



2019-2020 FACULTY SENATE

FULL MINUTES OF OCTOBER 15, 2019

[Video Live Stream](#)

The second regular meeting of the 2019-2020 Faculty Senate was held on **Tuesday, October 15, 2019**, at 2:10 pm in room 249 of the main campus Student Center located on 10th street.

Agenda Item I. Call to Order

Jeff Popke, Chair of the Faculty called the meeting to order at 2:10 p.m.

Agenda Item II. Approval of Minutes

The [September 10, 2019](#) meeting minutes were approved as presented.

Agenda Item III. Special Order of the Day

A. Roll Call

Senators absent were: Professors Turnage (Allied Health Sciences), Sorensen (Criminal Justice), Sluder (Dental Medicine), Gerlach (Interim Chancellor), VC Stacy (Health Sciences), VC Golden (Research, Economic Development and Engagement), Gemperline (Dean, Graduate School), Deale and Scott (Faculty Assembly Delegates), and Martinez (Parliamentarian).

Alternates present were: Professors Barricella for Hisle (Academic Library Services), Lysaght for Stokes (Allied Health Sciences), Poulin for Thomson (Medicine), Parker for Cote (Medicine), Nelson for Treadwell (Medicine), Ivany for Gruber (Music), Olson-Lounsbery for Lockerbie (Political Science).

B. [Announcements](#)

In addition to the distributed announcements, Professor Popke, at the request of a Faculty Senator, took a moment to recognize the death over the summer of Professor Ken Wilson from the Department of Sociology. Professor Wilson was a leader in shared governance, chairing the UNC Faculty Assembly, ECU Faculty, and a multitude of standing University Committees.

Professor Popke also noted that he had asked Professor George Bailey (Philosophy and Religious Studies/UNC Faculty Assembly Delegate) to serve as Parliamentarian in the absence of Professor Puri Martinez.

C. Ron Mitchelson, Acting Chancellor, Provost and Vice Chancellor for Academic Affairs

Acting Chancellor Mitchelson stated that he will break his remarks into two parts: 1) the history of budget changes and 2) the current budget situation at ECU. He referenced material provided [here](#) relating to the budget.

Slide #2's time series track only the NC appropriation for the two basic portions: Formula Funded (16065) and Brody/Dental (16066). This does not include tuition receipts (also part of total 16065 and 16066). In a number of years NC provided some legislative increase to salaries and benefits. These are reflected in the total change to the appropriations.

Slide # 3 shows changes in permanent NC appropriation for formula funded activities. Four of the years pictured here show 4 years where there was a net decrease (not the drop in 2011/2012). In 2017/18 there were no budget cuts (what Provost Mitchelson calls a “Golden Year”).

Slide # 4 shows revenue change through time, including: 1) tuition & fees, 2) appropriation, 3) patient services sales, 4) gifts & grants, 5) grants & contracts, 6) “other,” and 7) interest.

Slide # 5 describes Change in Employee Counts from 2015-2019.

Slide # 6 is a snapshot of the university budget at the moment. This is the forecasted amount of budget shortfall based on credit hour production (FY 19-20) and associated appropriation and tuition. ECU anticipates a decline of roughly \$16 million in a budget shortfall. He notes that one reason why tuition money has dropped is because we have had an increase in part-time students.

Slide # 7 illustrates budget targets at the subdivisional level. Many of these cuts come from cutting open positions.

Slide # 8 illustrates progress in planning for budget adjustments. ECU has reached 70% of the target cut but is still working on the remaining 30%. In Academic Affairs there will definitely be 69 positions cut (\$6.42 million). There is another *possible cut* of 31 positions in AA to make up the remaining budget shortfall (\$2.49 million).

This is where ECU is currently situated related to budget. Provost Mitchelson explained that we will not feel these cuts until money is officially extracted in June 30th.

Acting Chancellor Mitchelson then addressed the questions submitted to him on the part of the Agenda Committee.

Q: Must all the cuts happen by the end of this fiscal year or can some of them happen by the end of next fiscal year?

A: All must be cut at the end of this fiscal year. We have forecasted 16 million. But we had a good Fall semester which may mean that we don't need to cut quite so much.

Q: Do we expect the cuts to result in layoffs? Do we have a sense of how many? When will we know?

A: No, we are freezing open positions rather than firing current employees. Regarding how many, in Academic Affairs it is a hundred positions.

Q: How might the cuts impact faculty workload and/or class size? If teaching loads increase, how will this affect the research enterprise?

A: We are going to remove 4.7% of instructional capacity. Therefore, expect class size to increase by 4.7%. If this load is shared, we can handle it. If it's not equitably distributed, it might cause problems. Faculty might need to adjust differential teaching loads.

Q: What strategic priorities are being used to guide our choices about where to cut? What lessons from previous cuts, in terms of implementation and prioritization, might be used to guide our decisions?

A: The freeze is *not* strategic. The only strategy being used is in making exceptions for funding enrollment growth and campus safety

Q: At what level (and level of detail) do we expect communication to be taking place around budget decisions that are being made?

A: This is a concern, that faculty don't have as much of a voice at the table when it comes to budget decisions. Acting Chancellor Mitchelson has asked Deans to design and specify an explicit budget meeting with elected senators. It must take place at department as well as college level.

Questions

Professor Ticknor (College of Education) noted that Chapel Hill made over \$1 million in alcohol sales. For our alcohol sales, will we see this on the academic side?

Acting Chancellor Mitchelson does not think so. He suspects that this money will be used to support athletics at ECU.

Professor Bailey (Philosophy and Religious Studies, UNC Faculty Assembly Delegate) said that with the summer credit hour reduction and shift away from face-to-face (FTF) courses to distance education (DE) courses, if we could offer DE courses using summer school money that would generate more dollars. He wondered if that was being considered.

Acting Chancellor Mitchelson replied that we need the credit hours produced in the summer because those are budgeted credit hours. What we really need to do is expand summer credit hour production because the shift away from FTF courses to DE is the trend that has been in place and it will continue. The decline in face-to-face on campus is expected to continue. Acting Chancellor Mitchelson said that it would have been good for us if the system had been able to negotiate for a fully funded summer. It would have added \$3.5 million to the budget. Acting Chancellor Mitchelson says students seem to prefer DE and so he expects a decline in FTF overall.

Professor Chambers (Education/Vice Chair of the Faculty) asked with the addition of encouraging more summer school teaching as well as expanded faculty teaching loads, what are the expected impacts on research and is that a concern?

Acting Chancellor Mitchelson believes in the utility of differential teaching loads. This is how a team is successful, by optimizing their resources. He does not want these cuts to impact research.

Professor Grodner (Economics) are there protections for salaries? Is there a minimum amount of money we get for being state institution or can the legislature just say you have run out of money and you have to shut down?

Acting Chancellor Mitchelson replied there is nothing like that. This is a historic process that we are involved in and we have a budget shortfall associated with credit hour reduction. He said the annual adjustment approach is painful and should be smoothed out in some fashion and at some point it shouldn't be simply volume-based. He said the fact that ECU has contributed to a graduate increase should be a wonderful thing. We entertained some elected officials on Friday and he thinks we made some good points with them. This university does what the state wants done and we have a mission.

Professor Bailey (Philosophy) says Board of Governors said they would overhaul budgets. Is this true?

Acting Chancellor Mitchelson says he has not heard this.

Professor Bauer (English) says that some of the open positions are needed, so how are we going to address student need if those positions are taken away?

Acting Chancellor Mitchelson says there is an exception process. Need can be expressed and those positions will survive. If a position is truly needed, then we should be able to justify it.

D. Virginia Hardy, Vice Chancellor for Student Affairs

Vice Chancellor Hardy stated that she was asked to discuss concerns about the emotional and behavioral health of our students, including problems of addiction, self-harm, and mental well-being. The first 2 weeks of classes ECU had 4 student deaths (2 suicides, 1 overdose, 1 pulmonary illness). These were all upper-class students. There has also been an increase in EMS calls to residences (mostly freshmen) for suicidal ideations, overdoses, and extreme intoxication. These things are happening to our students and Vice Chancellor Hardy wants faculty to be aware.

College campuses are facing challenges on mental well-being. This is not just for the counseling center. This is a university issue. We want to be more proactive and less reactive. Most crisis cases used to come in after 5pm, but now they are coming in through the course of the day.

ECU's scope of care is expanding, given the increasing prevalence of depression and anxiety. Outreach programs have shrunk because we don't have the resources and also the demand is up (student appointments at the counseling center are currently booked up till December). Also there has been some turnover in these positions.

Vice Chancellor Hardy also discussed the rise of staff burn out and the increasing need for self-care. How do we care for those on the front lines of care?

She notes that ECU can't "resource our way out of this." The solution is not about more positions. We need to find other ways to address this issue. Student Affairs wants to provide more wellness services. She mentioned that there has been a 17% increase in people seeking help in the last year and a 10% increase in appointments scheduled.

Vice Chancellor Hardy then listed initiatives and programs intended to help students suffering from anxiety, depression, relationship issues, drug abuse.

- Sidekick: this is a wellness program that utilizes peer to peer help in collaboration with academic units that work on issues of addiction, etc.
- Drop-in Mindfulness Workshops: these workshops help students gather themselves.
- Protocol: this is third-party vendor that assists the counseling services line after hours.
- Green Dot: this is a training session that helps students, faculty, and staff help others in crisis.

- Mental Elephant: an ECU graduate developed this program and CBS filmed a segment about it on the ECU campus that will air 10/23.

They also conducted a survey with students in residence halls. There are almost 4500 students in those residences and almost 70% responded. They are now analyzing this data to see how it can help them prioritize services and to be proactive.

In her discussions with students, Vice Chancellor Hardy noted that students of color discussed stigma around seeking help. They are trying to understand how different student demographics have different needs. Vice Chancellor Hardy advises that “if you see something, say something.” She concludes that for students to do well, they need to be well.

Questions

Professor Brimhall (Human Development & Family Science) asked about coordination of care across clinics on campus.

Vice Chancellor Hardy said there is a referral form exchanged among clinics.

Professor Su (Geography, Planning & Environment) asked how the 4 student deaths compare statistically to national averages? How does the policy of “see something, say something” impact student privacy? How can we prevent acts of violence?

Vice Chancellor Hardy responds that if you notice concerning behavior, it is okay to ask how they are doing. If they disclose something, you can recommend resources. But if you think someone is suicidal, just report it. Suicides in general are on increase in larger society. Regarding prevention, be alert

Valerie Kisler-van Reede, Director of the Center for Counseling and Student Development, helped to answer this question. She stated that faculty concerned about a student can make an anonymous report to the Dean of Students if they are worried about repercussions from the student being upset that you shared their information. She added that a lot of faculty are getting emails about students who went to the hospital last night or sat with someone who was suicidal, so you can share that information if there is concern. There are resources. If you see or overhear something that indicates a student might be dangerous, that information can be shared that same way, and a threat assessment group on campus will discuss the case and reach out.

Vice Chancellor Hardy responded that the Behavioral Concerns Team is for potential danger or violence and it is important to contact them if students indicate that there is danger.

Professor Alexander (Interior Design & Merchandising) asked what is sparking the increase in suicide and depression?

Vice Chancellor Hardy said one reason is tied to overuse of screens and it may mean they are not learning social coping skills. But there are many reasons for this.

Professor Oliver (Medicine) asked if we know about the follow ups from hospital visits?

Vice Chancellor Hardy replied that she had talked with personnel at Vidant and asked that her office be contacted when students are let out so they can reach out to them and put them in contact with resources. They are doing more with apartment complexes as well.

E. Bill Koch, Associate Vice Chancellor for Campus Safety and Auxiliary Services
Associate Vice Chancellor Koch stated that he was asked to discuss the plans being made for Halloween and what faculty should be aware of or do to help reduce potential negative consequences. He said they are meeting with Student Affairs and city of Greenville. They will be offering non-alcohol programs in the Student Center, and ECU police will be present. In the city proper there will be many officers mobilized. He asks all faculty to please hold classes on the Friday after Halloween (Nov 1).

Associate Vice Chancellor Koch stated that he was also asked to discuss the impact of the new alcohol sales policy at sporting events and its impact on alcohol-related incidents. There have been fewer ejections from the first 3 games, but he acknowledged that is not enough data to be statistically valid. These ejections were related to smoking or vaping. He said the intoxication issue is not worse and may even be improving. They have a command center in Town Tower to keep tabs on what is happening.

Associate Vice Chancellor Koch stated that he was also asked to provide a general overview of campus safety activities, such as how potential risks are identified and prioritized, how responses and mitigation strategies are developed, and who is involved in those conversations. He said there is training for active shooter situations and asks that senators request this training during faculty meetings. There are also public service announcements.

Campus Safety is also working on better crosswalks and intersections. They are working with the city's traffic engineers. They are also creating a new safety and security committee and would like more faculty involvement.

Questions

Professor Tuttle-Newhall (Medicine) asks if personnel are aware of the "stop the bleed" campaign.

Associate Vice Chancellor Koch stated that they are working with EMS to get better trauma packs.

F. LaKeshia Alston Forbes, Associate Provost for Equity and Diversity and Brandon Araujo, Research Associate within Office for Equity and Diversity

Associate Provost Forbes provided an annual report on diversity among faculty and administration. She will provide data at this meeting and will return to Faculty Senate in the spring. She notes that the data and referenced material provided [here](#) does not necessarily reflect the office's full understanding of diversity. She noted that we continue to make progress on increasing female faculty but need more progress on getting them to full professor. She added that African American and Hispanic numbers remain stagnant.

She acknowledged that this data is dated, from 2016 and she plans to have more up-to-date data in spring. When looking at how ECU compares to UNC Chapel Hill, NC State, UNC Charlotte, UNC Greensboro, we rank #4 in minority hires and #2 in female hires.

Brandon Araujo, Research Associate within Office for Equity and Diversity then presented the Faculty Diversity Data, found [here](#). These slides are very self-explanatory, but below is a brief description of what each slide covers.

The first slides show changes in hiring demographics between 2013 and 2018. The next set of slides addresses student-faculty ratios by sex. This is followed by the gender breakdown of faculty by division, by college, by rank, by tenure status.

The next set of data show faculty at ECU by race and ethnicity, and then Executive administrators by race and ethnicity.

The next set of slides illustrate student-faculty ratios by race/ethnicity.

The next set of slides addresses student-faculty ratios by race/ethnicity. This is followed by the race/ethnicity breakdown of faculty by division, by college, by rank, by tenure status.

The next set of data illustrates Assistant Professor retention rates after 2 years and 7 years by gender, race and ethnicity.

The final set of data illustrates Assistant Professor 7-Year Promotion rates and 7-year tenure rates by gender, race and ethnicity.

