit administrator shall provide a copy of the unit's criteria for evaluating faculty performance contained in the unit code [as specified in Part VIII, Section I.III] to persons offered a fixed-term faculty appointment in the unit. Criteria for evaluating faculty performance contained in the unit code shall be discussed by the unit administrator in a meeting with each fixed-term faculty member at the beginning of the appointment term. A summary of this discussion shall be placed in the faculty member's personnel file. The responsibility for calling this meeting is with the unit

administrator. Fixed-term faculty members on semester-by-semester contract need only meet with the unit administrator once a year.

5. Portfolio for subsequent appointment and/or advancement in title of fixed-term faculty members:

All documents pertaining to subsequent appointments for fixed-term faculty members shall be collected and maintained in accordance with the applicable unit code, as described in subsection II.B.2 above.

6. New or Subsequent Appointments:

In the case of recommendations for new appointments or subsequent appointments of faculty members currently holding fixed-term appointments, the Personnel Committee will determine its recommendation for or against new and subsequent appointments, using secret ballots.

7. Notice of Resignation:

A fixed-term faculty member with a multi-year appointment may resign at the end of an academic term with 90 days advance notice in writing. A faculty member should not resign with an effective date between the beginning and ending dates of an academic term.

8. Procedure for Concurring and Non-concurring Recommendations:

All concurring and non-concurring unit committee recommendations and unit administrator recommendations regarding fixed-term employment are forwarded through each administrative level until reaching the appropriate vice chancellor. If the unit administrator's potential recommendation for a new fixed-term faculty appointment, subsequent appointment, or advancement in title will differ from the unit Personnel Committee's recommendation, the unit administrator shall discuss the potential non-concurrence at the unit committee level before forwarding the committee's recommendation and his or her concurrence or non-concurrence to the next higher administrator.

After the appropriate committee and the unit administrator transmit their recommendations to the next higher administrator, that administrator performs their own review, reaching a decision to either concur or not concur. The recommendation is forwarded to the next higher administrator along with the recommendations from the committee and the unit administrator. The unit administrator and the chair of the appropriate committee are notified of the recommendation of the next higher administrator. This procedure shall be repeated at each administrative level until the recommendation reaches the appropriate Vice Chancellor. Immediately after the completion of each level of administrative review, the administrator's recommendation shall be communicated to all appropriate lower administrators, the candidate, and the committee of the unit which made the initial recommendation.

The Vice Chancellor's decision regarding all fixed-term faculty employment recommendations is final.

C. Probationary Appointments

Probationary appointments are made at the professorial ranks of assistant professor, associate professor, and professor. Persons appointed as associate professor or professor are eligible for permanent tenure.

A faculty member appointed to an administrative position is eligible for permanent tenure only as a faculty member in one of the professorial ranks. There is no permanent tenure in an administrative position.

1. Notice of Reappointment or Non-Reappointment [UNC Code 604].

After considering all prior recommendations, the appropriate Vice Chancellor shall decide, early enough to permit timely notice to be given, whether to reappoint or not to reappoint a faculty member at the expiration of a term of service (see Part X.). Notice of reappointment or non-reappointment shall be written.

Timely Notice: For faculty members at the rank of assistant professor, associate professor, or professor, the minimum requirement for timely notice shall be as follows:

(a) During the first year of service at East Carolina University, the faculty member shall be given not less than 90 calendar days' notice before the employment contract expires.

(b) During the second year of continuous service at East Carolina University, the faculty member shall be given not less than 180 calendar days' notice before the employment contract expires.

(c) After two or more years of continuous service at East Carolina University, the faculty member shall be given not less than 12 months' notice before the employment contract expires.

Failure to give timely notice of non-reappointment will oblige the Chancellor to offer a terminal appointment of one academic year.

2. Probationary Terms (Please refer to *Faculty Manual* Interpretation [#117-01](#).)

Although the Chancellor may recommend that a faculty member be granted permanent tenure at any time, the faculty member shall be notified not later than twelve months before the end of the probationary period whether the faculty member will be recommended for permanent tenure. The normal probationary term for the professorial ranks, as established at the time of initial appointment, shall be as follows:

Assistant Professor. The maximum probationary term is six years. The faculty member can receive an initial three-year appointment and a maximum of two successive two-year appointments. No assistant professor will receive reappointment in a probationary term without a terminal degree or appropriate alternate credentials as defined in the unit code. If a faculty member does not receive permanent tenure at the end of his or her sixth year, the faculty member remains employed through one terminal year. During that terminal year, the faculty member may not serve on the unit's Personnel Committee.

Associate Professor. The maximum probationary term is four years. The faculty member can receive an initial three-year appointment and a maximum of one two-year appointment. If a faculty member does not receive permanent tenure at the end of his or her fourth year, the faculty member remains employed through one terminal year.

During that terminal year, the faculty member may not serve on the unit's Personnel Committee.

Professor. The probationary term is two years. The faculty member can receive a single three-year appointment. If a faculty member does not receive permanent tenure at the end of his or her second year, the faculty member remains employed through one terminal year. During that terminal year, the faculty member may not serve on the unit's Personnel Committee.

All time served in a probationary appointment at East Carolina University must be continuous, excluding any approved leaves of absence.

When a faculty member in probationary appointment requests and is awarded promotion in rank before the end of the probationary term, the original contractual probationary term shall not be altered.

In order to afford the maximum opportunity for tenure, the probationary term for personnel hired at the professorial ranks, whose contract date occurs earlier than the beginning of the Fall semester (or July 1 for probationary faculty members with twelve-month appointments), will be measured from the beginning of the subsequent Fall semester (or July 1 for probationary faculty members with twelve-month appointments).

### 3. Reduction of the Normal Probationary Term for Previous Academic Employment

Although generally discouraged in favor of petitioning for early tenure (see subsection II.C.6), reduction of the normal probationary term may be granted for previous full-time faculty employment at the time of initial appointment as assistant professor or associate professor. The granting of such a reduction shall require a strong justification and the agreement of the appointee, a simple majority of the unit Personnel Committee, the unit administrator, the dean, and the appropriate Vice Chancellor. The maximum reduction at each professorial rank shall be as follows:

(a) For a candidate appointed at the rank of assistant professor, a maximum reduction of three years is allowed.

(b) For a candidate appointed at the rank of associate professor, a maximum reduction of two years is allowed.

(c) For a candidate appointed at the rank of professor, no reduction is allowed.

### 4. Extensions of the Probationary Term

Extensions of the probationary term must be requested by the faculty member and shall be granted only in cases of severe personal exigency or other compelling personal circumstances; such extensions shall be limited to a total of no more than two years. Probationary-term faculty members who have received paid leave under the Faculty Serious Illness and Parental Leave Policy shall receive an extension of the probationary term, if requested. The probationary term may be extended in increments of one or more academic years: one year for leaves of one or two semesters, two years for leaves of three or four semesters. A probationary-term faculty member who assumes a full-time administrative position or clinical position for one or more semesters may be granted extensions of the length of the probationary term; such extensions shall be limited to a

total of no more than three years. All such extensions must be requested in writing by the faculty member, and the unit Personnel Committee, the unit administrator, the dean, and the appropriate Vice Chancellor each must review and make recommendations. The Chancellor or the Chancellor's designee<sup>1</sup> provides the final approval of the extension. Extensions of the probationary term must be expressly stated in appointment or reappointment documents or added by a written memorandum of amendment by the appropriate Vice Chancellor during the term of an appointment.

#### 5. Progress Toward Tenure Letters

In all years except the year prior to the year in which a faculty member's mandatory tenure decision is considered, the Tenure Committee will annually meet with the unit administrator to review the cumulative record of a candidate's progress and finalize a Progress Toward Tenure Letter. This meeting should occur after completion of the candidate's current annual evaluations and prior to end of the spring semester. One week prior to the meeting, the unit administrator will provide the Tenure Committee with the candidate's current annual report, copies of the candidate's previous and current annual evaluations and previous progress toward tenure letters, and a draft of the new Progress Toward Tenure Letter written by the unit administrator. Any additional required materials must be defined in the unit's code.

These Progress Toward Tenure Letters will address the candidate's cumulative accomplishments to date. Successes and areas for improvement shall be evaluated within the context of the unit's ongoing expectations of the candidate in the unit's criteria for promotion and tenure. The letter shall include evaluative and formative language that advises the candidate on how to meet unit expectations, and it shall assess the candidate's recent performance, cumulative performance, and overall trajectory. While the letter shall include an overall summative rating progress towards tenure, those ratings shall not substitute for thorough narrative evaluations of the candidate's strengths and weaknesses. Criteria for evaluation shall be limited to the candidate's assigned duties and professional conduct (Part V, Section II). Letters must not be understood as a guarantee of the ultimate tenure decision; instead, the final tenure recommendation vote, concurring or non-concurring recommendations, and the final decision in the review process are complex decisions that are based on the candidate's overall trajectory throughout the probationary period, external letters, a potential for future contributions, and other factors permitted under the UNC Code 602.

In order to protect the candidate's due process rights, the review will address misconduct only if the misconduct is documented in the faculty member's personnel file and the faculty member's due-process rights were respected (including the right to appeal a finding or sanction to the relevant committee and the right to include in the personnel file a letter expressing disagreement with a finding). Should an alleged case of misconduct be too recent for the candidate to appeal the University's charge or finding of misconduct, the committee's review may be suspended with the approval of the Chancellor until such time as determined by the Chancellor.

Representative(s) of the Tenure Committee will meet with the unit administrator and the candidate to discuss in a formative manner the outcome of the progress towards tenure review carried out by the Tenure Committee and the unit administrator, with suggested areas of improvement. That meeting shall be documented in writing by the unit administrator, and the document shall be placed in the personnel file. In the event that the

faculty member disagrees with the substance of the Progress Toward Tenure Letter, it is the responsibility of the faculty member to make this disagreement known in writing within fourteen days, in a letter addressed to the unit administrator. This letter will be placed in the faculty member's personnel file, and copies will be sent to the unit Tenure Committee and to the next higher administrator.

The timeline for completion of reviews of progress toward tenure is contained in the *Faculty Manual, Part X*.

#### 6. Request for Early Permanent Tenure

According to the timeline in the *Faculty Manual, Part X*, a faculty member who has not completed the probationary term (see subsection II.C.1-3) and who requests in writing that consideration be given to conferral of permanent tenure will be considered for permanent tenure during the fall semester of the next academic year.<sup>3</sup> No assistant professor shall be awarded permanent tenure unless concurrently promoted to associate professor. When a faculty member holding the rank of assistant professor requests consideration for early tenure, this request also constitutes a request for consideration for promotion to associate professor.

#### D. Initial Appointment with Permanent Tenure

A faculty member whose initial appointment is to a professorial rank with permanent tenure shall be regarded as having permanent tenure until retirement, resignation, or removal according to the provisions of subsections VI or VII of Part IX.

#### E. Joint Appointments

An ECU faculty member may hold only one tenured or probationary appointment at professorial rank. This may be in a single academic code unit or by joint appointment when holding responsibilities in more than one such unit. Joint appointments may be made within a single code unit (such as between departments in a School or College), or they may also be made in which the appointee holds tenured or probationary professorial rank in an academic code unit and a non-probationary contractual or academically titled position in another entity within the University not organized as an academic code unit in the manner described in the *ECU Faculty Manual, Part IV*, hereinafter referred to as an "entity." Such entities are usually, but not exclusively, identified as a School, Center, Institute, or Program.

One academic code unit must be designated primary, with greater than 50% of all administrative and academic responsibilities for the position. Only academic code units, as defined in Part IV, Section I of the *ECU Faculty Manual*, can be the primary unit for a joint appointment. The designation of the primary unit and the secondary unit or entity must be made when the appointment is created, and may be changed only with the written agreement of the faculty member, the relevant personnel, tenure, and promotion committees of the primary unit, as applicable, the relevant personnel, tenure, and promotion committees of the secondary unit or entity, and the relevant administrators.

Letters of appointment for faculty members in joint appointments to two academic code units must clearly state the criteria for reappointment, promotion, and tenure contained in the unit

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<sup>3</sup>When a faculty member applies for and then withdraws a request for early consideration for permanent tenure, a copy of all documents submitted to support the request and a record of all decisions by the appropriate committee and any administrator(s) shall be directly forwarded to the appropriate vice chancellor.

codes of both units, and the roles of the faculty member and all appropriate committees and administrators in personnel actions.

