

**Faculty Senate Agenda  
March 30, 2010**

**FACULTY GOVERNANCE COMMITTEE REPORT**

Suggested revisions **for information only** to the *ECU Faculty Manual*,  
Appendix D. Tenure and Promotion Policies and Procedures.

**APPENDIX D.  
TENURE AND PROMOTION POLICIES AND PROCEDURES  
OF EAST CAROLINA UNIVERSITY**

**CONTENTS**

- I. Tenure
- II. Faculty Appointments
  - A. General Provisions
  - B. Fixed-Term Appointments
  - C. Probationary Appointments
  - D. Initial Appointment with Permanent Tenure
  - E. Joint Appointments
- III. Promotion
- IV. Procedures for Initiation, Review, and Approval of Appointments, Reappointments, Promotions, and the Conferral of Permanent Tenure (A description of "voting faculty" may be found here.)
  - A. Unit Committees
  - B. Role of Unit Administrator
  - C. External Peer Review for Promotion and the Conferral of Permanent Tenure
  - D. Documentation for Personnel Actions
  - E. Initiation of Recommendations
  - F. Notification of Recommendations
  - G. Procedure for Concurring Recommendations
  - H. Procedure for Non-Concurring Recommendations
- V. Procedure for Appeal of Notice of Non-Reappointment or Non-Conferral of Permanent Tenure
  - A. Deadlines for Appeals
  - B. Request for Hearing with the Faculty Hearing Committee
  - C. Validation of the Request for Hearing
  - D. Procedures for the Hearing
  - E. Procedures After the Hearing
- VI. Due Process Before Discharge or Imposition of Serious Sanction
  - A. Penalties
  - B. Notice
  - C. Penalty Without Recourse

- D. Specification of Reasons and Hearing Request
  - E. Due Process Committee
  - F. Procedures for the Hearing
  - G. Procedures After the Hearing
  - H. Appeal
  - I. Suspension During a Period of Intent to Discharge
- VII. Termination of Faculty Employment
- A. Reasons Justifying Termination and Consultation Required
  - B. Termination Procedures
- VIII. Effective Date

## **Tenure and Promotion Policies and Procedures of East Carolina University**

### 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, research, and publication for all faculty members. See *Part III, Academic Freedom* of the *ECU 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 Appendix D of the *East Carolina University Faculty Manual*, academic units are defined as departments described in the codes of operation of professional colleges and schools, the departments in the 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 dean of the school is the unit administrator.

### 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 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 Section VI.; or against termination of employment except as provided for in Section 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, research, or public service program as detailed in Sections 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, research and creative activity, and service~~, a potential for future contributions; and the institution's needs and resources.

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While teaching is the first consideration, neither teaching nor ~~scholarship, research and creative activity~~ nor patient care nor service is the sole measure of a faculty member's competence and contribution.

#### Teaching

East Carolina University expects each member of the faculty to have knowledge of subject matter commensurate with one's teaching assignment, to maintain awareness of developments in one's discipline, and to communicate to students one's knowledge of and interest in the discipline. The faculty member will encourage students in responsible and careful inquiry, in appreciation of the interrelation of various disciplines, and in recognition of the uses of learning and the value of the educated mind. Teaching includes activities and responsibilities beyond the classroom setting, e.g., advisement; mentoring; laboratory supervision; clinical rounds by a physician/professor accompanied by students; the direction of research projects and papers, dissertations, and theses; and other contacts and relationships outside the classroom. (Faculty Senate Resolution #97-43, December 1997)

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#### Scholarship

In this Appendix scholarship refers to the scholarship of research, the scholarship of creative activity/innovation, and the scholarship of engagement/outreach. The relative importance of each factor and the type of activity to be considered under each factor must be clearly defined in the unit code. The procedures by which relative weights are established for each individual faculty member for annual evaluation, tenure and promotion must also be clearly described in the unit code. East Carolina University encourages and supports the continuing efforts of faculty to develop a deeper appreciation of the importance of professional competency acquired through scholarship that is appropriate to one's discipline. A faculty member's scholarship shall reflect the high professional standards incumbent upon those who enjoy full academic freedom; such activities must be measured by standards of quality, not merely by quantity. Evaluation of scholarship must be based primarily on peer-reviewed products defined in the unit code

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#### Service

East Carolina University considers service to the university, the academic profession, and the community as an important aspect of academic performance. (See Section III and Definitions in Division of Research and Graduate Studies).

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~~In this Appendix, scholarship refers to research, creative activity, engagement and/or outreach. The relative importance of each factor and the type of activity to be considered under each factor must be clearly defined in the unit code. The procedures by which relative weights are established for each individual faculty member for annual evaluation, tenure and promotion must also be clearly described in the unit code. Evaluation of scholarship must be based primarily on peer-reviewed products. Permanent tenure is independent of promotion but sound academic practice supports the concept that an assistant professor eligible for tenure should qualify for promotion to associate professor.~~