Questions

Professor Vogelsong (Recreation Sciences) questioned the accuracy of the data relating to the slide on the UNC Engagement Survey referencing the total shown as the percent of positive responses and having only six respondents but 8 responses.

Research Associate Araujo noted that the data reflected a combination of two different possible responses. So there could be two different responses that are being added and some of those categories include multiple categories of multiple questions. This may account for the discrepancy in numbers.

Professor Ticknor (School of Education) asked how we as faculty can make faculty diversity a priority. Can you share any tips?

Associate Provost Alston Forbes replied that making retention a priority for all faculty would be a great start. Her office has been taking a close look at faculty retention, with the Provost hosting a workshop about faculty retention of women, and our retention numbers are not that great and that is one way that faculty can be very intentional about improving faculty diversity in colleges and schools. There are some colleges like Education that have made a lot of strides to that, but she would certainly recommend turning to retention. She said that she knows in times like these when dealing with budget cuts and hiring freezes, there aren't a lot of opportunities to hire anyone anyway, but something faculty can do is build relationships with institutions that can serve as pipeline institutions. We can build those relationships now and that wouldn't cost us very much.

Professor Tuttle-Newhall (Medicine) noted that their department had talked with Alston-Forbes before about competition for faculty candidates to increase diversity to reflect in the faculty what our students reflect. She added that one of the things they talked about was a mentorship program and investment in candidates up front to ensure their success so they start out similar to other colleges and universities in the country. Professor Tuttle-Newhall said we also need to look at the composition of

our promotion and tenure committees because they are not necessarily diverse in and of themselves. She added that when things are tenuous people sometimes will allow their reflective groups to pass when others that look different do not. She suggested that retention is important and recruitment is important but also the ability to move forward in your career.

Professor Chambers (Education/Vice Chair) asked whether the data for the race unknown group had been cross-referenced with faculty age as that group has lower retention at two years. Mr. Araujo answered that he had not, but acknowledged that is a good point, especially for looking at the two-year retention rate. He noted that it may be interesting to see if these are just newer faculty accepting positions here without the intention to remain and have a long career here.

Professor Nelson (School of Music) asks about recruiting non-tenure-track faculty for tenure-track positions as a way to increase diversity.

Associate Provost Alston-Forbes answered that with the Provost's support, her office has been looking at how we can use our fixed-term opportunities or other opportunities to get people here who are in their last year of their PhDs to teach, even if it is just to come here and teach for a semester. They have had some interest in those short-term teaching opportunities but have not had as much support of departments for those people to come. Associate Provost Alston-Forbes added that it would help to have more support from departments like that.

Professor Altman (Kinesiology) asked whether the exit survey data for employees is accessible by the Office of Equity and Diversity.

Mr. Araujo said yes, the data from these surveys inform the OED's work. But they do need a larger sample of this data in order to draw useful conclusions. There is still a relatively low number of exit surveys, but they do look at them.

G. Jeni Parker, Faculty Assembly Delegate

Professor Parker (Theatre and Dance) provided a report on the [September 13, 2019](#) UNC Faculty Assembly Meeting. She highlighted the following:

Presidential Search:

- The Board of Governors (BOG) has announced its presidential search and the BOG Chair and Vice President will serve as chair and co-chair of the search committee.
- Faculty Senate Chairs will have one seat at the table and each FS Chair will then bring back information to the campus
- No search firm will be used

Harry Smith, Chair, Board of Governors:

- He says he is working closely with all Chancellor searches
- He feels it is important to quantify the performance of universities
- He notes that leadership is the key to the successes and failures
- He says he's aware that faculty are the heart of the system and the numbers show an imbalance for faculty in terms of salary. How do we move the needle on faculty salaries?
- Governing bodies need to understand what faculty actually do – this can open the doors for

healthy conversations around compensation.

- He notes that Interim leaders are doing great things. LEADERSHIP MATTERS and interim status allows us to see their performance.
- Regarding the Presidential Search he explains:
 - looking for someone who has managed a complex system and asset in a changing environment.
 - Can they actually run the UNC system?
 - New President has to be able to run and manage the entire system; all 17 institutions are different.

Dr. Wes Grant – Call in speaker

Dr. Grant is helping oversee UNC system security and campus security initiatives. Dr. Grant wanted delegate input and in 2018-2019 solicited project ideas and more perspectives to determine how to best serve the campuses.

Matt Brody, Senior Vice President and Chief Human Resources Officer

Mr. Brody stated that the current network for our state health plan will continue. They are developing a system-wide faculty salary analysis tool to benchmark against peer institutions. He admits data sources are not robust currently.

He discusses three views of the data:

- 1) Market Comparison: salaries by rank and discipline compared to similar public institutions nationally
- 2) Market Difference: different visualization of the same data
- 3) Salary Compression: within institution comparisons with same discipline and across faculty rank

Questions

No questions were posed to Professor Parker at this time.

H. Jeff Popke, Chair of the Faculty

Professor Popke presented an abridged version of the following remarks (full version provided below) to the Faculty Senate, and a version of [this handout](#) (revised after the meeting).

“Fixed-Term Faculty at ECU: Trends and Context

I want to focus my remarks this afternoon on the important role, and some of the issues and concerns, of fixed-term faculty at ECU. Many of you will recall that this body debated last April a resolution on the status of fixed-term faculty brought forward by ECU’s AAUP Chapter. That resolution has been referred to the Faculty Welfare Committee, which was already working separately on a number of fixed-term faculty issues, and the Faculty Officers have also placed this one our agenda for the coming year.

So, as these conversations get started around the role and status of fixed-term faculty at ECU, I thought I would try to provide a bit of background and context. And, as I sometimes do, I thought I would begin by sharing with you some data. Before I begin, let me note that

inconsistencies in the definitions of faculty and changes in the composition of some colleges may impact the accuracy of historical comparisons, so you should take these figures as indicative, but not necessarily definitive. And as far as terminology, I am going to refer to all tenured and probationary faculty as “tenure-track” and all those ineligible for permanent tenure as “fixed term” or “non-tenure track.”

The Changing Landscape of Faculty Appointments

So, let’s begin with some charts and tables. Figure 1 shows trends going back to 1989 in the absolute number and share of FTE accounted for by fixed-term faculty. As you can see, we currently make greater use of fixed-term faculty than at any time in ECU’s history. As of last fall, we employed just over 1,000 faculty members in non tenure-track appointments, comprising 49% of the total faculty headcount, and 43% of FTE.

As you can see in Figure 2, ECU’s fixed term faculty are nearly evenly divided between Academic Affairs and the Health Sciences, 49% to 51% respectively. Among the schools and colleges, Brody has the largest number of fixed-term faculty, with 28% of ECU’s total, followed by Harriot College of Arts and Sciences with 16%, and the College of Education with 11%. All of the other schools and colleges have somewhere between 4% and 9% of ECU’s total. The growth that is captured by Figure 1, of course, represents a national trend. Nationwide, about 70% of all faculty are now ineligible for tenure. Figures 3 and 4 provide some sense of how we compare to national averages. Figure 3 shows that our share of non-tenure-track faculty is less than the average for all 4-year public institutions, which stands at 56%. Note that nationwide, fixed-term employment is split roughly evenly between full-time and part-time, whereas ECU is about two-thirds full-time, which means that our use of part-time fixed-term faculty is well below the national average. Indeed, the share of FTE accounted for by part-time faculty at ECU has remained more or less constant for the past 20 years, hovering between 7 and 9%. In my view, this is a good thing; it suggests that we have generally not followed the trend toward the increasing use of part-time contingent labor, which now accounts for about 40% of all faculty nationwide. This includes some 70,000 faculty members working at for-profit educational institutions, 99% of whom are fixed-term, and 80% of whom are part time (according to data from *The Chronicle of Higher Education*).

Figure 4 focuses only on full-time faculty and the comparison group is Public Doctoral institutions. As you can see in the second column here, the national percentage of full-time faculty that are fixed-term has more than tripled just over the last decade. But that figure is still well below the percentage here at ECU, both historically and today. One significant reason for this is that about half of our fixed-term appointments are clinical faculty working in the Health Sciences Division. There are often good reasons for making these appointments outside of the tenure track. It is worth noting, in this respect, that our clinical faculty colleagues are more likely to be long-term employees and to have a greater sense of job security than the prototypical contingent teaching instructor.

So, accounting for our larger-than average clinical faculty brings our fixed-term proportion a bit more in line with national trends. Still, the growth shown in Figure 1 is undeniable, and there are good reasons to be concerned, both about the status and employment conditions for our fixed-term colleagues, and about what this might mean in terms of broader changes to the academy.

I should acknowledge here that there are talented and dedicated faculty members for whom fixed-term employment, if adequately supported and remunerated, is preferable to a tenure-track position. And there are also those who prefer the flexibility of part-time employment to a full-time appointment, including working professionals who often bring unique insights into the classroom on a part-time basis.

So the key, I think, when examining the changing employment context at ECU is to recognize the value and importance of our fixed-term colleagues and also the need for flexibility in the distribution of different kinds of appointments, while also insisting on fair and equitable treatment and resisting the erosion of permanent tenure.

In a recent book, labor scholar Adrianna Kezar and colleagues have described the pressures on the higher education workforce as similar to those of the so-called gig economy. The “gig academy,” as they call it, is characterized as follows: “a cheap and deprofessionalized workforce, fissured through outsourcing, automation and uses of technology to reduce labor costs, offloading reproduction costs onto employees, an ethic of micro-entrepreneurship, and managerial control over labor supply and demand.”

For the growing contingent of fixed-term faculty in the gig academy, there are a host of well-known challenges, starting with a lack of job security, but frequently also including lower pay, unclear evaluation procedures, barriers to career advancement and professional development, the inability to participate in decision-making processes, and lack of appreciation and respect, including from their tenure-track colleagues.

The deprofessionalization of faculty at the individual level also has implications for the faculty overall. The erosion of the proportion of faculty with the protections of permanent tenure has the potential to weaken the ethos of academic freedom, which allows faculty to speak their mind without fear of termination. This in turn has implications for shared governance, tipping the balance of power toward the administration and board of trustees, thereby perhaps further hastening the onset of the gig academy staffed by contingent labor.

Addressing Fixed-Term Faculty Concerns at ECU

Now, those of you who have been around awhile will know that both of these concerns have long been expressed within ECU’s Faculty Senate, so I’d like to close with a brief history, which I think is both interesting and instructive.

If we go all the way back to the 1970s and early 80s, the percentage of fixed-term faculty at ECU consistently hovered around 10-12%. The thinking at that time was that 10% provided sufficient flexibility to deal with enrollment fluctuations, but there seemed no interest in general in moving away from tenure-track positions. This was in fact codified in a long-standing Faculty Manual provision that prohibited the hiring of fixed-term faculty for more than six consecutive years. In the words of the Manual, “re-employment of a faculty member with a fixed-term appointment beyond six years in a state-funded position in order to avoid the awarding of tenure is a misuse of this category of employment, and is prohibited.”

In the latter half of the 1980s, the percentage of fixed-term faculty began to rise, reaching 22% in 1990. That figure was still the lowest in the UNC system by a good margin, and there was increasing pressure to eliminate the 6-year cap, which, after significant debate, the Senate voted to do in 1991.

Conner Atkeson, a History Professor and AAUP President expressed his concern at the time in a letter to the Chancellor: “the removal of the cap would undermine the very professionalism upon which a university must build in order to achieve greatness ... and is a specific step toward the destruction of that concept of tenure as East Carolina University has known it for the past generation.”

Sure enough, the percentage of faculty in tenure stream positions began to grow quite steadily, nearly doubling to reach 40% by the year 2000, a trend that then-Chancellor Eakin called “distressing”.

And we were not alone in this trend within the state. Over the decade of the 90s, fixed-term faculty accounted for more than 85% of new positions across the UNC System, prompting President Molly Broad to form a Commission to look into the concerns of fixed-term faculty within the system.

The [Commission's Report](#) was issued in 2002, and in response ECU formed a task force of its own, which issued a [wide-ranging set of recommendations](#) in 2006. Those recommendations mirrored many of those of the UNC Committee, and included: the establishment of criteria for making an appointment fixed-term rather than tenure track; opportunities for multi-year contracts; clear policies for evaluation; equitable salary and benefits; and greater voting rights and participation.

ECU's implementation of these recommendations over the past 12 years has been something of a mixed bag, I would say. Perhaps the largest omission is the lack of any clear guidelines for determining when a fixed-term position is appropriate in lieu of a tenure-track one. The task force had argued that “the overall percentage of fixed-term faculty appointments ... should be scrupulously monitored and should be minimized as much as possible” (p. 49). In 2008, the Senate responded by approving new Faculty Manual language, still in effect, that states “in general, tenured and probationary term (tenure-track) positions are preferred unless sound reasons exist.”

Well, if you refer to Figures 5 and 6, you will see that those ‘sound reasons’ must be readily available. In the decade since that provision was added to the Faculty Manual, every College has increased its share of fixed-term faculty, some considerably. Over the past ten years, the total number of fixed-term positions at ECU has increased by more than 400, while we have 150 fewer tenure track faculty today than we did in 2008.

There are other areas of the Task Force recommendations that have seen more progress, perhaps especially around clarifying processes of fixed-term evaluation and advancement in title, and increasing opportunities for fixed-term participation in shared governance, both of which have been the focus of Faculty Manual revisions in recent years.

Still, 12 years on from our last comprehensive look at fixed-term faculty, the time seems right to undertake another holistic review of the structure of our faculty appointments, and the

particular needs and concerns of our fixed-term faculty. Our work in the coming months has been prompted by, but will not be limited to, last year's AAUP resolution, and will examine, in addition to the issues just mentioned, multi-year appointments, salary equity, contract provisions, due process rights, the possible conversion of fixed-term appointments to tenure-track lines, and the prospect for standardizing raises for fixed-term advancement in title.

As this work gets underway, I hope that the context I have provided today might prove useful, and I welcome any and all feedback as the conversations move forward."

Reference

Kezar, A., DePaola, T., and Scott, D. T. 2019. *The Gig Academy: Mapping Labor in the Neoliberal University*. Johns Hopkins University Press.

Questions

Professor Altman (Kinesiology) asked for clarification about Figure 4 & 5 in Chair Popke's [handout](#), whether the table reflected full and part-time non-tenure track faculty.

Professor Popke said they are all non-tenure track faculty, both full and part-time.

I. Approval of Fall 2019 Graduation Roster, including Honors College graduates

Professor Stiller (Biology) moved approval of the Fall 2019 Graduation Roster, including Honors College graduates. There was no discussion and the Fall 2019 Graduation Roster, including Honors College graduates was approved as presented. **RESOLUTION #19-66**

J. Question Period

Professor Schinasi (Foreign Languages & Literature) asks if there are any studies of diversity among ECU staff. Is anyone doing this?

