

**EAST CAROLINA UNIVERSITY  
2014-2015 FACULTY SENATE**

The first regular meeting of the 2014-2015 Faculty Senate will be held on **Tuesday, September 16, 2014**, at 2:10 pm in the Mendenhall Student Center Great Room.

**FULL AGENDA**

- I. Call to Order**
- II. Approval of Minutes**  
[April 15, 2014](#) and [April 22, 2014](#) minutes
- III. Special Order of the Day**
  - A. Roll Call
  - B. Announcements
  - C. Steve Ballard, Chancellor
  - D. Ron Mitchelson, Interim Provost and Vice Chancellor for Academic Affairs
  - E. Jeff Compher, Director of Athletics
  - F. Cal Christian, Past Chair of the University Athletics Committee  
Report on University Athletics Committee's Academic Integrity Subcommittee
  - G. Andrew Morehead, Chair of the Faculty
  - H. Cynthia Deale, UNC Faculty Assembly Delegate  
Report on September 5, 2014, [UNC Faculty Assembly Meeting](#)
  - I. Bryan Tuten, Director of Dowdy Student Stores
  - J. John Tucker, University Historian  
Historical moment covering the past 50 years of shared governance
  - K. Question Period
- IV. Unfinished Business**  
Report on [February 19, 2014](#) Graduate Curriculum Committee meeting minutes.
- V. Report of Graduate Council**  
Formal faculty advice on curriculum and academic matters contained in the Graduate Council meeting minutes of September 8, 2014 (attachment 1).
- VI. Report of Committees**
  - A. Agenda Committee, Matt Reynolds  
Election of one member to the Committee on Committees (attachment 2).

- B. Committee on Committees, Charles Boklage
  - 1. Election of one member to the Appellate Due Process Committee (attachment 3).
  - 2. Election of one member to the Appellate Hearing Committee (attachment 4).
  - 3. Election of two members to the Appellate Reconsideration Committee (attachment 5).
  - 4. Election of three members to the Graduate Council (attachment 6).
  - 5. Election of three members to the UNC Faculty Assembly Delegation (attachment 7).
  
- C. University Curriculum Committee, Lori Flint  
Curriculum and academic matters contained in the [April 10, 2014](#) and [April 24, 2014](#) University Curriculum Committee meeting minutes.
  
- D. Writing Across the Curriculum Committee, Elizabeth Swaggerty
  - 1. Curriculum and academic matters contained in the meeting minutes of [April 14, 2014](#) including approval of writing intensive (WI) designation for SPED 3005 and the removal of WI designation from SPED 3100, SPED 3200, NURS 4150, CHEM 2250, CHEM 3450, CHEM 3850, CHEM 3950, CHEM 3960, and CHEM 5350.
  - 2. Curriculum and academic matters contained in the meeting minutes of [September 8, 2014](#) including approval of writing intensive (WI) designation for JUST 4300 and removal of WI designation for DANC 4323 and DANC 4047/4048.
  
- E. Service Learning Committee, Tara Gallien  
Curriculum and academic matters contained in the meeting minutes of [April 8, 2014](#) including approval of service learning (SL) designation for DNCE 2200.
  
- F. Foundations Curriculum and Instructional Effectiveness Committee, George Bailey  
Update [report](#) on number of courses designated with domestic diversity credit and global diversity credit.
  
- G. Unit Code Screening Committee, Patricia Anderson  
Proposed revisions to the Unit Code Format (attachment 8).
  
- H. Faculty Welfare Committee, Rachel Roper  
Formal Faculty Advice on the Review Process and Procedure for EPA Non-Faculty Employees (attachment 9).

## VII. New Business

**Faculty Senate Agenda  
September 16 2014  
Attachment 1.**

**Graduate Council Meeting Agenda  
Mendenhall Student Center 221  
September 8, 2014  
2:00 – 4:00 PM**

The Graduate Council Agenda and supporting documents are now posted on sharepoint at the link listed below. Please let [Sondra Bland](#) know immediately if you are unable to access them. You will have to log in with your pirate ID and password. This folder and its contents are set up so that all faculty, staff and students will have read-only access.

[Graduate Council Sharepoint Link](#)

Alternatively, copy and paste the following string into your browser's address bar:  
<https://collab.ecu.edu/sites/gradschool/gradcouncil/SitePages/Home.aspx>

Call to order

Minutes for approval:

- a. 4/14/2014 GC minutes

Review of Graduate Council roster and introduction of new members

Election of new Graduate Council Officers

Announcements

New [time limit policy](#) in effect this fall

Staff changes in the Graduate School

New Director of Graduate Admission – Heidi Puckett

Approval process for Graduate Certificates with financial aid eligibility

Reports

Graduate Curriculum Committee membership approved by GCEC

Ad-hoc committee on thesis and dissertation review and approval – Brett Keiper

Approval and tracking procedure of Graduate Council action items – Rita Reaves

Graduate School summer retreat – strategic planning process – Paul Gemperline

Tentative schedule for follow-up meeting

2015-16 Graduate Assistantship Reallocation process and RFP

Action items

Proposed changes to Schedule Change policy

Graduate Assistantship workload policy and revised Graduate Assistantship Contract