Letters of appointment for faculty members in joint appointments to an academic code unit and a University entity must clearly identify the criteria for reappointment, promotion, and tenure contained in the unit code of the primary unit, the criteria that the relevant standing committee or administrator of the entity will use in evaluating the professional performance of the faculty member, and the roles of the faculty member and all appropriate committees and administrators in personnel actions.

Probationary faculty members in appointments jointly held between academic code units will be reviewed for reappointment, promotion, or tenure by both units, although only members of the applicable committees of the primary unit are allowed to vote and recommend the personnel action sought. All review materials are to be fully shared between the units. Although one unit will be primary and provide the recommendation, input from the secondary unit is also considered important in the review process. In the absence of specific policies and procedures clearly enunciated in the *Unit Code* of either or both units, the review by the secondary unit will be transmitted by written memorandum from the chair of the relevant personnel committee of the secondary unit with concurrence or non-concurrence of the administrator of the secondary unit to the chair of the relevant personnel committee and to the administrator of the primary unit. Faculty members holding joint appointments of this type are subject to a special schedule described in the *ECU Faculty Manual Part X, Section II* to allow the secondary unit reasonable time to review the faculty member's Personnel Action Dossier, or other relevant documentation pertaining to the personnel action sought, prior to the review by the primary unit.

Probationary faculty members in appointments jointly held between an academic code unit and an entity will be reviewed and recommended for reappointment, promotion, or tenure only by the primary unit. All review materials are to be fully shared between the unit and the entity. Although the academic unit carries all responsibilities for personnel decisions, review by the entity is also considered important. In the absence of specific policies and procedures clearly enunciated in the *Unit Code* of the primary unit, the results of the review by the entity will be transmitted by written memorandum from the chair of a standing committee of the entity authorized to review personnel matters, with concurrence or non-concurrence of the entity administrator to the chair of the relevant personnel committee and to the administrator of the primary unit. Absent such committee in the secondary unit, the entity administrator will be responsible for transmitting the results of his or her review by written memorandum to the chair of the relevant personnel committee and to the administrator of the primary unit. Faculty members holding joint appointments of this type are subject to a special schedule described in the *ECU Faculty Manual Part X, Section II* to allow the entity reasonable time to review the faculty member's Personnel Action Dossier, or other relevant documentation pertaining to the personnel action sought, prior to the review by the primary unit.

### III. Promotion

Persons holding the professorial rank of assistant professor or associate professor may be considered for promotion to the next professorial rank. Promotion shall be based on the faculty member's demonstrated professional competence and achievements. See *Part VIII, Personnel Policies and Procedures for the Faculty of ECU*. Promotion is governed by the policies and procedures set forth in subsection IV. In evaluating a candidate for promotion, all of the candidate's teaching, scholarship, service, and other professional activity shall count,

but activity since the last promotion at ECU shall carry a greater weight than activity prior to the last promotion. Additional criteria for promotion may be contained in each unit's code. A faculty member who wishes to be considered for promotion to the next professorial rank shall write a letter requesting promotion in rank to her or his unit administrator by the deadline stated in Part X of the *Faculty Manual*. When a request is received by the deadline, the unit administrator shall notify the chair of the unit Personnel Committee. The chair of the unit Personnel Committee shall facilitate the procedure for considering the candidate for promotion. The committee's promotion recommendation shall be made during the fall term of the next academic year, in accordance with the timeline stated in Part X of the *Faculty Manual*.<sup>4</sup>

IV. Procedures for Initiation, Review, and Approval of Appointments, Reappointments, Promotions, and the Conferral of Permanent Tenure for Probationary-term Faculty Members (Please refer to *Faculty Manual* Interpretations [#106-22](#) and [#117-01](#).)

Recommendations for faculty appointments, reappointments, promotion, and the conferral of permanent tenure are the responsibility of unit committees and the unit administrator. The timeline for faculty personnel actions is set forth in Part X of the *ECU Faculty Manual*. The evaluation of faculty members for appointment, reappointment, promotion, and the conferral of permanent tenure shall be initiated by the appropriate unit committee on notice from the unit administrator and higher administrative authority. The appropriate unit committee shall evaluate faculty members for promotion and the early conferral of permanent tenure at the request of the faculty member.

The committee's recommendation shall be forwarded to the unit administrator. A committee cannot reconsider a vote on a personnel recommendation after the committee has notified the unit administrator of its recommendation. The unit administrator shall forward the committee's recommendation and his or her recommendation to the next higher administrator. If an existing unit, school, or college is reorganized, until such a time as new promotion and tenure criteria are established in an approved unit code, the provisional code shall address the manner in which existing unit code promotion and tenure criteria shall be maintained. The provisional code should ensure that faculty members are evaluated by personnel, tenure, and promotion committees composed of faculty members with the appropriate expertise.

If the faculty member in a probationary appointment does not provide a PAD for reappointment, promotion, or conferral of permanent tenure on or before the deadline outlined in Part X of the *ECU Faculty Manual*, the failure to submit the required PAD will be considered as notice that the faculty member is withdrawing the request for consideration for reappointment, promotion, or conferral of permanent tenure. The Personnel Committee and the unit administrator shall notify the faculty member in writing, with a copy to the next higher administrator, within 30 calendar days after the deadline that failure to submit the required PAD for consideration constitutes withdrawal from consideration. From the time of this notification, the faculty member may not serve on the unit's Personnel Committee. (Please refer to *Faculty Manual* Interpretation [#117-01](#).)

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<sup>4</sup> A faculty member considering such action is encouraged to seek consultation with the unit Personnel Committee and the unit administrator. When a faculty member applies for and then withdraws a request for promotion, a copy of all documents submitted to support the request and a record of all decisions by the appropriate committee and any administrator(s) shall be directly forwarded to the appropriate Vice Chancellor.

A. Description of voting faculty members:

1. Tenure-granting units

For the purposes of Part IX, Section I (IV.), voting faculty members are determined by the permanently tenured faculty of the unit using the following criteria; a voting faculty member of a unit is someone who:

- holds a full-time faculty position with East Carolina University and a greater than half-time assignment in the unit, and
- is either a probationary-term (tenure-track) faculty member or a permanently tenured faculty member, and
- is in at least the twelfth consecutive calendar month of appointment to the faculty of the unit as either a probationary-term (tenure-track) faculty member or a permanently tenured faculty member, and
- is not a unit administrator or an individual with half or more of his/her workload assigned to administrative duties as determined by the permanently tenured faculty members in consultation with the unit administrator,
- or normally meets the above conditions and is on non-medical leave of absence from all University duties but is in attendance at the meeting of the appropriate committee at the time of the committee's vote on a personnel action (reappointment, promotion, or tenure recommendation) (Faculty Senate Resolution #03-30). Faculty members on approved medical leave are not permitted to participate in University business during the approved leave.

2. Non-tenure-granting units, units that are transitioning between tenure-granting and non-tenure-granting faculty structures, and clinical tenure-granting units in Health Sciences that include fixed-term faculty members in personnel actions in their unit codes

For the purposes of Part IX, Section I (IV.), voting faculty members are defined in the unit code, consistent with the following criteria. A voting faculty member of a unit is someone who:

- holds a full-time faculty position with East Carolina University and a greater than half-time assignment in the unit, and
- is in at least the twelfth consecutive calendar month of appointment to the faculty of the unit, and
- is not a unit administrator or an individual with half or more of his/her workload assigned to administrative duties as determined by the established voting faculty members in consultation with the unit administrator,
- or normally meets the above conditions and is on non-medical leave of absence from all University duties but is in attendance at the meeting of the appropriate committee at the time of the committee's vote on a personnel action (reappointment, promotion, or tenure recommendation) (Faculty Senate Resolution #03-30). Faculty members on approved medical leave are not permitted to participate in University business during the approved leave.

3. Conflicts of interest and recusal

Faculty members must recuse themselves from personnel actions in which they have conflicts of interest. Under no circumstances may a faculty member participate in any personnel action involving someone with whom the faculty member has an amorous relationship or to whom the

faculty member is related by blood, law, or marriage (as defined in UNC Policy Manual 300.4.2 and 300.4.2.1[G]).

If a faculty member has potential conflicts of interest, those should be disclosed to the committee, and following *Roberts Rules of Order, Newly Revised*, the committee may vote to deny that faculty member a vote in a particular personnel action.

A faculty member who is ineligible for participation in the evaluation of a related person does not count for quorum purposes and his/her ineligibility does not constitute a recommendation against the proposed personnel action.

## B. Unit Committees<sup>5</sup>

### 1. Personnel Committee

#### (a) Function

The Personnel Committee shall be responsible for making recommendations regarding initial probationary appointments and initial and additional special fixed-term faculty appointments.

#### (b) Composition

##### i. Tenure-granting units, except as stipulated in ii, below

The composition of each unit's Personnel Committee shall be determined by the Unit Code but shall consist of at least three members. The membership of the committee shall be composed of some or all of the permanently tenured and probationary-term voting faculty members of the unit, including those who are on non-medical leave but in attendance at the meeting at the time of the committee's vote, but excluding the unit administrator. At least two-thirds of the unit Personnel Committee membership shall be permanently tenured voting faculty members. When there are not enough permanently tenured voting faculty members in the unit to satisfy this requirement, additional permanently tenured faculty members shall be appointed by the next higher administrator from a list selected by the unit's voting faculty members and containing at least twice the number of faculty members required to complete the membership of the committee. All other members of the unit Personnel Committee shall be elected by the permanently tenured and probationary-term voting faculty members of the unit. The chair of the unit Personnel Committee shall be permanently tenured and shall be elected annually by and from the committee's membership.

##### ii. Non-tenure-granting units and transitioning units, as defined above, and clinical tenure-granting units in Health Sciences that include fixed-term faculty members in personnel actions in their unit code

In units with faculty structures, all full-time faculty members in at least the twelfth consecutive calendar month of appointment to the faculty of the unit, shall be eligible to serve on the unit Personnel Committee, and to serve as Chair of the unit Personnel Committee. Members of the unit Personnel Committees of these faculty units are to be elected by the voting faculty of each unit, as defined in Part IX, Section I (IV).

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<sup>5</sup> Except as provided herein, meetings of the committees shall be conducted according to the most recent edition of *Robert's Rules of Order, Newly Revised*.

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, Section IV (A.3.).

(c) Additional Roles of Unit Personnel Committee

In addition to making recommendations to the unit administrator on initial and additional fixed-term appointments and initial probationary-term appointments, the unit Personnel Committee has the following responsibilities:

- i. Notifying fixed-term faculty members that the Personnel Committee will or will not recommend an additional fixed-term appointment when the fixed-term faculty member requests notification (see subsection II.B.1).
- ii. Making recommendations on requests for reduction in the normal probationary term at the time of initial appointment (see subsection II.C.3).
- iii. Making recommendations on requests for the extension of the normal probationary term (see subsection II.C.4).
- iv. Consulting, by request of the faculty member, with faculty members who are considering requesting conferral of permanent tenure prior to the end of the probationary term (see subsection II.C.6).
- v. Consulting, by request of the faculty member, with faculty members who are considering requesting promotion (see subsection III.).
- vi. Reviewing additional materials submitted by faculty members for inclusion in their personnel action dossier (PAD); consulting with the unit administrator regarding responses to such materials (see subsection IV.E.2).
- vii. Electing a search committee as prescribed by the unit's code to fulfill the responsibilities of soliciting and screening applicants and recommending to the unit's Personnel Committee candidates for initial appointments. A majority of unit search committee members must have at least one academic year's employment at ECU and must be full-time faculty members holding either a fixed or probationary-term appointment or permanent tenure. For the purposes of this section, unit administrators may not be a part of the committee.
- viii. Making recommendations for advancement in title for fixed-term faculty members.

(d) Role of the Chair of the Unit Personnel Committee

The chair of the unit Personnel Committee shall be permanently tenured, except as covered by Part IX section IV, subsection B. 1. (b).ii above, and shall be elected annually by and from the committee's membership. The chair shall preside over all committees making personnel recommendations to the unit administrator and may participate in the decisions of any committee of which the chair is a member, except as noted below. The chair of the committee shall ensure that the candidate's materials contain all required documents, obtain and distribute materials to be used during the deliberation of the committee, ensure that a valid vote has been taken, communicate the results of such votes to the appropriate faculty members and to the unit administrator, and perform other duties as designated by the unit code. If the chair of the unit Personnel Committee holds a professorial rank lower than that to which a faculty member requests promotion, the unit Personnel Committee chair shall not be eligible to participate and shall only be responsible for calling a meeting of the Promotion committee to facilitate the election of a chair of the committee from among its membership. In such cases where the Chair of the unit Personnel Committee is ineligible to participate, he/she shall not attend any meetings of the committee except to facilitate the election of the chair as noted above.