Associate Provost Forbes says there is a staff senate diversity committee that takes on some of these issues.

Agenda Item IV. Unfinished Business

There was no unfinished business to come before the Faculty Senate at this time.

Agenda Item V. Report of Graduate Council

Professor Ron Preston (Education), Chair of the Graduate Council provided curriculum and academic matters acted on and recorded in the [September 30, 2019](#), Graduate Council meeting minutes, including Level 1 action items from the [September 04, 2019](#) and [September 18, 2019](#) Graduate Curriculum Committee meeting minutes which were approved by its delegated authority and were reported here for informational purposes. Programmatic action item (GC 19-5) within the Graduate Council meeting minutes of [September 30, 2019](#), which was forwarded to the Educational Policies and Planning Committee (EPPC), included a Request to Establish a Doctor of Occupational Therapy program in the Department of Occupational Therapy within the College of Allied Health Sciences. Policy action item (GC-6) within the Graduate Council meeting minutes of [September 30, 2019](#), included a revision to the Graduate Catalog "Continuous Enrollment" policy to allow graduate

students who complete their degree requirements prior to the 1st day of classes of the following term to graduate during the term that was intended. This action aligns the Graduate Catalog with the Undergraduate Catalog.

There was no discussion and the curriculum and academic matters acted on and recorded in the [September 30, 2019](#), Graduate Council meeting minutes, including programmatic action item (GC 19-5) and policy action item (GC-6) were approved by the Faculty Senate as formal faculty advice to the Chancellor. **RESOLUTION #19-67**

Agenda Item VI. Report of Committees

A. Faculty Grievance Committee, Gregory Lapicki
Professor Lapicki (Physics), a member of the Committee, presented the Overview of 2018-2019 Committee Activities.

There was no discussion and the report was received as presented.

B. Libraries Committee, Eric Horsman standing in for Tom Shields
Professor Shields (English), Chair of the Committee, presented the proposed guidelines for evaluation of faculty scholarly communication record.

In May 2018, John Stiller, Chair of the Faculty charged the Committee with developing a general policy for use by faculty, academic units, and administrators with evaluating the legitimacy of some open access journals based on the “fee for publication” or predatory status. Specific judgements on the quality or the legitimacy of scholarship with publications clearly lie within the discipline and academic unit. Faculty and administrators in some academic units have met with librarians to be educated on the predatory publication open access list available. Assigning scholarship value to predatory open access journals is a concern of both faculty and administrators given no current official policy. The proposed policy may include encouraging faculty to work with librarians to help identify publications in specific disciplines that are considered “legitimate” versus “predatory.” During the Committee’s discussion, it was noted that academic unit codes address how to evaluate faculty scholarship and an overarching policy was not thought to be feasible. These guidelines are outlined in the following attachment.

There was no discussion and the guidelines were approved as presented. **RESOLUTION #19-68**

C. Faculty Governance Committee, Jeff Popke (standing in for Chair of Faculty Governance)
Professor Popke (Geography, Planning and Environment), Vice Chair of the Committee, presented the first reading of proposed additional revisions to the *ECU Faculty Manual* Part II. East Carolina University Organization and Shared Governance, Section II. Faculty Constitution and By-Laws, subsection By-Laws of the Faculty of East Carolina University. Proposed additional revisions to the reorganization of the appellate committees and [Faculty Senate Resolution #19-10](#) (rejected by Chancellor in February 2019) to address summer 2019 revisions to the Code of the University of North Carolina (Sections 603, 604, and 609) that were adopted by the UNC Board of Governors.

There was no discussion and formal action on the proposed revisions to the By-Laws will take place during the required second reading at the November 12, 2019 Faculty Senate meeting.

Professor Popke then presented proposed additional revisions to the *ECU Faculty Manual*, Part XII.

Faculty Appellate Provisions, Section I. General Appellate Procedures and Reviews of Non-Reappointment, Non-Conferral of Tenure at the End of the Probationary Period, Discharge or Imposition of Serious Sanctions, and Termination Based on Institutional Considerations.

Questions

Professor Roberson (Nursing) asked why it says Board of Governors, not Board of Trustees in one section. Is that a typo?

Professor Popke says it will almost always be the Trustees, but there is a provision for the Board of Governors to rule.

After brief discussion the revisions to Part XII. Faculty Appellate Provisions, Section I. General Appellate Procedures and Reviews of Non-Reappointment, Non-Conferral of Tenure at the End of the Probationary Period, Discharge or Imposition of Serious Sanctions, and Termination Based on Institutional Considerations were approved as presented. **RESOLUTION #19-69**

Professor Popke presented proposed additional revisions to the *ECU Faculty Manual*, Part XII. Faculty Appellate Provisions, Section II. General Faculty Grievance Procedures and Appeals of Non-Conferral of Early Tenure.

There was no discussion and the revisions to Part XII. Faculty Appellate Provisions, Section II. General Faculty Grievance Procedures and Appeals of Non-Conferral of Early Tenure were approved as presented. **RESOLUTION #19-70**

D. Committee on Committees, Christina Tschida

Professor Tschida (Education), Chair of the Committee, presented the first reading of proposed revisions to the Undergraduate Curriculum Committee charge.

There was no discussion and formal action on the proposed revisions to the Undergraduate Curriculum Committee charge will take place during the required second reading at the November 12, 2019 Faculty Senate meeting.

E. Educational Policies and Planning Committee, Mark Bowler

Professor Bowler (Psychology), Chair of the Committee, a proposed revision to the *ECU Faculty Manual*, Part VI, Section VII. Curriculum Procedures and Academic Program Development.

There was no discussion and the revisions to Part VI, Section VII. Curriculum Procedures and Academic Program Development were approved as presented. **RESOLUTION #19-71**

F. Academic Awards Committee, Gabriel DiMartino

Action on proposed revisions to the selection procedures for the Annual University Service-Learning Teaching Excellence Award was postponed until the November 12, 2019 Faculty Senate meeting.

G. General Education and Instructional Effectiveness Committee, Jen-Scott Mobley

Professor Mobley (Theatre and Dance), Faculty Senate representative on the Committee presented

curriculum and academic matters contained in the meeting minutes of [September 16, 2019](#) including Domestic Diversity Designation (DD) for SOC 201 from Southwest Virginia Community College, HIS 201 from Gaston Community College, HUM 122 from Beaufort Community College, ISS 335 from the University of Michigan, SOC 100 from Waubensee Community College; Global Diversity Designation (GD) for REL 103 from Gaston Community College, ART 1XXX from Delaware County Community College; General Education Humanities Designation (GE:HU) for ENGL 201 from Raritan Valley Community College, ENGL 224 from Raritan Valley Community College, LBST 1102 from the University of North Carolina at Charlotte; General Education Social Sciences Designation (GE:SO) for LBST 2213 from the University of North Carolina at Charlotte.

There was no discussion and the curriculum and academic matters contained in the General Education and Instructional Effectiveness meeting minutes of [September 16, 2019](#) including Domestic Diversity Designation (DD) for SOC 201 from Southwest Virginia Community College, HIS 201 from Gaston Community College, HUM 122 from Beaufort Community College, ISS 335 from the University of Michigan, SOC 100 from Waubensee Community College; Global Diversity Designation (GD) for REL 103 from Gaston Community College, ART 1XXX from Delaware County Community College; General Education Humanities Designation (GE:HU) for ENGL 201 from Raritan Valley Community College, ENGL 224 from Raritan Valley Community College, LBST 1102 from the University of North Carolina at Charlotte; General Education Social Sciences Designation (GE:SO) for LBST 2213 from the University of North Carolina at Charlotte were approved as presented.

RESOLUTION #19-72

H. Undergraduate Curriculum Committee, Jean-Luc Scemama
Professor Scemama (Biology), Chair of the Committee presented curriculum and academic matters contained in the meeting minutes of [September 12, 2019](#), including curricular actions within the School of Art and Design and School of Communication within the College of Fine Arts and Communication and the meeting minutes of [September 26, 2019](#), including curricular actions within the School of Communication within the College of Fine Arts and Communication.

There was no discussion and the curriculum and academic matters acted on during the Undergraduate Curriculum Committee's [September 12, 2019](#) and [September 26, 2019](#) meetings were approved as presented. **RESOLUTION #19-73**

Agenda Item VII. New Business

There was no new business to come before the body at this time.

There being no further business the meeting adjourned at 4:38 pm.

Submitted with care by,
Amanda Ann Klein
Secretary of the Faculty
Department of English

Lori Lee and Rachel Baker
Faculty Senate

FACULTY SENATE RESOLUTIONS APPROVED AT THE OCTOBER 15, 2019 MEETING

Resolution #19-66

Approval of the Fall 2019 Graduation Roster, including Honors College Graduates

Resolution #19-67

Curriculum and academic matters acted on and recorded in the [September 30, 2019](#), Graduate Council meeting minutes, including programmatic action item (GC 19-5), which was forwarded to the Educational Policies and Planning Committee (EPPC), included a Request to Establish a Doctor of Occupational Therapy program in the Department of Occupational Therapy within the College of Allied Health Sciences and policy action item (GC-6) included a revision to the Graduate Catalog “Continuous Enrollment” policy to allow graduate students who complete their degree requirements prior to the 1st day of classes of the following term to graduate during the term that was intended were approved by the Faculty Senate as formal faculty advice to the Chancellor.

Resolution #19-68

Guidelines for Evaluation of Faculty Scholarly Communication Record

Purpose

These guidelines are intended primarily to aid evaluators looking at faculty scholarly productivity. Examples of situations when these guidelines may be helpful include the annual review process, the promotion and tenure process, etc. This information may also help faculty authors identify reputable publishers when considering where to submit scholarly work.

Rationale

In recent years, the number and character of scholarly journals and similar publications in which faculty present their work has expanded considerably. For authors, this expansion clearly provides opportunity to share their work with a specific, knowledgeable audience. This rapid growth in the number of journals also leads to potential publishing pitfalls for authors.

One particularly problematic area is the increased number of predatory or fake journals that publish content with little or no peer review so long as authors are willing to pay a fee¹. These publishers commonly draw in authors with promises of rapid publication, inflated impact factors, and other deceptive practices². Enticements like these can be very appealing to authors who feel constantly pressured to demonstrate their productivity for annual reporting, the tenure and promotion process, and other evaluations.

In some cases, recognizing a predatory journal is relatively simple. In many other cases, the boundary between predatory and legitimate publishers is less clear. With the ongoing rapid growth of publications, even authors with considerable experience in a given field may have trouble evaluating the legitimacy of some journals. This complexity and uncertainty affects both scholarly authors and those tasked to evaluate their efforts.

Each unit at ECU must abide by its unit code, which discusses evaluation of scholarship. Consequently, an overarching University-wide policy would likely be difficult or even impossible to develop. However, some cross-disciplinary, widely applicable best practices for evaluation of scholarship do exist. This document is an attempt to bring some of these best practices and pertinent resources to the attention of interested authors and evaluators.

Guidelines

Among the most important points to keep in mind about predatory journals (and book publishers) is that publication fees (also known as subventions) are not the same as being predatory. While all predatory publishers require subvention for publication, not all subvention is predatory. Publishing in emerging areas of study may mean smaller audiences, requiring some assistance in publication. Similarly, subvention is one model being used to help pay for open-access academic, peer-reviewed publication. Instead, most of the same criteria used to evaluate publication in more traditional venues should be used—peer review, acceptance rates, scholarly impact, etc.

Anyone considering these matters is very strongly encouraged to consult with ECU librarians, as they may have already investigated a specific journal or publisher. They have also compiled resources to assist with journal and publisher evaluation (e.g. see the Resources section below).

For authors:

To be effective teachers and scholars, all faculty must strive to stay abreast both of developments in subject matter in their discipline, and how those developments are communicated. Responsibility for publishing in reputable journals lies primarily with the authors. When considering where to submit material for publication, authors should consult with librarians, colleagues, mentors, and other professionals to determine best journals for submission.

For evaluators:

Responsibility for evaluation of faculty scholarship starts with the unit. The most critical and detailed review of scholarship is likely to occur within the unit, where other faculty are most likely to be familiar with the reviewee's subject matter. Within each unit, the Personnel Committee and Unit Head should strive to stay abreast of developments in their discipline.

This responsibility does not rest solely with the Personnel Committee and Unit Head – all faculty need to be involved in the evaluation process and assist with mentoring of new faculty.

For educators:

Discussion of these matters should be incorporated into student education. As both readers and authors of scholarly materials, it is recommended that students be exposed to and understand the need for critical evaluation of publication venues.

Resources

The ECU Libraries website provides a range of helpful resources that can be used by both authors and evaluators. These include:

- Journal Selection and Evaluation [<http://libguides.ecu.edu/journalpub>]
- Evaluating Publishers [<http://libguides.ecu.edu/journalpub/evals>]

- Recorded Office of Faculty Excellence session on Evaluating Open Access Publishers [<https://mediasite.ecu.edu/MS/Play/530fc9855a08427293d1852fd8d2e1b61d?catalog=410910e4606e42818502e112fba717fe21>]

Additionally, a growing body of peer-reviewed literature exists on the subject of predatory journals, open-access publishing, and related issues^{2,3}.

References

- Shen, C. and Björk, B.C., 2015. 'Predatory' open access: a longitudinal study of article volumes and market characteristics. *BMC medicine*, 13(1), p.230.
- Ward, S.M., 2016. The rise of predatory publishing: How to avoid being scammed. *Weed science*, 64(4), pp.772-778.
- McCann, T.V. and Polacsek, M., 2018. False gold: Safely navigating open access publishing to avoid predatory publishers and journals. *Journal of advanced nursing*, 74(4), pp.809-817.

Resolution #19-69

Proposed Additional Revisions to the *ECU Faculty Manual*, Part XII. Faculty Appellate Provisions, Section I. General Appellate Procedures and Reviews of Non-Reappointment, Non-Conferral of Tenure at the End of the Probationary Period, Discharge or Imposition of Serious Sanctions, and Termination Based on Institutional Considerations as follows:

Additions are noted in **bold** and deletions are noted in ~~striketrough~~.