Transcript Requirement Change Proposal

Adjourn

**Faculty Senate Agenda  
September 16, 2014  
Attachment 2.**

**AGENDA COMMITTEE REPORT**  
Election of one member to the Committee on Committees

<b>Regular Members (with vote)</b>	<b>Academic Unit</b>	<b>Term</b>	<b>Office Location</b>	<b>Mail #</b>	<b>Office #</b>
Crystal Chambers	Education	2015	Ragsdale 212	121	328-1867
Derek Maher	Philosophy and Religious Studies	2015	Austin 235	562	328-5332
Jeff Popke	Geography, Planning and Environment	2015	Brewster A222	557	328-6087
<b>OPEN</b>		2015			
Charles Boklage	Medicine	2016	Brody 3N72	632	744-2301
Edson Justiniano	Physics	2016	Austin 116	563	328-1855
Michael Felts	Health and Human Performance	2016	Belk 2203	529	328-4636
<b>Ex-officio Members (with vote)</b>					
Andrew Morehead	Chair of the Faculty	2015	Science & Tech 564	552	328-9789
Mark Sprague	Past Chair of the Faculty	2015	140 Rawl Annex	109	328-6537
Britton Theurer	Past Chair of the Committee	2015	Fletcher 379	506	328-6248

**Faculty Senate Agenda  
September 16, 2014  
Attachment 3.**

**COMMITTEE ON COMMITTEES REPORT**  
Election of one member to Appellate Due Process Committee

<b>Regular Members (with vote)</b>	<b>Academic Unit</b>	<b>Term</b>	<b>Office Location</b>	<b>Mail #</b>	<b>Office #</b>
Bryna Coonin	Academic Library Services.	2015	Joyner 3403	516	328-0431
George Sigounas	Medicine	2015	Brody 3E-127	628	744-1775
Jane Manner	Education	2016	Speight 303	504	328-5594
Alex Durland	Allied Health Sciences	2017	Heart Drive 101	654	744-0172
Ralph Scott	Academic Library Services	2017	Joyner 4005	516	328-0265
<b>Alternate Members (with vote)</b>					
Ken Ferguson	Philosophy and Religious Studies	2015	Brewster A-441	562	328-6115
Sitawa Kimuna	Sociology	2015	Brewster A 408	567	328-5768
Michael Schinasi	Foreign Languages and Literatures	2016	Bate 3309	556	328-6534
Jennifer Cremeens	Health and Human Performance	2016	Belk 2302	529	328-1704
<b>OPEN</b>		2017			

**Faculty Senate Agenda  
September 16, 2014  
Attachment 4.**

**COMMITTEE ON COMMITTEES REPORT**  
Election of one member to Appellate Hearing Committee

<b>Regular Members (with vote)</b>	<b>Academic Unit</b>	<b>Term</b>	<b>Office Location</b>	<b>Mail #</b>	<b>Office #</b>
Christine Zoller	Art and Design	2015	Jenkins 1312	502	328-1321
Natalie Stewart	Theatre and Dance	2016	Messick 216	553	328-2110
Lisa Barricella	Academic Library Services	2016	Joyner 1201	516	328-0838
Angela Thompson	History	2017	Brewster A-203	554	328-1035
John Harer	Education	2017	Ragsdale 126A	172	328-4389
<b>Alternate Members (with vote)</b>					
<b>OPEN</b>		2015			
David Conradt	Political Science	2015	Brewster A-118	564	328-1989
Eric Shouse	Communication	2016	Joyner East 124	524	328-0433
John Collins	Philosophy and Religious Studies	2017	Brewster A-335	562	328-6112
Ziwei Lin	Physics	2017	Howell Science Complex	563	328-2941

**Faculty Senate Agenda  
September 16, 2014  
Attachment 5**

**COMMITTEE ON COMMITTEES REPORT**  
Election of two members to Appellate Reconsideration Committee

<b>Regular Members (with vote)</b>	<b>Academic Unit</b>	<b>Term</b>	<b>Office Location</b>	<b>Mail #</b>	<b>Office #</b>
Rebecca Powers	Sociology	2015	Brewster D303	567	328-4885
<b>OPEN</b>		2016		566	737-1569
Aysel Morin	Communication	2016	Joyner East 103A	524	328-1547
Brent Henze	English	2017	Bate 2130	555	328-6699
Sandy Lookabaugh	Child Development & Family Relations	2017	Rivers 177	505	328-1988
<b>Alternate Members (with vote)</b>					
Amy McMillan	Business	2015	Slay 308	503	328-5337
<b>OPEN</b>		2015			
Jonathan Dembo	Academic Library Services	2016	Joyner 4014	516	328-2661
Rachel Roper	Medicine	2017	Brody 5N96C	629	744-2708
Mark Sprague	Physics	2017	Howell C-209	563	328-1862