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## 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, 604C and ECU Faculty Manual, Appendix C.]. Fixed-term appointees do not hold professorial ranks, but are appointed with the following titles: teaching instructor, teaching assistant professor, teaching associate professor, teaching professor, research instructor, research assistant professor, research associate professor, research professor, clinical instructor, clinical assistant professor, clinical associate professor, clinical professor, visiting instructor, visiting assistant professor, visiting associate professor, visiting professor, artist in residence, writer in residence, adjunct instructor, adjunct assistant professor, adjunct associate professor, and adjunct professor. Fixed-term appointments are without permanent tenure and do not entitle the faculty member to consideration for reappointment or conferral of permanent tenure. No obligation exists on the part of East Carolina University to give any notice before a current fixed-term appointment expires as to whether the contract will be renewed (except as specified in Section II.B.1).
  - (b) Probationary Appointments and Reappointments. Probationary appointments are made at the professorial ranks of instructor, 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.
  - (c) Appointments with Permanent Tenure. Appointments with permanent tenure are continuous until retirement, resignation, or removal according to the provisions of Section VI or VII of this document. Appointments with permanent tenure may be made at the professorial ranks of assistant professor, associate professor, or professor.
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, 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 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

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<sup>1</sup>References to the chancellor's designee shall include and be limited to the 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.

initial appointment the unit administrator shall provide a copy of the unit's criteria for evaluating faculty performance to persons offered a faculty appointment in the unit. Criteria for evaluating faculty performance shall be discussed by the unit administrator in a meeting with each fixed-term and 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 persons shall be written. The decision not to reappoint probationary term faculty 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, religion, veteran's status, gender, age, sexual orientation, political affiliation, or disability; or (3) personal malice. (Faculty Senate Resolution #03-37)

4. Continued Availability of Special Funding

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. This contingency shall not be included in a faculty member's contract if the faculty member held permanent tenure in the institution on July 1, 1975, and the contract was not then contingent upon the continuing availability of sources other than continuing state budget or permanent trust funds.

5. 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, 604C]

Fixed-term faculty appointments are without permanent tenure and do not entitle the faculty member to consideration for conferral of permanent tenure. No obligation exists on the part of East Carolina University to give any notice before a current fixed-term appointment expires as to whether the contract will be renewed for a succeeding term, except as specified below.

1. Contract and Notice

A contract for a fixed-term appointment shall set forth in writing the beginning and ending dates of the term. This specification of the length of the appointment constitutes full and timely notice of non-reappointment when the term expires. Whenever possible multi-year contracts, of up to five years, with eligibility for renewal, will be offered to fixed-term faculty members who have demonstrated their effectiveness and contributions and/or who have outstanding credentials. The provisions of 604 A and 602(4) of The Code of The University of North Carolina do not apply to these special faculty appointments. 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 contract will be renewed for a succeeding term. If the fixed-term faculty member, not earlier than 180 calendar days nor later than 90 calendar days before the current term expires, provides the unit administrator with a written

request for contract renewal, the unit administrator shall so notify the chair of the unit Personnel Committee. Within 30 calendar days of receiving the request the Personnel Committee and the unit administrator shall notify the faculty member in writing of their respective recommendations and that any recommendation is subject to the availability of position, funding, administrative approval, and continued effective performance.

2. Fixed-Term Employment Evaluation Policy [cf. Special Faculty Appointments, The UNC Code, 604C]

Any faculty member employed in a fixed term position shall be evaluated annually in accordance with the provisions of the employment contract. 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 recommending contract renewal. The portfolio should contain information that demonstrates the effectiveness of the fixed-term faculty member in carrying out the duties specified in the contract. The specific contents of the portfolio shall be determined by the unit.

3. Initial recommendations for advancement in title for faculty holding fixed term appointments is the responsibility of the unit Personnel Committee (see Section IV, A.1.).

C. Probationary Appointments

Probationary appointments are made at the professorial ranks of instructor, assistant professor, associate professor, and professor. Persons appointed as instructors shall not be considered for reappointment with permanent tenure until promoted to a higher rank. Persons appointed as assistant professors, associate professors, and professors are eligible for permanent tenure. In accordance with the UNC Code, 604A1, the faculty member shall be notified not later than twelve months before the end of the probationary period whether he or she will be recommended 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.

During the second year of continuous service at East Carolina University, no fewer than 180 calendar days of notice of reappointment or nonreappointment shall be given before the employment contract expires. During the third and all succeeding years of continuous service, the faculty member shall be given not fewer than twelve months notice of reappointment or nonreappointment before the employment contract expires.

1. Probationary Terms

Although the chancellor may recommend that a faculty member be granted permanent tenure at any time, the normal probationary term for the professorial ranks, as established at the time of initial appointment, shall be as follows:

- (a) Instructor. The rank of instructor is reserved for persons who lack the qualifications for appointment as assistant professor. Faculty members appointed as instructors are eligible for an initial three-year appointment and one successive reappointment of two years. Instructors promoted to the rank of assistant professor no later than the beginning of the fourth year of employment are eligible for a final two-year probationary appointment in the higher rank. The maximum probationary term is seven years.
- (b) Assistant Professor. The maximum probationary term is seven years, consisting of an initial three-year appointment and two successive two-year appointments.
- (c) Associate Professor. The maximum probationary term is five years, consisting of an initial three-year appointment followed by a two-year appointment.

- (d) Professor. The probationary term is three years, consisting of one three-year appointment.

All time served in a probationary appointment at East Carolina University must be continuous, excluding any leaves of absence as noted in Section II.C.3.

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 faculty in the Division of Health Sciences and Academic Library Services), will be measured from the beginning of the subsequent Fall semester (or July 1 for faculty in the Division of Health Sciences and Academic Library Services).