Contents

- General Provisions on Faculty Appeals
- Review of Non-Reappointment or Non-Conferral of Tenure at the Completion of a Probationary Term
- Due Process Before Discharge or the Imposition of Serious Sanctions
- Appeals of Termination of Faculty Employment Based upon Institutional Considerations

SECTION I.I, General Provisions on Faculty Appeals

CONTENTS

- Constituting an Appeal Panel
- Descriptions of Grievants and Respondents
- Annual Reports
- IV. Jurisdiction of the Board of Governors**

I. Constituting an Appeal Panel

A. The Faculty Appellate Committee, established through the Bylaws (*Faculty Manual*, Part II, Section II) of the ECU Faculty Senate, shall serve as a pool for populating appeals panels for the four appellate processes covered by provisions of Part XII of this Faculty Manual. These are:

- Hearing Panel (Section I.II),
- Due Process Panel (Section I.III),
- Reconsideration Panel (Section I.IV)
- Grievance Panel (Section II.I)

Because hearings in matters of non-reappointment or conferral of permanent tenure can present complex and difficult questions of fact, policy, and law, and because of the central role of the panel in gathering and preserving the evidence upon which most subsequent decisions related to the matter will be based, it is important for the chancellor to ensure that Faculty Appellate Committee members, as well as relevant administrators and aggrieved faculty members, are appropriately trained in accordance with guidelines and procedures jointly established by the faculty officers and chancellor.

B. At its initial organizational meeting each year, the Faculty Appellate Committee will elect a steering committee of four individuals, each responsible for taking the lead in processing requests for hearings before one of the four respective types of appellate panels. These individuals will be designated as the “appellate chair” for grievances in their respective areas. Once constituted, the steering committee will elect a Chair and Secretary.

C. To determine panelists for appellate hearings, at the beginning of each academic year, the steering committee will develop a rank order for all members of the Faculty Appellate Committee by random lottery. Individuals will be asked to serve on panels in order of lottery rank, except when disqualified because of a conflict of interest **or skipped over based on inappropriate rank for the process in question**. Conflicts of interest include, but are not limited to, those cases in which Appellate Committee members are from either the grievant’s or respondent’s relevant department, unit, college, or school, or with whom either the grievant or respondent has had an amorous relationship, or is related by blood, law, or marriage (as defined in UNC Policy Manual 300.4.2 and 300.4.2.1[G]). Individuals will not be asked to serve on a second panel until all eligible Appellate Committee members have already served, unless otherwise ruled out by conflicts of interest, at which time the steering committee will return to the top of the ranked list and proceed through the Appellate Committee membership again in the same order.

D. A request for an appeal panel is directed to the chair of the Appellate Steering Committee. The steering committee will determine the appropriate appellate process to be followed and the steering committee member responsible for that process (appellate chair for that area) will take the lead in further actions on that appeal request. The specified appellate chair will assemble a panel of five regular members and one alternate based on the rank order of Appellate Committee members. Once established, the panel will elect a chair and secretary, and follow the appropriate provisions, detailed below, for the specific type of appeal filed.

E. Notwithstanding anything in this document, the chancellor may extend any deadline for a reasonable amount of time in the best interests of the university. The chancellor will promptly inform grievants, respondent(s), the panel, the Chair of the Faculty and the vice chancellor with supervisory authority of the timing and basis of a deadline extension.

II. Descriptions of Grievants and Respondent(s)

A. A grievant is any faculty member or members who seek(s) the remedies afforded by the provisions of Part XII of the *Faculty Manual*. Grievants must be current faculty members of East Carolina University. If a faculty member’s employment ends voluntarily during the grievance process, prior to the end of employment the grievant may request the chancellor to allow the grievance to continue. Copies of such a request must be provided to the appellate chair. The chancellor should respond to such a request, with a copy to the appellate chair, within 30 calendar days.

B. A respondent is the person or persons identified by a grievant as the individual(s) whose action is the object of the grievance and may include the person(s) who requested the action that is the object of the grievance. "Respondent" may be used in the singular form, even where it stands for more than one person. Named respondents must be current employees of East Carolina University. If a named respondent is a former administrator and, therefore no longer in a position to provide a remedy regarding grieved issues, the person who presently occupies the administrative position will be considered as a substitute respondent for that purpose. If still an ECU employee, the former administrator may remain as a respondent or be called as a witness as determined by the Panel. An individual or a departmental/unit committee and/or its chairperson may be named as a respondent.

III. Annual Reports

Annually, the Appellate Committee will write a report specifying the number of each type of appeal, the outcomes, and the duration of the process, as well as any other concerns that occur to the committee. The report will be submitted to the Faculty Governance Committee for review.

IV. Jurisdiction of the Board of Governors

It is the Board of Governors expectation that campus matters will be addressed appropriately at the constituent institution. Therefore, the board will not hear appeals of decisions that have been addressed through the appellate provisions of the ECU Faculty Manual. Under extraordinary circumstances, as solely determined by the Board of Governors, the Board may exercise its discretion to review any matter that has not first been brought to the attention of the designated institutional administrator, chancellor, or president for appropriate review and handling. The Board of Governors may in its sole discretion conduct hearings, whether before the full board or a designated standing or special committee of the board. Such hearings shall be limited to matters as the Board of Governors deems appropriate. All appeals addressed to or requests for hearings by the Board of Governors, from whatever source, shall be transmitted through the president.

SECTION I.II, Review of Non-Reappointment or Non-Conferral of Tenure at the Completion of a Probationary Term.

CONTENTS

- I. Deadlines for Review
- II. Request for a Hearing Panel
- III. Procedures for the Hearing
- IV. Procedures After the Hearing

I. Deadlines for Review

Failure to submit the review documents specified in this section within the time periods allotted constitutes a waiver of the right to have the decision reviewed by ECU faculty committees, institutional authorities, or the UNC Board of Governors; however, before the expiration of the deadline the faculty member may request an extension, provided that the request is made in writing and presented to the appellate chair for grievances covered by Part XII, Section I.II. The Appellate Steering Committee shall decide on an extension within 10 calendar days of receiving a request. The committee will endeavor to complete the review within the time limits specified except under unusual circumstances such as when the time period includes official university breaks and holidays and when, despite reasonable efforts, the steering committee cannot be assembled.

II. Request for a Hearing Panel

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

1. The Hearing Panel

The Hearing Panel (hereafter, "the panel") shall be composed of five members and one alternate each of whom is a full-time, permanently tenured voting faculty member without administrative appointment (as per Part IX, Section IV). The alternate shall attend all sessions of the hearing and replace a regular member should that member be unable to attend the entire hearing. Members shall be chosen in accordance with the procedures for election of the Appellate Committee specified in the Bylaws of the East Carolina University Faculty Senate and provisions for appointment of appellate panels specified in Part XII, Section I.I. Upon organization, the members of the Hearing Panel shall elect a chair and secretary. Should either officer be absent at the beginning of a hearing, the panel members shall elect an alternate for the purposes of the hearing. A quorum for the panel shall be the five members or four members and the alternate.

When the panel is convened to consider any matter associated with a complainant's request for a hearing, those Appellate Committee members who (i) hold an appointment in the complainant's academic unit, (ii) might reasonably expect to be called as witnesses, (iii) might reasonably expect to be asked to serve as an advisor (see subsection III.2, Conduct of the Hearing) to any party of the hearing, or (iv) may have any other conflict of interest should be disqualified from participation on a panel related to the 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 [hereafter, the respondent(s)] are permitted to challenge panel members for just cause. The other members of the panel, in consultation with the Appellate Steering Committee, will decide on any potential disqualifications if a panel member is challenged but wishes to remain.

When membership of the panel falls below the specified five members and one alternate, the appellate chair will select additional members of the Appellate Committee to the panel as specified in Part XII, Section I.I of the *Faculty Manual*.

The panel may at any time consult with an attorney in the office of the University Attorney. The consulting attorney should not have present or prior substantive involvement in the matter that gave rise to the hearing, nor advise the University administrator(s) substantively regarding the panel's recommendation(s) during the review process.

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 [Chapter 101.1, Section 604B of The Code of The University of North Carolina](#); (b) the decision was attended by a material procedural irregularity such that doubt is cast on the integrity of the decision not to reappoint. In addition, the University Equal Employment Opportunity policy prohibits employment discrimination based on sexual orientation.

Chapter 101.1, 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) any of the protected statuses included in Section 103 of The Code, or other forms of discrimination prohibited under policies adopted by campus Boards of Trustees, or (c) personal malice. For purposes of this section, the term “personal malice” means dislike, animosity, ill-will, or hatred based on personal characteristics, traits or circumstances of an individual. See [Policy 101.3.1 II.B.](#) for details.”*

Personnel decisions based on negative reactions to an employee’s anatomical features, marital status or social acquaintances are intrinsically suspect. If reappointment is withheld because of personal characteristics that cannot be shown to impinge on job performance, a wrong likely has been committed. On the other hand, if personal characteristics can be shown to impede a faculty member’s capacity to relate constructively to his or her peers, in a necessarily collegial environment, withholding advancement may be warranted. For example, the undisputed record of evidence might establish that the responsible department chair declined to recommend a probationary faculty member for reappointment with tenure because of the faculty member’s ‘unpleasant personality and negative attitude’. Disposition of such a case requires a determination of whether the personality and attitude impeded the faculty member’s job performance. While the terms ‘ill-will’, ‘dislike’, ‘hatred’ and ‘malevolence’ may connote different degrees of antipathy, such distinctions make no difference in applying the fundamental rationale of the prohibition. Any significant degree of negative feeling toward a candidate based on irrelevant personal factors, regardless of the intensity of that feeling, is an improper basis for making decisions.” ([UNC Policy Manual Policy 101.3.1 II.B](#))

"Material procedural irregularity" means a departure from prescribed procedures governing reappointment and conferral of permanent tenure that is of such significance as to cast reasonable doubt upon the integrity of the original decision not to reappoint or not to confer permanent tenure. Whether a procedural irregularity occurred, and whether it is material, shall be determined by reference to those procedures that were in effect when the initial decision not to reappoint or not to confer permanent tenure was made and communicated. The Hearing Panel 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 the following: a) a description that is as complete as possible of the actions or the failures to act that support each specified contention; b) identification of the respondent(s); c) an enumeration and description of the information or documents that 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) identification of persons who may be willing to provide information in support of the contention; and e) a brief description of the information those persons identified in (d) may provide, and f) a copy of the vice chancellor’s notice of non-reappointment or non-conferral of permanent tenure. The complainant's request for a hearing shall be made to the appropriate appellate chair and delivered to the Faculty Senate office by a method that provides delivery

verification and is consistent with [UNC Policy 101.3.3](#). The Faculty Senate Office will promptly notify the appropriate vice chancellor.

III. Procedures for the Hearing.

1. Time and Date of Hearing

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

2. Conduct of the Hearing

The panel chair is responsible for conducting the hearing and maintaining order. 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 panel members and alternate, the complainant, one person who may advise the complainant, the respondent(s), and one person who may advise the respondent(s). If there is more than one respondent, the respondents will designate a spokesperson for the hearing. The persons advising the complainant and respondent(s) may not take an active part in the proceedings. The person advising the respondent(s) at the hearing may be either an East Carolina University faculty member (with or without administrative appointment) approved by the chancellor, or an East Carolina University attorney under the condition that the complainant is accompanied by an attorney. Other persons (witnesses) providing information to the panel shall not be present throughout the hearing, but shall be available at a convenient location to appear before the panel as appropriate.

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 panel chair. This statement shall be limited to explaining the purpose of the hearing and the procedures to be followed. The hearing chair explicitly will note that the panel shall consider only information bearing on

the allegations presented in the complainant's request for the hearing.

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

IV. Procedures After the Hearing

After the hearing, the panel shall meet in executive session within 3 calendar days and begin its deliberations on whether to sustain or not sustain the allegations stated in the request for the hearing. In reaching decisions on which the panel's written recommendations to the chancellor shall be based, the panel shall consider only the evidence presented at the hearing and such written or oral arguments as the committee, in its discretion, may allow. The complainant shall have the burden of proof. The standard applied by the panel shall be that the preponderance of the evidence establishes that a basis for the complainant's contentions is found in one of the reasons listed in subsection II.2, "Initiation of Hearing." Preponderance is defined as the greater weight of evidence and its probable truth or accuracy, and not the amount of evidence presented.

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

If the Hearing Panel determines that the complainant's contention has not been established, it shall, by simple, unelaborated statement, so notify the complainant, the respondent(s), 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 Panel determines that the complainant's contention has been satisfactorily established, it shall notify the complainant, the respondent(s), the chair of the faculty, and the chancellor by written notice and shall recommend further substantive review.

Within 42 calendar days after receiving the recommendation of the Hearing Panel and the transcript, the chancellor shall notify the complainant, the respondent(s), the chair of the faculty, and Hearing Panel chair 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 panel's recommendations, the chancellor shall request within 14 calendar days that a joint meeting with the panel occur. At the joint meeting, the chancellor will communicate his or her concerns and the panel will have an opportunity to respond. The joint meeting must occur within the 42 calendar-day period. No meeting is required if the chancellor decides to concur with the panel's recommendations

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 panel. While the chancellor should give deference to the advice of the faculty panel, the final campus-based decision lies with the chancellor.

The chancellor will inform the complainant of a decision in writing by a method that produces adequate evidence of delivery. **If the chancellor concurs in a recommendation of the committee that is favorable to the faculty member, the chancellor's decision shall be final. If the chancellor either declines to accept a committee recommendation that is favorable to the faculty member, or concurs in a committee recommendation that is unfavorable to the faculty member, the faculty member may appeal the chancellor's decision by filing a written notice of appeal with the Board of Trustees. This appeal shall be transmitted through the chancellor and be addressed to the chair of the Board of Trustees, by submitting such notice by certified mail, return receipt requested, or by another means that provides proof of delivery, within 14 calendar days after the faculty member's receipt of the chancellor's decision. The notice must contain a brief statement that alleges one or more of the following as the basis for the appeal: (a) that the campus-based process for reviewing the decision was materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered; (b) that the result reached by the chancellor was clearly erroneous; or (c) that the decision was contrary to controlling law or policy. The Board of Trustees' decision shall be made as soon as reasonably possible after receiving the faculty member's request for an appeal. This decision is final and shall end the University's appeals process.** ~~In the event of an adverse decision, the chancellor's notice must inform the complainant that: 1) within 14 calendar days of the complainant's receipt of the decision, the complainant may file a notice of appeal with the UNC President requesting review by the Board of Governors in accordance with the Board of Governors Policy 101.3.1; 2) a simple written notice of appeal with a brief statement of its basis is all that is required within this fourteen day period, and 3) that, thereafter, a detailed schedule for the submission of relevant documents will be established if such notice of appeal is received in a timely manner (Faculty Senate Resolution #03-49).~~

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

SECTION I.III, Due Process Before Discharge or Imposition of Serious Sanctions

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- I. Bases for Serious Disciplinary Sanctions or Discharge
- II. Notice to Faculty of Imposition of Sanctions or Discharge
- III. Request for a Hearing
- IV. Due Process Panel
- V. Procedures for a Hearing
- VI. Procedures After a Hearing

- VII. Appeal of Chancellor's Decision
- VIII. Suspension During a Period of Intent to Discharge

I. Bases for Serious Disciplinary Sanctions or Discharge

A faculty member who is the beneficiary of institutional guarantees of tenure shall enjoy protection against unjust and arbitrary application of disciplinary sanctions. For purposes of the *Faculty Manual*, a faculty member serving in a fixed-term or probationary appointment shall be regarded as having tenure until the end of the term. During the period of such guarantees, the faculty member may be discharged from employment, suspended, or demoted in rank or serious sanctions may be imposed only for reasons of:

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

Classification of alleged conduct as one categorical basis for imposition of sanctions or discharge, when the conduct more appropriately meets the definition of another (e.g., willful, intentional neglect of duty might be considered misconduct), shall not be considered a deficiency in the charge if the conduct at issue is clearly referenced in the notice of intent to discharge and evidence of the nature and/or duration of the alleged conduct supports the severity of the sanction or discharge proposed.