**Faculty Senate Agenda  
September 16, 2014  
Attachment 6.**

**COMMITTEE ON COMMITTEES REPORT**  
Election of three members to Graduate Council

<b>Regular Members (with vote)</b>	<b>Academic Unit</b>	<b>Term</b>	<b>College/School</b>	<b>Office Location</b>	<b>Mail #</b>	<b>Office #</b>
OPEN		2015				
Gail Ratcliff	Mathematics	2016	Arts & Sciences	Austin 228	561	328-2433
OPEN		2017				
OPEN		2017				

**Faculty Senate Agenda  
September 16, 2014  
Attachment 7.**

**COMMITTEE ON COMMITTEES REPORT**  
Election of three to the UNC Faculty Assembly

<b>Delegates</b>	<b>Academic Unit</b>	<b>Term</b>	<b>Office Location</b>	<b>Tele #</b>
<a href="#">Andrew Morehead</a>	Chair of the Faculty* Chemistry	2015	Science & Tech 564	328-9798
<a href="#">Mark Taggart</a>	Music	2015	Fletcher 366	328-4278
OPEN		2016		
<a href="#">Cynthia Deale</a>	Hospitality Leadership	2017	Rivers 313	737-4195
OPEN		2017		
<b>Alternates</b>	<b>Academic Unit</b>	<b>Term</b>	<b>Office Location</b>	<b>Tele #</b>
<a href="#">Robert Kulesher</a>	Allied Health Sciences	2015	Health Sc 4340	744-6174
<a href="#">Ralph Scott</a>	Academic Library Services	2016	Joyner 4106	328-0265
OPEN		2016		
<a href="#">Elizabeth Forrestal</a>	Allied Health Sciences	2017	Health Sc. 4340-Q	744-6170
<a href="#">Nancy Winterbauer</a>	Medicine	2017	Public Health MS#660	744-4034

UNIT CODE SCREENING COMMITTEE REPORT  
Proposed Revisions to the Unit Code Format

(Additions are noted in RED print and deletions in RED strikethrough.)

UNIT CODE FOR XXXXX

Section I PREAMBLE

This Code allows for faculty participation in and establishes procedures for the XXXXX's internal affairs and is consistent with the East Carolina University (ECU) Policy Manual, the ECU [Faculty Manual](#), and all established university policies.

Section II FACULTY

- A. Definitions of the unit's faculty
- B. Criteria for serving as a voting faculty member of the unit (Refer to ECU *Faculty Manual*, [Part IV](#), ~~Section II.C~~ and [Part IX](#), ~~Section I.IV~~.)
- C. Where appropriate, approved criteria for appointment to the graduate faculty (Refer to ECU *Faculty Manual*, ~~Part II, Section IV~~.)[Part II](#).)
- D. Criteria for emeritus status in the unit (Refer to ECU *Faculty Manual*, [Part VIII](#), ~~Section I, subsection I.D.4~~.)

Section III ADMINISTRATIVE ORGANIZATION OF THE UNIT

Section IV ~~STANDING~~ COMMITTEES OF THE UNIT

- A. ~~Membership~~ [Standing Committees, including membership](#), terms, and duties of ~~standing~~ committees
- A.B. ~~Personnel Committees, Tenure Committees, Promotion Committees~~ (Refer to ECU *Faculty Manual*, [Part IX](#), ~~Section I, subsection IV.A~~.)

Section V EVALUATION OF FACULTY

NOTE: If the unit has guidelines, they must follow ECU *Faculty Manual*, [Part IV](#), ~~Section II.E~~.)

- A. Current, updated, and approved guidelines, criteria, and weights governing the evaluation of tenured and tenure-track faculty members annually and otherwise for all personnel actions, including recommendations for raises, merit awards, reappointment, promotion and the award of permanent tenure (Refer to ECU *Faculty Manual*, [Part VIII](#), ~~Section I, subsection III~~; [Part IX](#), ~~Section I, subsection IV~~; [Part X](#), ~~Section I~~; and [Part XI](#), ~~Section I.F~~.)
- B. Guidelines, criteria, and weights governing the evaluation of fixed-term faculty members annually and otherwise for all personnel actions, including new or subsequent appointments, performance evaluations and advancement in title
- C. Standards for post-tenure review (Refer to ECU *Faculty Manual*, [Part IX](#), ~~Section II.B~~.)

Section VI PROCEDURES FOR MEETINGS WITHIN THE UNIT

Include requirements and procedures for calling meetings, and by whom, agenda requirements and reference to conduct by *Robert's Rules of [Order, Newly Revised](#)*.  
~~*Order, Newly Revised*~~

- Section VII      VOTING BY FACULTY MEMBERS  
 Procedures for the unit's voting faculty members to indicate in a timely fashion and by vote their approval or disapproval of the unit's major planning documents, assessment documents, Guidelines for Unit Academic Program Review, [\(Refer to ECU Faculty Manual, Part IV\)](#), and other major reports prior to their submission in final form to person(s) outside the unit
- Section VIII     BUDGET  
 Procedures for discussing with its unit administrator the unit's  
 A. Annual budget request  
 B. Annual report
- Section IX       AMENDMENT PROCEDURES  
 Include procedures for amending code, how much prior notice is required, and what kind of vote is required (majority, 3/5, etc.). Refer to *Robert's Rules of Order, Newly Revised* "Bylaws," #55, Article IX-  
[and to ECU Faculty Manual, Part IV](#). "This Code MUST be approved by a majority of the permanently tenured faculty members of the unit."