2. Reduction of the Normal Probationary Term for Previous Academic Employment  
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 reduction shall require 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 instructor, no reduction is allowed.
  - (b) For a candidate appointed at the rank of assistant professor, a maximum reduction of three years is allowed.
  - (c) For a candidate appointed at the rank of associate professor, a maximum reduction of two years is allowed.
  - (d) For a candidate appointed at the rank of professor, no reduction is allowed.
3. Extensions of the Probationary Term  
Leaves from all employment obligations which are granted to probationary-term faculty may include extension of the length of the probationary term. (Leaves of absence normally should be for not more than two academic years or occur more often than once in three years). Extensions of the probationary term should be requested by the faculty member and shall be granted only in cases of severe personal exigency, such as illness, childbirth, child care, or other compelling personal circumstances, and shall be limited to a total of no more than two years. Probationary term faculty who have received paid leave of at least 15 weeks under the ECU Serious Illness and Disability Leave Policy shall receive an extension of the probationary term if requested. Extensions of the probationary term must be expressly stated in appointment or reappointment documents or added by a written memorandum of amendment by the unit administrator during the term of an appointment. 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. All such extensions must be approved in writing by the faculty member, the unit Personnel Committee, the unit administrator, the dean, the appropriate vice chancellor, and the chancellor or the chancellor's designee. A probationary-term faculty member who assumes a full-time administrative position for one or more semesters may be granted extensions of the length of the probationary term in the same way.
4. Progress Toward Tenure Letters

Each Spring semester, the unit Tenure Committee and unit administrator will review the annual report of each probationary term faculty member. On the basis of this review, the unit administrator, in consultation with the unit Tenure Committee, will write a progress toward tenure letter to each probationary term faculty member. In the event the unit Tenure Committee and the unit administrator cannot agree on the contents of the letter, the next higher administrator shall confer jointly with the unit Tenure Committee and unit administrator, determine at his or her discretion the content of the letter, and prepare the progress toward tenure letter. Copies of the progress toward tenure letter will be placed in the faculty member's personnel file, and a copy will be sent to the unit Tenure Committee and to the next higher administrative level. The unit administrator and a representative of the unit Tenure Committee will discuss the progress toward tenure letter with the faculty member. In the event that the faculty member disagrees with the contents of the progress toward tenure letter, it is the responsibility of the faculty member to make this disagreement known in writing addressed to the unit administrator for inclusion in the personnel file and the PAD. Copies of this letter will be placed in the faculty member's personnel file, and a copy will be sent to the unit Tenure Committee and to the next higher administrative level. (See Section IV.D.3.)

5. Request for Permanent Tenure Prior to the End of the Probationary Term  
During the Spring semester of the academic year, a faculty member who has not completed the probationary term (see Section 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>

#### 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 Sections VI or VII of this document.

#### E. Joint Appointments

Joint appointments are made when faculty members are appointed with responsibilities in more than one unit. The source of funds for joint appointments may come solely from one unit, or it may come separately from two or more units to which the faculty member has a joint appointment.

Faculty members who hold joint appointments in more than one unit or center within East Carolina University shall be assigned to a primary academic unit with a greater than half-time appointment in the primary academic unit. The letter of appointment will specify the terms of the appointment, will identify the primary academic unit and will reference all units in which the

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<sup>3</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 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. Because a faculty member will be considered for permanent tenure if he or she reaches the end of the probationary term, denials of requests for permanent tenure made before the end of the probationary term are not subject to appeal.

faculty member holds joint appointments. A single appointment letter signed by all supervising administrators is preferable, but in instances where a jointly appointed faculty member has disparate duties in the various units, a separate joint appointment letter may be issued by the administrators of the units in which the faculty member holds joint appointments, provided that a copy of each joint appointment letter is forwarded to the unit administrator(s) of the other supervising unit(s).

Each appointment letter issued by the primary and joint appointment units will specify the faculty member's responsibilities, performance expectations, and compensation, if any, for that department and/or program. Annual, written evaluations of the faculty member will be prepared by the unit administrator of the faculty member's primary academic unit, in consultation with the administrator(s) of the unit(s) to which the faculty member is jointly appointed. If the administrators of the units to which the faculty member is jointly appointed disagree on the annual evaluation, the next higher administrator to the primary academic unit will arbitrate the disagreement and will write the final annual faculty evaluation, if agreement cannot be reached among all joint appointment units.

For probationary faculty appointments and permanently tenured faculty appointments, the policies and procedures of the primary academic unit shall be used for reappointment, tenure, and promotion of the faculty member, as appropriate to the appointment type. Annual progress toward tenure letters for probationary faculty will be prepared by the unit administrator of the primary academic unit, in consultation with the administrator(s) of the unit(s) to which the faculty member is jointly appointed, and in consultation with the Tenure Committee of the primary academic unit. If there is disagreement on the progress toward tenure letter, the next higher administrator of the primary academic unit will confer with the Tenure Committee of the primary academic unit and with the administrators of the units to which the faculty member is jointly appointed, determine at his or her discretion the content of the letter, and prepare the progress toward tenure letter.