These provisions do not apply to non-reappointment or non-conferral of permanent tenure at the end of the probationary period (governed by provisions in Part XII, Section I.II), or termination of employment based on institutional considerations (governed by provisions in Part XII, Section I.IV).

II. Notice to Faculty of Imposition of Sanctions or Discharge

The vice chancellor with supervisory authority shall provide written notice to the faculty member of intent to discharge from employment or to impose serious sanction, including a written specification of the reasons for the sanction. The notification shall be sent by a method that provides delivery verification and is consistent with [UNC Policy 101.3.3](#). The notice shall include a statement of the faculty member's right, upon request, to a hearing by a Due Process Panel (Faculty Senate Resolution #99-10). If no written request for a hearing (see III. below) is received within 14 calendar days after receipt of this notification, the faculty member may be discharged or sanctions may be imposed without recourse to any institutional grievance or appellate procedure.

III. Request for a Hearing

A faculty member has 14 calendar days to request a hearing after receipt of written notification of the reasons for the sanction. A request for a hearing is made 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](#). The vice chancellor shall notify the appropriate appellate chair of the need to convene a Due Process Panel within 10 calendar days of receiving this request.

IV. Due Process Panel

The Due Process Panel (hereafter, “the panel”) shall be composed of five regular members and one alternate who shall attend all sessions of the hearing and replace, for the remainder of the process, a regular member who is unable to attend the entire hearing. **Panel members shall be full time, permanently tenured voting faculty (as per Part IX, Section IV) without administrative appointment and** be chosen in accordance with the procedures for election of the Appellate Committee specified in the Bylaws of the East Carolina University Faculty Senate, and appointment of appeals panels described in Part XII, Section I.I of this *Faculty Manual*. Upon organization, the members of the panel shall elect a chair and secretary. Should either officer be absent at the beginning of a hearing, the panel members shall elect an alternate for the purposes of the hearing. A quorum for the panel shall be the five members or four members and the alternate.

When the panel is convened to consider any matter associated with a faculty member's request for a hearing, those Appellate Committee members who (i) hold an appointment in the complainant's academic unit, (ii) might reasonably expect to be called as witnesses, (iii) might reasonably expect to be asked to serve as an advisor (see subsection V.B, Procedures for the Hearing) to any party of the hearing, or (iv) may have any other conflict of interest, should be disqualified from participation on a panel related to the specific request for a hearing. The faculty member and the vice chancellor with supervisory authority are permitted to challenge panel members for just cause. The other members of the panel will decide by majority vote on any potential disqualifications if a panel member is so challenged but wishes to remain (Faculty Senate Resolution #99-10).

When membership of the panel falls below the specified five members and one alternate, the appellate chair will select additional members of the Appellate Committee to serve on the panel as specified in Part XII, Section I.I of the *Faculty Manual*.

The panel may at any time consult with an attorney in the office of the University Counsel. The consulting attorney should not have present or prior substantive involvement in the matter that gave rise to the hearing, nor advise University administrator(s) substantively regarding the panel's recommendation(s) during the review process.

V. Procedures for the Hearing

A. Time and Date of Hearing

The Due Process Panel shall set the time, date, and place for the hearing. The panel shall accord the faculty member 30 calendar days to prepare a defense from the time it receives the faculty member's written request for a hearing. The panel 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 and vice chancellor. The panel shall promptly 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 panel ordinarily will endeavor to complete the hearing within 90 calendar days except under unusual circumstances such as when a hearing request is received during official university breaks and holidays and, despite reasonable efforts, the panel cannot be assembled.

B. Conduct of Hearing

The hearing shall be concerned with the written specification of reasons for the intended discharge or imposition of a serious sanction. The panel chair is responsible for conducting the hearing and for maintaining order. 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 panel members and the alternate, the faculty member requesting the hearing, advisor/attorney for the faculty member, the vice chancellor with supervisory authority, or his/her designee, and an advisor/attorney for the vice chancellor. The person advising the respondent(s) at the hearing may be either an East Carolina University faculty member (with or without administrative appointment) approved by the chancellor, or an East Carolina University attorney. Other persons (witnesses) providing information to the panel shall not be present throughout the hearing but shall be available at a convenient location to appear before the panel as appropriate. A professional court reporter must be used to record and transcribe the hearing (Faculty Senate Resolution #03-37). The hearing shall be closed to the public unless both the faculty member and the panel agree that it may be open.

The hearing shall begin with an opening statement by the panel chair limited to explaining the purpose of the hearing and the procedures to be followed. Following the opening remarks by the panel chair, the vice chancellor with supervisory authority (or his/her designee) or advisor/attorney, shall present the university's contentions and any supporting witnesses and documentary evidence. The faculty member or his/her advisor/attorney may then reply and present any supporting witnesses and documentary evidence. During these presentations, the vice chancellor, or designee, the faculty member and their respective advisors/attorneys shall have the right to question and cross-examine witnesses, and to make arguments. Panel members may question witnesses for purposes of clarification. At the conclusion of the hearing, the faculty member and then the vice chancellor or designee, or their respective advisors/attorneys will be given the opportunity to provide summary statements (Faculty Senate Resolution #99-10).

VI. Procedures After the Hearing

After the hearing, the panel shall meet in executive session and begin its deliberations within three calendar days. In reaching its decisions the panel shall consider only the testimony and other materials entered or presented as evidence during the hearing and such written or oral arguments as the panel, at its discretion, may allow. The University has the burden of proof. In evaluating evidence, the panel shall use the standard of "clear and convincing" evidence in determining whether the institution has met its burden of showing that permissible grounds for the discharge or serious sanction exist and are the basis for the recommended action. "Clear and convincing" is a higher standard than "preponderance" of evidence and must indicate that the University's case is substantially more likely to be true than not true.

Within 14 calendar days of finishing its deliberations or after the full transcript is received, whichever is later, the panel 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 panel shall state whether it recommends that the intended sanction be imposed (Faculty Senate Resolution #03-37).

In reaching a decision, the chancellor shall consider only the written transcript of the hearing, including materials offered in evidence in the panel's hearing and the documents that constitute the record of the appeal, including but not limited to the notice of intent to discharge or impose sanctions, the faculty member's request for a hearing, and the report of the panel. Within 30 calendar days of receiving the report and the court reporter's written transcript of the hearing along with the materials offered in evidence at the hearing, the chancellor's decision shall be conveyed in writing to the panel and the affected faculty member by a method that provides delivery verification and is consistent with UNC Policy 101.3.3.

VII. Appeal of Chancellor's Decision

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

An appeal must contain a brief statement that alleges one or more of the following as the basis for the appeal: (1) that the process for making the decision was materially flawed, so as to raise questions about whether the faculty member's contentions were fairly and reliably considered; (2) that the result reached by the chancellor was clearly erroneous; or (3) that the decision was contrary to controlling law or policy.

This appeal shall be transmitted through the chancellor and be addressed to the chair of the Board. The faculty member must file ~~a~~**the notice of appeal by certified mail, return receipt requested, or by another means that provides proof of delivery**, within 14 calendar days after the faculty member receives the chancellor's decision. **The notice of appeal shall be filed with the Board of Trustees within 14 calendar days after the faculty member receives the chancellor's decision.** The appeal to the Board of Trustees shall be decided by the full Board of Trustees; 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 based on the written transcript of the hearing held by the Due Process Panel, including materials offered in evidence and the documents that constitute the record of the appeal, including but not limited to the notice of intent to discharge or impose sanctions, the faculty member's request for a hearing, and the report of the panel; however, at its discretion, the Board may hear such other evidence as it deems necessary, with the opportunity for rebuttal. The Board of Trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the Trustees. **This decision is final and shall be the end of the University's appeal process.**

~~This decision shall be final except that the faculty member may, within 14 calendar days after receiving the Trustees' decision, file a written notice of appeal by a method that provides delivery verification and is consistent with [UNC Policy 101.3.3](#) to the Board of Governors by~~

alleging that one or more specified provisions of the *Code of The University of North Carolina* have been violated. Any such appeal to the Board of Governors shall be transmitted through the President of the University of North Carolina.

VIII. Suspension During a Period of Intent to Discharge

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

SECTION I.IV, Appeals of Termination of Faculty Employment Based
Upon Institutional Considerations

CONTENTS

- I. Reasons Justifying Termination and Consultation Required
- II. Termination Procedures
- III. Request for a Reconsideration Hearing
- IV. The Reconsideration Panel
- V. Procedures for a Hearing
- VI. Procedures After a Hearing
- VII. Appeal to the Board of Trustees

I. Reasons Justifying Termination and Consultation Required

A. Reasons for Terminating Employment

The employment of a faculty member with permanent tenure or 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 a decline in institutional enrollment or by other action or events that compel a reduction in the institution's current operations budget. If the institution faces financial exigency or needs to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's designee shall first seek the advice and recommendations of the academic administrative officers and faculties following the process defined in subsection I.B below.

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

B. Consultation with Faculty and Administrative Officers

If it appears that the institution will experience financial exigency or needs to consider a major curtailment or elimination of a teaching, research, or public-service program, the chancellor or chancellor's delegate shall seek the advice and recommendations of the academic administrative officers and faculties of the department(s) in question, from units representing

complementary disciplines, and from other units that might be affected.

The chancellor or the chancellor's designee shall prepare a report that identifies specifically the state of financial exigency or the program change. The report should outline the options readily apparent to the chancellor at the time and must describe clearly any options that would or might involve terminations of faculty employment.

The chancellor's report shall be directed to the Educational Policies and Planning Committee (EPPC) for their written advice and recommendations. In considering this report the EPPC shall have access to information that formed the basis for the chancellor's report and may interview appropriate persons. The EPPC shall be provided a reasonable timeframe to prepare a response to the chancellor's report, to be submitted no later than a date determined by the chancellor.

Following receipt of the EPPC's report or expiration of the time allowed for submission of the report, should the chancellor decide to consider reducing a unit's faculty for reasons of financial exigency or major curtailment or elimination of a program, the chancellor shall promptly notify, in writing, any faculty member to be terminated following procedures outlined in section II below.

II. Termination Procedures

A. Consideration in Determining Whose Employment is to be Terminated

In determining which faculty member's employment is to be terminated for reasons set forth in Section 605 A of the UNC Policy Manual, the chancellor shall give consideration to tenure status, to years of service to the institution, and to other factors deemed relevant, but the primary consideration shall be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the institution.

B. Timely Notice of Termination

1. 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, a permanently tenured faculty member shall be given at least twelve months of notice. A faculty member without permanent tenure shall be given notice in accordance with the requirements specified in subsection II.C below.
2. 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.

C. Type of Notice to be Given

1. An individual faculty member whose employment is to be terminated shall be notified of this fact in writing by a method that provides delivery verification and is consistent with [UNC Policy 101.3.3](#). This notice shall include: (i) a statement of the conditions requiring termination of the faculty member's employment; (ii) a general description of the procedures followed in making the decision; (iii) a disclosure of pertinent financial or other data upon which the decision was based; (iv) a statement of the faculty member's

right to reconsideration of the decision by a faculty appellate panel if the faculty member alleges that the decision to terminate employment was arbitrary or capricious; and (v) a copy of this procedure on termination of employment.

2. For a period of two years after the effective date of termination of a faculty member's contract for only reasons specified in subsection I.A above, the institution shall not replace the faculty member in a comparably defined position 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 30 calendar days after attempted delivery of the notice 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.
3. When requested by a faculty member whose employment has been terminated, the institution shall give reasonable assistance in finding other employment. Such assistance should include, for example, administrative assistance, access to the telephone (including long distance), University/unit stationery and postage, travel funds to professional meetings, and other assistance as deemed reasonable and appropriate in the profession.

D. Termination if Reconsideration is Not Requested

If, within 14 calendar days after receipt of required notice, the faculty member makes no written request for a reconsideration hearing, employment will be terminated at the date specified in the notice, and without recourse to any institutional grievance or appellate procedure.

III. Request for Reconsideration Hearing

Within 14 calendar days after receiving the required notice, the faculty member may request a reconsideration of the decision to terminate employment by a method that provides delivery verification and is consistent with UNC Policy 101.3.3. The request shall be submitted to the chancellor and shall specify the contention 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 that contention. Upon receipt of such a request the chancellor shall, within 10 calendar days, notify the appropriate appellate chair of the need to convene a Reconsideration Hearing Panel.

IV. The Reconsideration Panel

The Reconsideration Panel (hereafter, "the panel") shall be composed of five members and one alternate, each of whom is a full time permanently tenured voting faculty member without administrative appointment. The alternate shall attend all sessions of the hearing and shall replace a regular member should that member be unable to attend the entire hearing. Members shall be chosen in accordance with the procedures for election of the Appellate Committee specified in the Bylaws of the East Carolina University Faculty Senate, and appointment of appeals panels described in Part XII, Section I.I of this Faculty Manual. A quorum for the panel shall be five members or four members and the alternate. If membership of the panel falls below the specified five members and one alternate, the appellate chair will appoint additional members of the Appellate Committee as described in Part XII, Section I of the *Faculty Manual*.

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

When the panel is convened to consider any matter associated with a faculty member's request for a hearing, those Appellate Committee members who hold an appointment in the faculty member's academic unit, those who might reasonably expect to be called as witnesses, those who participated directly in the decision to terminate the faculty member's employment, or those who may have any other conflict of interest should be disqualified from participation in the activities of a panel related to this specific request for a hearing. The faculty member and the chancellor, or the chancellor's designee, are permitted to challenge panel members for just cause. The other members of the panel, including the alternate, will decide by majority vote (excluding the panel member challenged) on any potential disqualifications if a panel member is challenged but wishes to remain.

The panel may at any time consult with an attorney in the office of the University Attorney. The consulting attorney should not have present or prior substantive involvement in the matter that gave rise to the hearing, nor advise the University administrator(s) substantively regarding the panel's recommendation(s) during the review, although individual attorneys may play the same role at different points in the process.