**Faculty Senate Agenda  
 September 16, 2014  
 Attachment 9.**

**FACULTY WELFARE COMMITTEE REPORT**

Formal Faculty Advice on the Review Process and Procedure for EPA Non-Faculty Employees  
**(No changes are being recommended)**

**History:** Chancellor: October 12, 2005; Board of Trustees: December 16, 2005; Amended: January 1, 2009; Revised December 2, 2013; Board of Trustees approved January 13, 2014.

**Related Policies:**

[Section 611 of the Code of the University of North Carolina, "Review of Personnel Actions Affecting Specified Employees Exempt from the State Personnel Act \(EPA\)"](#)  
[UNC Policy Manual 300.1.1, Senior Academic and Administrative Officers](#)  
[UNC Policy Manual 300.2.1, Employees Exempt from the State Personnel Act](#)

**Additional References:**

[ECU Policy for Employees Exempt from the State Personnel Act](#)  
[ECU Human Resources Benefits](#)  
[Human Resources](#)

**Contact Information:**

Assistant Vice Chancellor for Human Resources and Director of EPA Administration, (252) 328-9882

Review Process and Procedure for EPA Non-Faculty Employees<sup>1</sup>

<sup>1</sup> "EPA Employees" are "Employees Exempt from the State Personnel Act" which includes Senior Academic and Administrative Officers as defined in Section I.B and governed by Section III of the UNC policy 300.1.1, and employees designated within the non-teaching EPA Instructional or Research category under G.S. 126-5, and as defined in UNC Policy 300.2.1.



## Introduction

East Carolina University is committed to fair and equitable treatment for all employees. The University administration is charged by law and University policy with managing and directing its human resources, including but not limited to workforce size, recruitment, training, work assignments, hours of employment, promotion, demotion, transfer, or dismissal. Where there are concerns or problems related to employment, employees, their co-workers and their supervisors are strongly encouraged to find informal means of resolving them. Employees may pursue formal requests in accordance with the Review Procedure outlined in section 4 below.

### 1. General Considerations

1.1. The University has established this Review Process and Procedure for those actions stated in Section 3 below.

1.2. EPA Non-Faculty Employees (hereinafter "Employees") have the right to use this Review Process & Procedure ("Review Process & Procedure") free from threats or acts of retaliation, interference, coercion, restraint, discrimination, or reprisal. Employees and students may not be retaliated against for participating in a review as an employee, a witness, an employee assistant, or as a Review Committee member. Any person who retaliates against another person for exercising rights in good faith under this Review Process & Procedure will be subject to appropriate and prompt administrative action by the University.

### 2. The EPA Non-Faculty Employee Review Committee (the "Committee")

#### 2.1. Roles and Responsibilities of the Committee

The Committee hears requests for reviews brought by Employees covered by the Review Process & Procedure.

#### 2.2. Composition of the Committee

The Chancellor<sup>2</sup> shall appoint five (5) EPA Non-Faculty employees to serve as regular committee members representing EPA non-faculty employees across the divisions of the University. Additionally, the Chancellor shall appoint three (3) EPA Non-Faculty employees to serve as alternate Committee members. The Chancellor shall endeavor to have each division have representation on the Committee. All regular and alternate members of the Committee must be subject to the Review Process & Procedure.

The three (3) alternates will be appointed to: fill the unexpired terms of regular members who may leave the Committee; or, to serve in the event that a regular member is not available to serve or must recuse him/herself because of a conflict of interest; or, if the Employee is a member of the regular member's division. If an alternate is appointed to fill the unexpired term of a regular member, the Chancellor shall appoint a new alternate member to represent the division previously served by the replaced regular member.

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<sup>2</sup> The Chancellor may designate an individual to fulfill any responsibility of the Chancellor under this Review Process & Procedure if he or she chooses to delegate any assignment.

Upon expiration of a regular member's term, a new member of the Committee will be appointed from among the three alternates and a new alternate will be appointed to represent the division previously served by the regular member whose term has expired.

The Committee's membership year is July 1 through June 30. New appointees assume membership on July 1 and expiring terms end on June 30 of each year. Membership may continue in the event that the Committee is actively hearing a case, or there is a currently pending review.

A Committee member may not participate in a review he or she brings on his or her own behalf, in any case in which he or she has been materially involved or in any case that arose within that Committee member's department or division in instances where a Vice Chancellor or division head is the respondent.