For all faculty on joint appointments, annual salary increase recommendations will be made on each funding source of the appointment according to the guidelines of the units, the General Administration, and those of the University. If there is one source of funding, the administrators of the separate portions of the appointment will consult and recommend together. If there is disagreement, it will be appealed to the next higher administrator of the primary academic unit.

All faculty members who hold joint appointments are governed by the *ECU Faculty Manual*, and all provisions of each faculty appointment must be consistent with relevant sections of the *ECU Faculty Manual*. (Faculty Senate Resolution #02-05)

### III. Promotion

Persons holding the professorial rank of instructor, assistant professor, or associate professor may be promoted to the next professorial rank. Promotion shall be based primarily on the faculty member's demonstrated professional competence and achievement. See *Appendix C, Personnel Policies and Procedures for the Faculty of ECU*. Promotion is governed by the policies and procedures set forth in Section IV, below. By the first week of March of every academic year, a faculty member who wishes to be considered for promotion to the next professorial rank shall write a letter requesting a personnel action of promotion in rank to her or his unit administrator. The

request for promotion shall be considered by the appropriate unit committee during the Fall semester of the next academic year.<sup>4</sup>

IV. Procedures for Initiation, Review, and Approval of Appointments, Reappointments, Promotions, and the Conferral of Permanent Tenure  
(Please refer to *ECU Faculty Manual* Interpretation #106-22.)

Recommendations for appointments, reappointments, promotion, and the conferral of permanent tenure to faculty are the responsibility of unit committees and the unit administrator. Evaluation of faculty 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 also evaluate faculty for promotion and the early conferral of permanent tenure at the request of the faculty member. Once the evaluation has been completed, the committee's recommendation and the recommendation of the unit administrator shall be forwarded to the next higher administrator above the unit level for initiation of administrative review of the recommendations. The pertinent structures and processes are set forth in this section. The timeline for these processes is set forth in Part XIII. of the *ECU Faculty Manual*.

Confidentiality must be maintained when conducting any substantive business pertaining to initiation, review, conferral of permanent tenure, and approval of appointments, reappointments, and promotions. Email should be used with discretion because it does not guarantee confidentiality. Formal correspondences relating to any substantive business pertaining to initiation, review, conferral of permanent tenure, and approval of appointments, reappointments, and promotions should be maintained in paper form.

Description of "voting faculty"

For the purposes of Section 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 one-half time position in the unit, and
- is either a probationary term (tenure track) faculty member or a permanently tenured faculty member.
- has at least one-half of the teaching/~~scholarship~~research duties normally assigned in the unit, as determined by the permanently tenured faculty of the unit using standards appropriate to their discipline.
- 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.

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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.

- is not a unit administrator or an individual with one half or more of his/her load assigned to administrative duties as determined by the permanently tenured faculty in consultation with the unit administrator.
- or normally meets the above conditions and is on 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)

Related faculty within the same academic department (or other comparable institutional subdivision of employment) shall not participate, either individually or as a member of a committee, in the evaluation of related persons for appointment, reappointment, promotion, the conferral of permanent tenure, cumulative review, salary recommendations, or any other personnel action. A faculty member made 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.

#### A. 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 appointments.

###### b. Composition

The composition of each unit's Personnel Committee shall be determined by the unit 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 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. When there are not enough permanently tenured voting faculty members in the unit to satisfy this requirement, additional permanently tenured faculty shall be appointed. All other members of the unit Personnel Committee shall be elected by the permanently tenured and probationary-term voting faculty 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.

###### 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:

1. 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 not earlier than 180 calendar days nor later than 90 calendar days before the current term expires.

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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*.

2. Reviewing requests for reduction in the normal probationary term at the time of initial appointment (see Section II.C.2).
3. Reviewing requests for the extension of the normal probationary term (see Section II.C.3).
4. Consulting with faculty members who are considering requesting conferral of permanent tenure prior to the end of the probationary term (see Section II.C.5).
5. Consulting with faculty members who are considering requesting promotion (see Section III.).
6. Reviewing additional materials submitted by faculty members for inclusion in their personnel action dossier; consulting with the unit administrator regarding responses to such materials (see Section IV.B.).
7. The personnel committee may elect 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 the search committee must be voting faculty. For the purposes of this section, administrators may not be a part of the committee.
8. Making recommendations for advancement in title for fixed term faculty.

d. Role of the Chair of the Unit Personnel Committee

The chair of the unit Personnel Committee shall be permanently tenured and shall be elected annually by and from the committee's membership. The chair shall preside over all committees making personnel recommendations to the faculty, and may participate in the decisions of any committee of which the chair is a member, except as noted below. If the chair of the unit Personnel Committee holds a professional 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 the meetings of such committees and facilitating 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. The elected chair of the committee shall obtain and distribute materials to be used during the deliberation of such bodies, insure that a valid vote has been taken, communicate the results of such votes to the appropriate faculty and to the unit administrator, and perform other duties as designated by the unit.

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.

b. Composition

The membership of the Promotion Committee shall be composed of those permanently tenured and probationary-term voting faculty members who hold rank at least equal to the rank for which the candidate is being considered, including those on 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 at the required rank from other units across the university to increase the committee's membership to three, with at least two-thirds of the members being permanently tenured faculty. These appointments to the committee must be from one list of candidates selected by a vote of the permanently tenured and probationary-term faculty having rank at least equal to the candidate(s) being considered for 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. 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.