V. Procedures for the Hearing

A. Time and Date of Hearing

The Reconsideration Panel shall set the time, date, and place for the hearing. The date for the hearing should be within 42 calendar days of the time the appellate chair receives the chancellor's notification of the faculty member's written request for a hearing. The panel chair shall notify the affected faculty member, the chancellor, and the chair of the faculty of the time, date, and place of the hearing. The panel 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, chancellor, appellate chair, and chair of the faculty.

B. Conduct of Hearing

The Reconsideration Panel'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 panel chair 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 panel members and alternate, the faculty member requesting the hearing, advisor or counsel for the faculty member, the chancellor or designee (hereinafter, the chancellor), and counsel for the chancellor. Other persons (witnesses) providing information to the panel shall not be present throughout the hearing, but shall be available at a convenient location to appear before the panel as appropriate. Upon request, the faculty member and the panel shall be given access to documents that were used in making the decision to terminate the faculty member's employment. 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 panel chair limited to explaining the purpose of the hearing and the procedures to be followed. Following the opening remarks by the panel 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, chancellor's designee, or his or her counsel, may question any of the witnesses. Panel members may question witnesses for purposes of clarification. At the conclusion of the hearing, the faculty member or his/her advisor or legal counsel, and then the chancellor, designee, or counsel will be given the opportunity to provide summary statements.

VI. Procedures After the Hearing

The panel shall meet in executive session to begin its deliberations no more than three calendar days after the hearing. In reaching its decisions the panel shall consider only the testimony and other materials entered or presented as evidence during the hearing.

Within 14 calendar days of finishing its deliberations or receipt of the court reporter's transcript, whichever is later, the panel 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 Panel determines that the contention of the faculty member has not been established, the report shall, by a simple unelaborated statement, so notify the faculty member, the chair of the faculty and the chancellor.

If the panel determines that the faculty member's contention has been satisfactorily established, the report shall so notify the faculty member, the chair of the faculty, and the chancellor, and provide a recommendation for corrective action by the chancellor.

Within 10 calendar 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 Panel, giving a decision and stating what modification, if any, will be made with respect to the original decision to terminate the faculty member's employment.

If the chancellor concurs in the recommendation of the Reconsideration Panel and withdraws the termination notice, 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 Panel. If the original termination decision is not reversed, 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 Panel. 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).

VII. Appeal to the Board of Trustees

This appeal shall be transmitted through the chancellor and shall be addressed to the chair of the Board. The faculty member must file a notice of appeal within 14 calendar days after the faculty member receives the chancellor's decision. The appeal to the Board of Trustees shall be decided by the full Board; 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 designated committee shall consider the appeal based on the written transcript of the hearing held by the Reconsideration Panel, including materials offered in evidence and the documents that constitute the record of the appeal. These include, but are not limited to, the statement of termination, the faculty member's request for a hearing, and the report of the panel. At its discretion, the Board may hear such other evidence as it deems necessary, with the opportunity for rebuttal. The Board of Trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the Trustees. The decision of the Board of Trustees shall be final.

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

Resolution #19-70

Proposed Additional Revisions to the *ECU Faculty Manual*, Part XII. Faculty Appellate Provisions, Section II. General Faculty Grievance Procedures and Appeals of Non-Conferral of Early Tenure

Additions are noted in **bold** and deletions are noted in ~~strikethrough~~.

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- I. Policies and Procedures for General Faculty Grievances and for Appeals of Non-conferral of Early Tenure
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SECTION II.I, Policies and Procedures for General Faculty Grievances
and for Appeals of Non-conferral of Early Tenure

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- V. Annual Report
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Part XII, Section II.I provides for peer review of general faculty grievances and appeals of non-conferral of early tenure through a formal procedure that, depending on the grievance, includes access to mediation or direct review, and the potential for an appellate panel hearing of the grievance. Grievance procedures in Part XII, Section II.I are confined to the faculty and administrative structure of East Carolina University. There are no appeals through Part XII-Section II.I beyond the Board of Trustees.

I. Faculty Grievances

There are two classifications of grievances covered by this section. The first is referred to as a “General Grievance” and the second is a “Grievance Resulting From The Non-conferral of Early Permanent Tenure When The Non-conferral Decision Is Not Concurrent With A Reappointment Decision” (hereafter, non-conferral of early tenure).

The two grievance classifications and differences in the grievance procedures reflect the Board of Governors requirement that an internal grievance process be provided for non-conferral of early permanent tenure that is not concurrent with a reappointment decision. This requirement and the authority to establish different grievance procedures are set forth in [Section 607 of The Code of The University of North Carolina](#) and further elaborated in [The UNC Policy Manual 101.3.2](#). The establishment of separate grievance procedures provides two assurances. First, it ensures there is a review process for the faculty member when the non-conferral of permanent tenure was based on an early request, for which appeals to the Board of Governors are not allowed. Appeals of non-conferral of tenure at end of the established probationary period are governed by the provisions in Part XII, Section I.II. Second, the bases for the grievance provided in Part XII, subsection II.I.IV for a grievance of non-conferral of early tenure do not apply to General Grievances covered in this section.

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

II. Grievance Panel

The Grievance Panel (or “the panel”) shall be composed of five regular members and one alternate, chosen from the Appellate Committee in accordance with Part XII, Section I.I.

Upon receipt of the grievant's Petition for Redress (Step Two), the appellate chair responsible for Grievance Panel hearings (Part XII, Section I.I) will inquire of panel members about the existence of potential conflicts of interest (which include, but are not limited to, any grounds for recusal listed in this paragraph) and will automatically recuse from participation in the appeal any member from the grievant's or respondent's relevant department, unit, college, or school, or any member with whom either the grievant or respondent(s) has had an amorous relationship, or is related by blood, law,

or marriage (as defined in UNC Policy Manual 300.4.2 and 300.4.2.1[G]). Committee members shall recuse themselves from participating in a grievance if they have a reason to believe that such participation represents or will create a conflict of interest.

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

Upon receipt of a request for a hearing (Step Four), the appellate chair shall determine the availability of the Appellate Committee members in lottery rank order to form a Grievance Panel consisting of five members plus one alternate who will replace any member unable to attend the entire hearing. **When choosing panelists in rank order, the appellate chair will ensure that representatives from the respective ranks of both the grievant and respondent are included on the panel.** Any party to a grievance may request that any member of the panel be recused from the hearing for conflict of interest. Such a request shall be in writing, stating the reason(s) for the request and be provided to the appellate chair not later than 5 calendar days after notification in Step Four of a hearing date. If the panel member declines recusal, the established panel, including the alternate, shall determine obligatory recusal by a majority vote (the member in question not participating). The recused panel member will be replaced by the current alternate member, and the appellate chair will appoint a new alternate following the same procedure as above.

III. General Grievances

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

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

The Appellate Steering Committee and Grievance Panel shall hold the grievant responsible for progressing through the grievance steps in a timely manner. If time delays are encountered because of the respondent(s), the grievant shall bring this to the attention of the appellate or panel chair as appropriate to the stage of the grievance at the time.

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

A. Step One: Conflict Resolution.

Prior to initiating a grievance with the Appellate Committee, a faculty member shall make a concerted effort to resolve the issue through informal conflict resolution. Faculty are encouraged to take advantage of University resources for conflict resolution and informal mediation (<https://ombuds.ecu.edu>) in trying to settle complaints without entering into formal grievance procedures. This can provide a less antagonistic venue, in the presence of a neutral third party trained to facilitate discussions, which can reduce tensions and lead to an equitable agreement.

Before filing a complaint with the Appellate Committee, an objecting faculty member (the potential grievant) at a minimum shall meet with the potential respondent(s) and attempt to resolve the conflict at issue. At or before this meeting the objecting faculty member shall provide the potential respondent(s) with a written statement setting forth the nature of the problem and the redress sought. If there are multiple claims, each should be presented clearly. This statement should include all information necessary to support each of the objecting faculty member's claims, giving the respondent an opportunity to identify, understand, and address each concern. Both parties will have an opportunity to submit information and documents in support of their claims and responses before a hearing, should the issue proceed to a grievance (see Step Four below).

The objecting faculty member and respondent should meet in face-to-face discussion(s) about the substance of the problem and are encouraged to use University resources for informal conflict resolution to aid in resolving differences. In cases where the respondent refuses to meet, the objecting faculty member shall, by a memorandum with a copy to the respondent, inform the appellate chair and the next higher-level administrator in their program. Before proceeding to a formal grievance (Step Two), the objecting faculty member shall provide the respondent with the Petition for Redress that the grievant intends to submit in Step Two.

During attempts to resolve conflicts, each party may select a counselor who may also serve as an advisor throughout a conflict resolution and/or grievance process, but who shall not participate nor be called as a witness in a hearing (see Step Five). A list of potential faculty [counselors](#) is maintained by the [Faculty Senate Office](#); however, the parties to the conflict may choose any eligible ECU current or retired faculty members as counselors, or may choose to have no counselor. It is recommended that counselors be tenured professors with extensive experience in faculty governance, as evidenced by service on university governance/appellate committees, and not be associated with the conflict in any way. Association with the conflict includes individuals who may reasonably be called as a witness by either party, should the complaint proceed into the formal grievance process.

For impartial adjudication of a conflict, either party may require availability of information that is controlled or in the possession of the other party or the administration. Upon specific request by a party to the conflict, the other party or the administration shall provide the requesting party with information bearing on the conflict that is not otherwise confidential as a matter of law ("privileged").

In cases where a formal Petition for Redress has been filed (see Step Two below), either party to the grievance may request that the Appellate Steering Committee or Grievance Panel (once a grievance has proceeded to Step Four) evaluate the basis for a claim of privileged information, and the potential value of that information to resolving the grievance. If the privileged information is deemed to bear substantively on the grievance, the steering committee/panel is required to seek resolution of the issue of privilege through the relevant vice chancellor, or through the chancellor if

the vice chancellor is party to the grievance. If the information has a material bearing on the grievance but cannot be obtained for legal reasons, the steering committee/panel shall decide whether continuing the grievance would be unfair to the grievant and/or respondent. If deemed unfair to continue, the grievance process will be terminated with the reason(s) stated clearly in a memorandum to all parties to the grievance, thereby ending the administrative appeal process at East Carolina University. All requested information that is received shall be distributed to the appellate chair/panel chair and to all parties to the grievance.

B. Step Two (Petition for Redress)

A Petition for Redress by the grievant should be addressed to the Appellate Committee chair, and have appended a copy of the grievant's written statement from a Step One meeting with the respondent. It shall be submitted with a statement that the grievant completed Step One above, and that with this petition the grievant intends to pursue a formal grievance.

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

Based on information contained in the grievant's Petition for Redress, the Appellate Steering Committee shall determine whether the grievance is within the charge of Part XII, Section II.I. The committee may decide that none, some, or all of the issues in the Petition for Redress are appropriate for a general grievance. Issues not within the charge of Part XII, Section II.I will receive no further attention and the committee's decision concerning grievance issues shall be communicated by memorandum to the grievant and respondent. The ECU administrative appeal process is ended for those issues rejected by the committee, unless they fall within the scope of a different appellate process. Except after mediation, the Petition for Redress shall not be modified.

All material collected as part of the grievance shall be put in the grievance file maintained in the Faculty Senate Office under the grievant's name. This grievance file becomes a part of the grievant's Personnel File and, where appropriate, the respondent's Personnel File. A note will be placed in the grievant's and, where appropriate, respondent's Personnel File(s) to indicate the location of the additional records.

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

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

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

1. Mediation

The appellate chair shall offer the parties to the grievance the opportunity to seek a resolution through mediation (The UNC Policy Manual 101.3.2.III). Mediation is limited solely to the grievant and the respondent. Each party will be asked to respond within 15 calendar days after the date of

notification by the appellate chair as to their acceptance of mediation. Once all parties to the grievance have accepted mediation, the grievant shall not pursue the grievances at administrative levels higher than that of the respondent. To do so is inconsistent with the mediation process and will result in the termination of the grievance procedures, ending administrative review of the grievance. Rejection of mediation shall have no bearing on decisions or recommendations related to the grievance. Unless the grievant pursues a Chancellor Review, if any party to the grievance rejects mediation and the grievant requests a hearing, the appellate chair will notify the parties that a Grievance Panel will be formed and will set a grievance hearing date (Step Four).

If the grievant and the respondent accept mediation, the Faculty Senate Office administrator and chair of the faculty will be responsible for securing a mediator. To avoid real or apparent conflicts of interest, all mediation will be conducted by a third party mediator with no formal association with East Carolina University nor prior association with either party to the grievance, and who is certified by the North Carolina Administrative Office of the Courts.

The parties to the grievance will inform the appellate chair within 5 calendar days of receiving the name as to whether the mediator is acceptable or unacceptable. An alternate mediator will be located if necessary. After the second attempt, unless the grievant pursues a Chancellor Review, if no acceptable mediator can be located, the appellate chair will so notify the parties to the grievance and inform them that, should the grievant request a hearing, a panel will be formed and grievance hearing date set (Step Four).

If an acceptable mediator is identified, the parties to the grievance will be informed of the selection. The Petition for Redress and the committee's memorandum will be provided to the mediator by the appellate chair. The mediator will communicate to the appellate chair the beginning date of the process. The mediator will inform the appellate chair on a monthly basis that mediation is continuing with measurable progress. The mediation process shall not exceed 42 calendar days without formal approval of the appellate chair or 60 days without the formal approval of the full Appellate Steering Committee.

Mediation will continue until such time that:

- a. An agreement among the parties is reached (subject to time limits).
- b. A party or the mediator writes to the committee chair that further mediation is unlikely to be successful.
- c. A party to the grievance writes to the committee chair a desire to terminate mediation because of resistance to or undue delays in scheduling mediation meetings, or because the mediator is no longer deemed acceptable.

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

If an agreement is reached, the grievance will be considered closed and a copy of the agreement, signed by all parties to the grievance, will be placed in the grievance file maintained in the Faculty Senate Office. It is expected that most agreements will require only the authority

of the respondent for a unit commitment but some may require the authority of the chancellor. If the chancellor rejects the agreement, the parties may continue mediation or the grievant may request either a Chancellor Review or a hearing.

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

2. Chancellor Review

Within 20 calendar days from the request for a Chancellor Review, the grievant shall provide to the chancellor, the respondent, and the appellate chair copies of the Petition for Redress along with the committee's memorandum and any information that supports the grievant's contentions. Within 10 calendar days, with copies to the grievant and appellate chair, the respondent may submit to the chancellor a written response to the Petition for Redress and any other documents provided by the grievant. The chancellor shall provide a response to the grievant, with copies to the appellate chair and the respondent, within 20 calendar days of the chancellor's receipt of all materials. The chancellor may extend any of these deadlines if he or she deems it to be in the best interest of the university.

The chancellor's decision is final and may not be appealed. A copy of all information submitted to the chancellor and the chancellor's decision shall be placed in the grievance file and the grievance closed.