### 2.3. Appointments to the Committee

The Assistant Vice Chancellor for Human Resources is responsible for facilitating the work of the Committee, including orienting new members and managing this appointment process. For initial appointments, and subsequently on an annual basis in May or as soon thereafter as practicable, the Chancellor may send a memorandum to the Vice Chancellors requesting nominees. The Chancellor will send a letter of appointment to the selected individuals to fill the expired terms of regular and alternate members. When a vacancy occurs during a regular or alternate member's term due to inability to continue through the remainder of the unexpired term, the Chancellor<sup>2</sup> will solicit a nomination from the head of the division represented by that regular or the alternate member, or another unrepresented division. The Chancellor<sup>2</sup> will send a letter of appointment to the individual(s) selected to fill the unexpired term of the regular or alternate member(s).

The regular members of the committee will elect the Chair of the Committee ("Committee Chair" or the "Chair") annually in July or as soon thereafter as practicable. The Committee will also elect a vice chair, who will preside in the event that the Chair is unable to fulfill the requirements of this position. The Chair and Vice Chair are permitted to serve multiple terms.

### 3. Committee Jurisdiction and Request for Review Statement.

3.1 Requests for review are subject to the standards set out below, which define matters which may or may not be reviewed under this Review Process & Procedure. A University official may choose to offer a proposed resolution to a dispute without such offer conferring jurisdiction under this Review Process & Procedure where such jurisdiction is not otherwise present. Matters that can be reviewed shall be limited to claims that:

3.1.1 Discharge for cause or other disciplinary action violated the interpretation and application of any provision of The University of North Carolina Policy Manual Section 300.2.1.

3.1.2 Discontinuation, expiration of term appointments, or terminations with notice upon allegations of violations of the notice requirements, or the Equal Employment Opportunity and Protected Activity provisions of the University of North Carolina Policy Manual Section 300.2.1

3.2 Matters outside the Committee's jurisdiction. Absent a demonstration by the employee that the decision was based on a factor reviewable under the University of North Carolina Policy Manual Section 300.2.1, the Committee has no jurisdiction to review pursuant to the Review Policy and Procedure:

3.2.1. Dissatisfaction by an Employee with the general application of a University, School/College or Department policy, regulation, or practice or with a University official's decision-making on the grounds it is undesirable or inadvisable.

3.2.2. Complaints, reviews or appeals that are exclusively subject to another University procedure or are exclusively within the scope of another University committee such as, but not limited to, intellectual property determinations, research ethics, Campus Police trespass appeals, parking appeals or assignments, and health and safety concerns. The outcome of such matters may be presented to and considered by the Committee when they have a direct relevance to a matter which otherwise is within the scope of the process subject to the specific disclosure and confidentiality rules of the other University procedure or Committee.

### 3.3 Written Request for Review Statement Required

3.3.1 An Employee must file a written request review statement ("Statement") using the form available on the ECU HR website (link provided above) with the Chair of the Committee.

3.3.2 Absent exceptional circumstances, the signed, written Statement shall be submitted within 20 working days of the decision cited in the Statement. The deadline for submitting the Statement may be extended only if, in the judgment of the Chair, there are significant extenuating circumstances. The act of filing a Statement does not extend employment.

### 3.4 Referral to the Office for Equity and Diversity

If the Statement submitted by the employee includes an allegation of prohibited discrimination and/or harassment based on a protected class as set forth in the University's Equal Opportunity, Harassment, and Non-Discrimination Policies, the Statement is first referred to the University's Office of Equity and Diversity ("OED") for assessment. The Statement is held in abeyance during any preliminary review and/or investigation by the OED. The OED will conduct a preliminary review to determine if part or all of the concerns outlined in the Statement are in the purview of the OED. The OED shall endeavor to complete its preliminary review within 10 working days but may, depending upon the specifics of the issues involved, request the Chair of the Review Committee (the "Chair") to provide additional time, if/as necessary. If the preliminary review determines that part or all of the concerns outlined in the Statement are found to be within the purview of the OED, the OED will investigate those concerns in accordance with the review procedures outlined in the Equal Employment Opportunity Plan. If there are no findings by the OED that result in a violation of the University's Equal Opportunity, Harassment and Non-Discrimination Policies, the OED will issue a notice of outcome to the Chair.

## 4. Review Procedures

### 4.1. Convening the Committee

Not later than 10 working days after receipt of the Statement, the Chair shall convene the Committee for its initial meeting. At this meeting or before, the Chair will provide the members of the Committee with an orientation covering the role and responsibilities of the Committee and a review of the process. At this meeting, the Committee shall review the Statement and determine whether the matter as stated falls within the jurisdiction of the Committee or not.

Relevant considerations include, but are not limited to, the employment status of the Employee and the subject matter of the concerns in the Statement.

If the matter is not eligible for review, the Committee may:

4.1.1 Allow the Employee to amend the Statement in writing within five working days of Employee's receipt of notice of an opportunity to amend his/her Statement. The Committee will review the amended Statement pursuant to Section 4.1 above; or

4.1.2 Dismiss the Statement, in writing, for failure to state a concern that is eligible for review under this Review Process and Procedure.