Meetings of the promotion committee shall be convened by the Chair of the unit's Personnel Committee. The first order of business for a newly convened Promotion Committee shall be to elect a Chair from among its membership.

### 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.

#### b. Composition

The membership of the Tenure Committee shall be composed of the permanently tenured voting faculty of the unit, including those who are on 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 faculty 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 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.

#### c. Additional roles of the unit Tenure Committee.

A Code Unit may establish, in its Code of Operation, procedures for fulfilling their 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):

1. Consults with the unit administrator who writes a progress toward tenure letter to each probationary term faculty member as described in Section II.C.4.

2. Produces a list of possible external reviewers and selects external peer reviewers from lists produced by the Committee and by the candidate (see Section IV.E).
3. Selects, with the unit administrator, the ~~scholarship, research and creative activity~~ materials to be sent to external peer reviewers (see Section IV.C).
4. Prepares a cumulative evaluation in narrative form of the candidate's teaching, ~~scholarship, research,~~ service, and any other relevant duties.

#### B. Role of Unit Administrator

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

The unit administrator is responsible for maintaining the personnel files, providing timely notification to the chair of the unit Personnel Committee on all personnel actions required or expected, and distributing all personnel documents and materials to the appropriate location. The unit administrator, in consultation with the unit Tenure Committee (or properly constituted subcommittee), will write a progress toward tenure letter to each probationary term faculty member as described in Section II.C.4. The unit administrator prepares a cumulative evaluation in narrative form of the candidate's teaching, ~~scholarship, research, service~~ service, and any other relevant duties.

In personnel matters, the unit administrator functions as an administrator rather than a faculty member. Consequently, the unit administrator does not have a faculty vote in personnel matters. Therefore, unit administrators are excluded from all unit committee deliberations concerning candidates for appointment, re-appointment, promotion, or permanent tenure, (for procedure for nonconcurring recommendations, see Appendix D, Part IV.H.). However at the invitation by a majority vote of the membership of the Personnel Committee a unit administrator may meet with the committee to discuss initial appointments. Further, the administrator may meet with the Tenure Committee (or properly constituted subcommittee) in reference to progress toward tenure letters as noted in II.C.4.

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

"External peer review" means a review of a candidate's ~~research and creative activity~~ scholarship by persons who are not faculty or employees of East Carolina University. External peer review of the quality of the ~~scholarship, research and creative activity~~ material submitted by the candidate for promotion or conferral of permanent tenure or both will be used by the appropriate committee in conjunction with its own evaluation of the material. Qualifications of the reviewers and criteria for their selection are to be determined by the faculty of each unit. According to the provisions of unit codes, other materials that reflect the candidate's scholarly activities may be included in the selection to be sent to external reviewers.

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 unit Tenure Committee shall select a sufficient number of names from the unit Tenure Committee's list and the candidate's list to ensure a minimum of three external reviewers, two from the unit Tenure Committee's list and one from the candidate's list. 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. In those cases where a unit requires more than three reviewers, the choice of reviewers must reflect, as nearly as possible, the two to one ratio of reviewers proposed by the unit Tenure Committee to those proposed by the candidate.

The unit administrator will notify the reviewers that they have been nominated to conduct the review and will ascertain their willingness to serve as reviewers. Selected material with a cover letter prescribed by the appropriate vice chancellor shall be sent to the reviewers. 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 prescribed cover letter. Copies of the prescribed letters are available 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 Section IV.D.2.).

Only the unit administrator will communicate with the external reviewers and only on procedural matters for the duration of the personnel action.

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 he or she 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.

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. The unit administrator shall then notify the members of the appropriate committee and the candidate that the review is available.

When fewer than three external reviewers respond, this information, by memorandum from the unit administrator, shall be made a part of the candidate's personnel file and dossier.

#### D. Documentation for Personnel Actions

##### 1. Employment Applications

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

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

The Personnel Action Dossier is a file containing materials for evaluating a faculty member's professional activity. The dossier is compiled by candidates for reappointment, promotion, and/or permanent tenure in consultation with the unit administrator and the chair of the unit Personnel Committee. The dossier will be used by the appropriate committee in making personnel recommendations. A fixed-term faculty member seeking to be recommended for a second or subsequent fixed-term appointment need not compile the dossier.

3. Disagreements as to inclusion or removal of documents

The dossier shall include the required documents and lists relevant to the faculty member's teaching, ~~scholarship~~ research/creative activity, and service as described above. 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.

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

E. 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 by which the committee's recommendation must be communicated to the unit administrator. After being notified by the unit administrator that a personnel action is required, the chair of the unit Personnel Committee shall make at least three attempts at intervals of no less 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. Unexcused absences should be considered in annual evaluations.