D. Step Four (Request for a Hearing)

If the grievance is not resolved, by memorandum to the committee chair with a copy to the respondent, the grievant shall request a hearing, or state that the grievance will not be pursued. If mediation has occurred, the Appellate Steering Committee will again review the grievant's Petition for Redress in light of any changes that may have resulted from mediation. The steering committee will establish a Grievance Panel if it determines that all or some of the issues unresolved by mediation allege an injury that would entitle the faculty member to relief under Part XII, Section II.I. In this case, the steering committee shall provide an updated memorandum to the grievant and respondent(s) explaining remaining issue(s) to address in a hearing. Should the steering committee determine that remaining issues are no longer within the purview of a Faculty Grievance Panel, this decision will exhaust the administrative appeals process, and shall be communicated by a method that produces adequate evidence of delivery to all parties to the grievance.

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

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

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

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

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

E. Step Five (The Hearing)

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

Except as noted in Part XII, Section II.I.III.D, the authority of the Grievance Panel shall be solely to hear the testimony of the grievant, the respondent, and witnesses.

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

The Grievance Panel chair shall begin the hearing by briefly reviewing the panel's authorization and powers, and the procedures to be followed during the hearing. The chair shall then enter into the hearing record correspondence generated prior to the hearing as the Appellate Committee's Exhibit C, and information submitted in Step Four by the grievant and the respondent as Exhibits G and R.

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

Only the grievant, the respondent, members of the Grievance Panel, and the court reporter shall be present for the duration of the hearing. Witnesses, as noted below, will be present only when giving testimony. It shall be the responsibility of the parties to present their respective cases. The burden is on the grievant to establish, by a preponderance of the evidence, that the grievant's claims and requested redress are consistent with Faculty Manual Part XII, Section II.I.

Preponderance is defined as the greater weight of evidence and its probable truth or accuracy, and not the amount of evidence presented.

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

The respondent's presentation will follow the procedures noted above for presentation of the grievant's case. When the panel and grievant have no further questions, the grievant is given the opportunity to make a 10-minute final statement, and then a total of 10 minutes is available to the respondent(s) for a final statement.

F. Step Six (Grievance Panel Report)

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

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

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

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

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

If the respondent's adjustments are not satisfactory to the grievant, the grievant may appeal to the chancellor. The grievant shall deliver to the Grievance Panel chair a memorandum addressed to the chancellor explaining in detail the reasons for the appeal. The panel chair shall forward a copy of this memorandum to the respondent and chair of the faculty and shall forward the grievant's appeal memorandum to the chancellor along with the Grievance Panel report and the full Record of the Appeal described above.

If the grievant appeals to the chancellor, or if the Grievance Panel requests the chancellor to make a recommended adjustment, the chancellor's decision shall be based on the recommendations of the hearing panel and the Record of the Appeal from the faculty Grievance Panel hearing. The chancellor has the discretion to consult with the panel and/or Appellate Steering Committee before making a decision ([The UNC Policy Manual 101.3.2.IV.g](#)). The chancellor will communicate a written decision within 20 calendar days of receipt of appeal materials, with copies to the grievant, respondent, chair of the faculty, and the Grievance Panel chair. The chancellor's decision shall

contain a notice of further appeal rights, if any, and, if the decision is appealable, it shall contain the information in subsection III.G., Step Seven (Appeal to the Board of Trustees) below, and shall be signed by all individuals who contributed to the report.

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

Dissenting Chancellor's Report

Should the chancellor disagree with the Grievance Panel's interpretation that the grievance is within the scope of redress covered by provisions of Part XII, Section II.I of the *Faculty Manual*, the chancellor shall withhold the decision, and inform the panel, all parties to the grievance, and the chair of the faculty of those areas of disagreement within the required 20 calendar days. The panel chair will then request that the chair of the faculty begin the normal interpretation process as set forth in the *Faculty Manual*. It is expected that the chair of the faculty will expedite this request. Upon completion of the interpretation process, the panel will make any necessary recommendations. The report will be distributed in accordance with Part XII, Section II.I.III.F., with the grievant's rights to appeal intact.

G. Step Seven (Appeal to Board of Trustees)

1. Explanation of decisions that may be appealed.
 - a. If the Grievance Panel did not advise an adjustment in favor of the grievant, then the decision of the chancellor is final and may not be appealed.
 - b. If the panel found in favor of the grievant, and neither the relevant administrative official nor the chancellor made an adjustment advised by the panel, then the grievant may appeal to the Board of Trustees. The decision of the Board of Trustees is final.
2. The Board of Trustees may delegate to a designated committee the authority to make procedural decisions and to make final decisions on behalf of the Board concerning appeals of faculty grievances submitted pursuant to [Section 607 of The Code of The University of North Carolina](#).
3. Timeline for Appeals
 - a. A grievant who seeks to appeal the chancellor's disposition of the grievance must file written notice of appeal with the Board of Trustees by submitting such notice to the chancellor, with adequate evidence of delivery ([The UNC Policy 101.3.3](#)), within 10 calendar days after receipt of the chancellor's decision. The notice shall contain a brief statement of the basis for the appeal. Unless the Board determines an appeal is not within its jurisdiction or fails to meet the procedural requirements for consideration by the Board, the Board will consider the appeal on a schedule established by the chancellor, subject to any instructions received from the Board chair or from a committee of the Board that has jurisdiction of the subject matter of the grievance. The Board will issue its decision as expeditiously as is practical. If the grievant fails to comply with the schedule established for perfecting and processing the appeal, the Board at its discretion may extend the time for compliance or may dismiss the appeal.
 - b. If the chancellor's decision is eligible for appeal, the chancellor's notice of the disposition of a grievant's case must inform the grievant: (1) that a written notice of appeal to the Board of

Trustees containing a brief statement of the basis for appeal is required within the 10 calendar day period and, (2) that, after notice of appeal is received in a timely manner, a detailed schedule for the submission of relevant documents will be established. All such notices of decision are to be conveyed to the grievant by a method that produces adequate evidence of delivery ([The UNC Policy 101.3.3](#)).

4. Standard of Review: In order to prevail before the Board of Trustees, the faculty member must demonstrate that the chancellor's decision was erroneous based on a preponderance of the evidence, that it violated applicable federal or state law or university policies or regulations, or that the process used in deciding the grievance was materially flawed.

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

A. Initiation of Hearing Process

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

Failure to meet the time periods allotted to the grievant constitutes a waiver of the right to a hearing and no further administrative appeals of the non-conferral decision are allowed. Before the expiration of a deadline, however, the faculty member may request an extension, provided the request is made in writing and presented to the appellate chair. The Appellate Steering Committee will make its decision and communicate it to the grievant within 10 calendar days of receiving a request for an extension, except under unusual circumstances such as during summer months, official university breaks and holidays and when, despite reasonable efforts, the steering committee cannot be assembled in a timely manner.

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

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

2. The request for a hearing must be based on 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](#). Specifically, in no event shall a non-conferral decision be based upon (i) 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 (ii) discrimination prohibited under policies adopted by the ECU Board of Trustees i.e., discrimination based on the faculty member's age, color, creed, disability, genetic information,

national origin, political affiliation, race/ethnicity, religion, sex/gender, sexual orientation, or veteran's status, or (iii) personal malice. [The UNC Policy Manual 101.3.1.II.B](#)).

(b) The decision was attended by a "material procedural irregularity," meaning a departure from prescribed procedures and established university policies that is of such significance as to cast reasonable doubt upon the integrity of the original decision. Whether a procedural irregularity occurred, and whether it is material, shall be determined by reference to those procedures in effect when the initial decision was made and communicated. The Appellate Steering 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)

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

B. Procedures for the Hearing.

The appellate chair will convene a Grievance Panel if the Petition for Redress is timely, complete, and based on one or more of the criteria noted above. If the Petition for Redress fails to meet any one of these requirements, the Appellate Steering Committee shall not grant a hearing, the grievance will be closed, and this decision will exhaust the administrative appeals process for the grievance. This decision will be communicated to all parties of the dispute by a method that produces adequate evidence of delivery ([The UNC Policy 101.3.3](#)). If the Petition for Redress meets all of the above requirements, but makes claims beyond valid criteria (defined in IV.A.2.a and b above), the Appellate Steering Committee shall strike those issues from the Petition for Redress and these claims will receive no further attention in the process.

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

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

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

C. The Hearing

The Grievance Panel shall limit its investigations to the issues presented in the Petition for Redress, and include only those not struck in the Appellate Steering Committee's notification that a hearing would be granted. The panel's responsibility is limited to issuing recommendations based on the Petition for Redress, information and documentation submitted prior to or accepted during the hearing, and information developed during the hearing based on the testimony of the grievant, the respondent, and witnesses.

The panel chair shall begin the hearing by briefly reviewing the panel's authorization and powers, the conditions necessary for a hearing, the panel's belief that the issues about to be heard satisfy these conditions, and the procedures to be followed 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*.

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

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

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

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

D. Grievance Panel Report

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

Copies of the Grievance Panel's report will be available to the grievant and respondent for retrieval from the Faculty Senate Office. A copy of the panel's report, a copy of the written record of the hearing proceedings, and a copy of all evidence submitted will be placed in the grievance file. This file will be open to the Grievance Panel and all parties to the grievance until the grievance is closed. The panel may make recommendations that a) do not support the grievant's contentions, b) support the grievant's contentions and are within the respondent's authority to implement, or c) support the grievant's contentions, but are not within the respondent's authority to implement. The Grievance Panel's actions for each of these findings are noted below.

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

If the Grievance Panel finds that the grievant's contentions are not supported or makes no recommendations in favor of the grievant, the panel shall submit its report to the grievant, respondent, chair of the faculty, and chancellor. Within 20 calendar days the chancellor shall, in writing, inform the grievant, respondent, chair of the faculty, and Grievance Panel of a decision. The decision of the chancellor is final and may not be appealed.

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

If the Grievance Panel finds that the grievant's contentions are supported and makes recommendations in favor of the grievant, the panel shall submit its report to the grievant, respondent, and chair of the faculty. Within 20 calendar days of the recommendations, the respondent shall, with copies to the grievant and the chair of the faculty, communicate a response to the panel's recommendation in writing to the Grievance Panel chair. Within 15 calendar days of receipt of the respondent's response, the grievant will inform the Grievance Panel chair if the adjustments are satisfactory or not satisfactory. If the respondent's adjustments are not consistent with the recommendations of the Grievance Panel but are satisfactory to the grievant, the grievance will be closed. If the respondent's adjustments are not satisfactory to the grievant, the grievant may appeal to the chancellor. The process for an appeal to the chancellor is described below.

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

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

The Grievance Panel chair shall forward to the chancellor a record of the hearing and copies of all documents submitted during the grievance process.

The chancellor's decision is to be based solely on a thorough review of the information provided by the Grievance Panel. The chancellor has the discretion to consult with the Grievance Panel ([The UNC Policy Manual 101.3.2.IV.g](#)) and individuals with the delegated authority to implement the panel's recommendations. It is expected that the chancellor will give deference to the advice of the faculty panel, but the final campus-based decision lies with the chancellor. Within 30 calendar days of receipt of the panel's request, the chancellor will inform the grievant, respondent, Grievance Panel chair, and chair of the faculty of a decision. If the chancellor does not support the panel's recommendation, the chancellor will inform the grievant that the decision may be appealed to the Board of Trustees. This appeal process is described in Section IV.G. The decision of the Board of Trustees is final and may not be appealed to the Board of Governors.

E. Dissenting Chancellor's Report

Should the chancellor disagree with the Grievance Panel's interpretation that the grievance is within the scope of redress covered by provisions of Part XII, Section II.I of the *ECU Faculty Manual*, UNC Code or Policies, the chancellor shall withhold a decision and inform the Grievance Panel, all parties to the grievance, and the chair of the faculty of those areas of disagreement within 30 calendar days. The Grievance Panel chair will then request the chair of the faculty begin the normal interpretation process as set forth in the *Faculty Manual*. It is expected that the chair of the faculty will expedite this request. Upon completion of the interpretation process, the Grievance Panel will make any necessary recommendations. The report will be distributed in accordance with Part XII, Section II.I.III.F., with the grievant's rights to appeal intact.

F. Appeals to the Chancellor

If the respondent's adjustments are deemed unsatisfactory by the grievant, an appeal to the chancellor is to be made within 20 calendar days of the receipt of the response. The grievant shall deliver to the Grievance panel chair a memorandum to the chancellor explaining in detail the reasons for the appeal. The panel chair shall forward a copy of this memorandum to the respondent and chair of the faculty, and shall forward the grievant's appeal memorandum to the chancellor along with the Grievance Panel report and all supporting documentation.

The chancellor's decision is to be based solely on a thorough review of the information provided by the Grievance Panel and may, at the chancellor's discretion, include consultation with the panel ([The UNC Policy Manual 101.3.2.IV.g](#)). It is expected that the chancellor will give deference to the advice of the faculty panel, but the final campus-based decision lies with the chancellor. Within 30 calendar days of receipt of the grievant's appeal and Grievance Panel's recommendations, the chancellor will provide a decision to the grievant, respondent, panel chair and chair of the faculty. If the chancellor does not support the panel's recommendation, the chancellor will inform the grievant of the provisions for appeal to the Board of Trustees.

G. Appeal to the Board of Trustees

This appeal shall be transmitted through the chancellor and shall be addressed to the chair of the Board. Notice of appeal shall be filed within 14 calendar days after the faculty member receives the chancellor's decision. The appeal to the Board of Trustees shall be decided by the full Board of Trustees; however, the Board may delegate the duty of conducting a hearing to a standing or ad hoc committee of at least three members.

The Board of Trustees, or its designated committee shall consider the appeal on the written transcript of the hearing held by the Grievance Panel (including evidence admitted in connection

with the hearing), but it may, at its discretion, accept and consider such other evidence as it deems necessary, with the opportunity for rebuttal. The Board of Trustees' decision shall be made as soon as reasonably possible after the chancellor has received the faculty member's request for an appeal to the Trustees. The decision of the Board of Trustees is final and ~~may not be appealed to the Board of Governors~~ **shall end the University's appeal process.**

SECTION II.II, Grievance Procedures Related to Complaints of Unlawful or Prohibited Harassment, Discrimination or Improper Relationships Brought Against East Carolina University Faculty Members or Administrators Holding Faculty Status

CONTENTS

- I. Preamble
- II. Grievance Procedures

I. Preamble

- A. Federal and state laws and/or university policies prohibits unlawful discrimination based on the following protected classes: race/ethnicity, color, genetic information, national origin, religion, sex (including pregnancy and pregnancy related conditions), sexual orientation, gender identity, age, disability, political affiliation, and veteran status. East Carolina University establishes formal procedures to assure individuals who believe that they are the victims of unlawful or prohibited harassment, discrimination, or improper relationships that their grievances will be dealt with fairly and effectively.

