Policy Review by the Office of the University Attorney

The Office of the University Attorney ("OUA") welcomes the opportunity to review and provide comments, including suggestions for revisions, regarding proposed policies, regulations and rules (all referred to collectively as "policies" herein). Developing legally sound policies is an important part of risk management. As implementation of the new University Policy Manual begins, we want to increase our efficiency and the utility of our input in the policy development process. All of us in OUA will appreciate your help in that effort. To that end, we propose the following protocol for policy review by OUA, remaining open always to making changes or adjustments as may be useful for any particular situation. The intent of establishing this protocol is to communicate OUA's understanding of its role and the way in which we expect to fulfill that role so that you can discern when adjustments are needed and can help us within OUA to make them.

I. OUA's Role. In addition to any specific request you make, (and we are happy to discuss alternatives), the purpose of an OUA review will be to identify and, if possible, suggest changes to correct or address:

a. Violations: Any violations of law or deviation from applicable policy (while acknowledging areas outside our expertise);

b. Enforceability/Implementation: Any language or absence thereof that could limit intended enforceability of the policy or its implementation, including ambiguous, confusing, unclear or contradictory provisions;

c. Risk: Significant liability and/or legal risks raised by the policy, especially when there are alternatives apparent to OUA that would avoid or minimize those risks;

d. Format: Consistency of format and organization following the new University Manual template (We suggest consultation with your PRR consultant on this point); and

e. Problematic provisions: Any provisions that appear legally problematic given our general knowledge of ECU and UNC.

II. Preparation for Review. We will ask the person requesting the review (in conversation or email, whatever is most convenient for you) to do the following:

a. Identify the purpose of the policy or reasons for making changes at the time if the policy exists already, including any goals you want to achieve with the policy and specific problems or issues the changes are expected to address. (What problem(s) are you trying to solve or avoid?) The reasons may include such things as responding to a directive from UNC General Administration or other external organizations; coming into compliance with an externally mandated requirement; or addressing a problem or threat identified within the organization, such as a need for internal controls identified by the Office of Internal Audit;
b. Provide a description of the history of the development of the draft, including whether the draft is modeled after another institution's and whether samples from other UNC institutions have been reviewed;
c. To the extent possible, provide a list of policies and statutes that are known to affect the subject policy; and
d. Identify which, if any, specific UNC and ECU policies have been consulted specifically to ensure the draft is in compliance before we receive the draft.

Persons drafting proposed policies, especially if a committee is involved, may find it useful to answer these questions and collect this information, at least informally, before developing the initial draft.

III. **Timing**. With each request, please let us know the deadline by which the requesting party needs comments and revisions in order for them to be helpful. If possible, we ask for at least two weeks in which to complete review. Please advise us of any upcoming scheduled meetings or events that are relevant to the review, e.g., if approval by a committee or board is required, it helps us to know any deadline associated with getting the matter before the board at a desired time. Longer and more complex policies may require more time, but we will try to accommodate the needs of the person or group requesting the review.

IV. **Preparation for Consideration by Executive Council or the Chancellor**. If approval of the policy at the Executive Council ("EC") or Chancellor level is to be requested, we ask that the requesting party:

a. Inform OUA at least two days before delivering the draft to the Chancellor or the EC member who will present the policy; and
b. Include with the draft a list of any provisions suggested by any OUA attorney that are not included in the draft being presented to EC or the Chancellor.

OUA must reserve the prerogative to reiterate requests for inclusion of revisions at every level (e.g., Vice Chancellor, Chancellor or BOT) when those revisions have been rejected at an earlier stage.

V. **Minimizing Later Revision Suggestions**. It will be our goal to avoid new suggestions in any subsequent review of a policy to the extent there was no reasonable basis for failing to make the suggestion in the earlier review (e.g., changes in relevant statutes, new court decisions, etc.). We understand and acknowledge that revisions suggested late in the process can be frustrating and disruptive. However, on occasion, we may miss something that is plainly needed and becomes obvious to us only late in the process. We will work diligently to avoid such situations. If they do arise, we will seek to suggest changes in such a way as to minimize the disruption to the progress of the policy, including letting you know about such suggestions as earlier as possible.