If the matter is eligible for review under the Policy, the Committee Chair shall, within 10 working days, forward a copy of the Statement to those named by the Employee as responsible ("Respondent(s)"), together with notice that a written response to the Statement concerns must be provided to the Committee Chair and the Employee within 10 working days. A copy of the Statement must also be submitted to the University Counsel and the appropriate Vice Chancellor.

#### 4.2. Challenges to a Committee Member

4.2.1. Challenge by the Committee. If, in the opinion of the Committee, the membership of the Committee is for any reason inappropriate, then the Chair shall submit a written recommendation to the Chancellor that changes in membership are necessary to ensure objective and timely review in that case. Upon such request, the Chancellor shall have the discretion to make any changes to the Committee necessary for the Committee to function effectively including, but not limited to, replacement of the Chair. The decision of the Chancellor regarding the disposition of such a request must be in writing and shall be included in the Official Record.

4.2.2 Challenge by a party. Any party may request that a member of the Committee be removed. The party shall submit the request for removal of a Committee Member to the Chair in writing no later than five (5) working days after receipt of the Notice described at Section 4.5. The Chair shall forward the request to the Chancellor. The decision of the Chancellor regarding the disposition of the request is final, must be in writing, and shall be included in the Official Record.

#### 4.3 Assistants

This Review Process is not intended to be a formal legal process nor do the formal rules of evidence apply. Neither the Employee nor the Respondent(s) may have an attorney actively participate at the Review Hearing (the "Hearing"). (Attorney is defined as anyone with a Juris Doctorate, 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.) However, the Employee and the Respondent(s) is/are entitled to have one assistant (the "Assistant") of the party's choice present at all meetings and at the Hearing to aid the party in developing their case. The Assistant may not be a witness or speak at the Hearing or otherwise actively participate in the Hearing. An attorney may serve as an Assistant. Information shared by a party with their Assistant is considered confidential and shall not be divulged except as required by law. Each party shall confirm the identity of any Assistant who will attend the hearing to the Chair in writing no later than five (5) working days after receipt of the Notice described at Section 4.5.

Upon request of the Chair, the Office of the University Counsel ("OUC") may designate an attorney to provide procedural advice to the Committee.

4.4 Confidentiality. Members of the Committee, parties, Assistants and witnesses shall maintain strict confidence concerning all aspects of the review process. This is required by state law as well

as University policy.

4.5 Notices of Meetings. The Chair shall send notices of the scheduled meetings to all Committee members, the Employee, and the Respondent(s). The Notice will

4.5.1 set the date for the Hearing not later than four weeks from the date that the Respondent(s) submitted the response to the Statement;

4.5.2 identify the review the Committee will be hearing, and the parties and the Committee members;

4.5.3 instruct the parties to exchange one copy of their proposed exhibits and witness lists at least five (5) working days in advance of the Hearing, and a sealed copy to the Chair for the Record, but in no case shall information be provided to the Committee prior to the Hearing. References to the documents during the Hearing shall be by exhibit number with page references as applicable;

4.5.4 inform the parties that, at least two (2) working days prior to the hearing, they must list whether or not there are any factual or other items that can be agreed upon and reduced to written stipulations signed by the parties prior to the Hearing. The parties shall present the stipulations to the Chair;

4.5.5 remind parties of any other applicable deadlines in accordance with this Review Process and Procedure (e.g., challenges to a Committee member at Section 4.2.2, identification of Assistants at Section 4.3); and

4.5.6 instruct the parties to bring to the Hearing at least one copy of each exhibit for each Committee member, one copy for the court reporter and one copy for each party.

The Chair of the Committee may consider and grant a reasonable extension of any deadlines established in this Review Process and Procedure at the request of one of the parties based on extenuating circumstances and/or at the recommendation of the Committee.

#### 4.6 The Hearing

4.6.1 Court Reporter. The Chair shall arrange a court reporter to record all Hearings and maintain the exhibits presented by the parties at the Hearing. The University shall bear the expense of the court reporter. No other recordings of the Hearing shall be allowed.

4.6.2 Amendment of Statement. Once the Hearing begins, the Employee shall not have the right to amend the Statement without the unanimous vote of the Committee. If any amendment to the Statement is allowed, the Chair shall promptly notify the Respondent(s) of this action and defer subsequent proceedings until the Respondent(s) have had the opportunity to respond to this revision. A respondent shall have 10 working days to respond to any amended Statement.

4.6.3 Attendance at the Hearing. The only persons allowed to attend the Hearing are the Committee, the Assistant Vice Chancellor for EPA Administration; counsel from the OUC, to advise the Committee; the court reporter, the Employee and the Employee's Assistant and the Respondent(s) and the Respondent(s)' Assistant. Any other persons who are witnesses shall only attend the Hearing while they are testifying.