The purpose of this meeting is to hold a vote by secret ballot on the pending personnel action. All materials pertaining to the pending personnel action (see Section IV.D) must be available for inspection at least five business days prior to the meeting. Members of the committee(s) having authority over 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 leave but in attendance at a meeting shall be counted for the purposes of determining a quorum for that meeting. If the committee fails to meet the deadline for receipt of the committee's recommendation, this outcome shall count as a recommendation by the committee against appointment, reappointment, promotion, or tenure. In such a case, the chair of the unit Personnel 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. 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. 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 IV.A.2.a. For conferral of tenure for initial appointments see IV.A.3.a.)

b. Faculty recommendations for reappointment, promotion, and conferral of permanent tenure shall come from the appropriate committee (see Section IV.A). The committee members may choose to vote by mail according to the latest edition of *Robert's Rules of Order, Newly Revised*. Within fifteen working days of notification by the unit administrator of the need to initiate a personnel action, the chair of the unit Personnel Committee shall convene a meeting of the appropriate committee (see Section IV.E.1). At this meeting, the chair of the unit Personnel Committee shall ascertain whether or not the committee will vote by mail. If a motion to vote by mail is approved by a majority of the committee members present and voting, voting shall be by mail. If a committee chooses to vote by mail, all members must vote by mail.

c. In the case of contract renewal recommendations for faculty members holding fixed-term appointments, each member of the unit Personnel Committee will indicate by secret ballot his or her choice for or against recommending contract renewal. This vote may be taken at a committee meeting or by mail ballot as described in Section IV. E.2b. A vote for the recommendation by a majority of the committee members present shall constitute a recommendation for reemployment. 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 what constitutes a majority vote. Failure to obtain a majority vote constitutes a recommendation against contract renewal. (Faculty Senate Resolution #03-30)

d. If a committee votes by mail, the ballots shall be sent by a method that provides delivery verification and is consistent with UNC Policy 101.3.3 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 first delivery attempt shall count as a vote against appointment, reappointment, promotion, or tenure. If ballots are distributed, 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 UNC Policy 101.3.3 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. Ballots not returned within twenty working days of verified receipt shall count as a vote against recommending appointment, reappointment, promotion, or tenure. If a committee votes by mail, a faculty member on 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 unit Personnel Committee in writing as to whether or not a faculty member on leave will participate in a mail ballot. If a faculty member on leave chooses to participate in a mail ballot, the faculty member shall count in determining what

is required for a majority vote in favor of the recommendation. If the faculty member on leave chooses not to participate in a mail ballot, the faculty member shall not count in determining what is required for a majority vote in favor of the recommendation. (Faculty Senate Resolution #03-30)

3. In the case of reappointment, promotion, and conferral of permanent tenure, each member of the appropriate committee will indicate by secret ballot his or her vote for or against recommending that the candidate be reappointed, promoted, and/or granted permanent tenure. This vote may be taken at a committee meeting or by mail ballot as described in Section IV.G E.2d. A vote for the recommendation by a majority of the committee members present shall constitute a recommendation for reappointment, promotion, and/or conferral of permanent tenure. A member of a committee 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 what constitutes a majority vote. Failure to obtain a majority vote shall constitute a recommendation against reappointment, promotion, and/or the conferral of permanent tenure. (Faculty Senate Resolution #03-30)
4. The recommendation of the appropriate committee shall be communicated by the chair of the unit Personnel Committee or the Promotion Committee to the candidate and the unit administrator (see IV.A.1.d.).

F. Notification of Recommendations

The faculty member shall be informed of all recommendations at every level, beginning with the appropriate unit committee's recommendation and continuing up to the level where the final decision is made.

The notification letter from the Tenure Committee and the notification letter from the unit administrator shall contain (a) the cumulative evaluation of the candidate's teaching, ~~research and services~~ scholarship and service, and any other relevant duties, in accordance with section B.3. Recommendations for Tenure of Part XII. Personnel Action Dossier of the *ECU Faculty Manual* and (b) the statement that the candidate has four working days from the date of the notification letter to include a response to the cumulative evaluation, in accordance with section D. Supporting Materials of Part XII. Personnel Action Dossier.

G. Procedure for Concurring Recommendations

In the case of disagreement at any level refer to the procedures outlined in H. below.

If the recommendations of the appropriate committee and unit administrator agree, the next higher administrator shall either concur or not concur, then notify the unit administrator and the chair of the unit Personnel Committee of the recommendation and forward all recommendations to the immediate supervisor. 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.

If the vice chancellor concurs in a recommendation for promotion and/or conferral of permanent tenure, he or she shall forward the recommendation to the chancellor. The chancellor shall consider the recommendation from the vice chancellor to promote and to confer permanent tenure.

If the vice chancellor concurs in a decision not to recommend reappointment, promotion, and/or conferral of permanent tenure, he or she shall give the faculty member being considered a simple, written statement of the decision. This decision is final except as it may later be reviewed in accordance with the provisions of Section V or the grievance procedure of Appendix Y.

If the chancellor concurs in a recommendation to confer permanent tenure, he or she shall submit the recommendation to the Board of Trustees for final approval. If the chancellor concurs in a recommendation for promotion, the chancellor's approval shall be final.

#### H. Procedure for Nonconcurring Recommendations

If the recommendations of an administrator and the appropriate committee disagree, that administrator shall discuss the potential nonconcurrence at the unit committee level before forwarding the committee's recommendation and his or her concurrence or nonconcurrence to the next higher administrator. If the unit administrator and the appropriate committee do not agree, their conflicting recommendations shall be forwarded through each administrative level, together with the recommendation of the administrator at each level, until they reach the appropriate vice chancellor. In the case of fixed term employment recommendations the decision of the appropriate vice chancellor is final. All other personnel actions shall be handled in accordance with the procedures provided in Section IV.G. Procedures for Concurring Recommendations.