The *East Carolina University Faculty Manual* (Part XII) is subject to university policies governing nondiscrimination, sexual and gender-based harassment and other forms of interpersonal violence at East Carolina University, which are available through the University's Office for Equity and Diversity (OED) (<http://www.ecu.edu/cs-acad/oed/policies.cfm>).

- B. Unlawful or prohibited harassment, discrimination, or improper relationships violate East Carolina University's policies and will not be tolerated. Members of the University community are encouraged to express freely, responsibly, and in an orderly way their opinions and feelings about any problem or complaint of unlawful or prohibited harassment, discrimination or improper relationships prohibited under the policies of East Carolina University. The University will take every reasonable step to resolve grievances promptly and confidentially.
- C. Any act by a University employee or student of retaliation, interference, restraint, penalty, discrimination, coercion, reprisal, intimidation, threats, or harassment against an employee or student for using the applicable policies responsibly interferes with free expression and openness and violates University policy. Accordingly, members of the University community are prohibited from acts of reprisal and/or retaliation against those who file complaints, are involved as witnesses, or otherwise try to use University policies responsibly.
- D. When complaints of harassment, discrimination, or improper relationships have been substantiated, the appropriate vice chancellor or the chancellor may take such disciplinary action

as he or she deems appropriate, including discharge from employment, suspension, or reduction in rank in a manner that is consistent with the policies and procedures stated in the *ECU Faculty Manual*.

II. Grievance Procedures

- A. Faculty subject to administrative sanction(s) for violations of University policies on harassment, discrimination or improper relationships have the right to due process through appropriate appeals procedures, based on the type of sanction imposed. Faculty not subject to administrative sanction(s) based on an investigation, but who believe the process has contributed to a hostile work environment, or that they otherwise have been harmed by the investigation, have the right to redress of specific findings or actions as allowed under provisions for general grievances covered in Part XII, Section II.I of this *Faculty Manual (Policies and Procedures for General Faculty Grievances and for Appeals of Non-conferral of Early Tenure)*. These rights apply to both the faculty complainants and faculty respondents in the original complaint brought on harassment, discrimination or improper relationship.
- B. When disciplinary actions, if any, do not include a serious sanction, a faculty member may appeal minor sanctions, reprimands, or seek other redress through provisions governing general grievances contained in Part XII, Section II.I (this section) of the *Faculty Manual*.
- C. Disciplinary actions that include a serious sanction may be appealed following provisions in Part XII, Section I.III of this *Faculty Manual (Due Process Before Discharge or the Imposition of Serious Sanctions)*. Alleging that one or more specified provisions of *The UNC Code* have been violated in the imposition of a serious sanction, a faculty member may further appeal a Board of Trustees decision to the Board of Governors. Note that [The UNC Code, Section 603\(3\)](#) warns that if, within 14 calendar days after receiving the notice of a serious sanction, the faculty member makes no written request for appeal, the faculty member may be discharged or serious sanction imposed without recourse to any institutional grievance or appellate procedure.
- D. Appeals of specific findings, either positive or negative, of an investigation of complaints of unlawful or prohibited discrimination, harassment or improper relationship may be available under specific university policies. Current information on university policies governing these areas is available at the Office for Equity and Diversity (<http://www.ecu.edu/cs-acad/oed/policies.cfm>).

SECTION II.III, Effective Date

- A. Except as otherwise provided below, these provisions shall become operative immediately after they are approved by the President of the University of North Carolina, and are enabled by approved revisions of the Bylaws of the East Carolina University Faculty Senate.
- B. Provisions governing establishment of appellate hearing panels will become operative only after the establishment and initial fall organizational meeting of an Appellate Committee, as specified in the revised Bylaws of the East Carolina University Faculty Senate. The Appellate Committee shall be elected at the first April organizational meeting of the ECU Faculty Senate following the date of final approval of both the revised Part XII of the Faculty Manual, and the Bylaws of the Faculty Senate.

- C. These provisions as amended shall apply to those appeals initiated after the effective dates indicated in parts A and B above. Appeals for which procedures for a hearing have been initiated before these provisions become operative will continue under the previous Faculty Manual provisions governing the type of appeal involved.
- D. If secure electronic platforms for handling grievances become available, requirements for delivery, distribution and resolution of grievance materials may be modified accordingly through recommendation by the Faculty Senate and approval by the chancellor.

Amended

Faculty Senate Resolution #12-17, February 2012, Chancellor

Faculty Senate Resolution #14-32, April 2014, Chancellor

Resolution #19-71

Proposed Revisions to *ECU Faculty Manual* Part VI, Section VII. Curriculum Procedures and Academic Program Development

(Additions are noted in **bold** text and deletions are noted in ~~strikethrough~~.)

In accordance with ECU's commitment to strong academic programs and the SACSCOC Principles of Accreditation, ECU "places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty." Program and curriculum changes are initiated, prepared, and presented for review through ECU's curriculum management system. All proposals follow an approval process inclusive of all relevant ECU campus bodies and voting faculty as defined in this document. Three levels of approval are defined according to the specific delegated authority of final approval bodies. Proposals governed by the policies and procedures of the UNC System Office (UNC-SO) and/or Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) will follow additional approval steps and will therefore take longer to proceed through the entire approval process.

Academic Planning and Accreditation (APA), a unit of Institutional Planning, Assessment and Research, facilitates the curriculum and program development process through administration of ECU's curriculum management system and direct consultation with faculty planners. The Office of Continuing Studies and Distance Education and APA process requests to deliver new and existing academic programs through distance education. Consultation with the unit curriculum liaison, personnel in the Office of the Registrar, and personnel in APA is recommended at the onset of curriculum and program development.

The Academic Program Development Collaborative Team (APDCT), an advisory body to the Academic Council, is comprised of the Undergraduate/Graduate Curriculum Committee chairs; Educational Policies and Planning Committee (EPPC) chair; dean of the Graduate School; representatives from the Office of Continuing Studies and Distance Education, Institutional Research, Academic Planning and Accreditation, and Division of Health Sciences; and the Chair of the Faculty. APDCT collaborates with faculty planners to strengthen program proposals and makes

recommendations to the Academic Council, EPPC, and the dean of the Graduate School (as applicable) on developing programs.

Academic committees of the Faculty Senate and the Graduate School review course and program proposals in accordance with their stated charges. Faculty Senate committees also approve requests for special course designations, such as service learning, writing intensive, and diversity.

In cases of financial exigency or the initiation of a discontinuation, curtailment, or elimination of a teaching, research, or public service program, the provisions of the *ECU Faculty Manual* will apply.

The Chancellor or designee in consultation with the Chair of the Faculty may establish deadlines of not less than two weeks by which each person and/or committee listed must report its concurrence (approval) or non-concurrence with the proposed action. Failure to report by the established deadline shall be considered an abstention and the proposed action shall progress to the next level for consideration.

A. Definitions

1. Degree Programs

A degree program is a program of study in a discipline specialty that leads to a degree in that distinct specialty area at a specified level of instruction. All degree programs are categorized individually in the University's academic program inventory (API) at the six-digit CIP code level, with a unique UNC-SO identifying code, and teacher licensure area, if applicable. As a rule, a degree program requires coursework in the discipline specialty of at least 27 semester hours at the undergraduate level and 21 semester hours at the doctoral level. A master's level program requires that at least one-half of the total hours be in the program area. Anything less than this within an existing degree program should be designated a concentration. Degree programs require final approval by UNC-SO and the UNC Board of Governors (BOG). Minors and concentrations receive final approval at the campus level. (Paraphrased from Academic Program Guidance, UNC System Office, 1/25/16. Accessed at http://www.northcarolina.edu/sites/default/files/documents/academicprogramdevelopment_guidance_january25.2016v1.pdf, 2/23/18.)

2. Certificates

A certificate program provides an organized program of study that leads to the awarding of a certificate rather than a degree. ECU offers certificate programs at a minimum of **9 12** credit hours at the pre-baccalaureate **level, and a minimum of 9 credit hours at the** post-baccalaureate, post-master's, and post-doctoral levels. Once a certificate is approved, it must be submitted to the U.S. Department of Education to determine if the program is eligible for participation in Title IV (financial aid) programs.

3. Teacher Licensure Areas (TLAs)

These are specific course clusters that meet licensure requirements of the State Board of Education but do not lead to the conferral of a particular degree or certificate. These may be at either entry level or advanced level of teacher licensure. When an institution receives authorization from the State Board of Education to offer a TLA, UNC-SO must be notified. A current inventory of teacher licensure programs approved by the State Board of Education is available on the North Carolina Department of Public Instruction Website.

B. Program Coordination

Each degree program and certificate will have a designated Program Director or Coordinator who must be approved by the unit chair (or, in the case of interdisciplinary programs, appointed by the college dean) and qualified to lead development and review of the program's curriculum. (FS Resolution #19-08)

C. Levels of Delegated Authority for Course and Program Approval Process

Level I Course and Program Changes: Level I course and program changes require campus approval by the department, college/school, and university Undergraduate Curriculum or Graduate Curriculum Committees. The Faculty Senate delegates authority to the Undergraduate Curriculum Committee and the Graduate Council delegates authority for these actions to the Graduate Curriculum Committee.

Level I Course Changes:

1. Revising a course: title, description, objectives, prerequisite(s), prefix, repeatability, credit hours, and content
2. Renumbering an existing course at the same or different level
3. Revising the prefix for an entire course list or program*
4. Banking or deleting courses
5. Removing a 5000-level course from the undergraduate catalog
6. **Proposing new courses**

* Memo-only action; committee may waive faculty attendance

Level I Program Changes:

1. Revising degrees: revising course selections (excludes total credit hours); revising core requirements, electives, admission standards, and/or descriptive text; adding or removing thesis/non-thesis options
2. Revising certificates: revising course selections (excludes total credit hours); revising core requirements, electives, admission standards, and/or descriptive text
3. Revising concentrations and minors: revising course selections (including total credit hours); revising titles; revising core requirements, electives, admission standards, and/or descriptive text; discontinuing

Program changes excluded from Level I are degree and certificate title and/or CIP code changes; revising total credit hours of degree programs; change in delivery mode; and moving degree and certificate programs to a new academic home, as these actions require EPPC review and some are reported to UNC-SO and/or SACSCOC as indicated below.

Level II Course and Program Changes: Delegated authority to EPPC and Academic Council. Level II changes course and program changes require approval at the department, college or school, and university levels including Undergraduate Curriculum/Graduate Curriculum Committee, Graduate Council, EPPC, **Faculty Senate** and the Academic Council. ~~They require no approval by the Chancellor~~ (**Academic Council**) ~~or by UNC-SO.~~

1. Increasing/decreasing degree or certificate total credit hours by less than 25%
2. Moving a **prefix**, degree, certificate, concentration, or minor program to a new academic home
3. Proposing an accelerated degree program
4. Proposing a new concentration in an existing degree program

5. Proposing a new minor

Level III Program Changes: Require Chancellor Approval

Level III changes are program changes or proposals that require approval at the department, college/school, and university levels/committees; Chancellor; and UNC-SO and/or SACSCOC approvals or notifications.

1. Discontinuing an existing degree or certificate program (no UCC/GCC review required)
2. Proposing a new certificate program
3. Proposing a new degree program
4. Revising an existing degree or certificate title
5. Consolidating two or more existing degrees
6. Proposing a new delivery mode for an existing degree (no UCC/GCC review required)
7. Increasing/decreasing degree or certificate total credit hours by 25% or more
8. Changing a degree designation (e.g., MA to MS)

UNCISO and/or SACSCOC approvals or notifications only (no UCC/GCC, or EPPC review required)

1. Revising a CIP code for an existing degree or certificate program
2. Discontinuing an existing teacher licensure area

B. New Degree Program Development Approval Process

Proposed programs must be approved for inclusion on the ECU Academic Program Plan through the Request for Inclusion process and, by special circumstance, through the Academic Council in consultation with the Educational Policies and Planning Committee. All program proposals accepted on the plan undergo a rigorous campus-wide vetting process and are submitted in accordance with UNC-SO policies and procedures. New degree programs may not be advertised until ECU receives UNC BOG approval.

Programs included on the ECU Academic Program Plan require approval at the department, college/school and university levels/committees through approval of the Academic Program Development Collaborative Team. In the first (planning) phase of development, all ECU faculty are invited to participate in a campus-wide process and are invited to provide formal feedback to aid in decision-making by the Academic Council. Upon approval of the Academic Council, the planning document is submitted to the UNC-SO. The establishment phase of development follows normal campus review processes, including curriculum and program proposals.

The proposing academic unit, Academic Planning and Accreditation, and the Office of the Registrar will collaborate to ensure that all approved actions are communicated to the campus community, as well as to UNC-SO and SACSCOC as required.

C. Academic Program Review

Every academic program that is not accredited by a specialized accrediting agency is required to be reviewed as part of a seven-year unit program evaluation. The unit Academic Program Review will be conducted according to the [Academic Program Review Guidelines](#). Changes to these guidelines need to be approved by the Educational Policies and Planning Committee and the Faculty Senate. The unit Academic Program Review shall be used in the development of the unit's operational and strategic plans.

Faculty Senate Resolution #12-50, March 2012
Faculty Senate Resolution #14-62, May 2014
Faculty Senate Resolution #15-63, May 2015
Faculty Senate Resolution #17-13, March 2017
Faculty Senate Resolution #18-22, April 2018
Faculty Senate Resolution #18-68, January 2019
Faculty Senate Resolution #19-08, February 2019

Resolution #19-72

Curriculum and academic matters acted on and recorded in the [September 16, 2019](#) General Education and Instructional Effectiveness meeting minutes including Domestic Diversity Designation (DD) for SOC 201 from Southwest Virginia Community College, HIS 201 from Gaston Community College, HUM 122 from Beaufort Community College, ISS 335 from the University of Michigan, SOC 100 from Waubensee Community College; Global Diversity Designation (GD) for REL 103 from Gaston Community College, ART 1XXX from Delaware County Community College; General Education Humanities Designation (GE:HU) for ENGL 201 from Raritan Valley Community College, ENGL 224 from Raritan Valley Community College, LBST 1102 from the University of North Carolina at Charlotte; General Education Social Sciences Designation (GE:SO) for LBST 2213 from the University of North Carolina at Charlotte.

Resolution #19-73

Curriculum and academic matters acted on and recorded in the Undergraduate Curriculum Committee's [September 12, 2019](#) meeting including curricular actions within the School of Art and Design and School of Communication within the College of Fine Arts and Communication and the Committee's [September 26, 2019](#) meeting including curricular actions within the School of Communication within the College of Fine Arts and Communication.