## 2. Promotion Committee

### (a) Function

The Promotion Committee shall be responsible for making recommendations for promotions in rank and for recommending the ranks of initial appointments at the associate professor or professor level. When making a recommendation for or against promotion, the Promotion Committee shall prepare and forward to the unit administrator and to the candidate (Part IX, Section IV, (H)) a statement of the committee's recommendation that contains the committee's cumulative evaluation of the candidate. In the case of a recommendation for or against promotion that coincides with a recommendation for or against permanent tenure, both recommendations are reported together and only one cumulative evaluation addressing both recommendations is required. The committee's deliberations on its cumulative evaluation and recommendation may address any of the candidate's contractual duties and professional conduct (Part V, Section II).

In order to protect the candidate's due process rights, the review will address misconduct only if the misconduct is documented in the faculty member's personnel file and the faculty member's due-process rights were respected (the right to appeal a finding or sanction to the relevant committee and the right to include in the personnel file a letter expressing disagreement with a finding). Should an alleged case of misconduct be too recent for the candidate to appeal the charge or finding of misconduct by the University, the committee's review may be suspended with the approval of the Chancellor until such time as determined by the Chancellor.

### (b) Composition

The membership of the Promotion Committee shall be composed of those permanently tenured voting faculty members who hold rank at least equal to the rank for which the candidate is being considered, including those on non-medical leave but in attendance at the committee's meeting at the time of the committee's vote, but excluding the unit administrator. The composition of the committee shall thus vary with the rank to which a faculty member is being considered for promotion.

When a unit has fewer than three permanently tenured voting faculty members of sufficient rank and not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured faculty members at the required rank from other units across the University to increase the committee's membership to three. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured faculty members having rank at least equal to the faculty member(s) being considered for promotion in addition to the faculty member(s) seeking promotion. The list forwarded to the next higher administrator by the faculty will contain at least twice the number of faculty members required to complete the membership of the committee(s). Before voting on the list to be forwarded to the next higher administrator, the chair of the committee will ascertain that faculty members nominated to have their names placed on the list are willing and able to serve in this important capacity. The list of faculty names recommended to the next higher administrator may not be returned for revision.

## 3. Tenure Committee

### (a) Function

The Tenure Committee shall be responsible for making recommendations for reappointments of probationary-term faculty members, the granting of permanent tenure, and conferral of tenure for initial appointments with permanent tenure. For granting of permanent tenure (but not for initial appointments with tenure), the Tenure Committee, or an elected subcommittee of the Tenure Committee, shall prepare a cumulative evaluation of the faculty member; and, after review and response (if any) by the candidate, shall forward to the unit administrator its recommendation, along with the cumulative evaluation and candidate's response (if any). When the decision is for both tenure and promotion, only one cumulative evaluation containing a recommendation for or against tenure and promotion is required. The committee's deliberations on its cumulative evaluation and recommendation shall have as their basic standard of appraisal and evaluation whether the faculty member under review met the stated and approved criteria of the unit's code during the period under review. The committee's deliberations may address any of the candidate's assigned duties and professional conduct (Part V, Section II).

In order to protect the candidate's due process rights, the review will address misconduct only if the misconduct is documented in the faculty member's personnel file and the faculty member's due-process rights were respected (the right to appeal a finding or sanction to the relevant committee and the right to include in the personnel file a letter expressing disagreement with a finding). Should an alleged case of misconduct be too recent for the candidate to appeal the charge or finding of misconduct by the University, the committee's review may be suspended with the approval of the Chancellor until such time as determined by the Chancellor.

(b) Composition

The Tenure Committee shall be composed of the permanently tenured voting faculty members of the unit, including those who are on non-medical leave but in attendance at the meeting at the time of the committee's vote, but excluding the unit administrator.

When a unit has fewer than three permanently tenured voting faculty members not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured voting faculty members from other units to increase the committee's membership to three. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured and probationary-term faculty members of the unit, including the faculty member(s) seeking tenure. The list forwarded to the next higher administrator by the appropriate faculty members will contain at least twice the number of faculty members required to complete the membership of the committee. Before voting on the list to be forwarded to the next higher administrator, the voting faculty members will ascertain that faculty members nominated to have their names placed on the list are willing and able to serve in this important capacity. The list of faculty names recommended to the next higher administrator may not be returned for revision.

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, Section IV (A.3.).

(c) Additional roles of the unit Tenure Committee.

A Code Unit may establish, in its unit code, procedures for fulfilling the additional roles; however, if the Code of a unit is silent in this regard, it is hereby established that the entire membership of the unit Tenure Committee will participate in these additional roles. In accordance with the unit code, if the unit's Tenure Committee has more than five members, the unit Tenure Committee may elect a subcommittee of at least five members to participate in these additional roles. The unit Tenure Committee (or properly constituted subcommittee):

- i. Produces a list of possible external reviewers and selects external peer reviewers from lists produced by the Committee and by the candidate (see subsection IV.D.).
- ii. Selects, with the unit administrator, the scholarship materials to be sent to external peer reviewers (see subsection IV.D.).
- iii. In consultation with the unit administrator, prepares Progress Toward Tenure Letters annually during each candidate's probationary term, except for the year immediately preceding candidate's tenure decision year.

#### C. Role of Unit Administrator

The unit administrator serves to provide leadership, support, and guidance to the total functioning of the unit.

The unit administrator is responsible for maintaining the personnel files, providing timely notification to the chair of the Personnel Committee on all personnel actions required or expected, reviewing candidates' Personnel Action Dossiers to ensure that all required documentation is present, and distributing all personnel documents and materials to the appropriate secure location. For probationary term faculty members, the unit administrator annually confers with the Tenure Committee on the candidate's Progress Toward Tenure Letter. For tenure or promotion, the unit administrator prepares a cumulative evaluation in narrative form of the candidate's teaching, scholarship, service, and any other relevant duties. As indicated at the beginning of this section, the personnel recommendations of the unit administrator shall be forwarded to the next higher administrator along with the recommendation of the appropriate faculty committee.

In personnel matters, the unit administrator functions as an administrator rather than a faculty member. Therefore, the unit administrator does not have a faculty vote in personnel matters, and is excluded from all unit committee deliberations and votes concerning candidates for appointment, re-appointment, promotion, or permanent tenure. However, there may be occasions on which a unit administrator and a committee wish to confer for informational purposes.

#### D. External Peer Review for Promotion and the Conferral of Permanent Tenure

"External peer review" means a review of a candidate's scholarship by persons who are not faculty members or employees of East Carolina University. Every effort must be made to ensure that the process of external peer review is conducted fairly and without bias. External peer reviews of the quality of the candidate's scholarship, as evidenced by the material submitted by the candidate for promotion or conferral of permanent tenure or both, will be used by the appropriate committee(s) in conjunction with its own evaluation of

the material. The unit administrator and the unit Tenure Committee shall select the material from the dossier to be sent to external reviewers. The candidate may include additional published or accepted material if the candidate disagrees with the initial selection. Inclusion of such additional items in the materials sent to reviewers shall be noted by memorandum of the unit administrator in the dossier and the candidate's personnel file.

Qualifications of the reviewers and criteria for their selection are to be determined by the faculty of each unit and contained in the unit code. According to the provisions of unit codes, other materials that reflect the candidate's scholarly activities may be included in the selections to be sent to external reviewers.

In accordance with the timeline in the Faculty Manual Part X, prior to the academic year in which a promotion or tenure decision is scheduled, the unit Tenure Committee shall produce a list of at least six possible external reviewers. The candidate for promotion and/or permanent tenure shall independently provide a similar list, noting for each name any potential conflicts of interest and a description of any current and past relationship, if any, between the reviewer and the candidate. The candidate shall also provide similar relationship information for each name on the unit Tenure Committee's list.

The unit Tenure Committee shall select a minimum of six names from its list and the candidate's list with the goal of ensuring that a minimum of three external reviewers agree to provide letters. If fewer than three external reviewers agree to provide letters, the unit administrator shall request additional names from the Tenure Committee. The unit administrator and Tenure Committee shall ensure that at least one-third of the reviewers come from the candidate's list. In cases where membership on the committee's list and the candidate's list overlaps, it is permissible that all reviewers be on the candidate's list. External reviewers shall hold a rank not less than that to which the candidate is requesting promotion or, if a member of a foreign University, be of at least equivalent academic standing to the rank being sought as determined by the Tenure Committee. If the reviewer is not an academic, the reviewer shall demonstrably possess the professional experience necessary to evaluate the candidate's qualification for the rank being sought. Code units that require more than three external reviewers shall make special provisions in their unit codes. These provisions must clearly indicate the number of external reviewers required by the unit.

The unit administrator or his or her delegate shall serve as the contact person with potential and actual external reviewers. If a situation arises in which a unit administrator or his or her delegate is unable to communicate with a potential or actual reviewer in a timely manner, the unit Tenure Committee chair will do so. If the unit administrator, his or her delegate, or the Tenure Committee chair is unable to communicate with external reviewers in a timely way, the next higher administrator shall appoint someone to perform the necessary communication duties. Only procedural matters may be discussed with potential and actual reviewers for the duration of the personnel action.

The unit administrator will notify potential reviewers in writing that they have been nominated to conduct the review and ascertain their willingness to serve as reviewers. To assist the potential reviewer in determining their own suitability to perform the review, the request to serve as an external reviewer will be accompanied by a copy of the candidate's Curriculum Vitae, and it will solicit both information about potential conflicts of interest and a description of the current and past relationship, if any, between the potential reviewer and the candidate. If any potential

conflicts are disclosed, the unit administrator and the Tenure Committee will meet to determine whether the disclosed relationship should preclude the potential external reviewer from serving in that capacity. If the unit administrator and the committee do not agree, the next higher administrator will reach a determination. All communications on such a disclosed relationship and a memo describing the decision written by the unit administrator should be included in the PAD.

No later than the date specified in Part X of the *Faculty Manual*, selected scholarship from the candidate's PAD and the candidate's Curriculum Vitae, along with a cover letter prescribed by the appropriate Vice Chancellor, shall be sent to the reviewers. Units may send an excerpt from the Unit Code describing the criteria for tenure and/or promotion, as applicable. Correspondence with the reviewers shall be written in neutral terms, serving to neither support nor oppose the candidate and shall not deviate substantially from the University-prescribed cover letter.

All external reviews received by the deadline specified in Part X of the *Faculty Manual* must be included in the PAD. In the case that the number of reviews received exceeds the number of reviews set by the candidate's Unit Code, all reviews received shall be included in the candidate's PAD. Copies of all written communications with reviewers who complete timely reviews shall be placed in the candidate's Personnel Action Dossier. Copies of all written communications with other potential reviewers shall be placed in the candidate's personnel file.

If the faculty member under review does not provide the material to be submitted to external reviewers by the deadline outlined in Part X of the ECU *Faculty Manual*, the failure to submit the required materials will be considered as notice that the faculty member is withdrawing the request for consideration for promotion or conferral of permanent tenure. The Personnel Committee and the unit administrator shall notify the faculty member in writing, with a copy to the next higher administrator, within 30 calendar days of the deadline that failure to submit the required materials for external review constitutes withdrawal from consideration. From that time, the faculty member may not serve on the unit's Personnel, Tenure, or Promotion committees.

(Copies of the prescribed letters are available [here](#) and on the Faculty Senate website at <http://www.ecu.edu/cs-acad/fsonline/fg/facultygovernance.cfm>.) Copies of all correspondence with the reviewers and the reviews shall be made a part of the Personnel Action Dossier (hereinafter, "the dossier") (see Part X).

Upon receipt of a review, the unit administrator will place the original review in the candidate's personnel file and copies of the review in the candidate's dossier. Copies of the external review letter will only be made available to candidates upon petition. The unit administrator shall then notify the members of the appropriate committee that the Personnel Action Dossier, including external reviews, is available.