In the event that the vice chancellor is considering a recommendation that is contrary to the vote of the appropriate unit committee, the vice chancellor shall meet with the committee to discuss the potential nonconcurrence. If the vice chancellor concurs with the committee vote but the chancellor is considering a recommendation that is contrary to the vote, the chancellor shall meet with the committee to discuss the chancellor's potential nonconcurrence.

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 Section V or the grievance procedure of Appendix Y.

#### V. Procedure for Appeal of Notice of Non-Reappointment or Non-Conferral of Permanent Tenure

##### A. Deadlines for Appeals

Failure to submit the appeals documents specified in this section within the time periods allotted constitutes a waiver of the right to appeal the decision. 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 individual or committee who is next to consider the appeal. Within 10 working days of receiving a request for extension, decisions on requests for extension of time shall be made by the individual or committee who is next to consider the appeal.

##### B. Request for Hearing with the Faculty Hearing Committee

Within 25 working days of receiving written notice from the vice chancellor or chancellor of non-reappointment or non-conferral of permanent tenure, a faculty member (hereinafter, the complainant) may request a hearing before the Faculty 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. 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. The members of the committee are to be 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 Section 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, 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). (See *Part VIII, Responsibilities of Administrative Officers.*)

## 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.<sup>6</sup>

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, sex, religion, national origin, age, disability, or honorable service in the armed services of the United States, or (c) personal malice."

"Material procedural irregularity" means a departure from prescribed procedures governing reappointment and conferral of permanent tenure that cast reasonable doubt upon the integrity of the original decision not to reappoint or not to confer permanent tenure. Whether a material procedural irregularity occurred 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. The complainant's request for a hearing shall be made to the chair of the Hearing Committee.

### C. Validation of the Request for Hearing.

Validation of the complainant's request for a hearing is the first step in the hearing process. The Hearing Committee shall convene within 15 days after receipt of the complainant's request for a hearing. The committee shall notify the complainant of the meeting date by a method that provides delivery verification and is consistent with UNC Policy 101.3.3. The committee shall meet in executive session and the meeting will be conducted according to the latest edition of *Robert's Rules of Order, Newly Revised*. The committee's evaluation of the complainant's request for a hearing shall be limited solely to the documents and information submitted as part of the complainant's request for a hearing.

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<sup>6</sup> Appeals based on material procedural irregularity shall refer only to personnel actions which are initiated after the approval of material procedural irregularity as a basis for a request for a hearing.

The complainant may submit additional documentation and information supporting the request for a hearing up to 72 hours prior to the committee meeting. All documentation and information submitted after the original request for a hearing must (a) support contentions set forth in the original request for a hearing and (b) be delivered to the chair in the same manner as the original request for a hearing. Such information or documentation shall be made a part of the original request for a hearing.

Documentation and information that do not meet criteria set forth in the previous paragraph will not be accepted and will be returned to the complainant.

The Hearing Committee's review of the complainant's request for a hearing shall be limited solely to determining whether the facts alleged by the complainant, if established, would support the contention that the decision not to reappoint or not to confer permanent tenure was based upon any of the grounds stated as impermissible in Section 604B of The Code of The University of North Carolina or was attended by a material procedural irregularity. Based on their review and evaluation of the submitted material, the committee shall decide whether the request for a hearing is to be validated.

If the request for a hearing is not validated, the complainant shall be notified by a method that provides delivery verification and is consistent with UNC Policy 101.3.3, within 10 calendar days of the committee meeting. Such a determination confirms the decision not to reappoint or not to confer permanent tenure. (Faculty Senate Resolution #99-4)

The complainant may accept the decision of the Hearing Committee not to validate or appeal to the chancellor within 10 calendar days of receipt of the Hearing Committee's decision. The chancellor, within 14 days of the complainant's appeal shall decide to confirm the committee's decision or shall support the complainant's request for a hearing. (Faculty Senate Resolution #99-4)

The complainant may accept the chancellor's confirmation of the committee's decision not to validate the request for a hearing, or the complainant may appeal to the Board of Governors within 10 calendar days following receipt of the Chancellor's decision. (Faculty Senate Resolution #99-4, #03-49)

If the committee validates the request for a hearing, or the decision not to validate the request for a hearing is not supported by the chancellor, the committee shall so notify the complainant by a method that provides delivery verification and is consistent with UNC Policy 101.3.3 and begin the processes necessary to set the time and date for the hearing.

#### D. Procedures for the Hearing.

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

If the request for a hearing is validated, 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 30 working days of the notification to the complainant that the request for a hearing was validated. 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 15

working 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).

## 2. Conduct of the Hearing

The chair of the Hearing 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 complainant, one person who may advise the complainant but who may not take an active part in the proceedings, the respondents, an East Carolina University faculty member (with or without administrative appointment) selected by the chancellor to represent the respondents in the conduct of the hearing, an East Carolina University attorney who shall advise the respondents and their representative but who may not take an active part in the proceedings, the chancellor, and an East Carolina University attorney representing the chancellor, who may advise the chancellor but 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 representative, may then reply to these contentions and present any supporting witnesses and evidence. During these presentations, the complainant, and the respondent(s), through their representative, may cross-examine opposing witnesses. Committee members may question witnesses for purposes of clarification. At the conclusion of the hearing, the complainant and then the respondent(s) will be given the opportunity to provide summary statements.