#### 4.7 Guidelines for the Conduct of the Hearing

4.7.1 Committee Participation. Hearings shall be conducted with the Chair and all five (5) Committee members present.

4.7.2 Control of Hearings. The Chair shall preside over the Hearing. Consistent with the principles of impartiality and equity, the Chair shall determine, in consultation with the Committee, among other things, the following:

4.7.2.1. The order of testimony presentation, if it deviates from the standard order described below;

4.7.2.2 Whether a party has provided adequate justification for accepting evidence into the record at the Hearing;

4.7.2.3. The order and procedure for questioning the parties and witnesses;

4.7.2.4. Compliance with all procedures; and

4.7.2.5. The admissibility of all evidence

4.7.2.5.1 Whether evidence is relevant to the issues involved in the review and may rule that evidence not be considered.

4.7.2.5.2 If evidence is excluded, the Chair shall state the reasons for the exclusion on the record and the materials shall be included in the Official Record; and

4.7.2.6 The appropriateness of all questions and the method of questioning. The Chair should not allow any questions that are irrelevant, immaterial, unduly repetitious, or abusive.

The Committee shall keep a copy of all exhibits, whether admitted or not, for inclusion in the Official Record.

4.7.3 Testimony. Parties shall have the right to testify, to present testimony of witnesses and other evidence, to hear and question witnesses offered by the other party, and to examine all documents and other information considered by the Committee. If a witness cannot or will not appear, and the Chair determines that testimony of the witness should be admitted into evidence, the Chair shall identify the witness, disclose the statement of the witness and, if possible, provide for questions. So long as it does not substantially delay the Hearing process, the Chair may, at his or her discretion, call a recess so that reasonable time is provided for the examination of all evidence and for the preparation of appropriate responses. The Committee will carefully consider the weight and credibility of any written witness statements, taking into account whether it is sworn and that the witness is not subject to cross-examination, either of which may reduce its credibility.

4.7.4 Order of presentation. The standard order of presentation is as follows :

4.7.4.1 The Employee may make an opening statement that does not exceed 10 minutes;

4.7.4.2 The Respondent may make an opening that does not exceed 10 minutes;

4.7.4.3 The Employee presents the Employee's case through the Employee's own testimony, exhibits and witnesses. The Respondent(s) may question the Employee and the Employee's witnesses after the Employee finishes testifying/examining each of the witnesses. The Committee

members may ask questions of the Employee/each of the Employee's witnesses after the Employee and the Respondent(s) finish their questioning. The Employee's case shall not exceed two (2) hours, excluding cross-examination of the Employee's witnesses by Respondent(s) or questions by the Committee;

4.7.4.4 At the conclusion of the Employee's presentation, the Committee will recess to consider if the Employee has met the Employee's burden of demonstrating that, using the standard of preponderance of the evidence (which is the same as the "greater weight of the evidence.") the Employee has experienced an injury that would entitle the Employee to relief and that such injury is remediable. If the Committee decides that the Employee's evidence is insufficient to meet the preponderance of the evidence standard, then the Committee shall adjourn the Hearing and prepare a report as outlined below.

4.7.4.5 If the Committee does not adjourn the Hearing at the conclusion of Employee's presentation of evidence, then the Respondent(s) may present evidence through the testimony of parties, exhibits, and witnesses. The Employee may question the Respondent and the Respondent's witnesses after the Respondent(s) finishes testifying/examining each of the witnesses. The Committee members may ask questions of the Respondent and each of the Respondent's witnesses after the Respondent(s) and Employee finish their questioning. Each Respondent shall have two (2) hours to present their case excluding cross examination of Respondent(s)' witnesses by Employee or questions by the Committee

4.7.4.6 At the conclusion of the Respondent(s)' presentation, the Chair may allow the Employee and the Respondent(s) to present rebuttal evidence following the same format as set out above. Each party shall have an additional 30 minutes to present rebuttal evidence case, excluding cross examination by the other party(ies).

4.7.4.7 Once all of the evidence has been presented, the Employee may make a closing statement. The closing statement shall not include a discussion of information not presented in the Hearing and shall not exceed 20 minutes.

4.7.4.8 The Respondent(s) may make a closing statement. The closing statement shall not include a discussion of information not presented at the Hearing and each Respondent's closing statement shall not exceed 20 minutes.

4.7.4.9 The Chair shall adjourn the Hearing.

## 5. Deliberations and Report of the Review Committee

Upon the conclusion of the Hearing, the Committee shall deliberate and decide based solely on material presented in the Statement, the evidence presented at the Hearing, and such written or oral arguments as the Committee, in its discretion, may allow. The Committee should be careful not to simply substitute its judgment for that of the Respondent(s). The Employee has the burden of proof and must show, using the standard of preponderance of the evidence (which is the same as the "greater weight of the evidence") that the Employee has experienced an injury that would entitle the Employee to relief and that such injury is remediable. The Chair will prepare a brief written report of the Committee's findings and recommendations for the Chancellor (the "Report").