If, prior to August 1 of the summer during which a candidate's material is under review, someone who has agreed to conduct a review withdraws or it otherwise becomes known that an agreed-upon review will not be forthcoming, the Tenure Committee will provide the unit administrator with the name of an additional reviewer from the prioritized list, following the same procedure that resulted in the original list. When fewer than three external reviews are received by the deadline set in the letter to the external reviewers that accompanied the candidate's materials, this information, by memorandum from the unit

administrator, shall be made a part of the candidate's PAD as the review process continues.

#### E. Documentation for Personnel Actions

##### 1. Employment Applications

Information on job applicants is to be kept in a secure file available to the appropriate committee members (see subsection IV.A).

##### 2. Personnel Action Dossier for Reappointment, Promotion, and Permanent Tenure

The Personnel Action Dossier (PAD) is a file containing materials for evaluating a faculty member's professional activities and accomplishments. The dossier is compiled by candidates for reappointment, promotion, and/or permanent tenure. If the faculty member is considering requesting promotion or the early conferral of permanent tenure, he/she may request consultation with the Personnel Committee. Additional materials submitted by the faculty member for inclusion in the PAD will be reviewed by the Personnel Committee in consultation with the unit administrator. The dossier will be used by the appropriate committee in making personnel recommendations. Documents may not be added to the PAD after the deadline for submitting the PAD to the Tenure and/or Promotion Committee, as specified in Part X, except where revised deadlines are approved in writing by the Chancellor. Prior to a committee's review, the unit administrator will confirm that the candidate's PAD contains all required materials. If a candidate's PAD is missing any required document, the review process is halted until the Chancellor approves an extension of time to secure required documents. A committee's deliberations are not limited to the contents of the Personnel Action Dossier and may address any of the candidate's contractual duties and professional conduct (Part V, Section II).

In order to protect the candidate's due process rights, the review will address misconduct only if the misconduct is documented in the faculty member's personnel file and the faculty member's due-process rights were respected (the right to appeal a finding or sanction to the relevant committee and the right to include in the personnel file a letter expressing disagreement with a finding). Should an alleged case of misconduct be too recent for the candidate to appeal the charge or finding of misconduct by the University, the committee's review may be suspended with the approval of the Chancellor until such time as determined by the Chancellor.

For details on the organization, content, and limitations of the dossier, see Part X of the *ECU Faculty Manual*.

##### 3. Disagreements as to inclusion or removal of documents

If the faculty member disagrees with the unit administrator and/or the unit Personnel Committee as to the inclusion of relevant documents, the documents will be included and each may include a statement about the document in the dossier.

#### F. Initiation of Recommendations by Unit Personnel, Tenure, and Promotion Committees

##### 1. Procedural Rules for conducting committee business

The unit administrator shall give timely notice to the chair of the unit Personnel Committee when personnel actions are to be initiated and of the date defined in Part X of the *Faculty Manual* by which the committee's recommendation and cumulative evaluation, if applicable, must be communicated to the unit administrator. After being notified by the unit administrator that a personnel action is required, the chair of the appropriate committee

shall make at least three attempts at intervals of no fewer than five working days each to hold a meeting of the appropriate committee for the pending personnel action. In order to conduct business, a committee shall not meet without a quorum.

A quorum is defined as three-quarters of the membership for a committee that has twenty or fewer members; and a quorum is defined as a majority, defined as 50% plus one, of the membership for a committee that has more than twenty members. A list of all committee members who were absent during a vote on a personnel action will be forwarded to the unit administrator. The committee may develop policies to designate certain absences as excused absences. Faculty members on approved medical leave do not attend and do not count for purposes of determining a quorum of the committee. Unexcused absences should be considered in annual evaluations.

The purpose of this meeting is to deliberate and hold a vote by secret ballot on the pending personnel action. All materials pertaining to the pending personnel action (see subsection IV.D.) must be available for inspection in a secure location at least five business days prior to the meeting. Members of the committee(s) who are responsible for the pending personnel action shall review the materials individually in preparation for discussion at the meeting. A faculty member on leave and not in attendance at a meeting shall not be counted for the purposes of determining a quorum for that meeting. A faculty member on non-medical leave but in attendance at a meeting shall be counted for the purposes of determining a quorum for that meeting.

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, Section IV (A.3.).

If the committee fails to meet the deadline for the submission of the committee's recommendation specified in Part X, this outcome shall count as a recommendation by the committee against appointment, reappointment, promotion, or tenure. In such a case, the chair of the appropriate committee shall report in writing to the unit administrator that after at least three attempts the committee has failed to meet due to a lack of a quorum, and that this outcome constitutes a recommendation against appointment, reappointment, promotion, or tenure. The unit administrator shall forward the committee's recommendation and the unit administrator's recommendation to the candidate and to the next higher administrator.

## 2. Voting Procedures for Personnel Actions

(a) In the case of initial appointment recommendations, each member of the unit Personnel Committee will indicate by secret ballot his or her choice for the appointment.

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, Section IV (A.3.).

A candidate who receives a majority vote of the committee members present shall be recommended for appointment. (For recommendations of rank of initial appointments at the associate professor or professor level, see subsection IV.B.2.a.; for conferral of tenure for initial appointments see subsection IV.B.3.a.) A committee shall not reconsider a vote on a personnel recommendation after the committee has notified the unit administrator of its recommendation.

(b) Faculty recommendations for promotion and conferral of permanent tenure shall come from the appropriate committee (see Section IV.B). Within fifteen working days of notification by the unit administrator of the need to initiate a personnel action, the chair of the appropriate committee shall convene a meeting of the committee (see subsection IV.F.1.). Five calendar days prior to the scheduled meeting to deliberate and vote on the required personnel decision, the committee or a subcommittee elected by the appropriate committee in accordance with Section IV will prepare a draft cumulative evaluation in narrative form. This draft evaluation shall be prepared based on the candidate's Personnel Action Dossier and shall evaluate his or her strengths and weaknesses in light of the unit's established criteria, similar to the evaluations of Progress Toward Tenure conducted annually during the probationary term.

At the scheduled meeting described above, the committee shall discuss and edit the draft cumulative evaluation and subsequently choose the method to vote by secret ballot on the recommendation for promotion and/or conferral of permanent tenure. The committee's deliberations may address any of the candidate's professional activities and conduct. If the committee chooses to vote on the recommendation at this meeting, the vote will be taken by secret ballot. Immediately following this vote on the recommendation and prior to the adjournment of the meeting, the committee may finalize and vote on approval of the cumulative evaluation. If the committee chooses to vote on the recommendation by mail as described below, it may decide to reconvene in a later meeting to revise and approve the cumulative evaluation.

The committee members may choose to vote by mail according to the latest edition of *Robert's Rules of Order, Newly Revised*. At the scheduled meeting described above, the committee shall discuss, edit, and vote on the draft cumulative evaluation. If a motion to vote on the recommendation by mail is approved by a majority of the committee members present and voting, voting on the recommendation shall be by mail. If a committee chooses to vote on the recommendation by mail, all members must vote by mail. In the event that the university officially adopts a secure and confidential system for online voting, the committee may elect to use it in place of mailed ballots as described in subsection d below.

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, subsection IV.A.3.

A committee shall not reconsider a vote on a cumulative evaluation or personnel recommendation after the committee has notified the unit administrator of its recommendation.

(c) In the case of recommendation(s) for new appointments or for subsequent appointments of faculty members currently holding fixed-term appointments, each member of the unit Personnel Committee will indicate by secret ballot his or her choice for or against the recommendation. This vote may be taken at a committee meeting or by mail ballot as described in subsections IV.F.2(d) and IV.F.2(e).

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, Section IV (A.3.).

The committee's deliberations may address any of the candidate's professional activities and conduct. A vote for the recommendation by a majority of the committee members present shall constitute a recommendation for a new or subsequent appointment. A member who is present when a vote is taken but who does not vote counts as part of the membership of the committee for the purposes of determining a majority vote. Failure to obtain a majority vote constitutes a recommendation against a new or subsequent appointment (Faculty Senate Resolution #03-30). A committee shall not reconsider a vote on a personnel recommendation after the committee has notified the unit administrator of its recommendation.

(d) If a committee votes by mail, the ballots shall be sent by a method that provides delivery verification and is consistent with *Robert's Rules of Order, Newly Revised* or distributed by the committee chair. The refusal by a committee member to receive the correspondence containing the ballot within five business days of the delivery attempt shall count as a vote against appointment, reappointment, promotion, or tenure. If ballots are distributed by the committee chair, the committee chair shall assure that recipients acknowledge receipt in writing. The acknowledgment must include the date of receipt. A ballot either shall be returned by a method that provides delivery verification and is consistent with *Robert's Rules of Order, Newly Revised* or shall be personally returned by hand to the committee chair, at the discretion of the individual committee member. Committee members returning ballots by hand shall sign a confirmation form that is retained by the committee chair, with the secrecy of the ballot preserved according to procedures in *Robert's Rules of Order, Newly Revised*.

(e) Ballots not returned within ten working days of verified receipt shall count as a vote against recommending appointment, reappointment, promotion, or tenure. If a committee votes by mail or a university-adopted electronic system, a faculty member on non-medical leave may choose either to vote or not to vote, at his or her discretion. The unit administrator shall ascertain and shall inform the chair of the appropriate committee in writing as to whether or not a faculty member on non-medical leave will participate in balloting. Faculty members on approved medical leave are not permitted to participate in University business during the approved leave. If a faculty member on non-medical leave chooses to participate in balloting, the faculty member shall count in determining a majority vote in favor of the recommendation. If the faculty member on non-medical leave chooses not to participate in balloting, the faculty member shall not count in determining a majority vote in favor of the recommendation (Faculty Senate Resolution #03-30).

## G. College Promotion and Tenure Committee

### 1. Function

A College Promotion and Tenure Committee, if established in the unit code or College constitution or bylaws, shall be responsible for advising the dean regarding promotion and the conferral of permanent tenure.

### 2. Composition and Election

The composition and election of a College Promotion and Tenure Committee shall be determined by the college according to procedures in its College Unit Code, constitution, or bylaws. The College Committee shall consist of at least three permanently tenured

faculty members from the College holding the rank of professor, but excluding the dean and unit administrators. If the committee consists of only three members, there shall be a sufficient number of alternates, as needed, to ensure there are always three voting members of the committee. Procedures shall ensure that faculty members serving on the College committee shall have only one vote, either on the unit committee or the College committee.

For limitations on participation in personnel actions due to potential conflicts of interest, see Part IX, Section IV (A.3.).

#### H. Notification of Recommendations

The faculty member shall be informed in writing of all personnel recommendations at every level, continuing up to the level where the final decision is made.

Tenure and/or promotion recommendations shall be communicated by the chair of the respective committee(s) to the candidate, sent by a method that provides delivery verification, along with a notification that the candidate has seven working days to respond to the cumulative evaluation(s), if desired. In accordance with the deadline in Part X, Section II of the *ECU Faculty Manual*, the committee shall forward to the unit administrator its recommendation, cumulative evaluation, and the candidate's response, if any.

A committee shall not reconsider a vote on a personnel recommendation after the committee has notified the unit administrator of its recommendation.

For tenure and/or promotion decisions, the unit administrator prepares a separate cumulative evaluation with a recommendation and communicates it to the candidate, the committee, and the next higher administrator. The written notification shall contain the statement that the candidate has seven working days from the date of receipt of the notification letter, sent by a method that provides delivery verification, to provide a written response to the cumulative evaluation for inclusion in the PAD, if desired.

#### I. Procedure for Concurring and Non-Concurring Recommendations concerning Reappointment, Promotion, and/or the Conferral of Permanent Tenure

If a unit administrator and the appropriate committee disagree on a recommendation for reappointment, promotion, and/or the conferral of permanent tenure, the unit administrator shall discuss the potential non-concurrence with the unit committee before forwarding the committee's recommendation and his or her concurrence or non-concurrence to the next higher administrator.

A committee shall not reconsider a vote on a personnel recommendation after the committee has notified the unit administrator of its recommendation.

After the appropriate committee and the unit administrator transmit their recommendations to the next higher administrator, that administrator performs his or her own review. The administrator shall discuss any potential non-concurrence with the unit committee before forwarding his or her concurrence or non-concurrence, along with the recommendations from the committee and the unit administrator, to the next higher administrator. The same procedure shall be repeated at each administrative level until the recommendation reaches the appropriate Vice Chancellor.