## E. 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 to determine whether it sustains or does not sustain the allegations stated in the request for the hearing. In reaching its decisions the committee shall consider only the testimony and other materials entered or presented as evidence during the hearing. The complainant shall have the burden of proof by the greater weight of the evidence to establish that a basis for his or her contentions is found in one of the reasons listed in Section V.B.2. Initiation of Hearing.

Within 10 working 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 30 working days after receiving the recommendation of the Hearing Committee, 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 that a joint meeting with the committee occur within 10 working days. 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 30 working day period in the preceding paragraph. 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 10 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 ten-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 matter. (Faculty Senate Resolution #03-49)

## VI. Due Process Before Discharge or Imposition of Serious Sanction

### A. Penalties

A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary penalties. During the period 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, or misconduct of such a nature as to indicate that the individual is unfit to continue as a member of the faculty. These penalties may be imposed only in accordance with the procedures prescribed in this section.

For purposes of these

regulations, 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 (Section V) or termination of employment (Section VII).

**B. Notice**

Written notice of intent to discharge or to suspend from employment or to diminish in rank (these penalties hereinafter in Section VI are referred to as "the penalty") shall be sent by the vice chancellor with supervisory authority or by the vice chancellor's designee 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 both written specification of the reasons for the intended penalty and a hearing by the Due Process Committee (Section VI.E.). (Faculty Senate Resolution #99-10)

**C. Penalty Without Recourse**

If, within 10 working days after the faculty member receives the notice referred to in Section VI.B. above, the faculty member makes no written request for either a specification of reasons or a hearing, the faculty member may be penalized without recourse to any institutional grievance or appellate procedure.

**D. Specification of Reasons and Hearing Request**

If, within 10 working days after the faculty member receives notice referred to in Section VI.B. above, the faculty member makes a written request to the vice chancellor with supervisory authority, method that provides delivery verification and is consistent with UNC Policy 101.3.3, for a specification of reasons, the vice chancellor with supervisory authority or the vice chancellor's designee shall supply such specification in writing by a method that provides delivery verification and is consistent with UNC Policy 101.3.3, within 10 working days after receiving the request.

A faculty member's request for a hearing is to be directed 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 ten working days, notify the chair of the Due Process Committee of the need to convene a hearing in accordance with Section VI.F.1. If the faculty member makes no written request to the vice chancellor with supervisory authority for a hearing within 10 working days after receiving the specification, the faculty member may be penalized without recourse to any institutional grievance or appellate procedures. (Faculty Senate Resolution #99-10)

**E. Due Process Committee**

The Due Process 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 Due Process 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 or the vice chancellor's designee 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 XI 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). (See *Part VIII, Responsibilities of Administrative Officers.*)

#### F. Procedures for the Hearing

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

The Due Process 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 vice chancellor with supervisory authority's notification of the faculty member's written request for a hearing. 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 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.

##### 2. Conduct of Hearing

The hearing shall be on the written specification of reasons for the intended penalty. The chair of the Due Process 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, and 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 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 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 or his or her counsel, and the faculty member 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 vice chancellor with supervisory authority 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 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. In its report the committee shall state whether or not it recommends that the intended penalty 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 Due Process Committee. Within 30 working days of receiving the report, the chancellor's decision shall be conveyed in writing to the Due Process 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 Due Process 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 received by the chancellor within ten working 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 within 45 working days 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 ten days after receiving the trustees' decision, file a written petition for review with the Board of Governors if he or she alleges that one or more specified provisions of the Code of The University of North Carolina have been violated. Any such petition to the Board of Governors shall be transmitted through the President, and the Board shall, within 45 working days, grant or deny the petition or take such other action as it deems advisable. If it grants the petition for review, the Board's decision shall be made within 45 working days after it notifies the faculty member by a method that provides delivery verification and is consistent with UNC Policy 101.3.3, that it will review the petition.

The exercise of the Board of Governors' jurisdiction is refined to insure 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:

1. 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.
2. 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.
3. 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, e.g., tenure or reappointment 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 due process committee, the chancellor, or the board of trustees<sup>7</sup>; if the responsible decision makers are in accord, normally no such appeal will be entertained by the Board of Governors.

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

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<sup>7</sup>The board of trustees will remain responsible for reviewing, on appeal, a grievant's contention that the chancellor's decision (or affirmance of a faculty committee decision) was clearly erroneous.

believe the Board should exercise its appellate jurisdiction. Thus, the first step in any appeal to the Board of Governors will be an evaluation by the Board, through a designated subcommittee, 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.

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 suspend the faculty member at any time and continue the suspension until a final decision concerning discharge has been reached by the procedures prescribed herein. Suspension during a period of intent to discharge 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 Section 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 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 Section 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 transmission 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 Section 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 Section 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 Section 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 Section 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). (See *Part VIII, Responsibilities of Administrative Officers.*)

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 insure 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, e.g., tenure or reappointment 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>8</sup>; if the responsible decision makers are in accord, normally no such appeal will be entertained by the Board of Governors.

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 Governors will be an evaluation by the Board, through a designated subcommittee, 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>8</sup>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 nonreappointments and nonconferrals 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 nonreappointment or nonconferral 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.)

**Approved (entire document)**

**Faculty Senate Resolution #06-19**

**January 9, 2007**

**Erskine Bowles, President of UNC System**