## 6. Official Record.

The Chair shall prepare the record (the "Official Record") of the review as outlined here:

6.1 The Official Record of the review process shall consist of all correspondence between the Committee or the Chair and the Employee and/or Respondent(s) pertaining to the review, and every document and exhibit that was either submitted to or given consideration by the Committee, along with the court reporter's transcript of the Hearing and the Committee's Report. Documents offered but not admitted in evidence shall be clearly labeled to that effect and placed in a separate file for record-keeping purposes and possible reference in the event a point on appeal relates to failure to admit evidence offered. All documentation relevant to the Committee's procedural rulings, factual findings, recommendations, and any other aspects of its final report shall be included in the Official Record.

6.2 The Official Record should be forwarded to the Chancellor along with the Committee's final report.

6.3 Once the Official Record has been delivered to the Office of the Chancellor, or a review is terminated, Committee members shall destroy in a confidential manner any extra copies of documents, and any personal notes taken during the Hearing process, consistent with the University's records retention schedule. Any original or unique records must be forwarded to the Chair for maintenance in accordance with the records retention schedule.

6.4 Delivery of Committee's Report.

6.4.1 The Chair shall send the Committee's Report, along with the Official Record of the review to the Chancellor. A copy of the Report shall be sent to the parties.

6.4.2 The Report should describe any recommendation in favor of the employee, as appropriate. Separate from issuing the Report, the Committee, through its Chair, may communicate to the Chancellor changes to the process the Committee deems reasonable.

6.4.3 The Committee shall attempt to complete this task within six (6) weeks after the Hearing.

6.5 Withdrawal of Request for Review. The Employee may withdraw the request for review at any time during the review process.

6.5.1 If the Committee has been appointed, the Employee shall provide the written withdrawal to the Chair. The Chair shall notify the Committee and the Respondent(s), with a copy to the Employee, and the review process will be closed.

6.5.2 If the Committee has provided its Report to the Chancellor at the time of the Employee's decision to withdraw the request for review, then the Employee shall provide the written withdrawal to the Chancellor. The Chancellor shall notify the Respondent(s) and the review process will be closed.

7. Chancellor's Decision

Upon receipt of the Committee's Report of the Hearing, the Chancellor may accept or reject any or all findings and recommendations of the Committee, may remand the matter to the Committee for further consideration, or may seek clarifying information from the Committee (the "Chancellor's Decision"). Unless the Chancellor deems it necessary in the best interest of the University to adjust the deadline, within twenty (20) working days of the Chancellor's receipt of the Report, the Chancellor shall notify



the Employee of the Chancellor's Decision by a method of delivery that requires a signature for delivery, which includes, but is not limited to the following: certified or registered mail, return receipt requested, Federal Express, or another commercial delivery service that obtains a signature. The Chancellor shall send copies of the Chancellor's Decision to the Respondent(s) and members of the Committee.

## 8. Appeal of the Chancellor's Decision

8.1 If the Chancellor's Decision is favorable to the Employee, his or her decision shall be final. If the Chancellor's Decision is unfavorable to the Employee in a case involving separation from employment or suspension without pay, the Employee will not receive further pay, without regard to whether there is an appeal to the Board of Trustees or the Board of Governors. The Employee may appeal an unfavorable Chancellor's Decision to the Board of Trustees (the "Board"), for the reasons outlined in Section 611 (1) (b) of The Code of The University of North Carolina. The appeal shall be transmitted through the Chancellor and be addressed to the Chair of the Board. No provision of this Policy shall be interpreted to extend an employee's right to pay beyond the expiration of the employee's term of appointment while an appeal is pending under this Review Process and Procedure.

8.2 If the Employee wishes to appeal an unfavorable Decision by the Chancellor, the Employee shall file a notice of appeal with the Chancellor, by certified mail, return receipt requested, or by another means that provides proof of delivery within 10 working days of the Employee's receipt of the Chancellor's Decision. The notice of appeal shall include a brief statement of the basis for the appeal, and allegations that the discharge, discipline or policy interpretation or application was illegal and violated a policy of the University or Board of Governors, or that the applicable notice requirements set forth in the Policy were violated.

8.3 The appeal to the Board shall be decided by the Board. The OUC shall provide an attorney to advise the Board of Trustees on procedural matters. The Board may delegate the duty of conducting a review to a standing or ad hoc committee of at least three (3) members. The Board, or its committee, shall consider the appeal on the Official Record. In all cases, review shall be limited to the question of whether the Chancellor committed clear and material error in reaching his or her decision.

8.3.1 The Board or board committee chair shall provide, by certified mail, return receipt requested, a written schedule (the "Schedule") to the Employee and to the Chancellor for the filing of objections to the Official Record and position statements. The Schedule, which may be altered as the Board chooses, may provide as follows:

8.3.1.1 the Employee shall have 10 working days after receipt of the Schedule to file objections to the Official Record with the Board, with a copy to the Chancellor;

8.3.1.2. the Employee shall have 30 working days after receipt of the Schedule to file a position statement with the Board, with a copy to the Chancellor;

8.3.1.3. the Chancellor shall have 30 working days after receipt of the Employee's position statement to file the Chancellor's position statement and response to objections to the Official Record, with a copy to the Employee.

8.3.2 The decision of the Board shall be the final Agency decision.