Immediately after the completion of each level of administrative review, the administrator's recommendation shall be communicated to all appropriate lower administrators, the candidate, and the committee of the unit which made the initial recommendation.

If the Vice Chancellor concurs in a recommendation for promotion and/or conferral of permanent tenure, the Vice Chancellor shall forward the recommendation to the Chancellor for the Chancellor's review.

A decision by the Vice Chancellor to reappoint is final unless it is accompanied by a request for tenure or a request for promotion; a decision to reappoint with tenure is final only upon recommendation of the Chancellor and approval by the Board of Trustees; a decision to promote without tenure is final only when approved by the Chancellor.

In the event that the Vice Chancellor is considering a recommendation concerning reappointment, promotion, and/or the conferral of permanent tenure that is contrary to the recommendation of the appropriate unit committee, the Vice Chancellor shall meet with the committee to discuss the potential non-concurrence. Regardless of the recommendation of the appropriate unit committee, if the Vice Chancellor decides against reappointment, promotion, and/or conferral of permanent tenure, the Vice Chancellor shall give the faculty member being considered a simple, written statement of the decision. This statement serves as notification of non-reappointment in accordance with UNC Code 604. This decision is final except as it may later be reviewed in accordance with the provisions of Part IX, Section I (V) or the grievance procedure of Part XII, Section I.

If the Chancellor concurs in a recommendation to confer permanent tenure, the Chancellor shall submit the recommendation to the Board of Trustees for approval. The Board's decision is final except in the case of a denial, which may be reviewed in accordance with the provisions of Part IX, Section I (V). If the Chancellor concurs in a recommendation in favor of promotion in the absence of a request for tenure, the Chancellor's approval shall be final.

If the Chancellor decides not to recommend promotion or the conferral of permanent tenure, the Chancellor shall give the faculty member being considered a simple, written statement of the decision. This decision is final except as it may be reviewed in accordance with the provisions of subsection V or the grievance procedure of Part XII, Section I, as appropriate.

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

### A. Deadlines for Review

Failure to submit the review documents specified in this section within the time periods allotted constitutes a waiver of the right to have the decision reviewed by ECU faculty committees, institutional authorities, or the UNC Board of Governors. However, before the expiration of the deadline the faculty member may request an extension, provided that the request is made in writing and presented to the Hearing Committee. Within 10 calendar days of receiving a request for extension, decisions on requests for extension of time shall be made by the Hearing Committee. The Committee will endeavor to complete the review within the time limits specified except under unusual circumstances such as when the time period includes official university breaks and holidays and when, despite reasonable efforts, the Committee cannot be assembled.

B. Request for Hearing with the Hearing Committee

Within 25 calendar days of receiving written notice from the vice chancellor of non-reappointment or non-conferral of permanent tenure, a faculty member (hereinafter, the complainant) may request a hearing before the Hearing Committee.

1. The Hearing Committee

The Hearing Committee shall be composed of five members and five alternates each of whom is a full-time, permanently tenured voting faculty member without administrative appointment (as per Part IX, Section IV). Members shall be elected in accordance with the procedures for election of appellate committees specified in the Bylaws of the East Carolina University Faculty Senate. Members and alternates shall be elected to three-year terms. A quorum for the committee shall be the five members or their alternates.

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

When the committee is convened to consider any matter associated with a complainant's request for a hearing, those committee members who hold an appointment in the complainant's academic unit, those who might reasonably expect to be called as witnesses, those who might reasonably expect to be asked to serve as advisors (see subsection V.D.2, Conduct of the Hearing) to any party of the hearing, or those who may have any other conflict of interest should disqualify themselves from participation in the activities of the committee related to this specific request for a hearing. The complainant and those individuals or groups who are alleged to be responsible for the action or actions described by the complainant in the request for the hearing (hereinafter, the respondents) are permitted to challenge committee members for cause. The other members of the committee will decide on any potential disqualifications if a committee member is so challenged but wishes to remain.

When membership of the committee falls below the specified five members and five alternates, the Faculty Senate will elect additional faculty members to the committee. Vacancies on the committee will be filled first by moving alternates to regular member status and by electing new alternates and/or members as needed to fill the committee roster.

Upon receipt of a request for a hearing, the chair of the committee shall determine the availability of the regular members and alternates, and shall select from those available one or more alternates, as necessary. The ranking of the available alternates for selection shall be determined by their years of service to the University. That available alternate who is most highly ranked shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing.

The committee may at any time consult with an attorney in the office of the University Attorney who is not presently nor previously substantively involved in the matter giving rise to the hearing, nor will advise the University administrator(s) regarding the committee action(s) during the review.

## 2. Initiation of the Hearing Process

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

Section 604B of The Code of The University of North Carolina states: "In no event shall a decision not to reappoint a faculty member be based upon (a) the exercise by the faculty member of rights guaranteed by the First Amendment to the United States Constitution, or by Article I of the North Carolina Constitution, or (b) the faculty member's race, color, sex, religion, creed, national origin, age, disability, veteran's status, or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice. The term 'personal malice' means dislike, animosity, ill-will, or hatred based on personal characteristics, traits, or circumstances of an individual that are not relevant to valid University decision making. For example, personnel decisions based on negative reactions to an employee's anatomical features, marital status or social acquaintances are intrinsically suspect. If reappointment is withheld because of personal characteristics that cannot be shown to impinge on job performance, a wrong likely has been committed. On the other hand, if personal characteristics can be shown to impede a faculty member's capacity to relate constructively to his or her peers, in a necessarily collegial environment, withholding advancement may be warranted. For example, the undisputed record evidence might establish that the responsible department chair declined to recommend a probationary faculty member for reappointment with tenure because of the faculty member's 'unpleasant personality and negative attitude'. Disposition of such a case requires a determination of whether the personality and attitude impeded the faculty member's job performance. While the terms 'ill-will', 'dislike', 'hatred' and 'malevolence' may connote different degrees of antipathy, such distinctions make no difference in applying the fundamental rationale of the prohibition. Any significant degree of negative feeling toward a candidate based on irrelevant personal factors, regardless of the intensity of that feeling, is an improper basis for making decisions." (UNC Policy Manual 101.3.1.II.B)

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

The complainant's request for a hearing must specifically identify and enumerate all reasons for the request. The request must include (a) a description that is as complete as

possible of the actions or the failures to act which support each specified contention; (b) the identification of the respondents; (c) an enumeration and description of the information or documents which are to be used to support the contention (copies of the described documents are to be made a part of the request for a hearing); (d) the identification of persons who may be willing to provide information in support of the contention; and (e) a brief description of the information those persons identified in (d) may provide and (f) a copy of the vice chancellor's notice of non-reappointment or non-conferral of permanent tenure. The complainant's request for a hearing shall be made to the chair of the Hearing Committee and delivered to the Faculty Senate office by a method that provides delivery verification.

### C. Procedures for the Hearing.

#### 1. Time and Date of Hearing

After receiving the request for a hearing, the committee shall provide a complete copy of the request for a hearing to the individuals named in the request for a hearing. The committee shall set the time, date, and place for the hearing. The date for the hearing must be within 42 calendar days after receiving the request, except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and despite reasonable efforts the hearing committee cannot be assembled. The committee shall then notify the complainant, the respondents, the chair of the faculty, and the chancellor, of the time, date, and place of the hearing. At least 21 calendar days before the hearing, the complainant shall notify the committee, the respondents, the chair of the faculty, and the chancellor of the identity of the complainant's advisor, if any, and whether or not the advisor is an attorney. ("Attorney" is defined as anyone with a Juris Doctor, or other recognized law degree, regardless of whether or not that person is licensed to practice law in the State of North Carolina and/or whether or not that person is "representing" the employee). Within 14 days before the hearing, the complainant and respondent will submit documents and a list of witnesses to be used in the hearing.

#### 2. Conduct of the Hearing

The chair of the Hearing Committee or regular member of the committee if the chair is unavailable, is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for herein, the hearing shall be conducted according to the latest edition of *Robert's Rules of Order, Newly Revised*. Attendance at the hearing is limited to the committee's members and alternates, the complainant, one person who may advise the complainant, the respondent(s), and one person who may advise the respondent(s). If there is more than one respondent, the respondents will designate a spokesperson for the hearing. There will be an equal number of persons advising the complainant and respondent(s). The person advising the complainant may not take an active part in the proceedings. The person advising the respondent(s) at the hearing may be either an East Carolina University faculty member (with or without administrative appointment) selected by the Chancellor or an East Carolina University attorney, if the complainant is accompanied by an attorney. The person advising the respondent(s) may not take an active part in the proceedings. Other persons (witnesses) providing information to the committee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the committee as appropriate. For any hearing from which an appeal may be taken, a professional court reporter must be used to record and transcribe the hearing. (Faculty Senate Resolution #03-37)

Any such record is a part of the personnel inquiry and must be treated with appropriate confidentiality. Only the immediate parties to the controversy, the responsible

administrators and attorneys, and the members of the University governing boards and their respective committees and staff are permitted access to such materials. (Faculty Senate Resolution #03-49)

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

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

#### D. Procedures After the Hearing

After the hearing, the committee shall meet in executive session and begin its deliberations or shall adjourn for no more than two calendar days, at which time it shall reconvene in executive session to determine whether it sustains or does not sustain the allegations stated in the request for the hearing. In reaching decisions on which the committee's written recommendations to the chancellor shall be based, the committee shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The Complainant shall have the burden of proof. The standard applied by the committee shall be that the preponderance of the evidence establishes that a basis for his or her contentions is found in one of the reasons listed in subsection V.B.2. Initiation of Hearing.

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

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

If the Hearing Committee determines that the complainant's contention has been satisfactorily established, it shall notify the complainant, the respondents, the chair of the faculty, and the chancellor by written notice and shall recommend further substantive review.

Within 42 calendar days after receiving the recommendation of the Hearing Committee and the transcript, the chancellor shall notify the complainant, the respondents, the chair of the faculty, and the chair of the Hearing Committee what further substantive review, if any, will be made of the original decision not to reappoint or not to confer permanent tenure. If the chancellor is considering taking action inconsistent with the committee's recommendations, the chancellor

shall request within 14 calendar days that a joint meeting with the committee occur. At the joint meeting, the chancellor will communicate his or her concerns and the committee will have an opportunity to respond. The joint meeting must occur within the 42 calendar day period.

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

The chancellor will inform the complainant of his or her decision in writing by a method that produces adequate evidence of delivery. In the event of an adverse decision, the chancellor's notice must inform the complainant: (1) that, within 14 calendar days of the complainant's receipt of the decision, the complainant may file a notice of appeal with the president requesting review by the Board of Governors in accordance with the Board of Governors Policy 101.3.1, (2) that 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 result 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.

## VI. Due Process Before Discharge or the Imposition of Serious Sanctions

### A. Sanctions

A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary sanctions. During the period of such guarantees, the faculty member may be discharged from employment, suspended, or demoted in rank or serious sanctions may be imposed only for reasons of:

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

These sanctions may be imposed only in accordance with the procedures prescribed in this section. For purposes of the *Faculty Manual*, a faculty member serving a stated term shall be regarded as having tenure until the end of the term. These procedures shall not apply to non-

reappointment (subsection V) or termination of employment (subsection VII).

**B. Notice**

Written notice of intent to discharge the faculty from employment or to impose serious sanction, together with a written specification of the reasons (these sanctions hereinafter in Section VI are referred to as “the sanction”) shall be sent by the vice chancellor with supervisory to the faculty member by a method that provides delivery verification and is consistent with UNC Policy 101.3.3. The statement shall include notice of the faculty member's right, upon request, to a hearing by the Due Process Committee (subsection VI.E.). (Faculty Senate Resolution #99-10)

**C. Penalty Without Recourse**

If, within 14 calendar <sup>[i]</sup> days after the faculty member receives the notice and written specification of the reasons referred to in subsection VI.B. above, the faculty member makes no written request for a hearing, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.

**D. Hearing Request**

A faculty member shall timely submit a request for a hearing to the vice chancellor with supervisory authority in writing by a method that provides delivery verification and is consistent with UNC Policy 101.3.3. Upon receipt of such a request the vice chancellor with supervisory authority shall, within 10 calendar days, notify the chair of the Due Process Committee of the need to convene a hearing in accordance with subsection VI.F.1.

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

**E. Due Process Committee**

The Due Process Committee (hereinafter “Committee”) shall be composed of five members and five alternates each of whom is a full-time, permanently tenured voting faculty member Part IX, Section I (IV). Members shall be elected in accordance with the procedures for election of appellate committees specified in the Bylaws of the East Carolina University Faculty Senate. Members and alternates shall be elected to three-year terms. A quorum for the committee shall be the five members or their alternates. Upon organization, the members of the Committee shall elect a chair and a secretary. Should any Committee officer be absent at the beginning of a hearing, the Committee shall elect an alternate officer for the purposes of the hearing.

When the Committee is convened to consider any matter associated with a faculty member's request for a hearing, those Committee members who hold an appointment in the faculty member's academic unit, those who might reasonably expect to be called as witnesses, or those who may have any other conflict of interest should disqualify themselves from participation in the activities of the Committee related to this specific request for a hearing. The faculty member and the vice chancellor with supervisory authority are permitted to challenge Committee members for cause. The other members of the Committee will decide on any potential disqualifications if a Committee member is so challenged but wishes to remain. (Faculty Senate Resolution #99-10)

When membership of the Committee falls below the specified five members and five alternates, the Faculty Senate will elect additional faculty members to the committee.

Vacancies on the committee will be filled first by moving alternates to member status and by electing new alternates and/or members as needed to fill the committee roster.

Upon notification by the vice chancellor with supervisory authority that a faculty member has requested a hearing, the chair of the Committee shall determine the availability of the elected members and alternates, and shall select from those available one or more alternates, as necessary (see Part III of the ECU Faculty Manual, UNC Code, Section 603). The ranking of the available alternates for selection shall be determined by their years of service to the University. That available alternate who is most highly ranked shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing. (Faculty Senate Resolution #99-10)

The Committee may at any time consult with an attorney in the office of the University Attorney who is not presently nor previously substantively involved in the matter giving rise to the hearing, nor will advise the University administrator(s) following the Committee action(s).

#### F. Procedures for the Hearing

##### 1. Time and Date of Hearing

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

##### 2. Conduct of Hearing

The hearing shall be on the written specification of reasons for the intended discharge or imposition of a serious sanction. The chair of the Committee, or an elected member of the Committee if the chair is unavailable, is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for herein, the hearing shall be conducted according to the latest edition of *Robert's Rules of Order, Newly Revised*. Attendance at the hearing is limited to the Committee's members and alternates, the faculty member requesting the hearing, counsel for the faculty member, the vice chancellor with supervisory authority, or his/her designee, and/or counsel for the vice chancellor. Other persons (witnesses) providing information to the Committee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the Committee as appropriate. For any hearing from which an appeal may be taken, a professional court reporter must be used to record and transcribe the hearing. (Faculty Senate Resolution #03-37). The hearing shall be closed to the public unless both the faculty member and the Committee agree that it may be open.

The hearing shall begin with an opening statement by the hearing chair limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. Following the opening remarks by the hearing chair, the vice chancellor with supervisory authority, his/her designee, or his/her counsel shall present the university's contentions and any supporting witnesses and documentary evidence. The faculty member or the faculty member's counsel may then reply and present any supporting

witnesses and documentary evidence. During these presentations, the vice chancellor with supervisory authority, his/her designee, or his/her counsel, and the faculty member or his/her counsel, shall have the right to confront and cross-examine adverse witnesses, and to make argument. Committee members may question witnesses for purposes of clarification. At the conclusion of the hearing, the faculty member and then the vice chancellor with supervisory authority, or his/her designee, will be given the opportunity to provide summary statements. (Faculty Senate Resolution #99-10).

#### G. Procedures After the Hearing

After the hearing, the Committee shall meet in executive session and begin its deliberations or shall adjourn for no more than two calendar days, at which time it shall reconvene in executive session. In reaching its decisions the Committee shall consider only the testimony and other materials entered or presented as evidence during the hearing and such written or oral arguments as the committee, in its discretion, may allow. The University has the burden of proof. In evaluating evidence, the Committee shall use the standard of “clear and convincing” evidence in determining whether the institution has met its burden of showing that permissible grounds for serious sanction exist and are the basis for the recommended action.

Within 14 calendar days of finishing its deliberations or after the full transcript is received, whichever is later, the Committee shall provide the faculty member<sup>[i]</sup> and the chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing. In its report the Committee shall state whether or not it recommends that the intended sanction be imposed (Faculty Senate Resolution #03-37).

In reaching a decision, the chancellor shall consider only the written transcript of the hearing and the report of the Committee. Within 30 calendar days of receiving the report, the chancellor's decision shall be conveyed in writing to the Committee and the affected faculty member by a method that provides delivery verification and is consistent with UNC Policy 101.3.3.

#### H. Appeal

If the chancellor concurs in a recommendation of the Committee that is favorable to the faculty member, the decision shall be final. If the chancellor rejects a finding, conclusion, or recommendation of the Committee, the chancellor shall state the reasons for doing so in a written decision. If the chancellor either declines to accept a Committee recommendation that is favorable to the faculty member or concurs in the Committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision to the Board of Trustees.

This appeal shall be transmitted through the chancellor and shall be addressed to the chair of the Board. Notice of appeal shall be filed 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; however, the Board may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three members.

The Board of Trustees, or its committee shall consider the appeal on the written transcript of the hearing held by the Due Process Committee, but it may, in its discretion, hear such other evidence as it deems necessary, with the opportunity for rebuttal. 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 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 certified mail, return receipt requested, or by another means that provides proof of delivery, 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.

I. Suspension During a Period of Intent to Discharge

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

VII. Termination of Faculty Employment

A. Reasons Justifying Termination and Consultation Required

1. Reasons for Terminating Employment

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

Financial exigency is defined as a significant decline in the financial resources of the institution that is brought about by decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. The determination of whether a condition of financial exigency exists or whether there shall be a major curtailment or elimination of a teaching, research, or public service program shall be made by the chancellor, after consulting with the academic administrative officers and faculties as required by subsection VII.A.2. below.

This determination is subject to concurrence by the President and then approval of the Board of Governors. If the financial exigency or curtailment or elimination of a program is such that the institution's contractual obligation to a faculty member cannot be met, the employment of the faculty member may be terminated in accordance with Section 605 B (1) of The Code of The University of North Carolina and the institutional procedures set out in subsection B below.

2. Consultation with Faculty and Administrative Officers

When it appears that the institution will experience an institutional financial exigency or when it is considering a major curtailment in or elimination of a teaching, research, or public service program, the chancellor or the chancellor's delegate shall forthwith prepare a report which identifies specifically the state of financial exigency or the program change. The report must outline the options readily apparent to the chancellor at the time, including any options which would or might involve terminations of faculty employment.

The chancellor's report shall be directed to the Educational Policies and Planning Committee for their written advice and recommendations. In considering this report the Educational Policies and Planning Committee shall have access to information on which the chancellor's report was based. The Committee may interview appropriate persons.

The Educational Policies and Planning Committee shall prepare a report in response to the chancellor, to be submitted at a time determined by the chancellor.

Should the chancellor decide, following receipt of the Educational Policies and Planning Committee's report, to consider reducing a unit's faculty for reasons of financial exigency or major curtailment or elimination of a program, the chancellor shall promptly establish and convene an ad hoc Faculty Advisory Committee to advise the chancellor regarding the contemplated reduction.

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

## B. Termination Procedures

### 1. Consideration in Determining Whose Employment is to be Terminated

In determining which faculty member's employment is to be terminated, the primary consideration of the chancellor and the ad hoc advisory committee shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution. Where no conflict with this primary consideration exists, priority for retention shall be given the permanently tenured faculty who are senior in years of service to the University.

### 2. Timely Notice of Termination

a. When a faculty member's employment is to be terminated because of major curtailment or elimination of a teaching, research, or public service program and such curtailment or elimination of program is not founded upon financial exigency, the faculty member shall be given timely notice as follows: One who has permanent tenure shall be given not less than twelve months notice; and one who does not have permanent tenure shall be given notice in accordance with the requirements specified in Section II.C.

b. When a faculty member's employment is to be terminated because of financial exigency, the institution will make every reasonable effort, consistent with the need to maintain sound educational programs and within the limits of available resources, to give the same notice as set forth in the preceding paragraph.

### 3. Type of Notice to be Given

a. Should the chancellor decide to terminate employment following receipt of the report of the Ad hoc Faculty Advisory Committee, the chancellor or the chancellor's delegate shall send the faculty member whose employment is to be terminated a written statement of this fact by a method that provides delivery verification and is consistent with UNC Policy 101.3.3. This notice shall include a statement of the conditions requiring termination of the faculty member's employment; a general description of the procedures followed in making the decision; a disclosure of pertinent financial or other data upon which the decision was based; a statement of the faculty member's right, upon request, to a reconsideration of the decision by a faculty committee if the faculty

- member alleges that the decision to terminate employment was arbitrary or capricious; and a copy of this procedure on termination of employment.
- b. For a period of two years after the effective date of termination of a faculty member's contract for any of the reasons specified in subsection VII.A.1., the institution shall not replace the faculty member without first offering the position to the person whose employment was terminated. The offer shall be sent by a method that provides delivery verification and is consistent with UNC Policy 101.3.3 to the address last furnished to the chancellor's office, and the faculty member will be given thirty calendar days after attempted delivery of the notice in which to accept or reject the offer. The offer to resume a terminated position shall provide for tenure status, rank, and salary at least equal to those held by the faculty member at the time of termination.
  - c. The institution, when requested in writing by a faculty member whose employment has been terminated, shall give reasonable assistance in finding other employment. Such assistance shall include secretarial assistance, access to the telephone (including long distance), University/unit stationary and postage, travel funds to professional meetings, and other assistance as deemed reasonable and appropriate in the profession.
4. Termination if Reconsideration is Not Requested  
If, within 10 working days after receipt of notice required by subsection VII.B.3 above, the faculty member makes no written request for a reconsideration hearing, employment will be terminated at the date specified in the notice given pursuant to subsection VII.B.3, and without recourse to any institutional grievance or appellate procedure.
  5. Request for Reconsideration Hearing  
Within 10 working days after receiving the notice required by subsection VII.B.3, the faculty member may request by a method that provides delivery verification and is consistent with UNC Policy 101.3.3 a reconsideration of the decision to terminate employment, if the faculty member alleges that the decision was arbitrary or capricious. The request shall be submitted to the chancellor and shall specify the grounds upon which it is contended that the decision to terminate employment was arbitrary or capricious and shall include a short, plain statement of facts that the faculty member believes support the contention. Submission of such a request constitutes on the part of the faculty member: (1) a claim that the contention can be supported by representation of factual evidence, and (2) an agreement that the institution may offer in rebuttal of the faculty member's contention any relevant data within its possession. Upon receipt of such a request the chancellor shall, within 10 working days, notify the chair of the Reconsideration Committee of the need to convene a hearing in accordance with subsection VII.B.7.
  6. The Reconsideration Committee  
The Reconsideration Committee shall be composed of five members and five alternates, each of whom is a full time permanently tenured voting faculty member without administrative appointment. Members shall be elected in accordance with the procedures for election of appellate committees specified in the Bylaws of the East Carolina University Faculty Senate. Members and alternates shall be elected to three-year terms. A quorum for the committee shall be the five members or their alternates.

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

When the committee is convened to consider any matter associated with a faculty member's request for a hearing, those committee members who hold an appointment in the faculty member's academic unit, those who might reasonably expect to be called as witnesses, who participated directly in the decision to terminate the faculty member's employment, or those who may have any other conflict of interest should disqualify themselves from participation in the activities of the committee related to this specific request for a hearing. The faculty member and the chancellor or the chancellor's representative are permitted to challenge committee members for cause. The other members of the committee will decide on any potential disqualifications if a committee member is so challenged but wishes to remain.

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

Upon receipt of a request for a hearing, the chair of the committee shall determine the availability of the elected members and alternates, and shall select from those available one or more alternates, as necessary. The ranking of the available alternates for selection shall be determined by their years of service to the University. That available alternate who is most highly ranked shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing. The committee may at any time consult with an attorney in the office of the University Attorney who is not presently nor previously substantively involved in the matter giving rise to the hearing, nor will advise the University administrator(s) following the committee action(s).

7. Procedures for the Hearing

a. Time and Date of Hearing

The Reconsideration Committee shall set the time, date, and place for the hearing. The date for the hearing must be within 30 working days of the time the committee receives the chancellor's notification of the faculty member's written request for a hearing. The committee shall notify the affected faculty member, the chancellor, and the chair of the faculty of the time, date, and place of the hearing. The committee may, upon the faculty member's written request and for good cause, postpone the date of the hearing by written notice to the faculty member.

b. Conduct of Hearing

The Reconsideration Committee's review of the faculty member's appeal shall be limited solely to determining whether the decision to terminate employment was arbitrary or capricious. The chair of the Reconsideration Committee is responsible for conducting the hearing and for maintaining order during the hearing. Except as provided for herein, the hearing shall be conducted according to the latest edition of *Robert's Rules of Order, Newly Revised*. Attendance at the hearing is limited to the committee's members and alternates, the faculty member requesting the hearing, counsel for the faculty member, the chancellor or the chancellor's delegates (hereinafter, the chancellor), and counsel for the chancellor. Other persons (witnesses) providing information to the committee shall not be present throughout the hearing, but shall be available at a convenient location to appear before the committee as appropriate. The faculty

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

The hearing shall begin with an opening statement by the chair of the committee limited to explaining the purpose of the hearing and the procedures to be followed during the hearing. Following the opening remarks by the committee chair, the faculty member or the faculty member's counsel shall present his or her contentions and any supporting witnesses and documentary evidence. The chancellor or the chancellor's counsel may then reply and present any supporting witnesses and evidence in rebuttal of the faculty members contentions or in general support of the decision to terminate the faculty member's employment. During these presentations, the faculty member or his or her counsel, and the chancellor or his or her counsel, may cross-examine opposing witnesses. Committee members may question witnesses for purposes of clarification. At the conclusion of the hearing, the faculty member and then the chancellor or the chancellor's counsel will be given the opportunity to provide summary statements.

#### 8. Procedures After the Hearing

After the hearing, the committee shall meet in executive session and begin its deliberations or shall adjourn for no more than two working days, at which time it shall reconvene in executive session. In reaching its decisions the committee shall consider only the testimony and other materials entered or presented as evidence during the hearing.

Within 10 working days of finishing its deliberations the committee shall provide the faculty member and the chancellor with a copy of its report, including materials entered as evidence, and a copy of the court reporter's transcript of the hearing. (Faculty Senate Resolution #03-37)

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

If the Reconsideration Committee determines that the faculty member's contention has been satisfactorily established, it shall so notify the faculty member, the chair of the faculty, and the chancellor by a written notice that shall also include a recommendation for corrective action by the chancellor.

Within 30 working days after receiving the recommendation, the chancellor shall send written notice to the faculty member by a method that provides delivery verification and is consistent with UNC Policy 101.3.3, with copies to the chair of the faculty, and the chair of the Reconsideration Committee giving his decision and stating what modification, if any, the chancellor will make with respect to the original decision to terminate the faculty member's

employment. If the chancellor fails to reverse the original decision, the chancellor shall send written notice of such to the faculty member by a method that provides delivery verification and is consistent with UNC Policy 101.3.3, with copies to the chair of the faculty, and the chair of the Reconsideration Committee. The faculty member may appeal the termination to the Board of Trustees within 10 calendar days following receipt of the chancellor's decision. (Faculty Senate Resolution #99-4)

The exercise of the Board of Trustees' jurisdiction is refined to ensure that primary emphasis remains properly focused on the campus grievance procedures. Requests for appellate review will be screened to determine whether the Board should consider the issues raised in a petitioner's request for review. The following basic standards will guide that screening process:

- a. The Board will grant requests to review contentions that the grievance procedures followed by the campus in a particular case did not comport with University requirements that affect the credibility, reliability, and fairness of such inquiries, thereby arguably depriving the grievant of a valid opportunity to establish his or her contentions.
- b. The Board will grant requests to review University policy issues implicated by a particular grievance, when the question appears to require intervention by the governing board to clarify the definition, interpretation, or application of such policies.
- c. The Board will review questions about the sufficiency of the evidence to sustain the conclusion reached only if (a) the case involves a substantial interest of the grievant, and/or (b) the history of the case reveals disagreement, with respect to the sufficiency of the evidence to sustain the grievant's contentions, among the responsible decision makers, i.e., the reconsideration committee, the chancellor, or the board of Trustees<sup>6</sup>; if the responsible decision makers are in accord, normally no such appeal will be entertained by the Board of Trustees. Under the foregoing prescriptions, it is necessary for prospective petitioners to evaluate their circumstances carefully, to understand the purposes of permissible appellate review, and to formulate clearly and concisely their statement of the one or more grounds on which they believe the Board should exercise its appellate jurisdiction. Thus, the first step in any appeal to the Board of Trustees will be an evaluation by the Board, through a designated committee, with staff assistance, of the grievant's written statement of grounds for appeal, to determine whether the issues sought to be raised warrant Board attention, as judged by the three basic standards.

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

#### VIII. Effective Date

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

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<sup>6</sup>A faculty member receiving a notice of non-conferral of early permanent tenure may file a grievance in accordance with *ECU Faculty Manual* Part XII, Section I. The Board of Trustees will remain responsible for reviewing, on appeal, a grievant's contention that the chancellor's decision (or affirmation of a faculty committee decision) was clearly erroneous.

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

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

In compliance with UNC Code 602 (1) final approval of this document involves the Faculty Senate, Chancellor, Senior Vice President for Academic Affairs/General Counsel, and President of UNC System.)

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Approved (entire document)

Faculty Senate Resolution #06-19, January 9, 2007  
Erskine Bowles, President of UNC System

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

Faculty Senate Resolution #16-15, April 7, 2017 *Effective date: July 1, 2017*  
Margaret Spellings, President of UNC System (with editorial revisions as suggested)

**EAST CAROLINA UNIVERSITY  
FACULTY MANUAL INTERPRETATIONS**

Referenced in *Faculty Senate Resolution #16-15: Revised ECU Faculty Manual, Part IX, Section I. Tenure and Promotion Policies and Procedures of East Carolina University, subsections I. – IV.*

**Faculty Senate Resolution #106-20**

Approved by the Faculty Senate: April 18, 2006

Approved by the Chancellor: May 5, 2006

Interpretation of the *ECU Faculty Manual*, [Appendix D](#), clarifying that the numbers of faculty votes either yea or nay or abstaining in secret ballot voting cannot be shared with administrators.

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**Faculty Senate Resolution #11-43**

Approved by the Faculty Senate: March 29, 2011

Approved by the Chancellor: May 5, 2011

Interpretation of the *ECU Faculty Manual*, [Appendix D](#), Tenure and Promotion Policies and Procedures, Section IV.C. External Peer Review for Promotion and the Conferral of Permanent Tenure to read as follows:

“Faculty candidates for promotion and/or tenure consideration during 2011-2012 and members of their respective unit Tenure Committees are selecting external peer reviewers at this time. The purpose of this interpretation is to provide clarity on the current provisions stated in the *ECU Faculty Manual*, [Appendix D](#), Tenure and Promotion Policies and Procedures, Section IV.C. External Peer Review for Promotion and the Conferral of Permanent Tenure as follows:

*‘By the last week of March of the Spring term prior to the academic year in which a promotion or tenure decision is scheduled, the unit Tenure Committee shall produce a list of possible external reviewers. The candidate for promotion and/or permanent tenure shall provide a similar list, noting for each name the professional relationship, if any, between the reviewer and the candidate. The candidate shall also provide similar relationship information for each name on the unit Tenure Committee’s list. These two lists must be independently compiled and if the two lists contain a common set of prospective external reviewers, the unit Tenure Committee list shall be revisited and new possible external reviewers shall be identified as replacement for those originally on both lists.’*

The statement (noted in red) indicates that prospective external reviewers appearing on the two independently compiled lists cannot serve and that new reviewers must be identified to replace those reviewers originally on both the candidate’s list and the committee’s list. **This provision was NOT intended to prevent a unit Tenure Committee from selecting an external peer reviewer who was also suggested by the faculty candidate.”**

The Faculty Governance Committee will review these regulations in their entirety and propose to the Faculty Senate revisions to Appendix D in Fall 2011. Until revisions are approved, the Faculty Governance Committee is asking the Faculty Senate and Chancellor to approve this interpretation as formal notification that an individual suggested by both the faculty candidate for promotion and/or tenure and the unit’s Tenure Committee **may be selected** to serve as an approved external peer reviewer.

PART IX – APPOINTMENT, TENURE, PROMOTION, AND ADVANCEMENT POLICIES AND PROCEDURES AND PERFORMANCE REVIEW OF TENURED FACULTY

SECTION II

Performance Review of Tenured Faculty of East Carolina University  
(Revised 10-15)

- I. Preamble
  - II. Description of Policy
    - A. Timing
    - B. Performance Standards for the Review
    - C. Performance Review Committee (PRC)
    - D. Review Process
    - E. Rewards
    - F. Reconsideration
    - G. Faculty Development Plan
    - H. Subsequent Evaluation
  - III. Form: Faculty 5-Year Plan [Guidelines for Faculty 5-Year Plan](#) (link provides both forms)  
Form: Report on Performance Review of Tenured Faculty
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I. Preamble

On May 16, 1997, the Board of Governors mandated the review of performance of tenured faculty in the University of North Carolina system. This review, defined as the comprehensive, formal, periodic evaluation of cumulative faculty performance, has the purposes of ensuring faculty development and promoting faculty vitality. The June 24, 1997, Administrative Memorandum #371 from the General Administration of the UNC System required each constituent institution to create a policy that examines individual faculty contributions to departmental, school/college, and university goals as well as to the academic programs in which faculty teach. Guidelines mandate that the process shall recognize and reward exemplary faculty performance; provide for a clear plan and timetable for improvement of performance of faculty found deficient; and, for those whose performance remains deficient, provide for the possible imposition of appropriate sanctions or further action, including discharge. Further guidelines direct individual institutions to show the relationship between annual review and performance review, examine faculty performance relative to the mission of the unit and the university, include a review no less frequently than every five years, explicitly involve peers in the review process, assure written feedback as well as a mechanism for faculty response to the evaluation, and require individual development plans for all faculty receiving less than satisfactory ratings in the performance review.

On June 20, 2014, the UNC Board of Governors revised its *Guidelines on Performance Review of Tenured Faculty* (The UNC Policy Manual: 400.3.3.1(G)).

East Carolina University's Policy for the Performance Review of Tenured Faculty meets the revised guidelines of the University of North Carolina General Administration and is consistent with East Carolina University's Faculty Manual and The Code of the University. This policy does not create a process for the reevaluation or revalidation of tenured status. The basic standard for appraisal and evaluation is whether the faculty member under review discharges conscientiously and with professional competence the duties associated with his or her position. Furthermore, the policy is

created with the widespread presumption of competence on the part of each tenured faculty member. The performance review for a faculty member must reflect the nature of the individual's field or work and must conform to fair and reasonable expectations as recognized by faculty peers in each department and discipline. The review must be conducted in a manner free of arbitrary, capricious, or discriminatory elements and must follow these agreed-upon procedures.

## II. Description of Policy

### A. Timing

At five-year intervals, each academic unit shall review all aspects of each permanently tenured faculty member's professional performance during the preceding five years. A review leading to promotion in rank qualifies as a performance review. A faculty member granted promotion and/or permanent tenure shall be reviewed within five years of that decision. Probationary-term faculty members are excluded because other review mechanisms exist to evaluate their performance. Unit\* administrators, deans, and administrators at the division or university level shall be excluded from this policy. After returning to full-time teaching/research responsibilities, administrators shall be evaluated in the first review period following the return and at all following five-year intervals. In any case where the review period is shorter than five, the expectations shall be adjusted accordingly.

Each academic unit's Tenure Committee shall decide whether all of its tenured faculty will be reviewed in the same year (block plan) or whether its tenured faculty will be reviewed according to a serial plan. Those units choosing a serial plan shall also determine the method of serialization.

### B. Performance Standards for the Review

For the cumulative review of performance for the review period, the unit's Tenure Committee shall follow its standards of "meets," "exceeds," or "does not meet" expectations as described in the unit code. Immediately after each review period, the Tenure Committee shall review and revise the performance standards as necessary. These standards will comply with the provisions of Part VIII, Section I (subsections C and D) of the *ECU Faculty Manual*, the unit's code provisions, and the primacy of instruction within the UNC system institutions. These standards should be consistent with the mission of the institution, college, and program and with the changing goals of both the unit and the university. While also considering varying expectations at the time of the granting of permanent tenure for individual faculty members, these standards should address the faculty member's teaching, research, service, and other duties, including contributions to the departmental, college/school, and university goals, contributions to the academic programs in which the faculty member teaches, and any other professional activities bearing on the faculty member's performance of his or her duties during the period under review.

### C. Performance Review Committee (PRC)

The Tenure Committee will elect a minimum of three faculty members and one alternate from the permanently tenured voting faculty (*ECU Faculty Manual*, Part IX, Section I (IV.)). Voting Faculty Member) not holding administrative status to serve on the Performance Review Committee. The alternate shall serve when a member is unable to serve. Members on the Performance Review Committee shall serve for one academic year.

When a unit is unable to elect three permanently tenured voting faculty members not holding administrative status, the next higher administrator above the unit level shall appoint permanently tenured voting faculty members not holding administrative status from other units to increase the committee's membership to three members and one alternate. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured and probationary-term voting faculty of the unit. The list forwarded to the next higher administrator by the appropriate

faculty will contain at least twice the number of faculty members required to complete the membership of the committee. Before voting on the list to be forwarded to the next higher administrator, the voting faculty will ascertain that faculty members nominated to have their names placed on the list are willing and able to serve in this important capacity. The list of faculty names recommended to the next higher administrator may not be returned for revision.

#### D. Review Process

Performance Review of Tenured Faculty shall cover all aspects of the faculty member's professional performance. The review will be informed by the faculty member's annual reports and annual evaluations (*ECU Faculty Manual*, Part VIII, Section I (III.). Evaluations) and consistent with the faculty member's 5-year plan (utilizing the form in Section III or an alternate five-year plan approved in the unit code), but primarily shall be based on a comprehensive assessment of the faculty member's teaching, research, service, and other duties, including contributions to the departmental college/school and university goals, contributions to the academic programs in which the faculty member teaches, and any other professional activities bearing on the faculty member's performance of his or her duties during the period under review. For permanently tenured full-time faculty members who have received University approved leaves of absence, the expectations for the review period will be adjusted accordingly. A permanently tenured faculty member who is on leave during a block plan will be reviewed at time of their return to full-time service.

Should a subsequent academic unit administrator disagree with the annual reviews and annual reports of an individual faculty member composed before the term of office of the incumbent administrator, the administrator shall not dismiss, alter, or argue against the body and conclusions of the earlier annual reviews and reports.

The initial review shall be conducted by the unit administrator who, using the attached Form, shall prepare a performance review report which shall consist of a narrative evaluation of the overall performance of the candidate that takes into account the relative weights assigned to each duty during each of the years being reviewed and the amount of reassigned time from teaching to the performance of other duties for each year under review. This evaluation shall conclude with an overall ranking that categorizes each faculty member's performance as "meets," "exceeds," or "does not meet" expectations.. A negative review must include a statement of the faculty member's primary responsibilities and specific descriptions of shortcomings as they relate to the faculty member's assigned duties.

The evaluative report, together with the faculty member's annual reports and annual performance evaluations for the period under review, a copy of the faculty member's 5-year plan, a copy of the faculty member's current curriculum vita, and any other material the faculty member provided to the review committee in support of his/her professional performance over the review period, shall be forwarded to the Performance Review Committee and shall become part of the permanent personnel file. For each faculty member, the Performance Review Committee shall either agree or disagree with the evaluation of the unit administrator.

When the unit administrator and the Performance Review Committee agree, the Performance Review Committee shall report this agreement on the Form. The unit administrator shall provide a copy of the report to the faculty member and place a copy of the report in the faculty member's personnel file.

When the unit administrator and Performance Review Committee disagree, every effort (including discussion and negotiation) shall be made to resolve the disagreement within the unit. If the effort to resolve the disagreement fails, the Performance Review Committee shall prepare its own report. The

unit administrator shall provide copies of both reports to the faculty member and the matter will be referred to the next higher administrator, who after reviewing both reports and the faculty member's supporting materials, shall make an independent decision, which shall be reported in writing to the faculty member and forwarded, together with Committee and unit administrator reports, to the Provost (or Vice Chancellor for Health Sciences).

The faculty member may provide the unit administrator with a written response within 10 calendar days of receiving his or her unit-level performance review (see Section II F). A copy of the faculty member's response will be placed in the faculty member's personnel file and provided to the Performance Review Committee. The response will also be shared at the next highest administrative level.

The next higher administrator shall review all Performance Review reports, including any faculty member's response to those reports, and either concur or not concur, then notify the unit administrator and the chair of the unit Performance Review Committee, and forward her/his review to the Provost or the Vice Chancellor for Health Sciences who is responsible for ensuring the integrity of the review process. The Provost will annually certify to the UNC President or his/her designee that all aspects of the review process are in compliance with UNC Policy 400.3.3.

Immediately after the completion of each level of administrative review, the administrator's report shall be communicated to all appropriate lower-level administrators, the tenured faculty member, and the Unit Performance Review Committee.

A copy of the report shall be placed in the faculty member's personnel file.

A faculty member may provide the unit administrator with a written response within 10 calendar days of receiving his or her unit-level performance review. A copy of the faculty member's response will be placed in the faculty member's personnel file and provided to the Performance Review Committee. A faculty member's response will be forwarded to the next higher administrator.

At the discretion of the faculty member, the final review may be appealed in accordance with the provisions of the grievance procedure of Part XII, Section I, as appropriate.

#### E. Rewards

The revised UNC Guidelines on Performance Review of Tenured Faculty require that faculty whose post-tenure performance exceeds expectations shall be recognized and rewarded. A faculty member whose performance is deemed to have exceeded expectation may be recognized in ways including, but not limited to, nomination for awards, merit salary increases, research leaves, and/or revisions of work load.

#### F. Reconsideration

A faculty member whose unit-level review process determines a performance level that does not meet expectations shall have the opportunity to respond within 10 calendar days. The faculty member may request that the unit administrator and Performance Review Committee reconsider the evaluation based on additional substantive information provided by the faculty member. In reconsidering the evaluation, the unit administrator and Performance Review Committee shall have the opportunity to nullify, modify, or reconfirm the original evaluation (or evaluations, in the case of disagreement between the committee and the unit administrator). The response of the faculty member to the report of deficient performance and the decision of the committee and the unit administrator shall be reported to the next higher administrator (as outlined in Section II, D).

When the committee and the unit administrator disagree on the appropriate action after a reconsideration initiated by the faculty member under review, every effort (including discussion and negotiation) shall be made to resolve the disagreement within the unit. If the effort fails, the conflicting responses to the reconsideration appeal by the faculty member under review shall be referred to the next higher administrator for final decision.

The decision of each administrator shall be reported in writing to the faculty member and a copy of each decision shall be placed in the faculty member's personnel file and provided to both the Performance Review Committee and the unit administrator.

At the discretion of the faculty member, the final review may be appealed in accordance with the provisions of the grievance procedure of Part XII, Section I, as appropriate.

#### G. Faculty Development Plan

A faculty member whose performance does not meet expectations shall negotiate a formal development plan with the Performance Review Committee and the unit administrator. The development plan must: (a) identify specific shortcomings as they relate to the faculty member's performance of his or her assigned duties; (b) state any modification of duties due to a less than satisfactory rating and take into account the new allocation of responsibilities; (c) include specific steps designed to lead to the required degree of improvement; (d) specify resources necessary to support the development plan, (e) specify a reasonable timeline of no more than three academic years, in which improvement is expected to occur; (f) schedule and require written records of progress meetings between the faculty member, the unit administrator and the chair of the Performance Review Committee at regular intervals no less frequently than twice each academic year; (g) state the consequences for the faculty member should improvement not occur within the designated timeline. The use of mentoring peers is encouraged.

The description of specific steps designed to lead to improvement shall state guidelines, present criteria by which the faculty member could monitor his or her progress, and identify the source of any institutional commitments, if required. The plan is a commitment by the faculty member, with support provided by the Performance Review Committee, and the unit administrator to improve the faculty member's performance. Adequate resources shall be provided to support the plan. The plan shall be consistent with the faculty member's academic freedom (as defined by the *ECU Faculty Manual*, Part V), shall be self-directed by the faculty member, and shall be sufficiently flexible to allow for subsequent amendment, if necessary. Such amendment will follow the same process as the development of the original plan. If the unit administrator, Performance Review Committee, and faculty member cannot agree on a formal development plan, each party's draft of a plan will be forwarded to the next higher administrator, who will make the final decision.

The faculty member's development progress shall be reviewed in a meeting that occurs at least twice each academic year with the Performance Review Committee and the unit administrator. The unit administrator shall provide a written evaluation of progress to the faculty member. If the unit administrator, the Performance Review Committee, and the faculty member cannot agree on the faculty member's progress, the next higher administration will meet with the relevant parties and make a final determination. A copy of this evaluation will be provided to the faculty member and placed in the faculty member's personnel file.

#### H. Subsequent Evaluation

If the unit administrator and the Performance Review Committee finds that the faculty member's cumulative performance exceeds or meets expectations within the specified timeline, the unit administrator shall report the results of the performance review in writing to the faculty member and place a copy of the written evaluation in the faculty member's personnel file. In this case, the faculty member will return to the regular schedule of post-tenure review.

If the faculty member's cumulative performance level remains below expectations after the specified timelines, the unit administrator may recommend that serious sanctions be imposed as governed by Part IX, Section I (VI), "Due Process Before Discharge or Imposition of Serious Sanction," of the *ECU Faculty Manual* and Chapter VI of *The Code* of the Board of Governors of the University of North Carolina.

\*With respect to personnel matters relating to Performance Review, academic units are defined as departments described in the codes of operation of professional schools, the departments in the College of Arts and Sciences, professional schools without departments, Academic Library Services, Health Sciences Library, and any other units in which faculty appointments are made. In the College of Arts and Sciences and in professional schools whose unit codes describe departmental structures, departmental chairs are the unit administrators. In schools that do not have departments described in their unit codes, the dean of the school is the unit administrator.

#### I. Training

All parties involved in the Performance Review of Tenured Faculty evaluations, including peer evaluators of the Performance Review Committee, department chairs, unit administrators, and deans, shall complete performance review training. Training will be provided (1) as digital training modules provided by UNC General Administration and (2) as face-to-face campus-specific policy and personnel training provided by the Faculty Senate office in cooperation with the office of the Provost.

#### III. Form: Faculty 5-Year Plan [Guidelines for Faculty 5-Year Plan](#) (link provides both forms)

Name: \_\_\_\_\_

College: \_\_\_\_\_

Department: \_\_\_\_\_

#### Responsibilities and Mutual Expectations

*(Most faculty members will have responsibilities in three or more of these, but in all cases the anticipated weights in the areas of responsibility must be consistent with those outlined in the department's unit code)*

#### % Teaching.

*Use the most general descriptions reasonable for the code unit. Some departments want to include course numbers and semesters in which they will be taught and possibly number of advisees. Other departments want to use a more general description as given in this example.*

#### % Research/Creative Activity.

*If appropriate specify other forms of products to document scholarship productivity. Use the most general descriptions reasonable for the code unit.*



I. Narrative Evaluation of most recent 5 years of faculty performance:

II. Summary Performance Review Evaluation indicate meets, does not meet, or exceeds expectations in each category (other categories may be added as documented on the unit code):

\_\_\_\_\_ Teaching  
\_\_\_\_\_ Research/Creative Activity  
\_\_\_\_\_ Service  
\_\_\_\_\_ Overall

Submitted by: \_\_\_\_\_  
Unit Administrator Date

Performance Review Committee Response: \_\_\_\_\_ Agree  
\_\_\_\_\_ Disagree

\_\_\_\_\_  
Committee Chair Date

\_\_\_\_\_  
Faculty Member Date

(Note: faculty member signature acknowledges neither agreement nor disagreement with the report.)

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Faculty Senate Resolution #98-13, April 1998  
Faculty Senate Resolution #98-29, November 1998  
Interpretation made to Section II., October 1998  
Faculty Senate Resolution #08-42, October 2008  
Faculty Senate Resolution #09-33, September 2009  
Faculty Senate Resolution #15-28, October 2015  
Faculty Senate Resolution #17-65, November 2017